EXHIBIT A. REMONSTRANCE LETTERS

Oksana Polhuy <oksana@lapelindiana.org>

Letter #1

Opposition to LKQ Zoning Request

2 messages

verash1@aol.com <verash1@aol.com> Thu, Sep 14, 2023 at 9:52 AM
To: "oksana@lapelindiana.org" <oksana@lapelindiana.org>

Verla Ashton

Retired Educator

48 McArthur Court

Anderson, IN 46012

Ph. 765-623-9691

verash1@aol.com

September 8, 2023

Ms. Oksana Pulhuy

Lapel Planning Commission

Lapel, Indiana 46051

Dear Ms. Pulhuy,

I am reaching out to oppose the request before the Lapel Board of Zoning Appeals for a Salvage Yard to be operated by LKQ Midwest, Inc. The site location at 6199 S. St. Rd. 13 near the intersection with St. Rd. 38, in my opinion, is a poor choice due to potential contamination of the environment around the location.

As a retired Science Educator with a B.S. in Geology and a M.A. in Earth Science, I taught for 30 years with Anderson High School and Adjunct Instructor for 10 years with IVY Tech Community College. I can not sit by and watch a major environmental mistake occurring in Lapel. This site proposed for the Salvage Operation of LKQ Midwest, Inc. has potential for multiple impacts but I mainly want to stress the affect

on the water of the area. Potential impacts for contamination of the water resources could occur in four ways.

The first two possibilities could affect the aquifers in this area as well as water consumption further to the west and southwest. There are Bedrock Aquifers and Unconsolidated Aquifers that tend to dip that direction. Depths to Unconsolidated Aquifers varies considerably due to erosion of the glacial sediments, therefore any well depth could be impacted. Streams, open excavations, unplugged or improperly abandoned wells, and improperly managed Salvage Operations pose contamination threats. The Bedrock Aquifers lying below the Unconsolidated Aquifers are similarly threatened by poor management practices with the contamination moving even slower deeper underground. The town of Fortville states in their Waterworks Master Plan, 2017, concerns about all their wells accessing the same aquifer. If the aquifer becomes contaminated in the future they are investigating the possibility of any other wellfields.

The third possible contamination method could simply occur with runoff into Mud (Sand) Creek on the west edge of the LKQ site. Water flow to the west and southwest brings potential pollutants to within one half mile north of Geist Reservoir and then about two miles beyond that Mud Creek joins Fall Creek on the northeast side of Marion County and on into White River near the center of Indianapolis.

The fourth possible route to water contamination could occur due to the complex Fortville Fault System which has been mapped to within one quarter mile east of the LKQ site. Contaminants are pulled downward by gravity into whatever types of cracks or pore spaces exist underground.

All of the information I have referenced is readily available by county from the US Geological Survey and Indiana Department of Natural Resources 2010. As we all try to be good stewards of our land and water resources for our children, please be PROACTIVE and do NOT ALLOW this Salvage Operation by LKQ Midwest, Inc. to begin in Lapel, Indiana.

Sincerely,

Verla Ashton

Concerned Citizen

Madison County Resident

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3 attachments

Madison County water resources LKQ.pdf
6260K

Hamilton county water resource LKQ.pdf

8769K

Marion county water resource LKQ.pdf
8928K

Oksana Polhuy <oksana@lapelindiana.org> Mon, Sep 18, 2023 at 10:12 AM
To: "verash1@aol.com" <verash1@aol.com>

Mrs. Ashton,

Thank you for your letter. It will be given to the BZA tonight.

Let me know if you have any questions.

Kind regards,

- Oksana Polhuy

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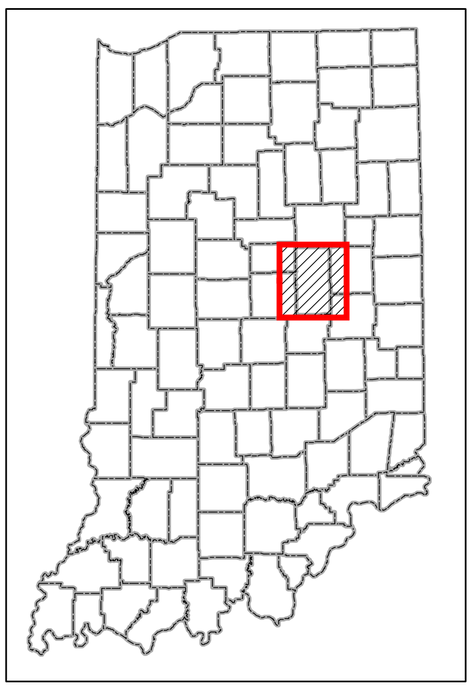
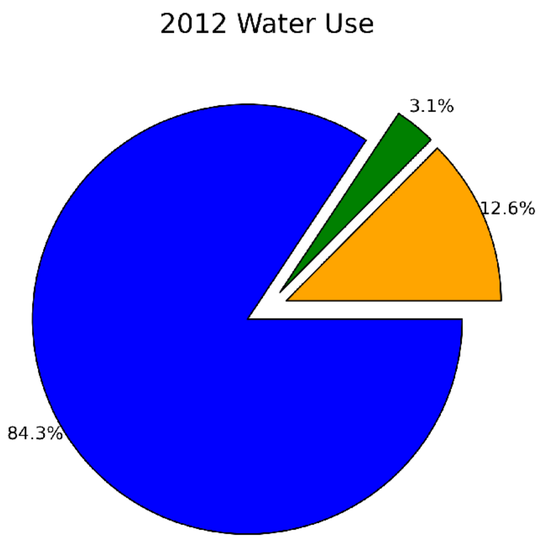
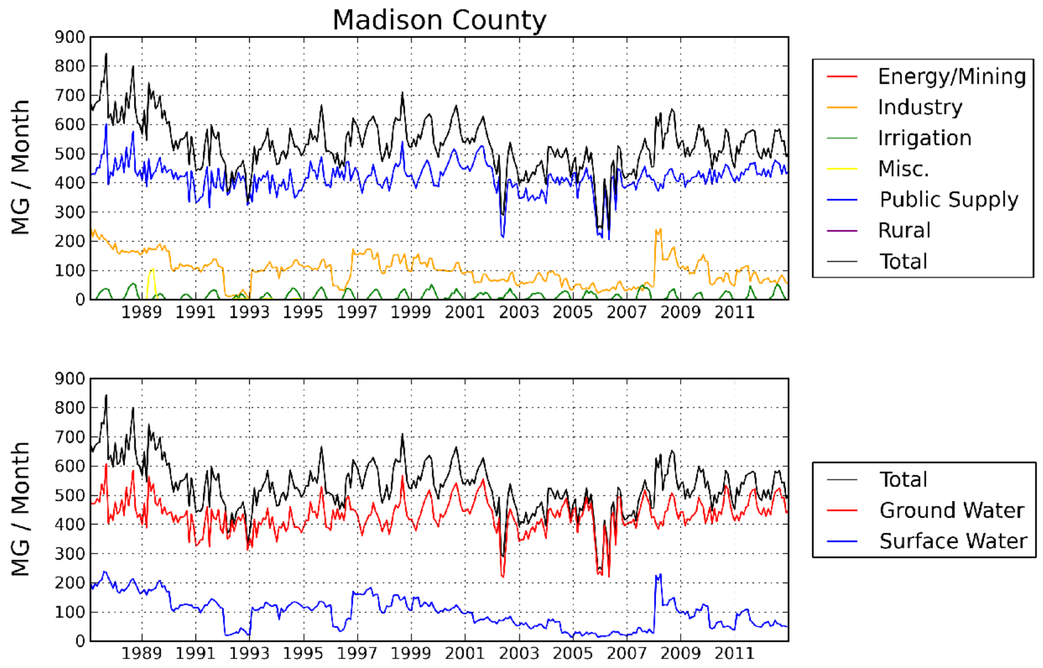
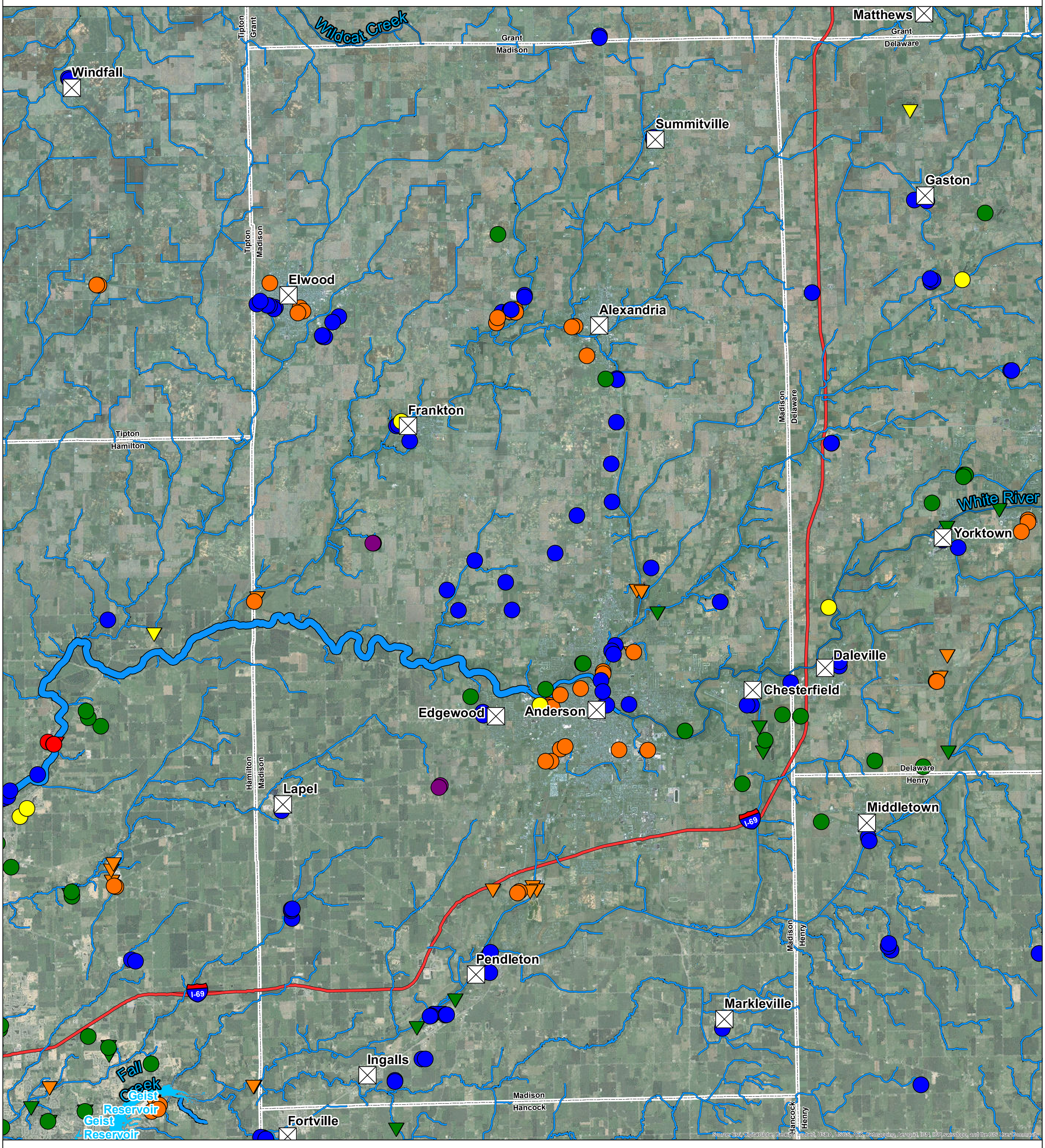




Average Daily Use: 17.4 MGD





Water Resources and Use in Madison County

Data Sources: U.S. Geological Survey and Indiana Department of Natural Resources

Withdrawal Location

WELL INTAKE

- Energy/Mining
- Industry
- Irrigation
- Misc.
- Public Supply
- Rural Use

River

7Q2 Flow (MGD)

- <10 MGD
- 10 - 50 MGD
- 50 - 100 MGD
- 100 - 500 MGD
- > 500 MGD

- Major Lakes
- Interstate
- County
- City

INTERA
GEOSCIENCE & ENGINEERING SOLUTIONS

NORTH

0 1 2 4 Miles

BEDROCK AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA

The occurrence of bedrock aquifers depends on the original composition of the rocks and subsequent changes, which influence the hydraulic properties. Post-depositional processes, which promote jointing, fracturing, and solution activity of exposed bedrock, generally increase the hydraulic conductivity (permeability) of the upper portion of bedrock aquifer systems. Because permeability in many places is greatest near the bedrock surface, bedrock units within the upper 100 feet are commonly the most productive aquifers.

Bedrock aquifer systems in Madison County are overlain by unconsolidated deposits of varying thickness ranging from bedrock exposure in Fall Creek at Pendleton to over 350 feet in a buried bedrock valley located south of Chesterfield. Bedrock, in places, is at or near the surface along several streams in the county.

The yield of a bedrock aquifer depends on its hydraulic characteristics and the nature of the overlying deposits. Shale and glacial till act as aquitards, restricting recharge to underlying bedrock aquifers. However, fracturing and/or jointing may occur in aquitards, which can increase recharge to the underlying aquifers. Hydraulic properties of bedrock aquifers are highly variable.

Most bedrock aquifers in the county are under confined conditions, mainly a result of low vertical hydraulic conductivity clay-rich materials, such as glacial till, overlying the bedrock. Therefore, the potentiometric surface (water level) in most wells completed in bedrock rises above the top of the water-bearing zone.

Two bedrock aquifer systems are identified for Madison County. They are, from west to east and younger to older: the Silurian and Devonian Carbonates, and the Maquoketa Group of Ordovician age. Approximately 49 percent of all wells in this county are completed in bedrock.

The susceptibility of bedrock aquifer systems to surface contamination is largely dependent on the type and thickness of the overlying sediments. Because the bedrock aquifer systems have complex fracturing systems, once a contaminant has been introduced into a bedrock aquifer system, it will be difficult to track and remediate.

Silurian and Devonian Carbonates Aquifer System

The Silurian and Devonian Carbonates Aquifer System subcrops throughout nearly all of Madison County. Wells penetrating the Silurian and Devonian Carbonates Aquifer System have reported depths ranging from 25 to 480 feet, but are commonly 90 to 220 feet deep. The amount of rock penetrated in this system typically ranges from 30 to 132 feet.

Wells utilizing the Silurian and Devonian Carbonates Aquifer System are generally capable of meeting the needs of domestic and some high-capacity users in this county. Domestic well yields commonly range from 8 to 26 gallons per minute (gpm). Static water levels typically range from 15 to 36 feet below the land surface. A few flowing wells have been reported for this bedrock aquifer system in the county. There are 12 registered significant groundwater withdrawal facilities (34 wells) utilizing the Silurian and Devonian Carbonates Aquifer System in Madison County. High-capacity well depths range from approximately 100 to 400 feet below the land surface. Reported high-capacity well yields range from 90 gpm to nearly 500 gpm.

This aquifer system is generally not very susceptible to surface contamination due to thick clay deposits over most of the county. However, there are localized areas, especially near the White River, where the bedrock surface is shallow. These areas, therefore, are at moderate to high risk to contamination.

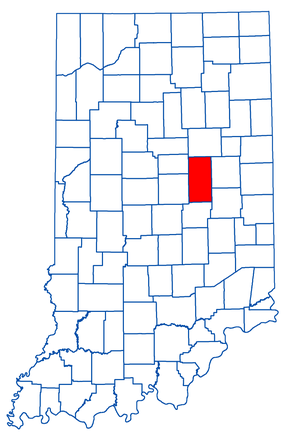
Ordovician -- Maquoketa Group Aquifer System

The extent of the Maquoketa Group Aqui fer System subcrop area is limited to a buried pre-glacial bedrock valley located in central Madison County. The Maquoketa Group consists mostly of shale with interbedded limestone units.

Few wells have been reported in this system in Madison County mostly due to the availability of overlying unconsolidated sand and gravel aquifer resources. However, wells completed in the Maquoketa Group Aquifer System are generally capable of meeting the needs of domestic users in this county. Reported depths of the few wells utilizing this system range from 170 to 270 feet with the amount of rock penetration typically 5 to 85 feet. Reported well yields range from 6 to 28 gpm with static water levels ranging from 22 to 42 feet. There are no registered significant groundwater withdrawal facilities utilizing the Maquoketa Group Aquifer System in Madison County.

The Maquoketa Group Aquifer System is generally not very susceptible to contamination from the land surface because thick layers of clay-rich material overlie the bedrock.

Location Map

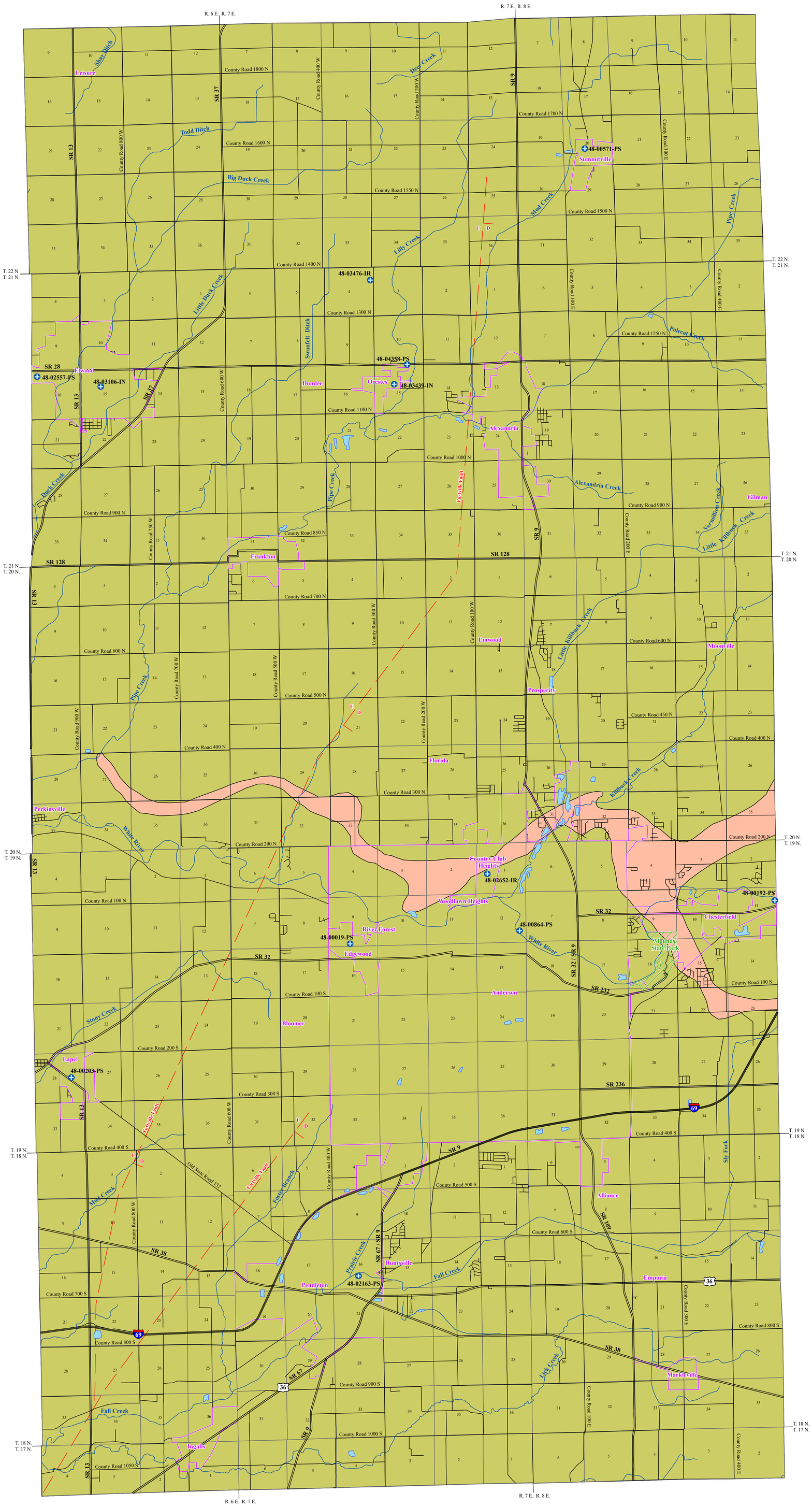


1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Fortville Faults
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- State Managed Property
- Lake & River



INDIANA DEPARTMENT OF NATURAL RESOURCES

INDIANA DEPARTMENT OF NATURAL RESOURCES DIVISION OF WATER

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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Bedrock Aquifer Systems of Madison County, Indiana

by
Robert A. Scott
Division of Water, Resource Assessment Section

August 2010

POTENTIOMETRIC SURFACE MAP OF THE BEDROCK AQUIFERS OF MADISON COUNTY, INDIANA

Madison County, Indiana is located in the north-central section of the state and lies primarily within the White and West Fork White River Basin; however, the northern portion lies within the Upper Wabash River Basin and the southeast section lies within the East Fork White River Basin.

The Potentiometric Surface Map (PSM) of the bedrock aquifers of Madison County was mapped by contouring the elevations of 2438 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However, some wells were completed under unconfined (not bounded by impermeable layers) settings.

The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the aquifer, in contrast to groundwater in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

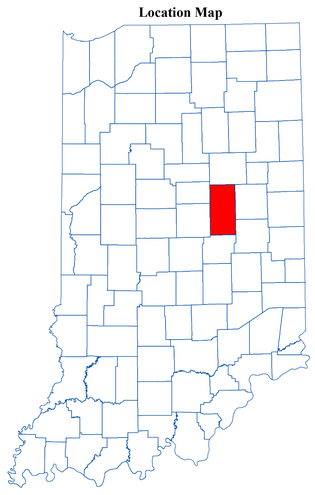
Static water-level measurements in individual wells used to construct county PSM's are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement and pumpage. Therefore, measured static water-levels in an area may differ due to local or seasonal variations. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams.

Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records. The location of the majority of the water well records used to make the PSM were field verified. Elevation data were obtained from a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

Potentiometric surface elevations range from a high of 970 feet mean sea level (msl) in the southeastern corner of the county, to a low of 790 feet msl in the west-central section. Groundwater flow direction throughout the majority of the county is generally to the west-southwest towards Pipe Creek and the White River, with a subcomponent flowing to the southwest toward Fall Creek. However, in the northeastern portion of the county, approximately north of the boundary between the White and West Fork White River, and Upper Wabash River Basins, groundwater flow is to the north. Bedrock potentiometric surface elevation contours have not been extended through portions of the county. These areas are lacking in data and/or covered by more prolific unconsolidated deposits that limit the necessity to complete wells in bedrock.

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM's represent overall regional characteristics and are not intended to be a substitute for site-specific studies.

Location Map



1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

N
W E
S

EXPLANATION

- 810 — Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
- Stream
- County Road
- State Road
- US Highway
- Interstate
- Basin Boundary
- Municipal Boundary
- State Managed Property
- Lake & River
- No Aquifer Material or Limited Data

INDIANA DEPARTMENT OF NATURAL RESOURCES

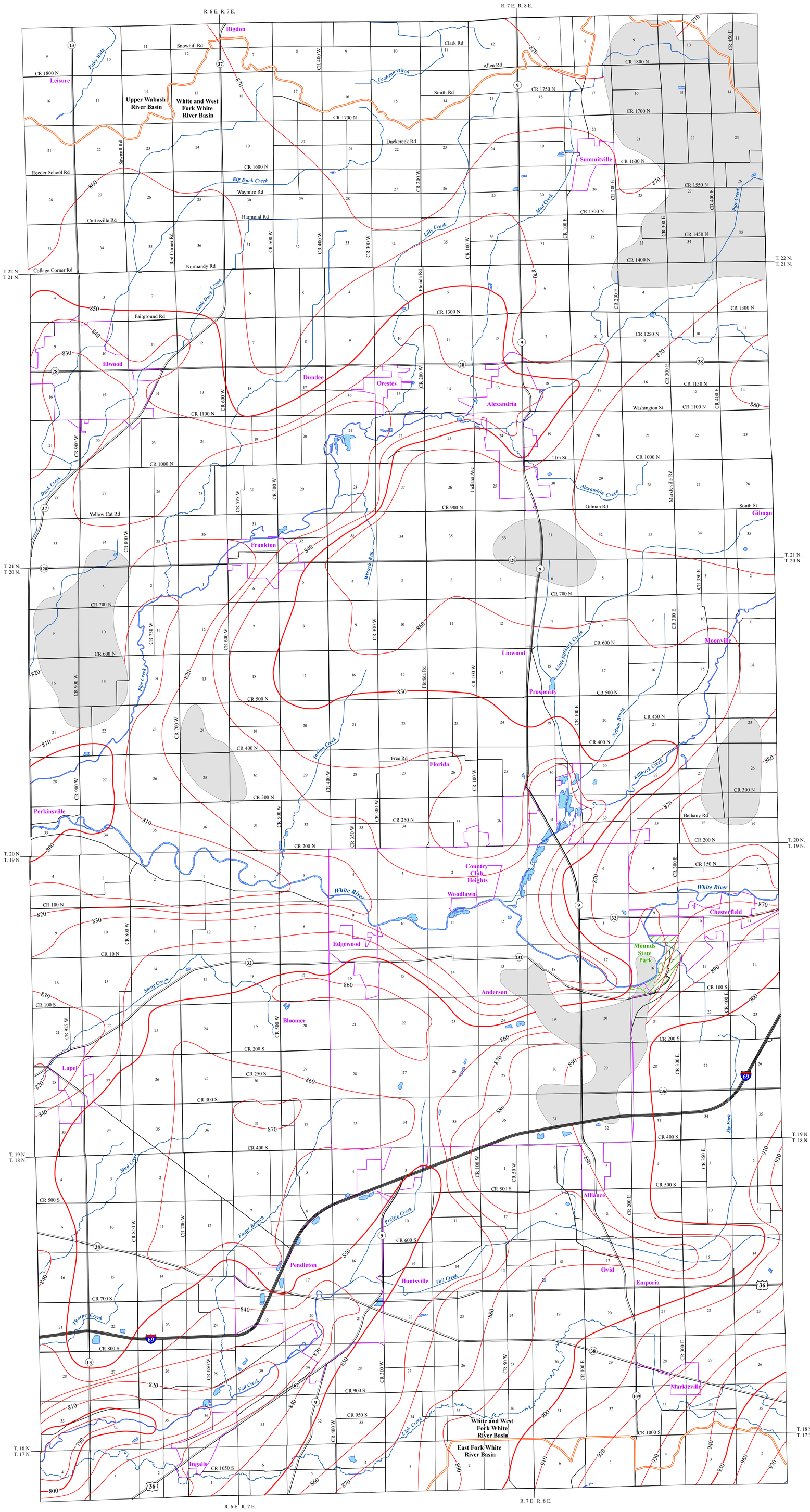
INDIANA DEPARTMENT OF NATURAL RESOURCES DIVISION OF WATER

Digital Elevation Model of Madison County, Indiana

Elevation (feet)

1027

658



Map generated by Joel D. Sanderson
IDNR, Division of Water, Resource Assessment Section

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Potentiometric Surface Map of the Bedrock Aquifers of Madison County, Indiana

by
Robert K. Schmidt
Division of Water, Resource Assessment Section

February 2014

UNCONSOLIDATED AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA

The unconsolidated aquifer systems of Madison County are composed of sediments deposited by, or resulting from, a complex sequence of glaciers, glacial meltwaters, and post-glacial precipitation events. Six unconsolidated aquifer systems have been mapped in Madison County: the Till Veneer; the Bluffton / New Castle / Tipton Till; the Bluffton / New Castle / Tipton Till Subsystem; the Bluffton / New Castle / Tipton Complex; the White River and Tributaries Outwash; and the White River and Tributaries Outwash Subsystem. Because of the complicated glacial geology, boundaries of the aquifer systems in this county are commonly gradational and individual aquifers may extend across aquifer system boundaries. Approximately 51 percent of all wells in this county are completed in unconsolidated deposits.

The thickness of unconsolidated deposits in Madison County is quite variable, due to the deposition of glacial material over an uneven bedrock surface. Unconsolidated deposits in the county range from no cover at the falls of Fall Creek at Pendleton to over 350 feet thick in a buried bedrock valley located south of Chesterfield.

Regional estimates of aquifer susceptibility to contamination from the surface can differ considerably due to a wide range of variation within geologic environments. In addition, man-made structures such as poorly constructed water wells, unplugged or improperly abandoned wells, and open excavations can provide contaminant pathways that bypass the naturally protective clays.

Till Veneer Aquifer System

In Madison County, the Till Veneer Aquifer System occurs in areas where the unconsolidated material is predominantly thin till overlying bedrock. This system is chiefly the product of the deposition of glacial till over an uneven, eroded bedrock surface, and is generally less than 50 feet thick. Portions of northern and southwestern Madison County are mapped as Till Veneer.

The Till Veneer Aquifer System has the most limited groundwater resources of the unconsolidated aquifer systems. Approximately 99 percent of the wells in this system are completed in the underlying bedrock; however, some wells do utilize this aquifer system. Potential aquifers within this system include thin isolated sand and/or gravel layers, and surficial sand and gravel outwash or alluvium. Wells are completed at depths ranging from 24 to 45 feet with sand and gravel aquifer materials commonly 4 to 10 feet thick. Most of the wells in this system have reported capacities of 5 gallons per minute (gpm) or less with some wells being reported as “dry”. Static water levels range between 16 and 32 feet below the surface. There are no registered significant groundwater withdrawal facilities utilizing this system.

This system is generally not very susceptible to contamination from surface sources because of the low permeability of the near-surface materials. However, areas where protective clay layers are thin or absent are very susceptible to contamination.

Bluffton / New Castle / Tipton Till Aquifer System

The Bluffton / New Castle / Tipton Till Aquifer System is mapped throughout portions of Madison County. This aquifer system is up to about 170 feet in thickness, and consists primarily of glacial till with intertill sand and gravel layers. However, the sand and gravel aquifers in this system tend to be relatively thin and discontinuous.

This aquifer system is capable of meeting the needs of most domestic and some high-capacity users in Madison County. The wells utilizing this aquifer system are completed at depths ranging from 50 to 105 feet with sand and gravel aquifer materials commonly 4 to 24 feet thick. Domestic well yields are typically 10 to 40 gpm and static water levels range from flowing to 32 feet below the land surface. There are 5 registered significant groundwater withdrawal facilities (11 wells) using the Bluffton / New Castle / Tipton Till Aquifer System. The reported yields for the high-capacity wells range from 250 to 1,000 gpm.

The Bluffton / New Castle / Tipton Till Aquifer System typically has a low susceptibility to surface contamination because intertill sand and gravel units are commonly overlain by thick glacial till. Shallow wells completed in this system are moderately susceptible to contamination.

Bluffton / New Castle / Tipton Till Aquifer Subsystem

The Bluffton / New Castle / Tipton Till Aquifer Subsystem is mapped in several areas throughout Madison County. The subsystem is mapped similar to the Bluffton / New Castle / Tipton Till Aquifer System; however, potential aquifer materials are generally thinner and potential yields are less in the subsystem.

About 81 percent of wells started in this subsystem in Madison County are completed in the underlying bedrock aquifer system. However, the Bluffton / New Castle / Tipton Till Aquifer Subsystem is capable of meeting the needs of some domestic users in the county. Potential aquifer materials include relatively thin, discontinuous intertill sand and gravel deposits. These intertill sand and gravel aquifer materials are commonly less than 10 feet thick. The wells producing from this subsystem are typically completed at depths ranging from about 45 to 85 feet. Domestic well yields are generally 5 to 10 gpm and static water levels range from 10 to 30 feet below the surface. There are no registered significant groundwater withdrawal facilities using the Bluffton / New Castle / Tipton Till Aquifer Subsystem.

This subsystem is generally not very susceptible to surface contamination because intertill sand and gravel units are overlain by thick till deposits. Wells producing from shallow aquifers are moderately to highly susceptible to contamination.

Bluffton / New Castle / Tipton Complex Aquifer System

The Bluffton / New Castle / Tipton Complex Aquifer System is mapped throughout the central and southern areas of Madison County. Multiple glacial advances resulted in sequences of intertill sand and gravel layers, typically overlain by thick clay, resulting in aquifers that are highly variable in depth, thickness, and lateral extent. The total combined thickness of the unconsolidated deposits is up to 240 feet.

The deeper more prolific aquifers of this system are capable of meeting the needs of domestic and some high-capacity users in Madison County. Saturated aquifer materials in the Bluffton / New Castle / Tipton Complex Aquifer System range from about 5 to 25 feet thick, and wells in this system are generally completed at depths from about 70 feet to 125 feet. Domestic well yields range up to 50 gpm and static water levels are about 15 to 40 feet below the surface. There are 14 registered significant groundwater withdrawal facilities (34 wells) using this system. The reported yields for the high-capacity wells range from 75 to 2,847 gpm.

The New Castle Complex Aquifer System overlies a buried bedrock valley located in the east-central portion of the county. The total unconsolidated thickness is up to 350 feet in this area. Only a few reported wells utilize the deeper aquifer within the buried bedrock valley. The aquifer utilized by these wells is up to 22 feet thick, and the reported yields range from 10 to 30 gpm. There is 1 registered significant groundwater withdrawal facility (1 well) using this system. The reported yield for the high-capacity well is 400 gpm.

The Bluffton / New Castle / Tipton Complex Aquifer System is not very susceptible to contamination where overlain by thick clay deposits. However, in some areas where surficial clay deposits are relatively thin, the shallow aquifer, if present, is at moderate to high risk.

White River and Tributaries Outwash Aquifer System

The White River and Tributaries Outwash Aquifer System is mapped in the central portion of Madison County along the White River. The system includes thick glacial outwash sands and gravels that are generally capped by a layer of clay and silt deposits.

The White River and Tributaries Outwash Aquifer System is capable of meeting the needs of both domestic and high-capacity users in Madison County. The wells utilizing this aquifer system are completed at depths ranging from 35 to 105 feet with sand and gravel aquifer materials commonly 4 to 22 feet thick. Domestic well yields are typically 10 to 50 gpm with static water levels ranging from 12 to 36 feet below the surface. In the White River and Tributaries Outwash Aquifer System there are 2 registered significant groundwater withdrawal facilities (3 wells). Reported production for these high-capacity wells range from 512 to 1,319 gpm.

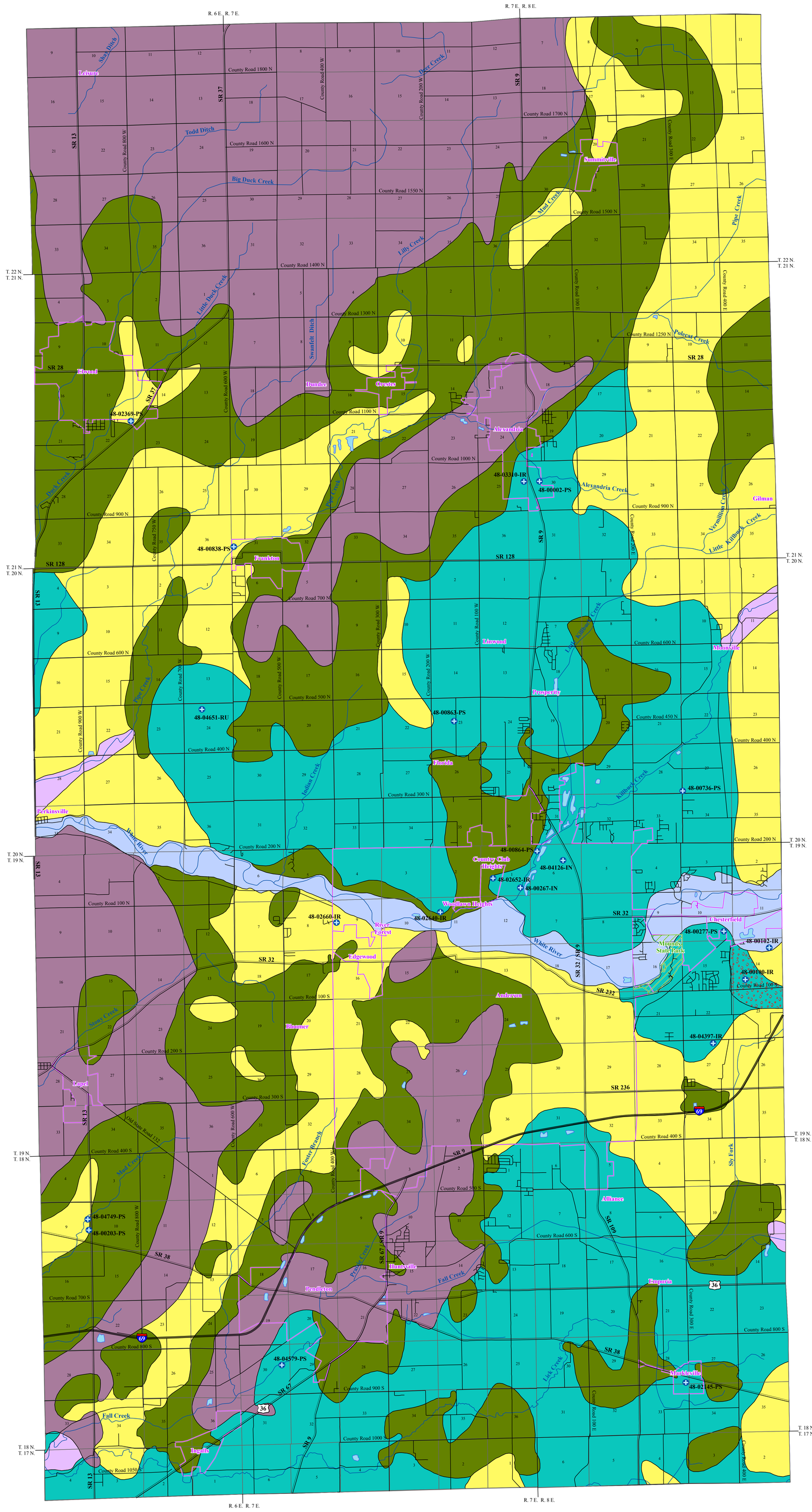
The White River and Tributaries Outwash Aquifer System is highly susceptible to surface contamination where sand and gravel deposits are near the surface and have little or no clay deposits. However, areas having relatively thick clays overlying the sand and gravel deposits are moderately susceptible to contamination.

White River and Tributaries Outwash Aquifer Subsystem

The White River and Tributaries Outwash Aquifer Subsystem is mapped in several areas of Madison County along portions of Fall Creek, Pipe Creek, and Killbuck Creek. This subsystem is mapped similar to the White River and Tributaries Outwash Aquifer System; however, aquifer materials in the White River and Tributaries Outwash Aquifer Subsystem are generally thinner, overlying silt and/or clay materials are thicker, and potential yields are less in the subsystem.

The White River and Tributaries Outwash Aquifer Subsystem has the potential to meet the needs of domestic and some high-capacity users. The wells in this subsystem are completed at depths commonly ranging from 50 to 90 feet. Saturated aquifer materials include sand and gravel deposits that are typically 15 to 50 feet thick. Domestic well yields are generally 10 gpm with static water levels ranging from 8 to 28 feet below the surface. There are no registered significant groundwater withdrawal facilities in the White River and Tributaries Outwash Aquifer Subsystem.

Areas within the White River and Tributaries Outwash Aquifer Subsystem that have overlying clay deposits are moderately susceptible to surface contamination; however, areas lacking overlying clay deposits are highly susceptible to contamination.



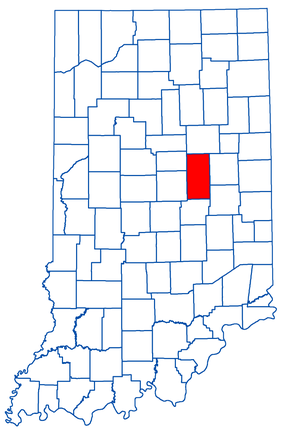
EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- State Managed Property
- Lake & River

1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

Location Map



Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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Unconsolidated Aquifer Systems of Madison County, Indiana

by
Robert A. Scott
Division of Water, Resource Assessment Section

August 2010

POTENTIOMETRIC SURFACE MAP OF THE UNCONSOLIDATED AQUIFERS OF MADISON COUNTY, INDIANA

Madison County, Indiana is located in the north-central section of the state and lies primarily within the White and West Fork White River Basin; however, the northern portion lies within the Upper Wabash River Basin and the southeast section lies within the East Fork White River Basin.

The Potentiometric Surface Map (PSM) of the unconsolidated aquifers of Madison County was mapped by contouring the elevations of 2881 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However, some wells were completed under unconfined (not bounded by impermeable layers) settings. The mapped potentiometric surface contours are primarily for the upper 100 feet of the unconsolidated materials and utilize data for wells 100 feet or less in depth. If the shallow data was sparse or unavailable in an area, deeper wells were used to complement the mapping.

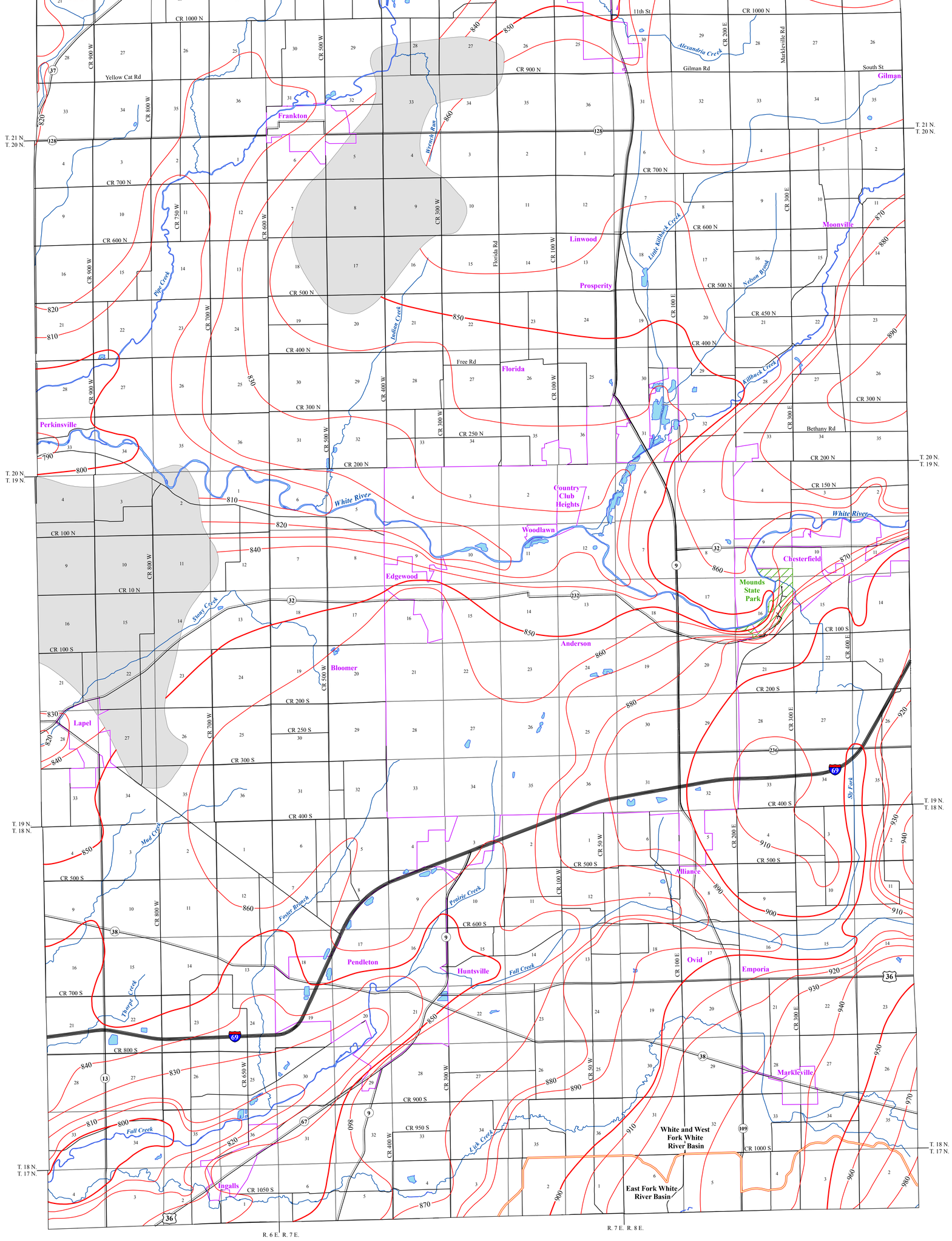
The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the aquifer, in contrast to groundwater in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

Static water-level measurements in individual wells used to construct county PSM's are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement and pumpage. Therefore, measured static water-levels in an area may differ due to local or seasonal variations. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams.

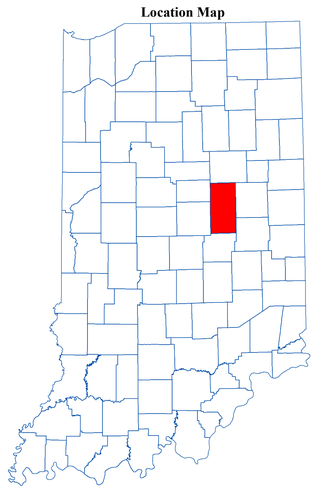
Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records. The location of the majority of the water well records used to make the PSM were field verified. Elevation data were obtained from a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

Potentiometric surface elevations range from a high of 980 feet mean sea level (msl) in the southeastern corner of the county, to a low of 790 feet msl in the west-central section. Groundwater flow direction throughout the majority of the county is generally to the west-southwest towards Pipe Creek and the White River, with a subcomponent flowing to the southwest toward Fall Creek. However, in the northeastern portion of the county, approximately north of the boundary between the White and West Fork White River, and Upper Wabash River Basins, groundwater flow is to the north. In portions of the county, where data is lacking and/or covered by thin or unproductive deposits, potentiometric surface elevation contours have not been extended through these areas.

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM's represent overall regional characteristics and are not intended to be a substitute for site-specific studies.



Location Map



1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

N W E S

EXPLANATION

- 810 — Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
- Stream
- County Road
- 32 — State Road
- 36 — US Highway
- 69 — Interstate
- Basin Boundary
- Municipal Boundary
- State Managed Property
- Lake & River
- No Aquifer Material or Limited Data

INDIANA DEPARTMENT OF NATURAL RESOURCES

INDIANA DEPARTMENT OF NATURAL RESOURCES DIVISION OF WATER

Digital Elevation Model of Madison County, Indiana

Elevation (feet)

1027

658

Map generated by Joel D. Sanderson
IDNR, Division of Water, Resource Assessment Section

Map Use and Disclaimer Statement

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This map was compiled by staff of the Indiana Department of Natural Resources, Division of Water using data believed to be reasonably accurate. However, a degree of error is inherent in all maps. This product is distributed "as is" without warranties of any kind, either expressed or implied. This map is intended for use only at the published scale.

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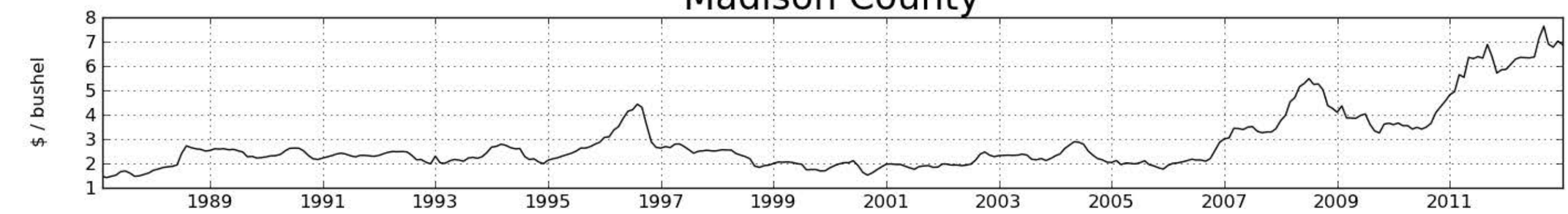
Potentiometric Surface Map of the Unconsolidated Aquifers of Madison County, Indiana

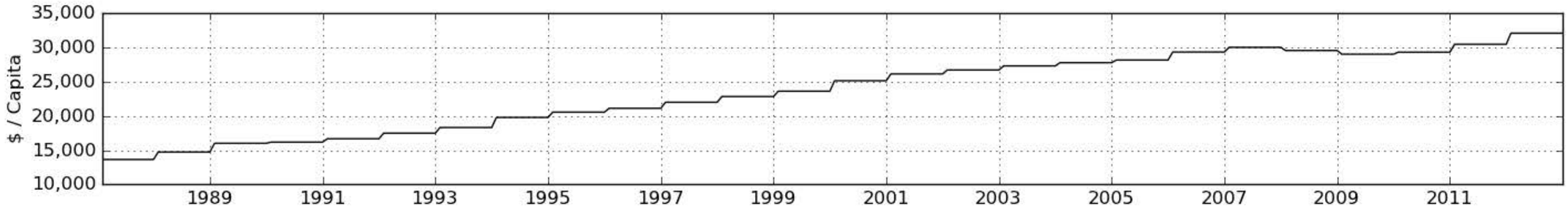
by
Robert K. Schmidt
Division of Water, Resource Assessment Section

February 2014

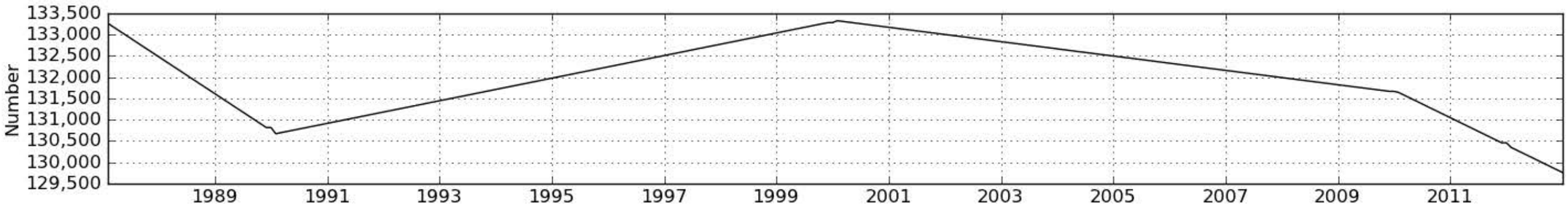
Madison County



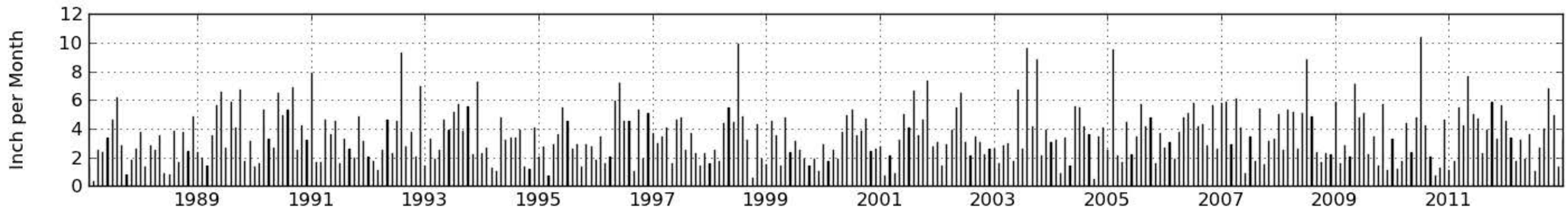
Corn Price



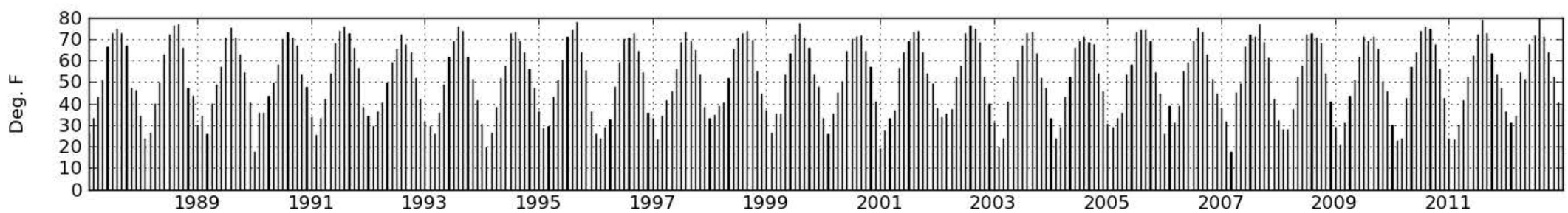
Income



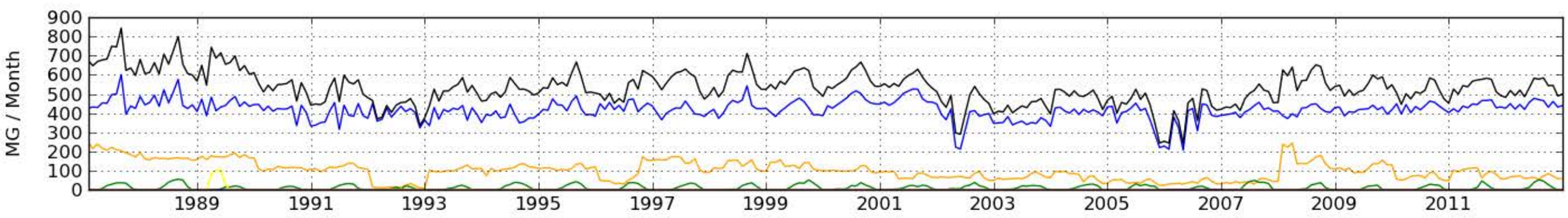
Population



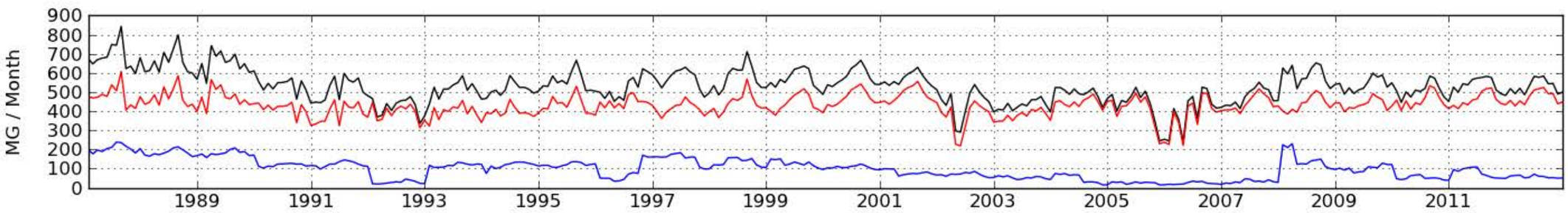
Precipitation



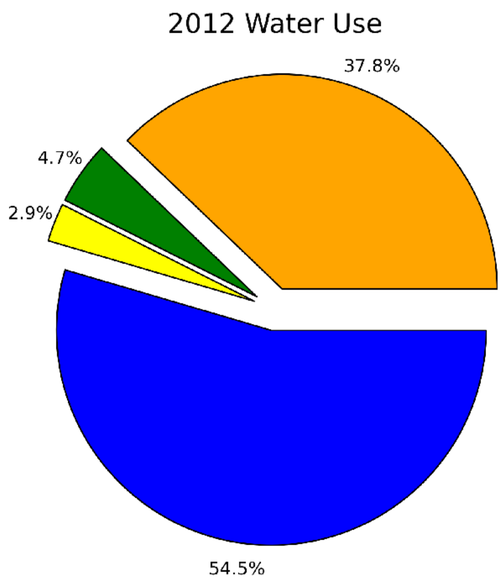
Temperature



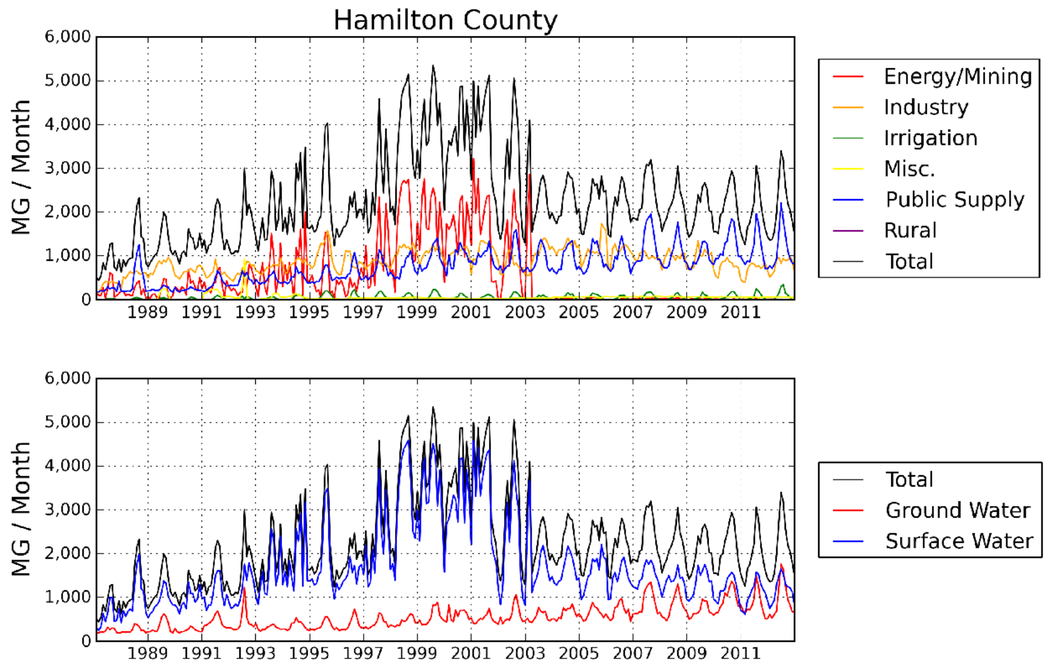
Energy/Mining
Industry
Irrigation
Misc.
Public Supply
Rural
Total

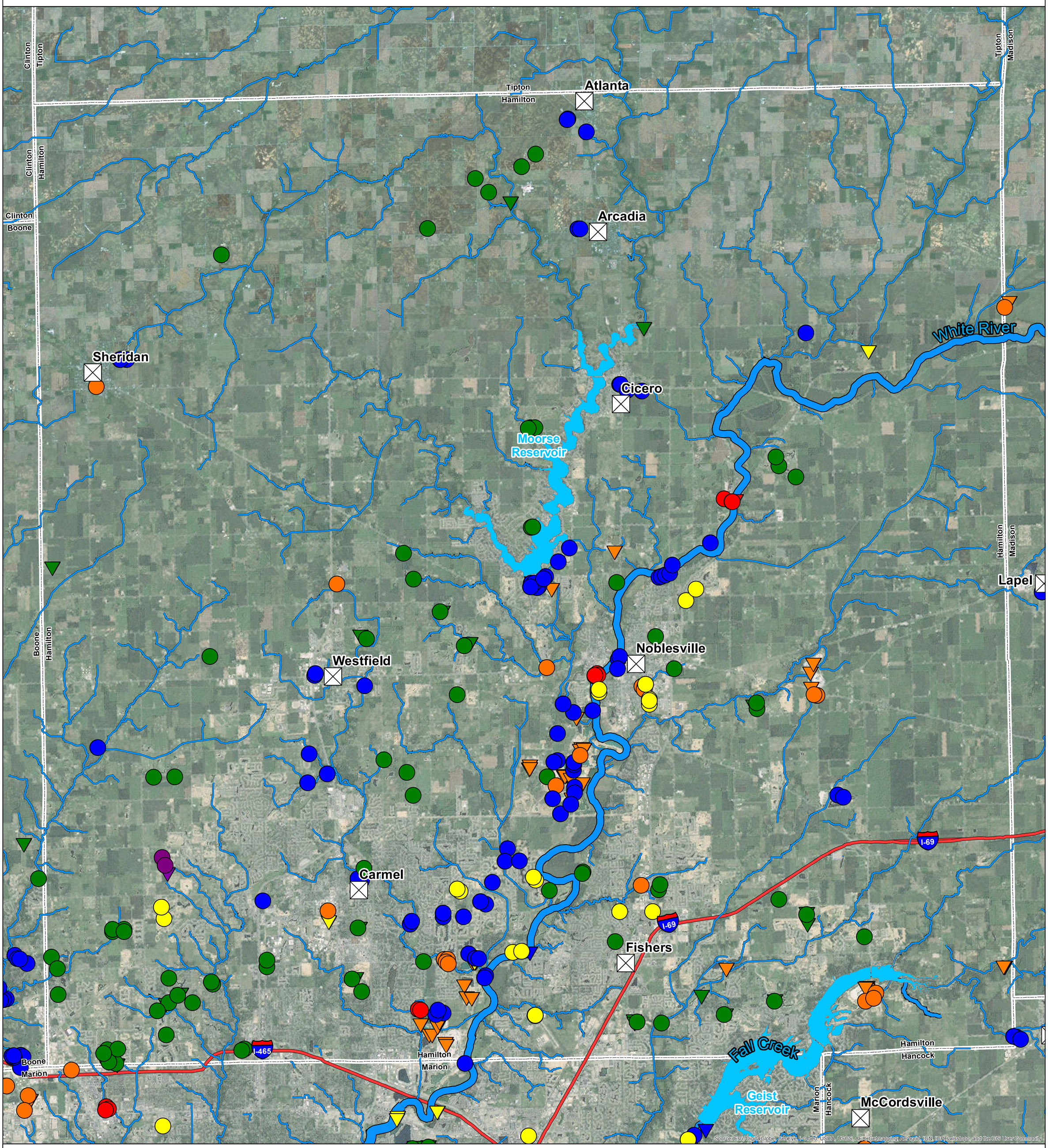


Total
Ground Water
Surface Water



Average Daily Use: 70.4 MGD





Water Resources and Use in Hamilton County

Data Sources: U.S. Geological Survey and Indiana Department of Natural Resources

Withdrawal Location

WELL INTAKE

- Energy/Mining
- Industry
- Irrigation
- Misc.
- Public Supply
- Rural Use

River

7Q2 Flow (MGD)

- <10 MGD
- 10 - 50 MGD
- 50 - 100 MGD
- 100 - 500 MGD
- > 500 MGD

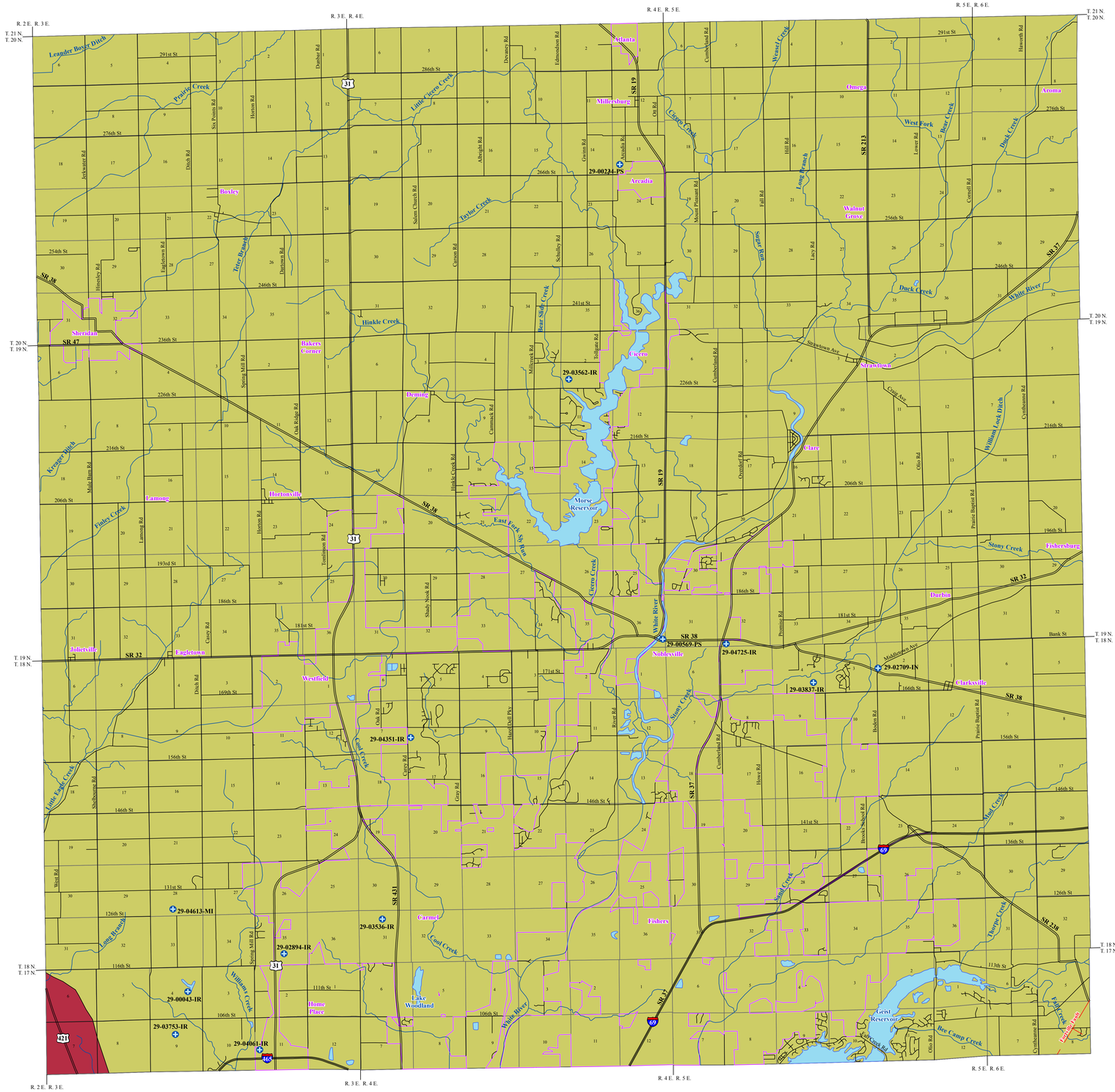
- Major Lakes
- Interstate
- County
- City

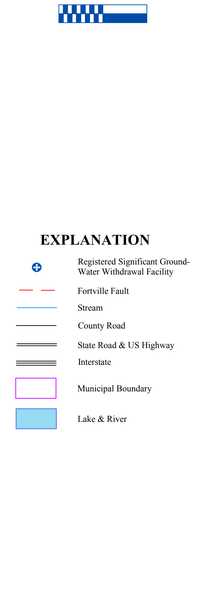
INTERA
GEOSCIENCE & ENGINEERING SOLUTIONS

NORTH

Miles
0 1 2

BEDROCK AQUIFER SYSTEMS OF HAMILTON COUNTY, INDIANA





EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Fortville Fault
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- Lake & River

The occurrence of bedrock aquifers depends on the original composition of the geologic material and subsequent changes which influence the hydraulic properties. Post-depositional processes, which promote jointing, fracturing and solution activity of exposed bedrock, generally increase the hydraulic conductivity (permeability) of the upper portion of bedrock aquifer systems. Because permeability in many places is greatest near the bedrock surface, bedrock units within the upper 100 feet are commonly the most productive aquifers.

Bedrock aquifer systems in Hamilton County are overlain by unconsolidated deposits of varying thickness ranging from about 5 feet to over 300 feet. Bedrock, in places, is at or near the surface along many streams in the county.

The yield of a bedrock aquifer depends on its hydraulic characteristics and the nature of the overlying deposits. Shale and glacial till act as aquitards, restricting recharge to underlying bedrock aquifers. However, fracturing and/or jointing may occur in aquitards, which can increase recharge to the underlying aquifers. Hydraulic properties of bedrock aquifers are highly variable.

Most bedrock aquifers in the county are under confined conditions, mainly a result of low vertical hydraulic conductivity clay-rich materials, such as glacial till, overlying the bedrock. Therefore, the potentiometric surface (water level) in most wells completed in bedrock rises above the top of the water-bearing zone.

Two bedrock aquifer systems are identified for Hamilton County. They are, from younger to older; the New Albany Shale of Devonian and Mississippian age, and the Silurian and Devonian Carbonates. Bedrock aquifers are fairly productive in this county. Bedrock wells represent approximately 25 percent of all wells completed in Hamilton County.

The susceptibility of bedrock aquifer systems to surface contamination is largely dependent on the type and thickness of the overlying sediments. Because the bedrock aquifer systems have complex fracturing systems, once a contaminant has been introduced into a bedrock aquifer system, it will be difficult to track and remediate.

Devonian and Mississippian -- New Albany Shale Aquifer System

The New Albany Shale consists mostly of brownish-black carbon-rich shale, greenish-gray shale, and minor amounts of dolomite and dolomitic quartz sandstone. The New Albany Shale subcrops in a relatively small area in the southwestern corner of Hamilton County. There are no reported wells completed in the New Albany Shale in Hamilton County. Domestic wells either produce from the overlying unconsolidated deposits or penetrate through the shale in favor of the underlying Silurian and Devonian Carbonates.

Because the New Albany Shale is generally not very productive, it is typically used only where overlying deposits do not contain aquifer material. The New Albany Shale is often described as an aquitard, and yields of wells completed in it are typically quite limited. Most domestic wells from adjacent counties that were completed in the New Albany Shale Aquifer System have reported testing rates of less than 5 gallons per minute (gpm).

The permeability of shale materials is considered low. The New Albany Shale Aquifer System, therefore, has a low susceptibility to contamination introduced at or near the surface.

Silurian and Devonian Carbonates Aquifer System

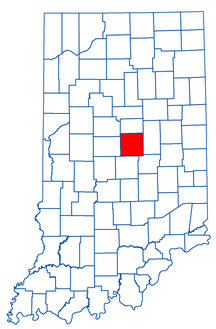
In Hamilton County, Silurian and Devonian Carbonates Aquifer System subcrops throughout nearly all of Hamilton County. The total thickness of this system in the county ranges up to 450 feet.

In Hamilton County, wells penetrating the Silurian and Devonian Carbonates Aquifer System have reported depths ranging from 25 to 300 feet, but are commonly 80 to 240 feet deep. The amount of rock penetrated in this system typically ranges from 20 to 145 feet.

Wells utilizing the Silurian and Devonian Carbonates Aquifer System are generally capable of meeting the needs of domestic users and some high-capacity users in this county. Domestic well yields commonly range from 10 to 30 gpm. Static water levels typically range from 10 to 45 feet below the land surface. A few flowing wells have been reported for this bedrock aquifer system in the county. There are 12 registered significant groundwater withdrawal facilities (20 wells) utilizing the Silurian and Devonian Carbonates Aquifer System in Hamilton County. High-capacity well depths range from approximately 65 to 550 feet below the land surface. Reported high-capacity well yields range from about 100 gpm to nearly 700 gpm.

This aquifer system is generally not very susceptible to surface contamination due to thick clay deposits over most of the county. However, solution features (caves) are described in a few well records suggesting minor karst development and there are localized areas, especially near the White River, where the bedrock surface is shallow. These areas, therefore, are at moderate to high risk to contamination.

Location Map



Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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Bedrock Aquifer Systems of Hamilton County, Indiana

by
Robert A. Scott
Division of Water, Resource Assessment Section

June 2010

POTENTIOMETRIC SURFACE MAP OF THE BEDROCK AQUIFERS OF HAMILTON COUNTY, INDIANA

Hamilton County, Indiana is located in the central portion of the state. The entire county is situated within the White and West Fork White River Basin. The Potentiometric Surface Map (PSM) of the Bedrock aquifers of Hamilton County was mapped by contouring the elevations of over 1400 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in unconsolidated aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However, some wells were completed under unconfined (not bounded by impermeable layers) settings. The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the water bearing formation, in contrast to water in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

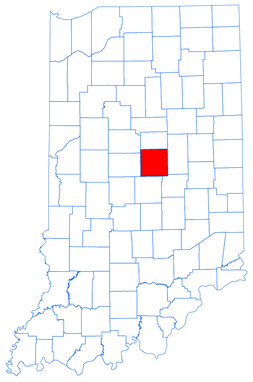
Static water-level measurements in individual wells used to construct county PSM's are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement, and pumpage. Therefore, current site specific conditions may differ due to local or seasonal variations in measured static water levels. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. Groundwater flow is naturally from areas of recharge toward areas of discharge. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams. The contour type was determined based on the amount of data and the degree of change in water levels between wells in each mapped area. Portions of the county are lacking in data and/or are covered by deposits that have limited to non-existent aquifer potential. Therefore, potentiometric surface elevations contours have not been extended through these areas.

Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records; however, the location of the majority of the water well records used to make the PSM were address geocoded. Elevation data were either obtained from topographic maps or a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

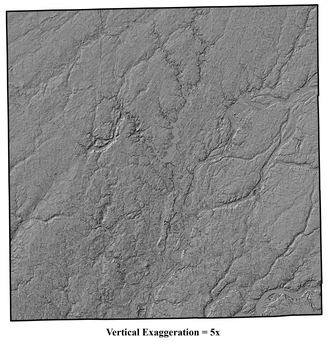
Bedrock potentiometric surface elevations in Hamilton County range from a high of 900 feet mean sea level (msl) in the northwest region of the county, to a low of 720 feet msl in the south-central portion. Groundwater flow direction within the White and West Fork White River Basin is generally towards the White River. In the far western portion of the county groundwater flows west towards Eagle Creek and Little Eagle Creek. Also, in the southeast corner groundwater flows towards Fall Creek.

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM's represent overall regional characteristics and are not intended to be a substitute for site-specific studies.

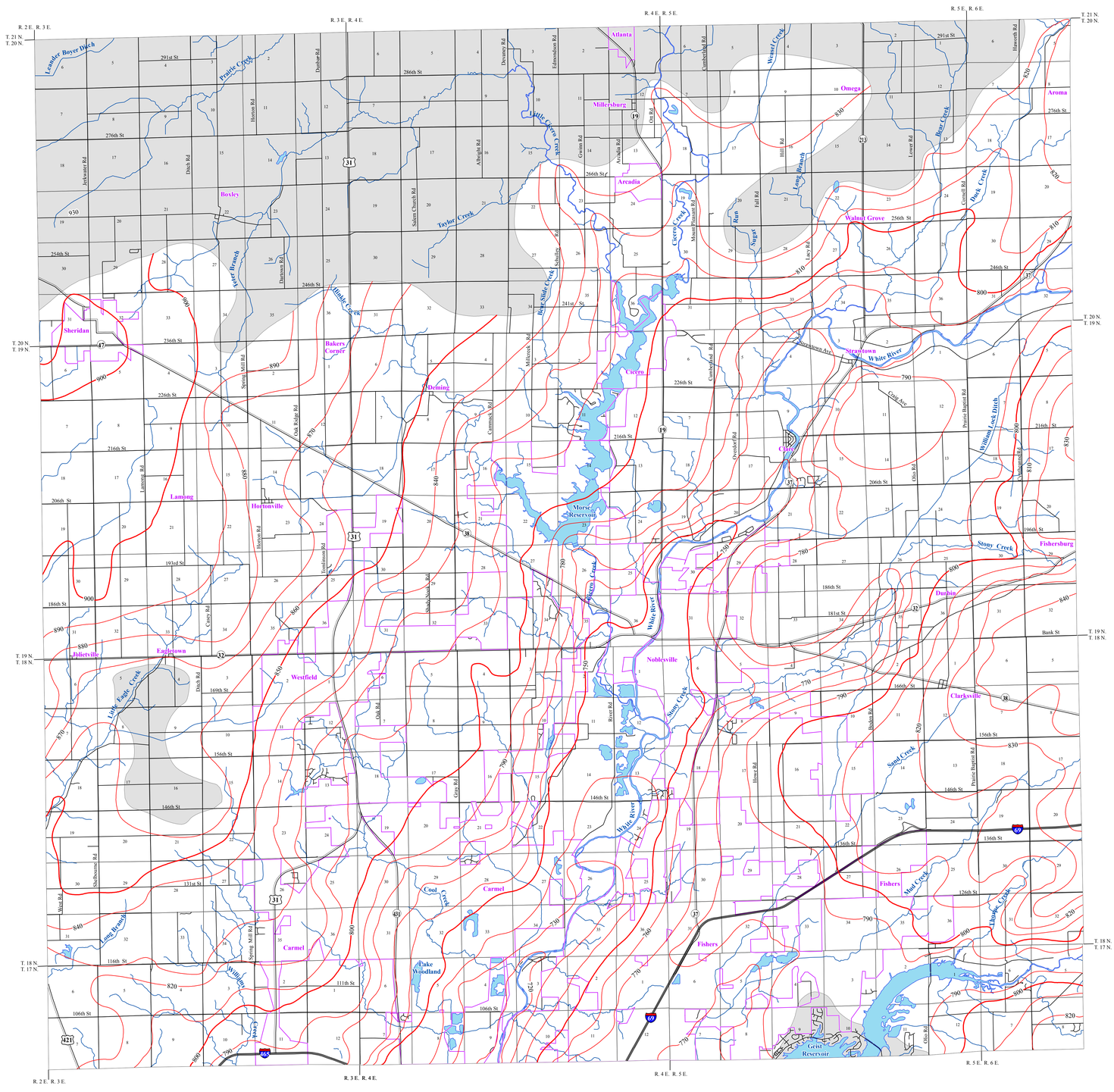
Location Map



Hillshade Map of Hamilton County, Indiana



Vertical Exaggeration = 5x



EXPLANATION

- 800 — Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
- Stream
- County Road
- 19 — State Road
- 31 — US Highway
- 69 — Interstate
- Basin Boundary
- Municipal Boundary
- Lake & River
- No Aquifer Material or Limited Data

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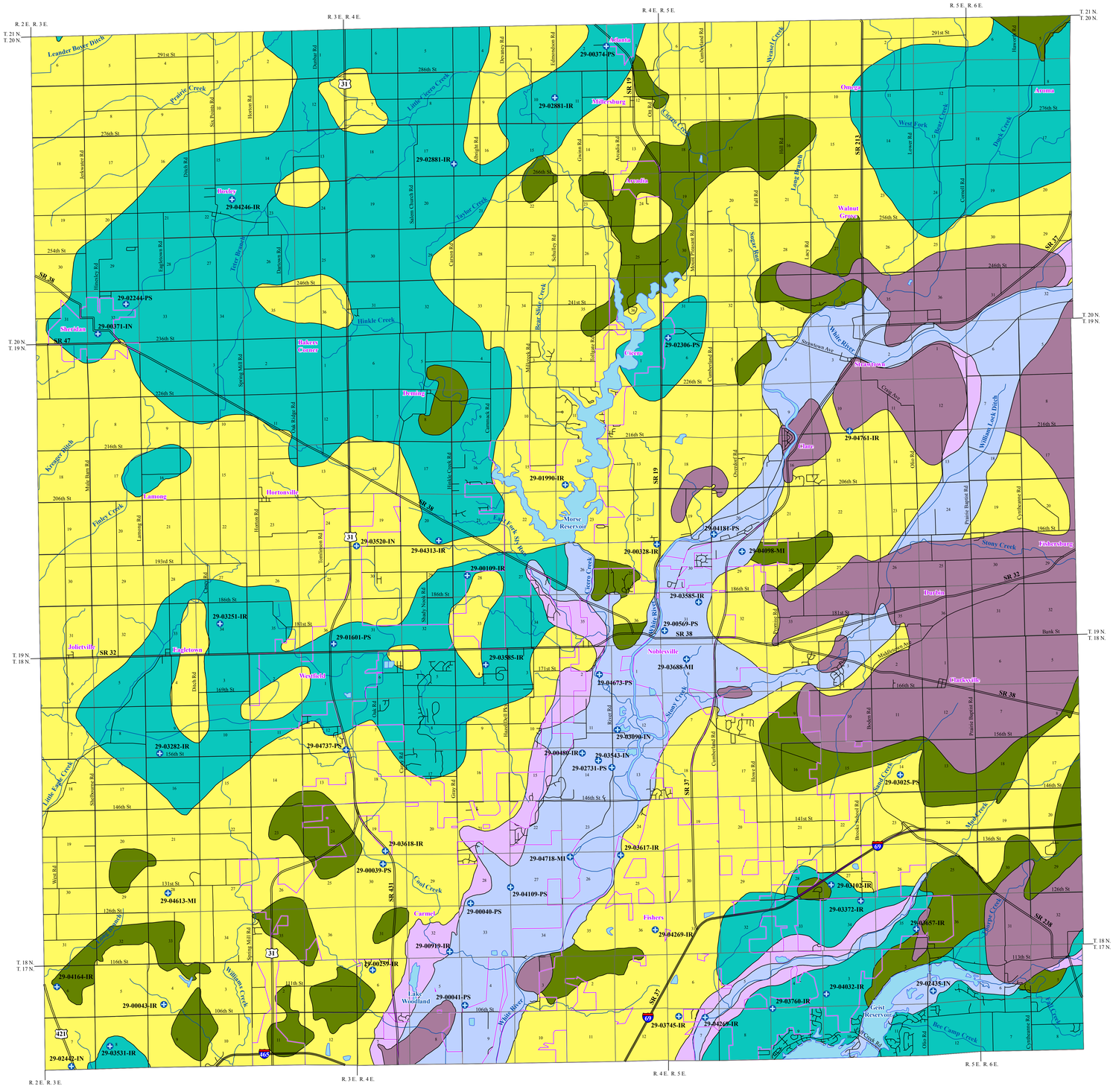
Map generated by Joel Sanderson
IDNR, Division of Water, Resource Assessment Section

Potentiometric Surface Map of the Bedrock Aquifers of Hamilton County, Indiana

by
Glenn E. Grove
Division of Water, Resource Assessment Section

December 2012

UNCONSOLIDATED AQUIFER SYSTEMS OF HAMILTON COUNTY, INDIANA



The unconsolidated aquifer systems of Hamilton County are composed of sediments deposited by, or resulting from, a complex sequence of glaciers, glacial meltwaters, and post-glacial precipitation events. Six unconsolidated aquifer systems have been mapped in Hamilton County: the Till Veneer; the New Castle / Tipton Till; the New Castle / Tipton Till Subsystem; the New Castle / Tipton Complex; the White River and Tributaries Outwash; and the White River and Tributaries Outwash Subsystem. Because of the complicated glacial geology, boundaries of the aquifer systems in this county are commonly gradational and individual aquifers may extend across aquifer system boundaries. Approximately 75 percent of all wells in this county are completed in unconsolidated deposits.

The thickness of unconsolidated deposits in Hamilton County is quite variable, due to the deposition of glacial material over an uneven bedrock surface. Unconsolidated deposits in the county range from less than 5 feet to about 300 feet thick.

Regional estimates of aquifer susceptibility to contamination from the surface can differ considerably due to a wide range of variation within geologic environments. In addition, man-made structures such as poorly constructed water wells, unplugged or improperly abandoned wells, and open excavations can provide contaminant pathways that bypass the naturally protective clays.

Till Veneer Aquifer System

In Hamilton County, the Till Veneer Aquifer System occurs in areas where the unconsolidated material is predominantly thin till overlying bedrock. This system is chiefly the product of the deposition of glacial till over an uneven, eroded bedrock surface, and is generally less than 50 feet thick. Small areas of eastern and southeastern Hamilton County are mapped as Till Veneer.

The Till Veneer Aquifer System has the most limited groundwater resources of the unconsolidated aquifer systems. Potential aquifers within this system include thin isolated sand and/or gravel layers, and surficial sand and gravel outwash or alluvium. However, there is little potential for groundwater production in this system in Hamilton County with 96 percent of the wells being completed in the underlying bedrock. The wells utilizing this aquifer system are oompleted at depths ranging from 30 to 40 feet. Most of the wells in this system have reported capacities of 5 gallons per minute (gpm) or less with some wells being reported as "dry". Static water levels range between 8 and 20 feet below the surface. There are no registered significant groundwater withdrawal facilities utilizing this system.

This system is generally not very susceptible to contamination from surface sources because of the low permeability of the near-surface materials. However, areas where protective clay layers are thin or absent are very susceptible to contamination.

New Castle / Tipton Till Aquifer System

The New Castle / Tipton Till Aquifer System is mapped throughout a large portion of Hamilton County. This aquifer system is up to about 170 feet in thickness, and consists primarily of glacial till with intertill sand and gravel layers. However, the sand and gravel aquifers in this system tend to be relatively thin and discontinuous.

This aquifer system is capable of meeting the needs of most domestic and some high - capacity users in Hamilton County. The wells utilizing this aquifer system are completed at depths ranging from 65 to 135 feet with saturated sand and gravel aquifer materials commonly 4 to 18 feet thick. Domestic well yields are typically 10 to 40 gpm and static water levels range from flowing to 44 feet below the land surface. There are 17 registered significant groundwater withdrawal facilities (32 wells) using the Tipton Till Aquifer System. The reported yields for the high-capacity wells range from 70 to 777 gpm.

The New Castle / Tipton Till Aquifer System typically has a low susceptibility to surface contamination because intertill sand and gravel units are commonly overlain by thick glacial till. Shallow wells completed in this system are moderately susceptible to contamination.

New Castle / Tipton Till Aquifer Subsystem

The New Castle / Tipton Till Aquifer Subsystem is mapped in several isolated areas of Hamilton County. The subsystem is mapped similar to the New Castle / Tipton Till Aquifer System. However, potential aquifer materials are generally thinner and potential yields are less in the subsystem.

About 84 percent of wells started in this subsystem in Hamilton County are completed in the underlying bedrock aquifer system. However, the New Castle / Tipton Till Aquifer Subsystem is capable of meeting the needs of some domestic users in the county. Potential aquifer materials include relatively thin, discontinuous intertill sand and gravel deposits. These intertill sand and gravel aquifer materials are commonly less than 10 feet thick. The wells producing from th is subsystem are typically completed at depths ranging from about 50 to 110 feet. Domestic well yields are generally 5 to 10 gpm and static water levels range from 12 to 40 feet below the surface. There are no registered significant groundwater withdrawal facilities using the New Castle / Tipton Till Aqufer Subsystem.

This subsystem is generally not very susceptible to surface contamination because intertill sand and gravel units are overlain by thick till deposits. Wells producing from shallow aquifers are moderately to highly susceptible to contamination.

New Castle / Tipton Complex Aquifer System

The New Castle / Tipton Complex Aquifer System is mapped throughout much of Hamilton County. Multiple glacial advances resulted in sequences of intertill sand and gravel layers, typically overlain by thick clay, resulting in aquifers that are highly variable in depth, thickness, and lateral extent. The total thickness of the combined unconsolidated deposits is up to about 300 feet.

The deeper more prolific aquifers of this system are capable of meeting the needs of domestic and some high-capacity users in Hamilton County. Saturated aquifer materials in the New Castle / Tipton Complex Aquifer System range from about 5 to 20 feet thick, and wells in this system are generally completed at depths from about 75 to 150 feet. Domestic well yields range up to 50 gpm and static water levels are about 15 to 50 feet below the surface. There are 18 registered significant groundwater withdrawal facilities (38 wells) using this system. The reported yields for the high-capacity wells range from 70 to 1500 gpm.

The New Castle / Tipton Complex Aquifer System is not very susceptible to contamination where overlain by thick clay deposits. However, in some areas where surficial clay deposits are relatively thin, the shallow aquifer, if present, is at moderate to high risk.

White River and Tributaries Outwash Aquifer System

The White River and Tributaries Outwash Aquifer System is mapped in the southeastern and east-central portions of Hamilton County along the White River, Stony Creek, William Lock Ditch, Mud Creek, and Fall Creek. The system includes thick glacial outwash sands and gravels that are generally capped by a layer of clay and silt deposits.

The White River and Tributaries Outwash Aquifer System is capable of meeting the needs of both domestic and high-capacity users in Hamilton County. The wells utilizing this aquifer system are completed at depths ranging from 45 to 85 feet with saturated sand and gravel aquifer materials commonly 10 to 45 feet thick. Domestic well yields are typically 10 to 50 gpm with static water levels ranging from 12 to 30 feet below the surface. In the White River and Tributaries Outwash Aquifer System there are 20 registered significant groundwater withdrawal facilities (55 wells). Reported production for these high-capacity wells range from 75 to 2100 gpm.

The White River and Tributaries Outwash Aquifer System is highly susceptible to surface contamination where sand and gravel deposits are near the surface and have little or no clay deposits. However, areas having relatively thick clays overlying the sand and gravel deposits are moderately susceptible to contamination.

White River and Tributaries Outwash Aquifer Subsystem

The White River and Tributaries Outwash Aquifer Subsystem is mapped in southeastern and east-central Hamilton County along portions of the White River, William Lock Ditch, Mud Creek, and Fall Creek. This subsystem is mapped similar to the White River and Tributaries Outwash Aquifer System; however, aquifer materials in the White River and Tributaries Outwash Aquifer Subsystem are generally thinner, overlying silt and/or clay materials are thicker, and potential yields are less in the subsystem.

The White River and Tributaries Outwash Aquifer Subsystem has the potential to meet the needs of domestic and some high-capacity users. The wells in this subsystem are completed at depths commonly ranging from 45 to 95 feet. Saturated aquifer materials include sand and gravel deposits that are commonly 5 to 30 feet thick. Domestic well yields are generally 10 gpm with static water levels ranging from 15 to 40 feet below the surface. There are no registered significant groundwater withdrawal facilities in the White River and Tributaries Outwash Aquifer Subsystem.

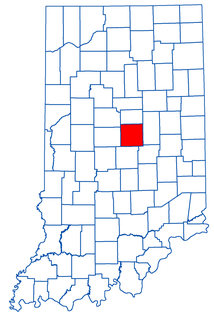
Areas within the White River and Tributaries Outwash Aquifer Subsystem that have overlying clay deposits are moderately susceptible to surface contamination; however, areas lacking overlying clay deposits are highly susceptible to contamination.

1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

INDIANA DEPARTMENT OF NATURAL RESOURCES

Location Map



EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- Lake & River

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

Map Use and Disclaimer Statement

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Unconsolidated Aquifer Systems of Hamilton County, Indiana

by
Robert A. Scott
Division of Water, Resource Assessment Section

June 2010

POTENTIOMETRIC SURFACE MAP OF THE UNCONSOLIDATED AQUIFERS OF HAMILTON COUNTY, INDIANA

Hamilton County, Indiana is located in the central portion of the state. The entire county is situated within the White and West Fork White River Basin. The Potentiometric Surface Map (PSM) of the unconsolidated aquifers of Hamilton County was mapped by contouring the elevations of over 1800 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in unconsolidated aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However, some wells were completed under unconfined (not bounded by impermeable layers) settings. The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the water bearing formation, in contrast to water in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

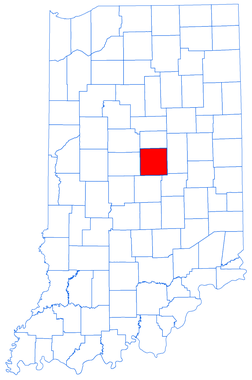
Static water-level measurements in individual wells used to construct county PSM's are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement, and pumpage. Therefore, current site specific conditions may differ due to local or seasonal variations in measured static water levels. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. Groundwater flow is naturally from areas of recharge toward areas of discharge. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams. The contour type was determined based on the amount of data and the degree of change in water levels between wells in each mapped area. In Hamilton County well depths 100 feet or less were a priority in mapping the potentiometric surface.

Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records; however, the location of the majority of the water well records used to make the PSM were address geocoded. Elevation data were either obtained from topographic maps or a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

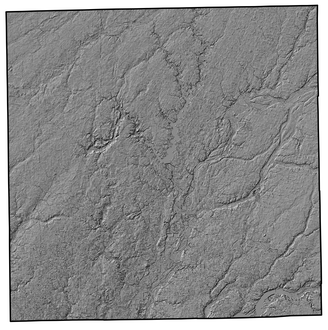
Unconsolidated potentiometric surface elevations in Hamilton County range from a high of 940 feet mean sea level (msl) in the northwest region of the county, to a low of 720 feet msl in the south-central portion. Groundwater flow direction within the White and West Fork White River Basin is generally towards the White River. In the far western portion of the county groundwater flows west towards Eagle Creek in Boone County. Also, in the southeast corner groundwater flows towards Fall Creek. Some of the shallower aquifers associated with other major tributaries to White River like Stone Creek, Mud Creek and Cicero Creek locally affect the regional drainage with groundwater flowing toward these streams in places. However, the local affect of Cicero Creek in and near Morse Reservoir is significantly reduced by the close proximity to the White River and its associated outwash aquifer. This is indicated by the many wells around the reservoir that are finished in the deeper aquifer with static water levels 10 to 15 feet below the Morse Reservoir normal pool elevation (810 feet msl).

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM's represent overall regional characteristics and are not intended to be a substitute for site-specific studies.

Location Map



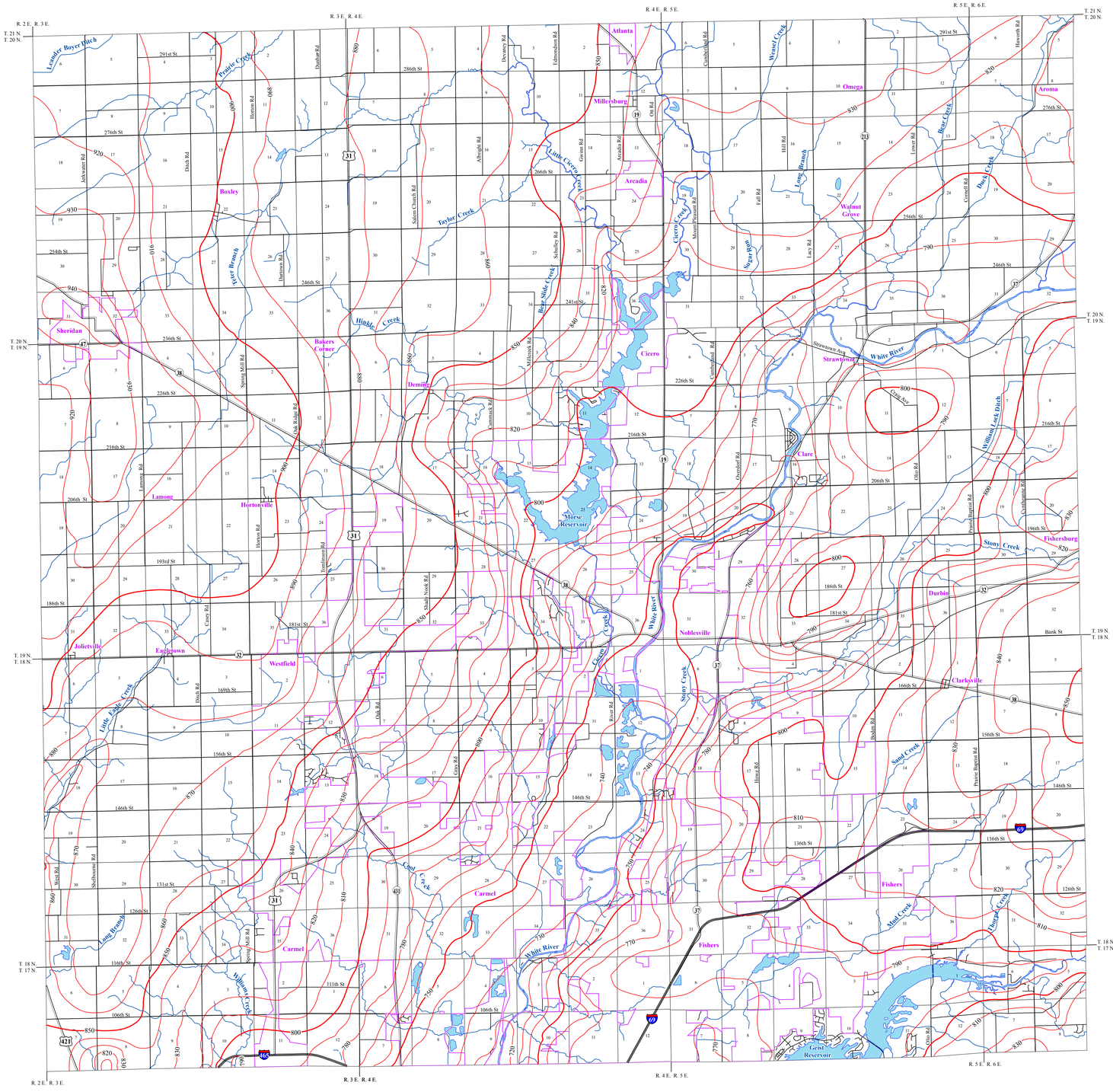
Hillshade Map of Hamilton County, Indiana



Vertical Exaggeration = 5x

EXPLANATION

- 800 — Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
- Stream
- County Road
- 19 — State Road
- 31 — US Highway
- 69 — Interstate
- Basin Boundary
- Municipal Boundary
- Lake & River



Map generated by Joel Sanderson
IDNR, Division of Water, Resource Assessment Section

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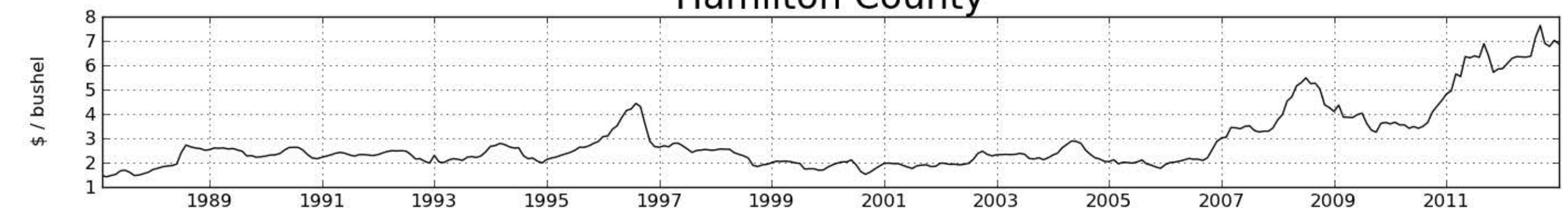
Potentiometric Surface Map of the Unconsolidated Aquifers of Hamilton County, Indiana

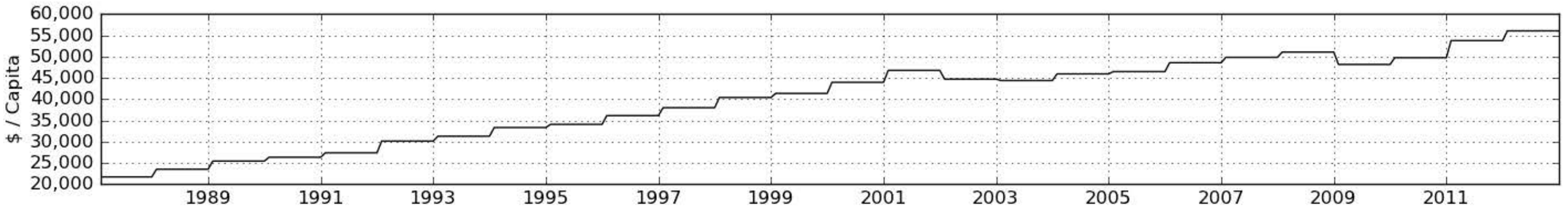
by
Glenn E. Grove
Division of Water, Resource Assessment Section

December 2012

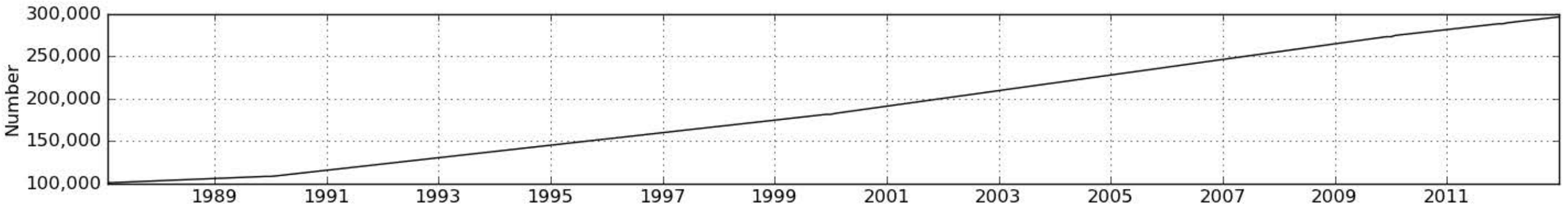
Hamilton County



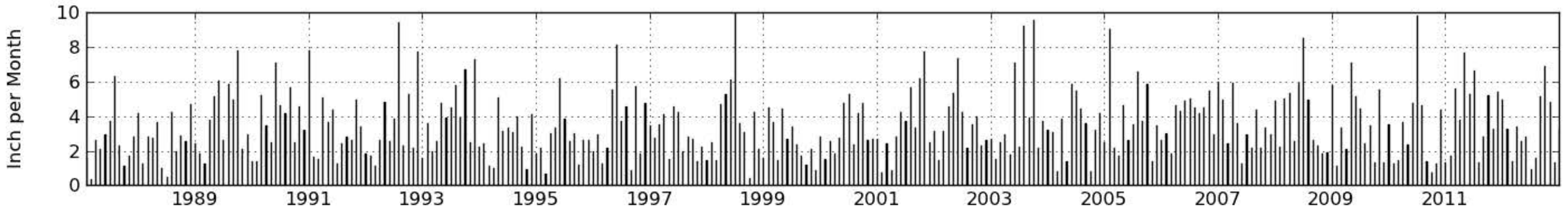
Corn Price



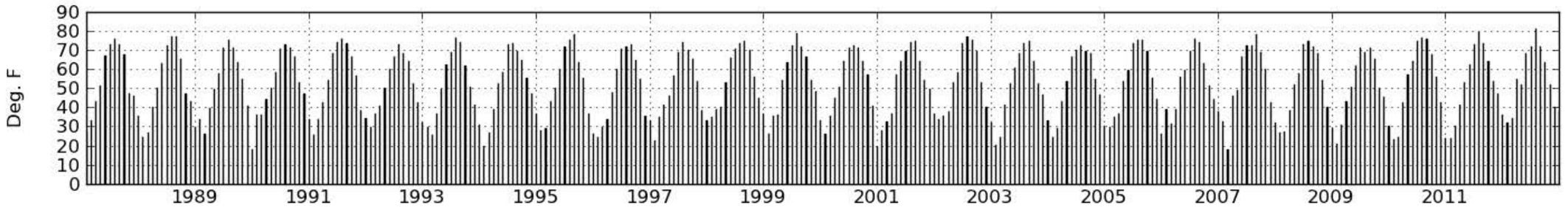
Income



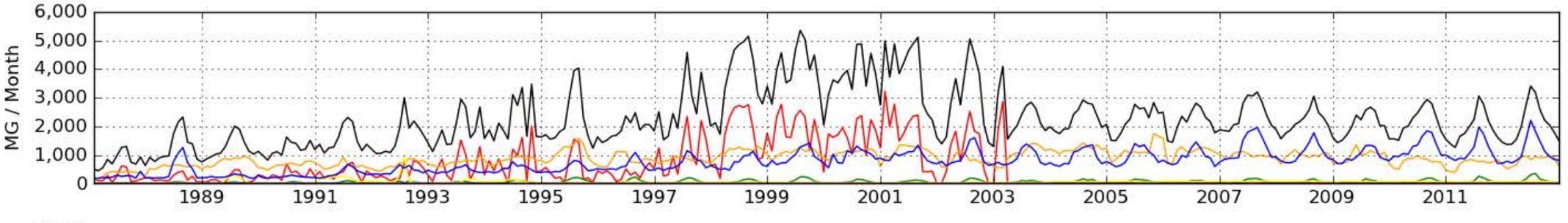
Population



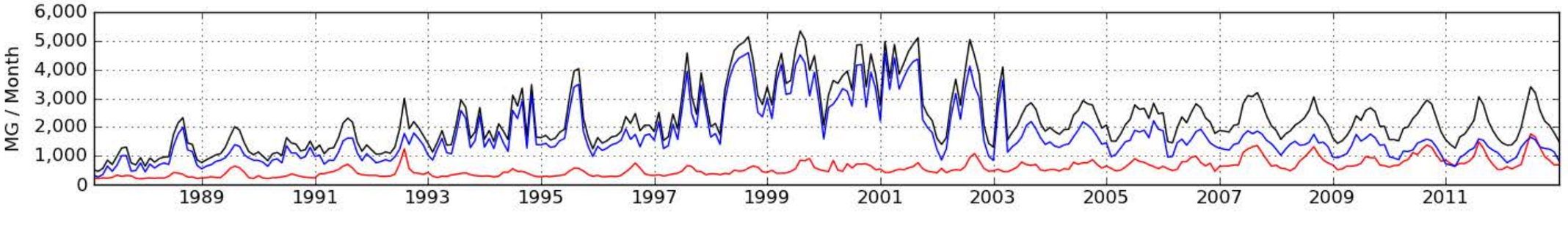
Precipitation



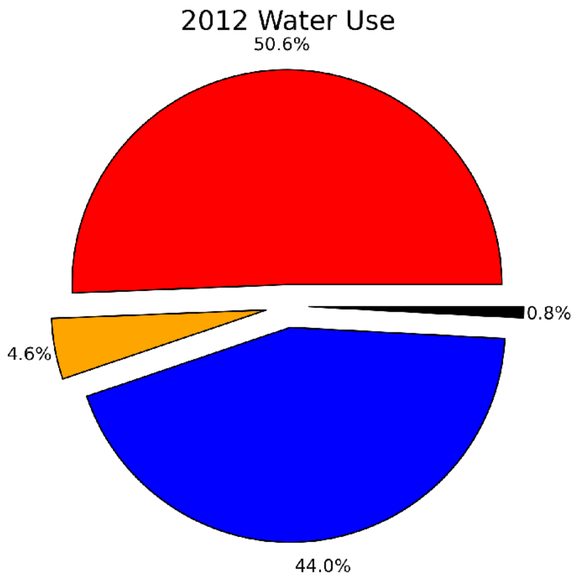
Temperature



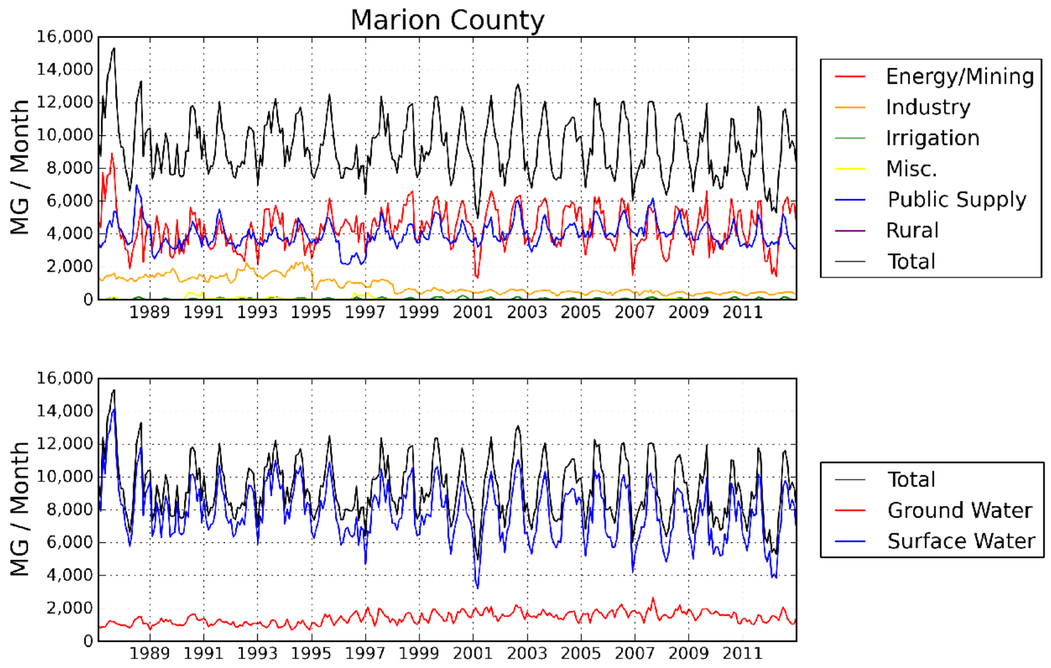
Energy/Mining
Industry
Irrigation
Misc.
Public Supply
Rural
Total

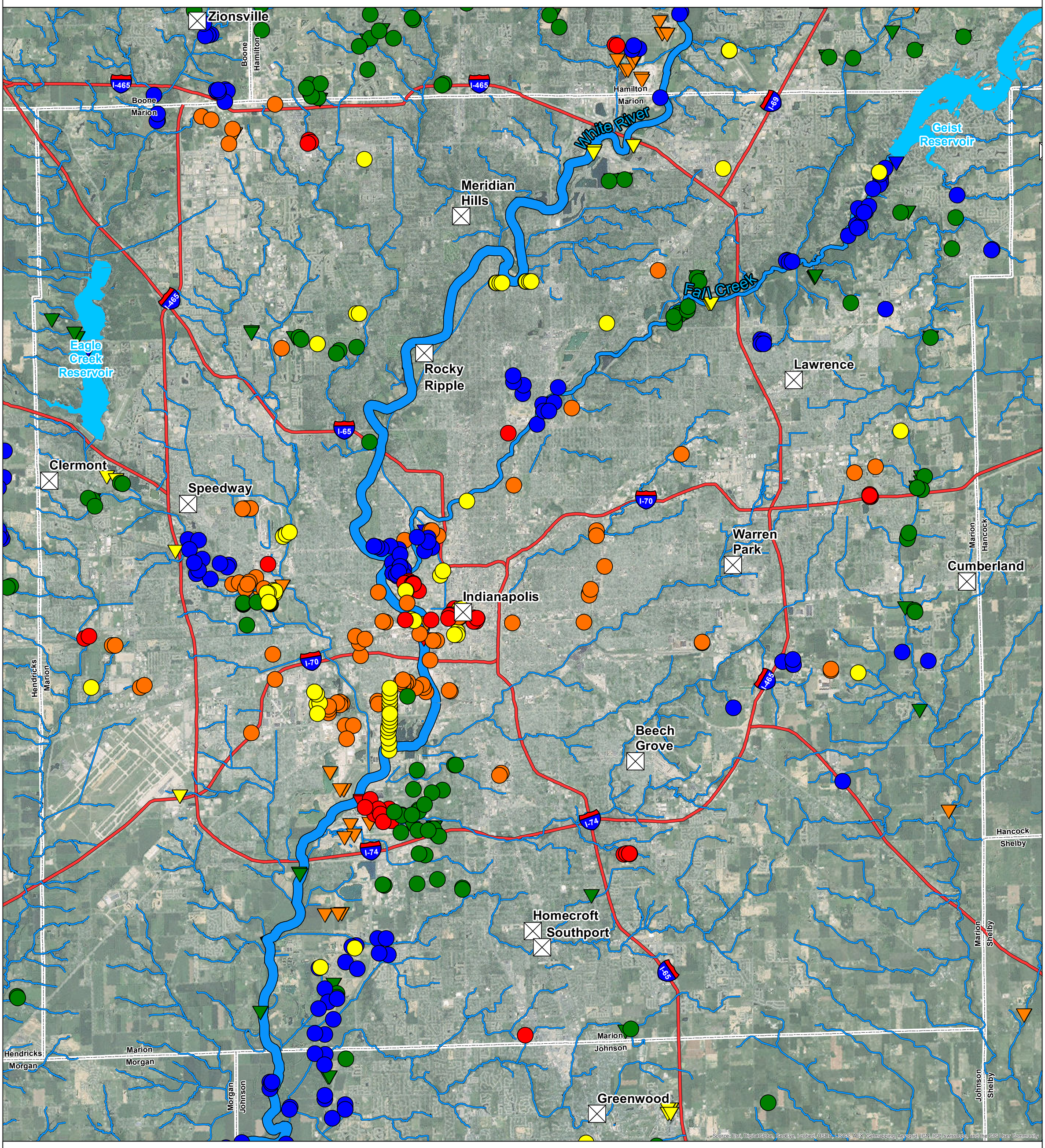


Total
Ground Water
Surface Water



Average Daily Use: 282.0 MGD





Water Resources and Use in Marion County

Data Sources: U.S. Geological Survey and Indiana Department of Natural Resources

Withdrawal Location

WELL	INTAKE	
●	▼	Energy/Mining
●	▼	Industry
●	▼	Irrigation
●	▼	Misc.
●	▼	Public Supply
●	▼	Rural Use

River

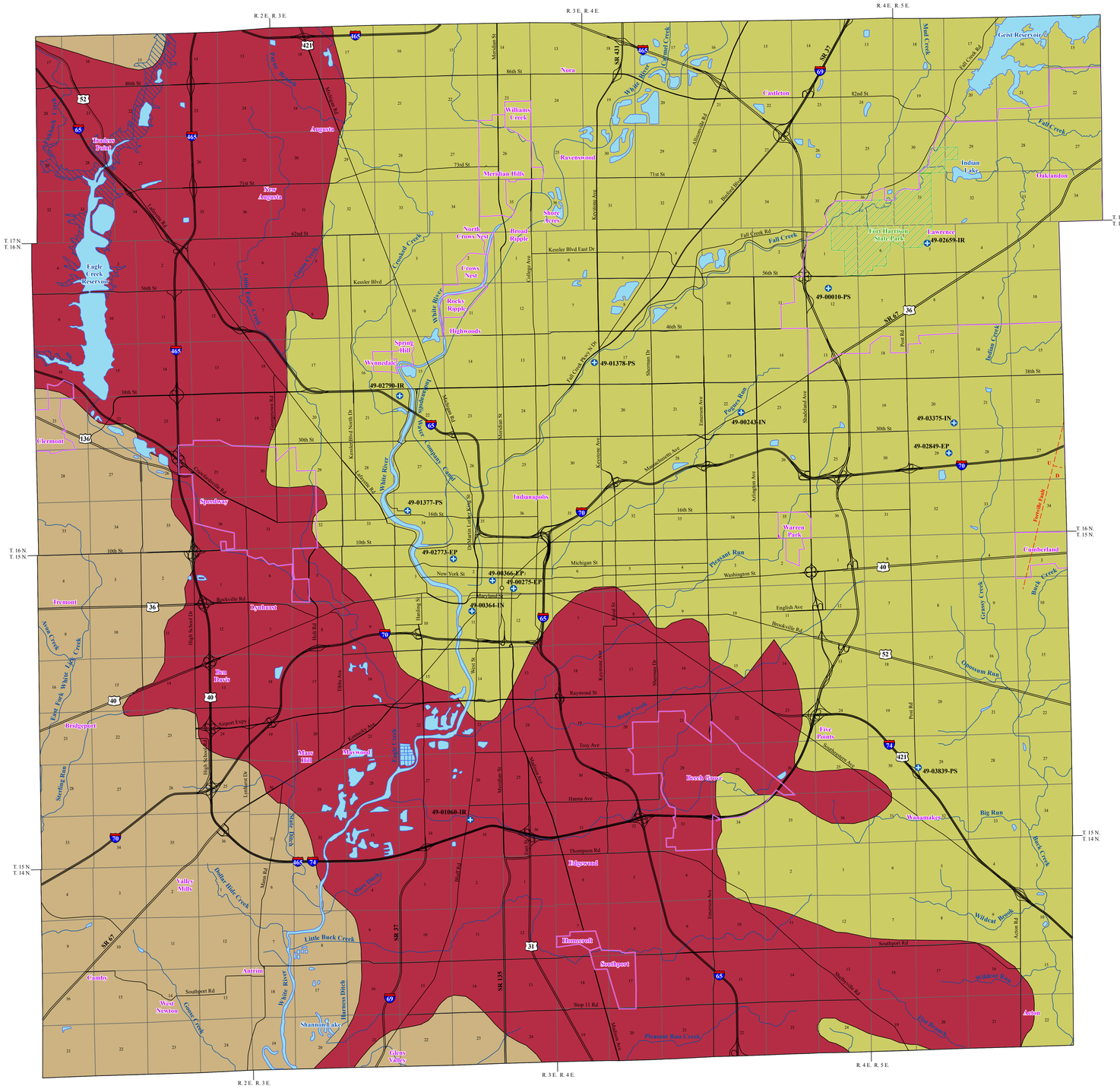
7Q2 Flow (MGD)

- <10 MGD
- 10 - 50 MGD
- 50 - 100 MGD
- 100 - 500 MGD
- > 500 MGD

- Major Lakes
- Interstate
- County
- City

INTERA
GEOSCIENCE & ENGINEERING SOLUTIONS

NORTH 0 1 2 4 Miles



Mitchell E. Daniels, Jr., Governor
Department of Natural Resources
Robert E. Carter Jr., Director

BEDROCK AQUIFER SYSTEMS OF MARION COUNTY, INDIANA

The occurrence of bedrock aquifers depends on the original composition of the geologic material and subsequent changes which influence the hydraulic properties. Post-depositional processes, which promote jointing, fracturing and solution activity of exposed bedrock, generally increase the hydraulic conductivity (permeability) of the upper portion of bedrock aquifer systems. Because permeability in many places is greatest near the bedrock surface, bedrock units within the upper 100 feet are commonly the most productive aquifers.

The yield of a bedrock aquifer depends on its hydraulic characteristics and the nature of the overlying deposits. Shale and glacial till act as aquitards, restricting recharge to underlying bedrock aquifers. However, fracturing and/or jointing may occur in aquitards, which can increase recharge to the underlying aquifers. Hydraulic properties of bedrock aquifers are highly variable.

Most bedrock aquifers are under confined conditions, mainly a result of low vertical hydraulic conductivity clay-rich materials, such as glacial till, overlying the bedrock. Therefore, the potentiometric surface (water level) in most wells completed in bedrock rises above the top of the water-bearing zone.

The susceptibility of bedrock aquifer systems to surface contamination is largely dependent on the type and thickness of the overlying sediments. Because bedrock aquifer systems have complex fracturing systems, once a contaminant has been introduced into a bedrock aquifer system, it will be difficult to track and remediate.

Three bedrock aquifer systems are identified within Marion County. They are, from youngest to oldest and from west to east: the Borden Group of Mississippian age; the New Albany Shale of Devonian and Mississippian age; and the Silurian and Devonian Carbonates.

Depth to bedrock ranges from outcropping along a relatively small area of the White River in the north-central section of Marion County, to being overlain by unconsolidated deposits up to about 305 feet thick in the northeast. Approximately 19 percent of all wells in this county are completed in bedrock.

Mississippian -- Borden Group Aquifer System

The Borden Group subcrops in the southwestern area of Marion County, and in a relatively small area of the northwestern corner of the county. This bedrock aquifer system is composed mostly of sandstone, siltstone, mudstone and shale. Although carbonates are somewhat rare, discontinuous interbedded limestone lenses are present. The Borden Group in Marion County is overlain by unconsolidated deposits up to approximately 240 feet in thickness.

The Borden Group is composed primarily of fine-grained materials that limit the movement of groundwater to fractures, joints, and along the bedrock surface. This aquifer system is often described as an aquitard, and yields of wells completed in it are typically quite limited. Because the Borden Group is generally not very productive, most wells produce either from the overlying unconsolidated deposits or penetrate through the sandstone, siltstone, mudstone and shale in favor of the underlying carbonates.

Wells started in this system are completed at depths ranging from approximately 35 to 400 feet. Domestic well yields range from 2 to 20 gallons per minute (gpm) with static water levels from about 5 to 250 feet below surface. There are no registered significant groundwater withdrawal facilities using the Borden Group Aquifer System.

Where bedrock is shallow, risk to contamination from the surface or near surface sources is high. Where the overlying sediments consist of thick fine-grained clay materials, the Borden Group Aquifer System is at low risk to contamination. However, in some areas the aquifer system is overlain by unconsolidated deposits composed primarily of sand and gravel outwash materials. In such areas, the aquifer system is considered at high risk.

Devonian and Mississippian -- New Albany Shale Aquifer System

The New Albany Shale subcrops in a northwest to southeast trend in Marion County and consists mostly of brownish-black carbon-rich shale, greenish-gray shale, and minor amounts of dolomite and dolomitic quartz sandstone. The New Albany Shale is often described as an aquitard, and yields of wells completed in it are typically quite limited. Therefore, most wells either produce from the overlying unconsolidated deposits or penetrate through the shale in favor of the underlying Silurian and Devonian Carbonates.

The depths of the relatively few wells reported in the New Albany Shale Aquifer System range from approximately 30 to 415 feet deep, and the amount of rock penetrated in this system is generally about 10 to 240 feet. Domestic water well yields are typically less than 5 gpm with many dry holes having been reported in this system. There are no registered significant groundwater withdrawal facilities using the New Albany Shale Aquifer System.

The permeability of shale materials is considered low, therefore, the New Albany Shale Aquifer System is considered to have a low susceptibility to contamination introduced at or near the surface.

Silurian and Devonian Carbonates Aquifer System

In Marion County, the outcrop/subcrop area of the Silurian and Devonian Carbonates Aquifer System is present in the central and eastern portions of the county. This system includes middle-Devonian age carbonates (limestone and dolomite) of the Muscatatuck Group, and the underlying carbonates of Silurian age. Because carbonate units of Silurian and Devonian age are similar and cannot easily be distinguished on the basis of water well records, they are considered as a single water-bearing system.

The Silurian and Devonian Carbonates Aquifer System is capable of meeting the needs of domestic and some high-capacity users. Wells in the system penetrate up to 400 feet into the carbonate bedrock with completed well depths ranging from 30 to 485 feet. Typical domestic yields are 10 gpm or greater with static water levels reported from flowing to 227 feet below surface.

There are 14 registered significant groundwater withdrawal facilities (39 wells) using the Silurian and Devonian Carbonates Aquifer System. These facilities are used for public supply, industry, irrigation, and energy production. The reported yields for these wells range from 93 to 1,200 gpm.

Most of the Silurian and Devonian Carbonates Aquifer System is overlain by thick clay deposits. Therefore, most of the aquifer system is considered at low risk to contamination. However, in some areas the aquifer system is overlain by unconsolidated deposits composed primarily of sand and gravel outwash materials. In such areas, the aquifer system is considered at high risk.

N
W E
S

1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

EXPLANATION

⊕	Registered Significant Ground-Water Withdrawal Facility
—	Stream
—	County Road
═	State Road & US Highway
≡	Interstate
- - -	Fortville Fault
☐	Municipal Boundary
▨	State Managed Property
▨	Inundation Area of Eagle Creek Reservoir
■	Lake & River

Location Map

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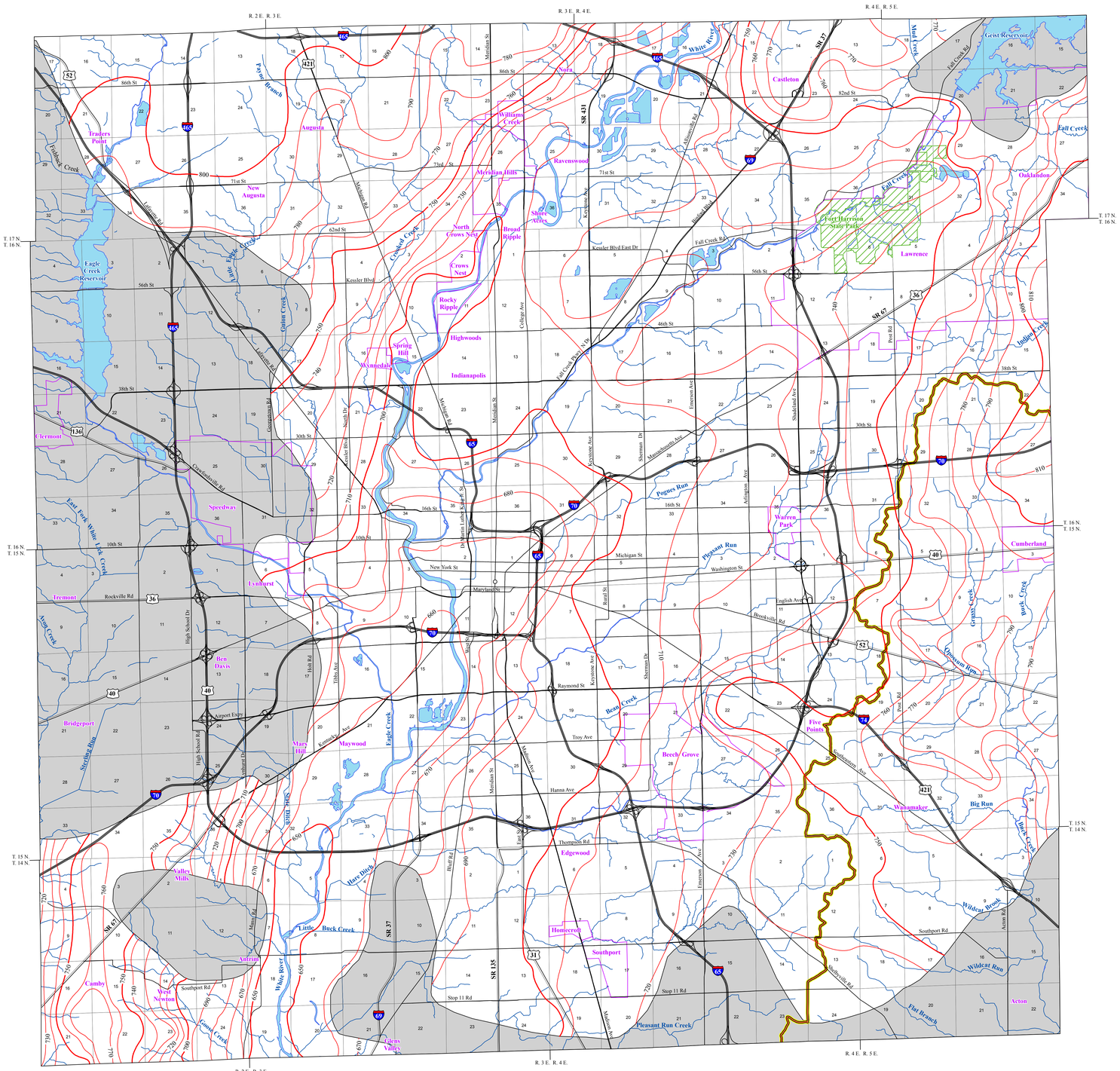
Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

Bedrock Aquifer Systems of Marion County, Indiana

by
Robert K. Schmidt
Division of Water, Resource Assessment Section

May 2011



Mitchell E. Daniels, Jr., Governor
Department of Natural Resources
Robert E. Carter Jr., Director

POTENTIOMETRIC SURFACE MAP
OF THE BEDROCK AQUIFERS OF MARION COUNTY, INDIANA

Marion County, Indiana is located in the central portion of the state. Nearly the entire county is situated within the White and West Fork White River Basin, with the exception of the southeastern portion which is located in the East Fork White River Basin.

The Potentiometric Surface Map (PSM) of the bedrock aquifers of Marion County was mapped by contouring the elevations of over 1100 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in bedrock aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However, some wells were completed under unconfined (not bounded by impermeable layers) settings. The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer (water table) is at atmospheric pressure and will not rise in a well above the top of the water bearing formation, in contrast to water in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

Static water-level measurements in individual wells used to construct county PSM’s are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement, and pumpage. Therefore, current site specific conditions may differ due to local or seasonal variations in measured static water levels. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. Groundwater flow is naturally from areas of recharge toward areas of discharge. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams. The contour type was determined based on the amount of data and the degree of change in water levels between wells in each mapped area. However, portions of the county are lacking in data and/or are covered by deposits that have limited to non-existent aquifer potential. Therefore, potentiometric surface elevations contours have not been extended through these areas.

Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records; however, the location of the majority of the water well records used to make the PSM were address geocoded. Elevation data were either obtained from topographic maps or a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

Bedrock potentiometric surface elevations in Marion County range from a high of 810 feet mean sea level (msl) along the east-central border with Hancock County, to a low of 650 feet msl in the south-central portion. Groundwater flow direction within the White and West Fork White River Basin is generally towards the White River. Within a small area in the southwest corner of the county groundwater flows to the west-southwest towards East Fork White Lick Creek in Hendricks County.

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM’s represent overall regional characteristics and are not intended to be a substitute for site-specific studies.

INDIANA DEPARTMENT OF NATURAL RESOURCES

Location Map

EXPLANATION

—800—	Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
—	Stream
—	County Road
═	State Road & US Highway
≡	Interstate
▬	Basin Boundary
☐	Municipal Boundary
▨	State Managed Property
🟦	Lake & River
■	No Aquifer Material or Limited Data

Hillshade Map of Marion County, Indiana

Vertical Exaggeration 10x

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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Potentiometric Surface Map of the
Bedrock Aquifers of Marion County, Indiana

by
Glenn E. Grove
Division of Water, Resource Assessment Section
September 2012

UNCONSOLIDATED AQUIFER SYSTEMS OF MARION COUNTY, INDIANA

The unconsolidated aquifer systems of Marion County are composed of sediments deposited by, or resulting from, a complex sequence of glaciers, glacial meltwaters, and post-glacial precipitation events. Six unconsolidated aquifer systems have been mapped in Marion County: the Till Veneer; the New Castle / Tipton Till; the New Castle / Tipton Till Subsystem; the New Castle / Tipton Complex; the White River and Tributaries Outwash; and the White River and Tributaries Outwash Subsystem. Because of the complicated glacial geology, boundaries of the aquifer systems in this county are commonly gradational and individual aquifers may extend across aquifer system boundaries. Approximately 81 percent of all wells in this county are completed in unconsolidated deposits.

The thickness of unconsolidated deposits in Marion County is quite variable, due to the deposition of glacial material over an uneven bedrock surface. Unconsolidated deposits in the county typically range from bedrock exposure along the White River in the north-central portion of Marion County, to about 305 feet thick in the northeastern section of the county.

Regional estimates of aquifer susceptibility to contamination from the surface can differ considerably due to a wide range of variation within geologic environments. In addition, man-made structures such as poorly constructed water wells, unplugged or improperly abandoned wells, and open excavations can provide contaminant pathways that bypass the naturally protective clays.

Till Veneer Aquifer System

The Till Veneer Aquifer System is mapped primarily in southwestern Marion County, and along the western edge of the White River in the central and northern portions of the county. This system is the product of the deposition of glacial till over an uneven, eroded bedrock surface, and is generally less than 50 feet thick.

In the Till Veneer Aquifer System, potential aquifers include thin isolated sand and/or gravel layers, and surficial sand and gravel outwash or alluvium; however, this system has the most limited groundwater resources of the unconsolidated aquifer systems with most wells being completed in the underlying bedrock.

Most of the wells in this system have reported capacities of 5 gallons per minute (gpm) or less, with static water levels ranging from flowing to about 50 feet below the surface. There are no registered significant groundwater withdrawal facilities utilizing this system.

This system is generally not very susceptible to contamination from surface sources because of the low permeability of the near-surface materials. However, there are areas where protective clay layers are thin or absent. These areas are very susceptible to contamination.

New Castle / Tipton Till Aquifer System

The New Castle / Tipton Till Aquifer System is mapped throughout much of Marion County. This aquifer system is up to about 305 feet in thickness, and consists primarily of glacial till with intertill sand and gravel layers.

This aquifer system is capable of meeting the needs of most domestic and some high-capacity users in Marion County. Individual sand and gravel units are commonly 5 to 15 feet thick with well depths ranging from 25 to 300 feet. Domestic well yields are typically 10 to 50 gpm and static water levels range from flowing to 185 feet below the land surface. There are 17 registered significant groundwater withdrawal facilities (38 wells) using the New Castle / Tipton Till Aquifer System. These facilities are used for public water supply, irrigation, industrial and energy production. The reported high-capacity yields for the wells range from 70 to 430 gpm.

The New Castle / Tipton Till Aquifer System typically has a low susceptibility to surface contamination because intertill sand and gravel units are commonly overlain by thick glacial till. However, shallow wells completed in this system are moderately susceptible to contamination.

New Castle / Tipton Till Aquifer Subsystem

The New Castle / Tipton Till Aquifer Subsystem is generally found throughout Marion County. The subsystem is mapped similar to the New Castle / Tipton Till Aquifer System, but, potential aquifer materials are generally thinner and potential yields are less in the subsystem.

In Marion County, the New Castle / Tipton Till Aquifer Subsystem is capable of meeting the needs of most domestic users; however, about 35 percent of the wells started in this subsystem are completed in the underlying bedrock aquifer system.

Potential aquifer materials include relatively thin, discontinuous intertill sand and gravel deposits. These intertill sand and gravel aquifer materials are commonly less than 10 feet thick. The wells producing from this subsystem are typically completed at depths ranging from about 30 to 230 feet. Domestic well yields are generally 5 to 10 gpm, and static water levels range from flowing to 180 feet below the surface. There are no registered significant groundwater withdrawal facilities utilizing this subsystem.

This subsystem is generally not very susceptible to surface contamination because intertill sand and gravel units are overlain by thick till deposits. Wells producing from shallow aquifers are moderately susceptible to contamination.

New Castle / Tipton Complex Aquifer System

The New Castle / Tipton Complex Aquifer System is mapped primarily in the east, and in several relatively small areas in the western half of Marion County. Multiple glacial advances have resulted in complex sequences of thick clays with intertill sand and gravel aquifers that are highly variable in depth, thickness, and lateral extent. The total thickness of the combined unconsolidated deposits is up to about 280 feet in this system.

The deeper more prolific aquifers of this system are capable of meeting the needs of domestic and most high-capacity users in Marion County. Saturated aquifer materials in the New Castle / Tipton Complex Aquifer System range from 10 to 25 feet thick, and wells in this system are completed at depths from about 30 feet up to 260 feet. Domestic well yields range up to 50 gpm with reported static water levels from flowing to 160 feet below the surface. There are six registered significant groundwater withdrawal facilities (11 wells) using this system. These facilities are used for irrigation and industry. The reported high-capacity yields for the wells range from 70 to 1,100 gpm.

The New Castle / Tipton Complex Aquifer System is not very susceptible to contamination where overlain by thick clay deposits. However, in some areas where surficial clay deposits are relatively thin, the shallow aquifer, if present, is at moderate to high risk.

White River and Tributaries Outwash Aquifer System

The White River and Tributaries Outwash Aquifer System is mapped adjacent to the White River in the central portion of the county, and the three tributaries entering the county from the northwest and northeast. The system includes thick glacial outwash sands and gravels that are generally capped by a layer of clay and silt deposits.

This aquifer system is capable of meeting the needs of both domestic and high-capacity users in Marion County. The wells utilizing this aquifer system are completed at depths ranging from 25 to 277 feet with saturated sand and gravel aquifer materials commonly 10 to 35 feet thick. Domestic well yields are typically up to 50 gpm with static water levels ranging from flowing to about 165 feet below the surface. In the White River and Tributaries Outwash Aquifer System there are 37 registered significant groundwater withdrawal facilities (145 wells). Reported production for these high-capacity wells ranges from 70 to 3040 gpm, and the uses for these facilities are energy production, public supply, industry, irrigation, and miscellaneous.

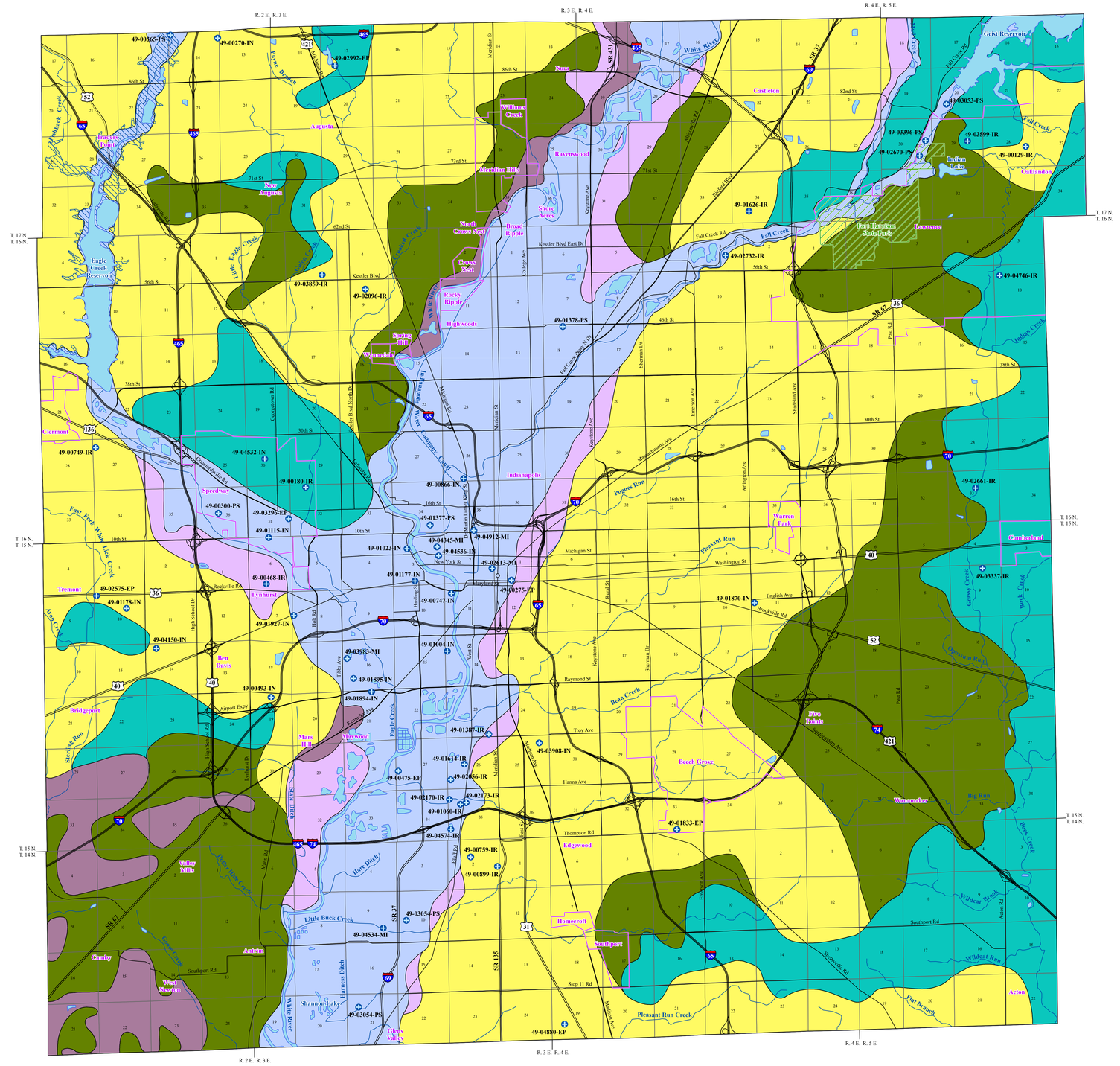
The White River and Tributaries Outwash Aquifer System is highly susceptible to surface contamination where sand and gravel deposits are near the surface and have little or no clay deposits. However, areas having relatively thick clays overlying the sand and gravel deposits are moderately susceptible to contamination.

White River and Tributaries Outwash Aquifer Subsystem

The White River and Tributaries Outwash Aquifer Subsystem is mapped along portions of the White River and its tributaries in Marion County. This subsystem is mapped similar to the White River and Tributaries Outwash Aquifer System, however, the aquifer materials are generally thinner, overlying silt and/or clay materials are thicker, and potential yields are less.

The White River and Tributaries Outwash Aquifer Subsystem has the potential to meet the needs of domestic and some high-capacity users. The wells in this subsystem are completed at depths ranging from 35 to 245 feet. Saturated aquifer materials include sand and gravel deposits that are commonly 5 to 20 feet thick. Domestic well yields are generally 50 gpm or less with static water levels ranging from 4 to 138 feet below the surface. There are two registered significant groundwater withdrawal facilities (3 wells) in the White River and Tributaries Outwash Aquifer Subsystem. The use for these facilities is irrigation. Reported production for the high-capacity wells are up to 300 gpm.

Areas within the White River and Tributaries Outwash Aquifer Subsystem having overlying clay deposits are moderately susceptible to surface contamination; however, areas lacking overlying clay deposits are highly susceptible to contamination.



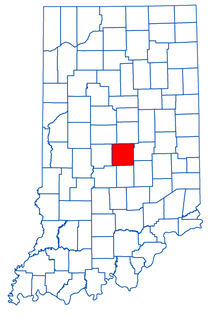
1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- State Managed Property
- Inundation Area of Eagle Creek Reservoir
- Lake & River

Location Map



INDIANA DEPARTMENT OF NATURAL RESOURCES

DEPARTMENT OF NATURAL RESOURCES — DIVISION OF WATER

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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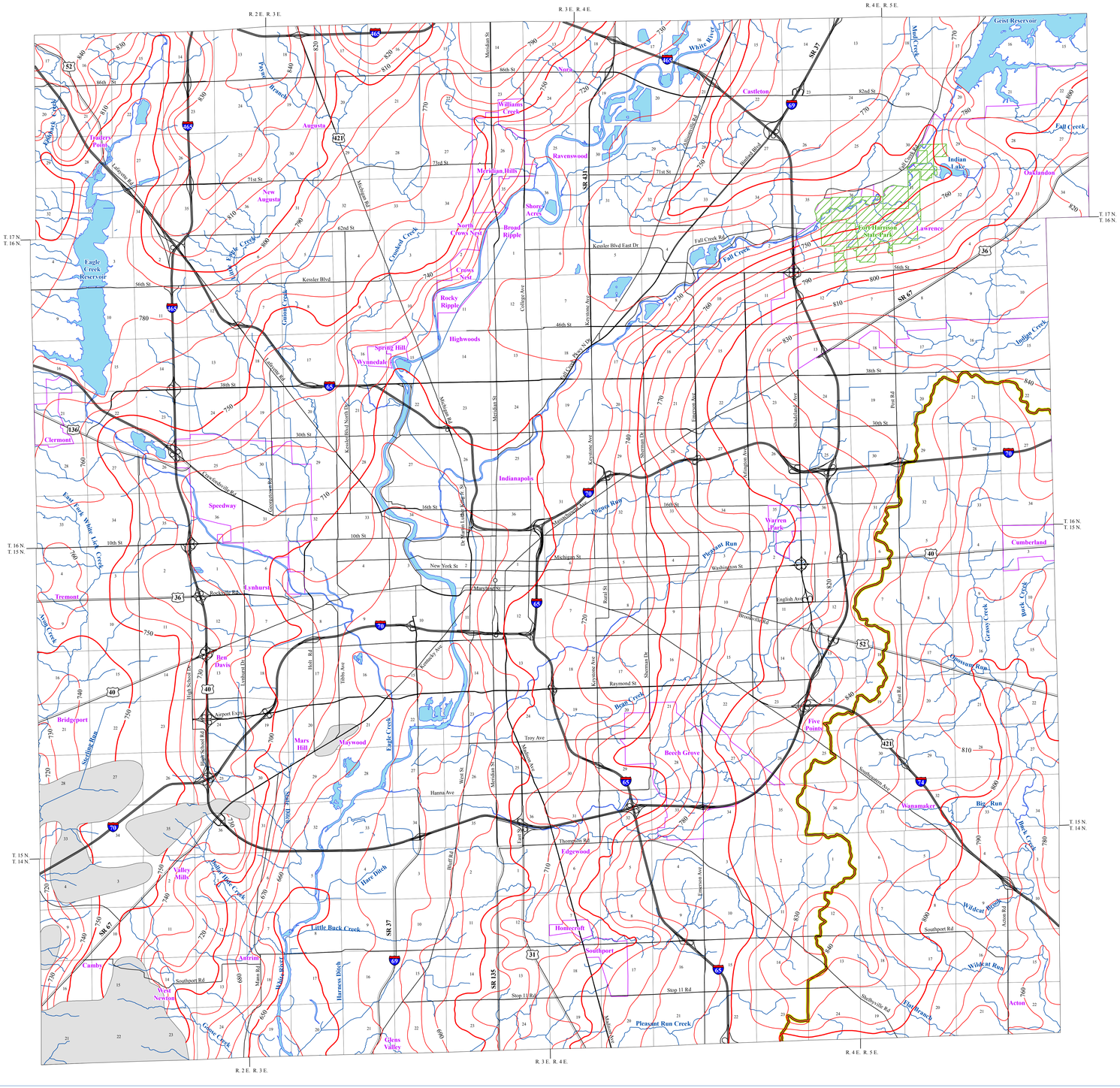
Unconsolidated Aquifer Systems of Marion County, Indiana

by
Robert K. Schmidt
Division of Water, Resource Assessment Section

May 2011

POTENTIOMETRIC SURFACE MAP OF THE UNCONSOLIDATED AQUIFERS OF MARION COUNTY, INDIANA



Marion County, Indiana is located in the central portion of the state. Nearly the entire county is situated within the White and West Fork White River Basin, with the exception of the southeastern portion which is located in the East Fork White River Basin.

The Potentiometric Surface Map (PSM) of the unconsolidated aquifers of Marion County was mapped by contouring the elevations of over 4800 static water-levels reported on well records received primarily over a 50 year period. These wells are completed in unconsolidated aquifers at various depths, and typically, under confined conditions (bounded by impermeable layers above and below the water bearing formation). However some wells were completed under unconfined (not bounded by impermeable layers) settings. The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the water bearing formation, in contrast to water in a confined aquifer which is under hydrostatic pressure and will rise in a well above the top of the water bearing formation.

Static water-level measurements in individual wells used to construct county PSM's are indicative of the water-level at the time of well completion. The groundwater level within an aquifer constantly fluctuates in response to rainfall, evapotranspiration, groundwater movement, and pumpage. Therefore, current site specific conditions may differ due to local or seasonal variations in measured static water levels. Because fluctuations in groundwater are typically small, static water-levels can be used to construct a generalized PSM. Groundwater flow is naturally from areas of recharge toward areas of discharge. As a general rule, but certainly not always, groundwater flow approximates the overlying topography and intersects the land surface at major streams. The contour type was determined based on the amount of data and the degree of change in water levels between wells in each mapped area. In Marion County well depths 100 feet or less were a priority in mapping the potentiometric surface. However, portions of the county are lacking in data and/or are covered by deposits that have limited to non-existent aquifer potential. Therefore, potentiometric surface elevations contours have not been extended through these areas.

Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records; however, the location of the majority of the water well records used to make the PSM were address geocoded. Elevation data were either obtained from topographic maps or a digital elevation model. Quality control/quality assurance procedures were utilized to refine or remove data where errors were readily apparent.

Unconsolidated potentiometric surface elevations in Marion County range from a high of 840 feet mean sea level (msl) in the east-central region of the county and the northwest corner, to a low of 540 feet msl in the south-central portion. Groundwater flow direction within the White and West Fork White River Basin is generally towards the White River. Within a small area in the southwest corner of the county groundwater flows to the west-southwest towards East Fork White Lick Creek in Hendricks County. Also, in the southeast corner groundwater flows to the southeast towards Buck Creek.

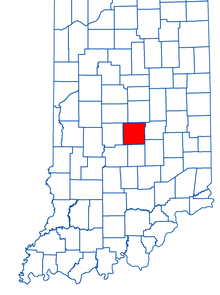
The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge and discharge. County PSM's represent overall regional characteristics and are not intended to be a substitute for site-specific studies.

N
W E
S

1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

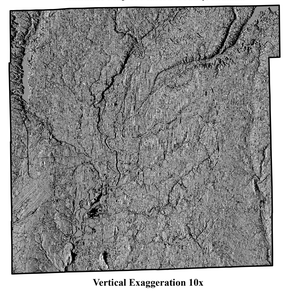
Location Map



EXPLANATION

- 800 — Line of equal elevation, in feet above mean sea level Potentiometric Contour interval 10 feet
- Stream
- County Road
- State Road & US Highway
- Interstate
- Basin Boundary
- Municipal Boundary
- State Managed Property
- Lake & River
- No Aquifer Material or Limited Data

Hillshade Map of Marion County, Indiana



Vertical Exaggeration 10x

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

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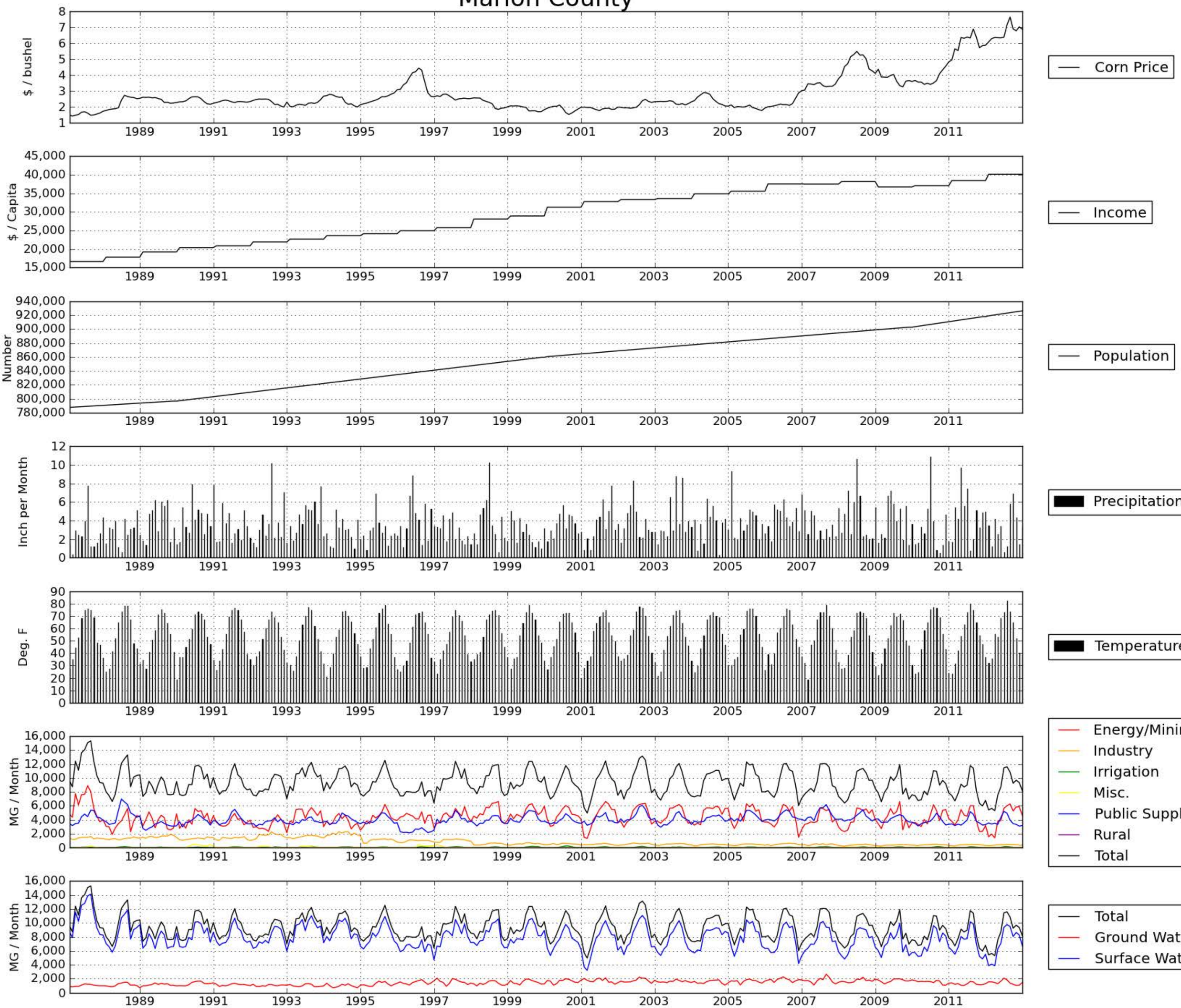
Potentiometric Surface Map of the Unconsolidated Aquifers of Marion County, Indiana

by
Glenn E. Grove
Division of Water, Resource Assessment Section

September 2012

Marion County



Letter #2

Oksana Polhuy <oksana@lapelindiana.org>

Case BZA-2023-01 / LKQ Midwest Inc.

1 message

Kathy Young <kyoung2410@embarqmail.com> Thu, Sep 14, 2023 at 10:00 PM
To: info@lapelindiana.org, oksana@lapelindiana.org

To Whom It May Concern,

I am writing to inform you that I am OPPOSED to the proposed Special Use - Salvage Yard zoning for the project proposed for 6199 S. St. Rd. 13. As an adjacent land owner, I am opposed to this project being located at the proposed location.

Why would town officials want to place a scrap yard facility on the main state highway corridor leading to the gateway of the town? In addition, the proposed project is not the best and highest use for the subject property. Highest and Best use is defined as "the reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible and that results in the highest value." That is not a salvage yard. Surely town officials have a higher vision for the community than a huge industrial scrap yard. There are certainly other industrial uses for the proposed site and corridor that are of higher and better value to the community from both a tax and a community development perspective, as well as, less long-term negative environmental risk.

As an adjacent land owner, I am concerned with the proposed project's impact on the shared county ditch, the water aquifer, and the air quality environment. Why would officials even consider approving such a facility so close to the community's water resources, regardless of whether it's upstream or downstream? Regardless of intentions and "plans" to contain and recycle fluids, what will be the effect when mistakes or mismanagement occurs? Public records indicate the proposed applicant has a significant history of environmental and regulatory violations. One available source indicates 58 violations with over $7.2 million in fines and penalties, since 2000. That alone should be a concerning red-flag to town officials. What will be the effect of noise pollution, air pollution, heavy metals in the water supply and obnoxious lighting on the surrounding homeowners and community at large? Have our local officials researched the impact of these type of facilities in other comunities? Is our local fire territory prepared for toxic hazmat fires?

As stated, I am opposed to the proposed special use- salvage yard zoning request for the proposed site. If our neighboring communities are opposed and have already denied approval of the proposed project, why would our community officials want to approve it? Please consider what is best for the long-term growth and development of the community and its citizens and do NOT approve this project request.

Respectfully Submitted

Kathleen A. Young
9337 W. State Road 38
Lapel IN 46051

Letter #3

RILEYCATE LLC

RUSSELL B. CATE
Attorney at Law

RileyCate, LLC
11 Municipal Drive, Suite 320
Fishers, Indiana 46038
T: 317 | 588 | 2866 F: 317 | 458 | 1785
www.rileycate.com

September 18, 2023

Oksana Polhuy, AICP
E-mail: oksana@lapelindiana.org

Evan C. McMullen
GRAHAM, FARRER & WILSON, P.C.
E-mail: emcmullen@gfwlawyers.com

RE: Special Use Application No. BZA-2023-01

Dear Ms. Polhuy & Mr. McMullen:

This letter and accompanying materials are submitted to the Board of Zoning Appeals (the "BZA") of the Town of Lapel ("**Lapel**") on behalf of my clients – those parties listed on **Attachment "A"** (collectively, "**Remonstrators**") – as their written statement of remonstrance against the Special Use Application No. BZA-2023-01 ("**Application**"), filed by LKQ Midwest Inc. ("**LKQ**") and FMC Advisors, LLC ("**FMC**")(collectively "**Petitioners**") to permit a junk yard use in the general zoning district, presently owed by Carolyn Wilson and Harriet Wilson as Trustee for Wilson Land Trust, consisting of three parcels (Parcel Nos. 48-15-16-100-003.000-044; 48-15-16-100-001.000-044; 48-15-16-500-001.000-044)(the "**Property**").

Remonstrator's position is that the BZA does not have authority to hear this matter because the underlying vote by the Town of Lapel Plan Commission ("Plan Commission") was in violation of procedural and substantive due process rights and is void *ab initio*, thus there is no special use variance to consider.

If the BZA proceeds with the vote, Remonstrators demand BZA member Cam Paddock recuse himself from voting pursuant to Ind. Code §36-7-4-909(a). Board member Paddock is employed by E&B Paving, an IMI Company, and his brother, Landon, is on the Plan Commission who certified its vote and tendered a proposed ordinance to the Town Council. Landon is employed by Arco, a design/build firm who has previously constructed LKQ warehouses. Prior to working for Arco, Landon was employed by IMI for seven and a half years.

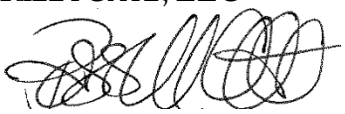
Remonstrators further request the Application be DENIED by the BZA. The reasons for Remonstrators' position are set forth on the Attachments to this letter. Remonstrators reserve the right to present further oral comments at the hearing(s) on this matter. This letter, along with all accompanying written materials, shall be deemed to be incorporated into the oral comments at the hearing(s) on the matter unless specifically withdrawn or modified at or before such hearing(s).

Remonstrators also respectfully request the Town of Lapel staff ("**Staff**") recommend DENIAL of the Application in the Staff Report presented to the BZA prior to its public hearing on September 18, 2023.

Please contact me if you have any questions about the contents of this letter and the Attachments. Thank you kindly for your attention to this matter.

Sincerely,

RILEYCATE, LLC



Russell B. Cate

RBC/jos
Enclosures

ATTACHMENT "A"

REMONSTRATORS

Karl J. Prather
9461 W. State Road 38
Lapel, Indiana 46051-9600

David Smethers
9148 W. SR 38
Lapel, Indiana 46051

Wright Family Practice, LLC
Katherine Callahan, DNP
299 E. Pendelton Avenue
Lapel, Indiana 46051

Gregory Valentine
5297 S 800 W
Lapel 46051

ATTACHMENT "B"

LKQ Midwest, Inc. & FMC Advisors, LLC's Failure to Satisfy the Requiring Findings of Fact for a Special Use Variance

The BZA and planner are fully aware, the BZA may only approve of a special use variance of land use from the terms of the Lapel zoning ordinance upon a determination of four specific "Findings of Fact". There are many deficiencies in the procedure related to the underlying petition to rezone and the written materials presented to the BZA by Petitioners, including, without limitation, Petitioner's proposed Findings of Fact attached to the Application. For the reasons set forth in this letter, the BZA should find unfavorably for each of the required Findings of Fact and, as a result, DENY the Application for a special use variance.

A. Ordinance No. 6-2023 Passed by the Town Counsel is Void *Ab Initio*, Therefore The Board Of Zoning Appeals Has No Authority to Vote on This Application

The Remonstrators maintain that the Lapel Plan Commission ("Plan Commission") and Lapel Town Council ("Town Council") violated the Remonstrators' due process rights when they passed a certified recommendation of "no recommendation" on to the Town Council when they lacked statutory authority. Additionally, the Application made before this board lacked a majority vote to the Town Council, and improperly investigated whether members of either the Town Council or Plan Commission had a conflict of interest and were required to disqualify themselves from voting pursuant to statute. Finally, the Plan Commission improperly accepted the LKQ's application because it did not contain the proper signatures of the Property owners. Several remonstrators have filed a complaint for declaratory judgment seeking, among other things, judicial determination that Ordinance 06-2023 is *void ab initio*.

Remonstrators position is that Ordinance 06-2023 is void and, as such, the BZA has no authority to hear this special use variance at all.

B. Remonstrators Respectfully Request BZA Member, Cam Paddock, Recuse Himself From Voting on This Application

Indiana Code §36-7-4-909(a) and (b) state that a member of a board of zoning appeals *is disqualified* and may not participate in a hearing or decision of that board concerning a zoning matter if the member is 1) biased prejudiced or otherwise unable to be impartial; and 2) has a direct or indirect financial interest in the outcome of the hearing or decision.

Member Cam Paddock was only recently appointed to the BZA and is employed by E&B Paving. (**Exhibit 1**). According to E&B Paving's website, E&B Paving is part of the IMI Group of Companies (**Exhibit 2**). Dan Paddock, who voted on this matter while on the Plan Commission, is father to Cam Paddock and Landon Paddock. Landon Paddock was employed by IMI for 7.5 years prior to commencing his role as Vice President over Indiana territory at Arco Design/Build. (**Exhibit 3**). Arco is a general contractor who has contracted to build LKQ warehouses in the past. (**Exhibit 4**).

Remonstrators belief is §36-7-4-909(a)(1),(2) leaves Member Paddock with bias or prejudice in favor of this project and that he cannot be impartial. Furthermore, Remonstrators believe Member Paddock has a direct or indirect financial interest in the outcome of the hearing or decision because Landon Paddock works for Arco, and previously worked for IMI, the owner of Cam Paddock's current employer. Remonstrators believe at the very least there to be an appearance of impropriety and at worst, E&B is all but certain to win a contract for work on this project.

C. Even if The BZA Believes it Has Authority to Vote on the Application, The Petitioners Have Failed to Present Evidence on Four Specific Findings of Fact

The Lapel UDO sets forth four (4) relevant criteria that must be conclusively established by the evidence before a special use variance may be granted. Those four (4) relevant criteria are set forth below with Remonstrator's position on each

1. Approval WILL be injurious to public health, safety, morals, and general welfare

Environmental Impact

Beneath the earth lie huge reservoirs, or aquifers, of water from centuries of glacial melt. These underground aquifer's are the water source for most rural homes and businesses. Like surface water sources, these underground water sources, and the wells tapping into them, are subject to contamination from ground water. As set forth in Katherine Callahan's affidavit, the Indiana DNR has identified two main Aquifer's, the Teal Veneer Aquifer and Blufton/New Castle/Tipton Till Aquifers, in the Lapel area that supply its residents. These aquifer's can be easily contaminated depending upon the type and nature of soil that lies above them. Petitioners have not provided any soil studies to the BZA to determine the type of soil that lies above these Aquifers and how thick it may be. This directly impacts how susceptible the aquifers are to contamination.

The Indiana Department of Environmental Management ("IDEM") has identified common contaminants of concern commonly found in auto salvage yards. Among these are lead, cadmium, polyaromatic hydrocarbons, volatile organic compounds, mercury, asbestos, polychlorinated biphenyls and others. (See **Exhibit 5** and its attached Exhibit E) Most, if not all, of these compounds have been tied to cancer and birth defects. A study out of Gettysburg College entitled Dirty Recycling: Auto Salvage and Its Potential Impact on Marginalized Populations cited to a number of studies concerning the negative impact such chemicals had on the nearby populace. The authors wrote:

> Heavy metals found in automobiles include lead, cadmium, chromium, arsenic, zinc, copper, aluminum, mercury, and nickel. These metals have a wide array of impacts in humans should they be ingested through the skin, lungs, or contaminated water (Singh 2005). Lead poisoning, even at very low levels may result in severe impairment of brain development in children and at high levels may cause loss of brain function and nervous system responses (Byers and Lord 1943, Centers 1985). Cadmium poisoning has frequently been linked to renal damage and osteoporosis, particularly in women (Friberg 1950). Chromium ingestion can result in the rapid deterioration of the liver, kidneys, and blood cells. In large doses arsenic causes failure of the lungs, liver, and

> kidneys resulting in coma and death (Dayan and Paine 2001). In smaller doses arsenic exposure has been linked to an increased risk of heart disease, cancer, stroke, chronic respiratory diseases, and diabetes (Hughes 2002). Zinc and copper have not been found to present serious health threats when not ingested in exceptionally large quantities. Aluminum ingestion has the potential to impair nervous system responses such as voluntary and involuntary muscle control (Yokel 2000). Mercury poisoning presents a serious risk of fatality due to severe damage to the brain, kidneys, and lungs (Curley et al. 1971). Nickel is only toxic in large quantities but ongoing research has discovered a linkage between some forms of cancer and the oral or nasal inhalation of nickel (Singh 2005).

A copy of the article, complete with full citations to supporting studies, is attached hereto as **Exhibit 6.** Toxic chemicals is not abnormal for salvage yards. In fact, on July 31, 2018, IDEM conducted an inspection of JB Salvage Incorporated West Side Auto Parts in Bloomington, Indiana after complaints of ground water contamination due to storm water run off was raised by residents. The results of IDEM's testing confirmed the results of testing showed results for PCB's aluminum, copper, iron, lead, oil & grease, and other toxic chemicals all in excess of acceptable EPA standards. A copy of IDEM's letter is attached hereto as **Exhibit 7**.

The fact of the matter is that salvage yards are known and are well documented to have an injurious impact on public health and safety. Petitioner's claim that carcasses will only be stored outside does little to address the concern for metallic rust, residual chemicals, paint, and metallic particulates will still seep into the aquifers and surrounding runoff into surface water ditches. This is supported by literature studying the effects of soil led levels in small towns. *See Soil Lead Levels in a Small Town Environment: A Case Study from Mt. Pleasant, Michigan.*, Mark Franek, Central Michigan University, 1992. ("On the other hand, *Pb* levels were higher […] at a local salvage yard where *Pb*-bearing refuse is exposed to surficial weathering.").

The materials tendered by the Petitioner contain a power point stressing the importance of its business on the global environment as a whole. Petitioner touts the number of vehicles it dismantles every year and cites the number of tires, antifreeze, waste oil, batteries and fuel it keeps saves from entering the global environment. What is missing from Petitioner's presentation are specific details about how it intends to prevent the byproducts of its operations from entering the local environment. It also fails to provide any remediation plan to the BZA for the cost of site remediation should it cease its operations or is purchased by another company and this operation closed. That burden, and associated cost, would seem to fall upon the Town of Lapel. The materials do not include any input from the Town of Lapel's water supplier, waste water provider, or any other utilities to ascertain potential contamination issues that could exist to the municipalities water supply.

Finally, Remonstrators point out LKQ is not as environmentally responsible as it wants you to believe. It has been fined nearly $3,000,000.00 in two EPA actions and one California state agency action. This does not include smaller environmental violations occurring at its facilities elsewhere. The facility LKQ seeks to construct in Lapel is not what they make it seem. The Staff Report minimizes the reality that vehicles stored outside *will* seep harmful chemicals into the groundwater. Take for example LKQ's plant in Holland, Michigan (**Exhibit 8**). Attached are images depicting its graveyard of automobiles, nearly each and

every one of them with a pool of fluid accumulating under neath the engine block. (**Exhibit 9**).

Light Pollution
An issue not addressed by the Petitioner is that of light pollution. Security of its inventory was raised as an issue before the Pendleton Plan Commission. A copy of the meeting minutes from the Pendleton Plan Commission are attached as **Exhibit 10**. Petitioner mentioned security was a concern and a private security company would be hired. Presumably, the lot where its inventory of junk cars is stored is also of concern and will need to be well-lit. This otherwise agricultural and residential area will be flooded with industrial high power lights illuminated 102 acres of land.

Local Emergency Services
Petitioner's are proposing a 177,000 sq foot building with vehicle carcasses resting on whatever remains of the 102 acres. The Town of Lapel hardly has the capability or infrastructure to support an emergency at this site.

Take for example the recent warehouse fire in Richmond, Indiana in April 2023 which burned for nearly four days emitting plumes of toxic smoke into the county. That fire forced the evacuation of approximately 2000 residents. A copy of the news article is attached as **Exhibit 11**. Perhaps equally as relevant to this discussion, is the fact that Kenny's Imports, a salvage yard in Clarksville, Indiana caught fire. Fire officials there said that "with no fire hydrants in the area, water had to be trucked in from other fire departments." A copy of the article is attached as **Exhibit 12**.

Of concern in this case would be the Lapel Fire Department's ability (even if resources were pulled from another municipality under an interlocal agreement) to combat a toxic chemical fire in a 177,000 sq foot warehouse, which undoubtedly would require the resources of multiple ladder trucks. Additionally, there is concern of insufficient hydrants to service a facility of this magnitude. **Exhibit 13**.

The Staff Report points out the proximity of the location to a major thoroughfare, but as Remonstrator Valentine's affidavit points out, there is only limited water supply nearby with just two hydrants not in close proximity to the Property. Additionally, the staff report focuses on the claim that all combustable materials will be stored indoors. This, in fact, creates a greater hazard because the threat of a fire is not limited to outdoor only.

Excess Noise
The Staff Report concludes there will not be excess noise associated with Petitioner's operations, yet the report cites no studies or other documentation to support this assertion. Undoubtedly, heavy machinery, back up alarms, diesel engines, the sound of scraping and crunching metal will be heard by anyone nearby the Property.

Mitigation Is an Admission of Injurious Activity
Again, without citing to a single study, the Staff Report concludes that "with most polluting activities happening indoors [this] greatly reduces the risks to public health and makes the operation a lot cleaner than some other uses typically allowed in the General Industrial zoning district."

First, the Staff Report concludes that polluting will be happening but that somehow it will not have as severe an impact on populace because it is happening indoors. There is a lack of evidence of the type and nature of pollution caused by this operation and no scientific study to support the Staff Reports conclusions as evidence. The Staff Report also seems to place weight on the fact the IDEM will be monitoring the Petitioner. IDEM is not a watchdog, that responsibility must fall to the residents. Residents cannot report violations they cannot see when they are occurring behind closed doors.

Second, the Staff Report takes the Petitioner's word at face value when it claims there will be "no excess smoke or smell". This conclusion is unsupported by any evidence. Petitioner has not provided detail regarding the potential emissions, chemical waste, or byproduct of its operations. Nor has Petitioner supplied a scientific or industrial explanation of the type and nature of filtration system it has, or that it is even equipped with an air filtration system. Instead, the Staff Report concludes, without evidence, that because the odors, invisible chemical particles, and emission will go through the "air conditioner" before being released outside, they must be safe.

Third, the Staff Report focuses on storage of the car carcasses being outside of the building and chemicals being stored inside the building. The record remains void of any information relative to leaking vehicles being transported to the Property for the first time by a flat bed truck or how long a vehicle may be stored outside before it is ready to be disassembled inside.

Fourth, the Staff Report is devoid of any mention of the aquifers, wells, and potential contamination of groundwater sources. There are no reports, studies, or opinions providing evidence that such contamination common to salvage yards will not occur at this location.

2. **The Requirements and Development Standards for the Requested Special Use Prescribed by the Ordinance Will Not Be Met.**

The Staff Report references the Petitioner's intention to construct an 8-ft tall metal fence. This, however, does not comport with Lapel's UDO cited in the very same section of the Staff Report. The UDO requires that "all storage areas for such vehicles **shall** be completely enclosed with a six (6) foot tall, 100% opaque wood, stone, or masonry fence." The UDO does not allow for a metal fence.

The claim storage of vehicles will not exceed 4 feet is not reasonable. An SUV carcass sitting on cinder blocks exceeds 4ft. This is certain to be a routinely occurring violation with little or no oversight to force compliance.

3. **Granting the Special Use WILL subvert the general purpose served by the Ordinance and will permanently injure other property or uses in the same district and vicinity**

Pollution and Remediation
Without an environmental impact study, the Staff Report concludes without evidentiary support that "**it is likely**" the way the Petitioner is proposing to conduct its operations will not be injurious to surrounding properties. This, however, is an unfounded conclusion not based upon any evidence. The evidence contained in Remonstrators' submission makes clear this company is not running its business at a "high standard that protects the environment" having been fined millions of dollars by the EPA. The Remonstrators have also produced information from IDEM regarding common toxins found at salvage yards.

Petitioner has not tendered an remediation plan if and when it ceases operations at this site. There is no quicker way to kill development and stifle growth within a municipality than for this site to be designated a superfund site by the EPA. Neighboring Noblesville is still investigating potential uses for the old Firestone plant designated as a superfund in Noblesville 15 years after it was demolished. It took over a decade to clean up the site from the environmental hazard it left behind. *See* **Exhibit 14**.

Home Values and Quality of Life
Remonstrators maintain construction of a junkyard will adversely impact area property values. As its stands, one remonstrator's family will not construct a home near his aging parents because of the proposed construction of this junkyard. Agricultural land to the south of Lapel will eventually grow to be developed with residential. Residents will have to drive through the current southern most corridor, past a gigantic junk yard, as a means of ingress and egress to their homes along SR38 or SR13.

A group of realtors in Madison County believes the addition of a junkyard to this general industrial area will only serve to decrease property values in the area and make the sale of future homes in the area more difficult. See **Exhibit 15** (signed in counter parts). Additionally, certified residential appraiser, Robert Allard, opines external obsolescence is a factor in market appraisals, thus limiting the buyer pool in any sale situation. He further opined many lenders will turn down work on homes adjacent to industrial land. The presence of a junkyard is certain to exacerbate such external obsolescence. **Exhibit 16**.

Increased Traffic Patterns
The Petitioner's self-supplied numbers of increased traffic patterns are unsupported by any credible documentation. For example, a traffic study was not provided detailing the number of vehicle shipments it will receive daily along with other supplies necessary for its 177,000 sq ft warehouse. The numbers also do not contemplate the increase in construction traffic necessary to develop the Property and the impact it will have on surrounding properties. In essence, there is no credible evidence for the BZA to rely upon when determining whether traffic patterns will be as limited as Petitioner suggests.

4. The proposed use is not at all consistent with the zoning district in which it is located and the Town of Lapel's Comprehensive plan

This criteria was a self-fulfilling prophecy in the Staff Report. Prior to the recently passed rezone, the property was classified as agricultural. The only reason the proposed use is now somewhat consistent was because the Town Council passed an ordinance (whose validity is contested by Remonstrators) turning this property into industrial. Somehow, this the construction of a junk yard along the central north/south corridor into the Town of Lapel from I-69 has been determined to be within the Town of Lapel's comprehensive plan.

The Staff Report also unilaterally concludes without any evidence, citation to studies, opinions, or reports that some of the surrounding special uses are "bound to have more pollution than applicant's proposal." This unfounded assertion in the Staff Report draws no comparison to the type of pollution emitted; the potential harm it causes; the length of contamination; and/or the cost of remediation of such pollution.

D. Comparison to Other Indiana Yards

The Staff Report included a section comparing Petitioner's proposal to the "best auto salvage yards in Indiana" as determined by Indiana Clean Yards program. This section of the report also purpose to "give some examples of the yards that IDEM reviewed and thought that they met the environmental standards and best management practices."

What the Staff Report omits is that the Indiana Clean Yard program is comprised of a self-audit which is authorized by a one page, authorization form followed by a and a walk through by a member of IDEM. After this single, limited visit, if IDEM does not spot any problems they issue the "award". A copy of the Indiana Clean Yard criteria is attached hereto as **Exhibit 17**.

Moreover, there is a financial incentive to companies to participate in this program, a portion of which includes turning mercury switches in to IDEM in exchange for payment. A copy of the compensation form is attached as **Exhibit 18 and Exhibit 19**.

The Indiana Clean Yard program is based upon a corporate self-assessment and is not at all an independent determination made by IDEM.

E. Conclusion: Remonstrators' Request of the BZA to DENY the Application for Special Use Variance

Remonstrators do not concede the BZA has authority to render a decision on this application because the Plan Commission and Town Council's actions violated Remonstrator's substantive and procedural due process rights, thus rendering the ordinance void *ab initio*. The BZA also lacks any authority to render a conditional decision because Remonstrator's position is that without a valid ordinance, there is nothing to condition the grant of a special use upon.

To the extent the BZA intends to render an opinion, Remonstrators point out Petitioner does <u>not</u> have the support of its neighbors or the community for this project to move forward. Petitioner has failed to provide evidence for the four required findings of fact that supports a favorable vote. Remonstrators respectfully reiterate their most adamant request of the BZA to DENY the Application and Petitioner's request for a special use. Petitioner should not be permitted to operate a junkyard on the Property.

Cam Paddock · 2nd

Area Manager at E&B Paving, Inc.

E&B Paving, Inc.

Purdue University

Anderson, Indiana, United States · **Contact info**

500+ connections

Todd Thurston and **Kenton Ward** are mutual connections

Connect Message More

Highlights

You both studied at Purdue University

Cam started at Purdue University before you started

Message

Exhibit 1

1 mutual group
You and Cam are both in Purdue Alumni

Activity
823 followers

Cam hasn't posted yet
Recent posts Cam shares will be displayed here.

Show all activity →

Experience

E&B Paving, Inc.
17 yrs 9 mos

- **Area Manager**
  Apr 2014 - Present · 9 yrs 6 mos
  Anderson, IN
- **Estimator/Project Manager**
  Jan 2006 - Mar 2014 · 8 yrs 3 mos
  Muncie, IN

Education

Purdue University
1996 - 1999

St. Joseph's College (IN)
1994 - 1996

Skills

Construction

Endorsed by Jobsite Supply and 2 others who are highly skilled at this

Endorsed by 6 colleagues at E&B Paving, Inc.

25 endorsements

Construction Safety

Endorsed by Mark Michael, ASP, CESSWI who is highly skilled at this

Endorsed by 3 colleagues at E&B Paving, Inc.

6 endorsements

Value Engineering

Endorsed by 6 colleagues at E&B Paving, Inc.

22 endorsements

Show all 22 skills →

Interests

Companies Groups Schools

Purdue University
530,674 followers
✓ Following

ISOLUX CORSAN
50,602 followers
+ Follow

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Division Manager at E&B Paving, Inc.
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Connect

Kevin Kruckeberg · 2nd
Vice President at E&B Paving, Inc.
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Tony Evans · 3rd
Vice President at E&B Paving, Inc.

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Human Resources Administrator at E&B Paving, Inc.

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Michael Orick
Heavy Equipment Operator at E&B Paving, Inc.

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laborer/finisher at E&B Paving, Inc.

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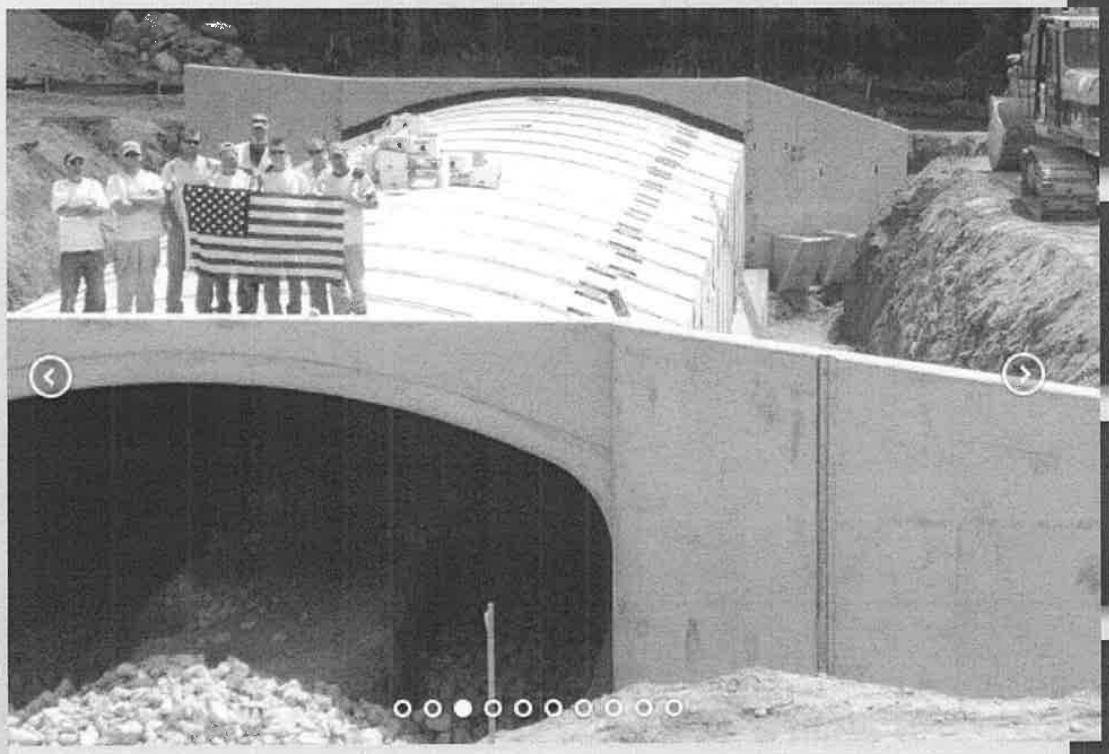

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Exhibit 2

EMPLOYEE SERVICES | LITTLE JAKE STORE

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Landon Paddock · 2nd

Vice President at ARCO Design/Build - Indianapolis | Columbus | Louisville

- ARCO Design/Build
- Manchester College

Indianapolis, Indiana, United States · **Contact info**

500+ connections

Ryan Smalligan, Nick Deets, and 15 other mutual connections

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Activity

2,295 followers

Posts | Comments | Articles

Landon Paddock reposted this · 1mo

Sign up to help **kNot Today's** mission to protect our kiddos!

6

Landon Paddock reposted this · 2mo

Another great project with repeat client, **Pure Development!** **#theARCOway**

34 1 comment

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Congratulations on **Cody Sunderhaus's** growth with **ARCO Design/Build** and the opening of a new office in the backyard of his hometown! I've enjoye ...show more

National construction company opens Louisville branch

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41

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Experience

ARCO Design/Build

9 yrs 4 mos

Exhibit 3

Vice President
Full-time
Jan 2020 - Present · 3 yrs 9 mos
Indianapolis, Indiana, United States

Director Of Business Development
Jun 2014 - Jan 2020 · 5 yrs 8 mos
Indianapolis, Indiana

Concrete Sales
Irving Materials, Inc.
Dec 2006 - May 2014 · 7 yrs 6 mos

Assistant Golf Professional
Hillcrest Country Club - Indy
May 2004 - Dec 2006 · 2 yrs 8 mos
On-site

Education

Manchester University
B.S., Business Administration
2001 - 2005
Activities and societies: Accounting and Business Club (ABC) - 3 years
Manchester College Men's Basketball - 2 year letterman...

Business Administration

Skills

Process Scheduler

Endorsed by Amber Shultz and 4 others who are highly skilled at this

Endorsed by 8 colleagues at Irving Materials, Inc.

28 endorsements

Budgets

Endorsed by Mike Wardwell who is highly skilled at this

Endorsed by Ryan Smalligan (mutual connection)

40 endorsements

Contract Negotiation

Endorsed by Mike Wardwell and 3 others who are highly skilled at this

Endorsed by Ryan Smalligan (mutual connection)

53 endorsements

Show all 29 skills →

Recommendations

Received Given

Nothing to see for now
Recommendations that Landon receives will appear here.

ARCO DESIGN/BUILD

WHAT WE DO JOIN OUR TEAM LEARN ABOUT ARCO CONTACT US

CLIENT
LKQ

SIZE
300,160 SF

INDUSTRY
Manufacturing

LOCATION
Bryant, AR

BACK TO ALL PROJECTS

LKQ®

OEM Recycled • Aftermarket by Keystone

OVERVIEW

Exhibit 4

13,000 SF Main Office Space with Call Center

Shipping/Receiving Office

34' Clear Height

Eighty (80) Fully Equipped Dock Positions

Ten (10) Dock Knock-Outs for Future Expansion

Truck Docks Fully Secured w/ Fence & Automatic Gates

Seven (7) Drive-In Doors

224 Car Parking Spaces

100kW Natural Gas Backup Generator

Fleet Fueling Station

ESFR Fire Protection

6" Thick, Fully Reinforced Slab

AFFIDAVIT OF KATHERINE CALLAHAN, DNP

I, Katherine Callahan, DNP, being first duly sworn upon my oath, state the following:

1. I am an adult of sound mind, and make the statements in this affidavit based upon my personal knowledge.

2. I own residential and commercial properties located in Lapel, Madison County, Indiana.

3. I own a medical practice in Lapel, Madison County, Indiana where I work closely with Dr. Wright.

4. The installation of an automotive graveyard or junk yard will adversely impact the investments I have made into my residential and commercial properties in Lapel.

5. According to the DNR, the proposed site for this structure sits on top of the Till Aquifer System. These aquifers supply water to the residents of Lapel including patients seen at her medical practice. See attached **Exhibit A**.[1]

6. According to the DNR, wells that are shallow dug or which lack overlying clay deposits in certain areas are highly susceptible to contamination.

7. The Petitioner does not possess the level of corporate responsibility they have led the Planning Commission, Town Council, and now you to believe.

8. Public filings reveal that in 2021, LKQ Corporations and its related entities agreed to pay $130,000.00 in fines to the Environmental Protection Agency environmental violations for failure to conduct or adequately document routine inspections; adequately conduct or report compliance; failure to provide adequate erosion and sediment controls; failure to implement adequate control measures or take corrective action; failure to comply with permit requirements concerning the preparedness, prevention and contingency plan; and failure to comply with permit requirements concerning the storm water pollution prevention plan. (A copy of the consent order is attached hereto as **Exhibit B**).

9. Similarly, Keystone Automotive Operations, Inc., admitted to environmental violations in the State of Pennsylvania and agreed to pay the EPA, $2,500,000.00 in fines for selling aftermarket automotive parts which bypassed or rendered inoperative emission controls. A copy of the consent order is attached hereto as **Exhibit C**.

Exhibit 5

10. Another example of this entity's environmental irresponsibility occurred in the State of California where LKQ Corporation settled with the California Air Resources Board for $294,000 as a result of its deliberate decision to sell used diesel particulate filters for installation on heavy equipment without the approval of California State government. The purpose of these deices was to alter or modify the design and performance of a vehicle's original pollution control device. Attached is a press release from the California Air Resources Board as **Exhibit D**.

11. The concern with the Petitioner's intended use of the property is that they have failed to provide the Plan Commission or the Town Council, and now the Board of Zoning Appeals, with the reality of harsh chemical contaminants typically found at operations such as this. The Indiana Department of Environmental Management has published a list of common contaminants found at similar operations to the Applicant's proposal. I have attached a list of these contaminants to my affidavit as **Exhibit E**.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

Date: 9/15/23

Katherine Callahan

STATE OF INDIANA)
) ss:
COUNTY OF MADISON)

NOTARY PUBLIC Expires 6/2/2029 Gwendolyn Townsend Delaware COUNTY My Commission # NP0734074 STATE OF INDIANA

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for said County and State, this 15th day of September, 2023.

Notary Public

My Commission Expires: NP0734074 Resident of Delaware County

[i] https://www.in.gov/dnr/water/files/71_Madison_County_UNC_AOSYS_map.pdf

Mitchell E. Daniels, Jr., Governor
Department of Natural Resources
Robert L. Carter, Jr., Director

UNCONSOLIDATED AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA

The unconsolidated aquifer systems of Madison County are composed of sediments deposited by, or resulting from, a complex sequence of glaciers, glacial meltwaters, and post-glacial precipitation events. Six unconsolidated aquifer systems have been mapped in Madison County: the Till Veneer; the Bluffton / New Castle / Tipton Till; the Bluffton / New Castle / Tipton Till Subsystem; the Bluffton / New Castle / Tipton Complex; the White River and Tributaries Outwash; and the White River and Tributaries Outwash Subsystem. Because of the complicated glacial geology, boundaries of the aquifer systems in this county are commonly gradational and individual aquifers may extend across aquifer system boundaries. Approximately 51 percent of all wells in this county are completed in unconsolidated deposits.

The thickness of unconsolidated deposits in Madison County is quite variable, due to the deposition of glacial material over an uneven bedrock surface. Unconsolidated deposits in the county range from no cover at the falls of Fall Creek at Pendleton to over 350 feet thick in a buried bedrock valley located south of Chesterfield.

Regional estimates of aquifer susceptibility to contamination from the surface can differ considerably due to a wide range of variation within geologic environments. In addition, man-made structures such as poorly constructed water wells, unplugged or improperly abandoned wells, and open excavations can provide contaminant pathways that bypass the naturally protective clays.

Till Veneer Aquifer System

In Madison County, the Till Veneer Aquifer System occurs in areas where the unconsolidated material is predominantly thin till overlying bedrock. This system is chiefly the product of the deposition of glacial till over an uneven, eroded bedrock surface, and is generally less than 50 feet thick. Portions of northern and southwestern Madison County are mapped as Till Veneer.

The Till Veneer Aquifer System has the most limited groundwater resources of the unconsolidated aquifer systems. Approximately 99 percent of the wells in this system are completed in the underlying bedrock; however, some wells do utilize this aquifer system. Potential aquifers within this system include thin isolated sand and/or gravel layers, and surficial sand and gravel outwash or alluvium. Wells are completed at depths ranging from 24 to 45 feet with sand and gravel aquifer materials commonly 4 to 10 feet thick. Most of the wells in this system have reported capacities of 5 gallons per minute (gpm) or less with some wells being reported as "dry". Static water levels range between 16 and 32 feet below the surface. There are no registered significant groundwater withdrawal facilities utilizing this system.

This system is generally not very susceptible to contamination from surface sources because of the low permeability of the near-surface materials. However, areas where protective clay layers are thin or absent are very susceptible to contamination.

Bluffton / New Castle / Tipton Till Aquifer System

The Bluffton New Castle / Tipton Till Aquifer System is mapped throughout portions of Madison County. This aquifer system is up to about 170 feet in thickness, and consists primarily of glacial till with intertill sand and gravel layers. However, the sand and gravel aquifers in this system tend to be relatively thin and discontinuous.

This aquifer system is capable of meeting the needs of most domestic and some high-capacity users in Madison County. The wells utilizing this aquifer system are completed at depths ranging from 50 to 105 feet with sand and gravel aquifer materials commonly 4 to 24 feet thick. Domestic well yields are typically 10 to 40 gpm and static water levels range from flowing to 32 feet below the land surface. There are 5 registered significant groundwater withdrawal facilities (11 wells) using the Bluffton / New Castle / Tipton Till Aquifer System. The reported yields for the high-capacity wells range from 250 to 1,000 gpm.

The Bluffton New Castle / Tipton Till Aquifer System typically has a low susceptibility to surface contamination because intertill sand and gravel units are commonly overlain by thick glacial till. Shallow wells completed in this system are moderately susceptible to contamination.

Bluffton / New Castle / Tipton Till Aquifer Subsystem

The Bluffton New Castle / Tipton Till Aquifer Subsystem is mapped in several areas throughout Madison County. The subsystem is mapped similar to the Bluffton / New Castle Tipton Till Aquifer System; however, potential aquifer materials are generally thinner and potential yields are less in the subsystem.

About 81 percent of wells started in this subsystem in Madison County are completed in the underlying bedrock aquifer system. However, the Bluffton / New Castle / Tipton Till Aquifer Subsystem is capable of meeting the needs of some domestic users in the county. Potential aquifer materials include relatively thin, discontinuous intertill sand and gravel deposits. These intertill sand and gravel aquifer materials are commonly less than 10 feet thick. The wells producing from this subsystem are typically completed at depths ranging from about 45 to 85 feet. Domestic well yields are generally 5 to 10 gpm and static water levels range from 10 to 30 feet below the surface. There are no registered significant groundwater withdrawal facilities using the Bluffton / New Castle / Tipton Till Aquifer Subsystem.

This subsystem is generally not very susceptible to surface contamination because intertill sand and gravel units are overlain by thick till deposits. Wells producing from shallow aquifers are moderately to highly susceptible to contamination.

Bluffton / New Castle / Tipton Complex Aquifer System

The Bluffton New Castle / Tipton Complex Aquifer System is mapped throughout the central and southern areas of Madison County. Multiple glacial advances resulted in sequences of intertill sand and gravel layers, typically overlain by thick clay, resulting in aquifers that are highly variable in depth, thickness, and lateral extent. The total combined thickness of the unconsolidated deposits is up to 240 feet.

The deeper more prolific aquifers of this system are capable of meeting the needs of domestic and some high-capacity users in Madison County. Saturated aquifer materials in the Bluffton / New Castle / Tipton Complex Aquifer System range from about 5 to 25 feet thick, and wells in this system are generally completed at depths from about 70 feet to 125 feet. Domestic well yields range up to 50 gpm and static water levels are about 15 to 40 feet below the surface. There are 14 registered significant groundwater withdrawal facilities (34 wells) using this system. The reported yields for the high-capacity wells range from 75 to 2,847 gpm.

The New Castle Complex Aquifer System overlies a buried bedrock valley located in the east-central portion of the county. The total unconsolidated thickness is up to 350 feet in this area. Only a few reported wells utilize the deeper aquifer within the buried bedrock valley. The aquifer utilized by these wells is up to 22 feet thick, and the reported yields range from 10 to 30 gpm. There is 1 registered significant groundwater withdrawal facility (1 well) using this system. The reported yield for the high-capacity well is 400 gpm.

The Bluffton New Castle / Tipton Complex Aquifer System is not very susceptible to contamination where overlain by thick clay deposits. However, in some areas where surficial clay deposits are relatively thin, the shallow aquifer, if present, is at moderate to high risk.

White River and Tributaries Outwash Aquifer System

The White River and Tributaries Outwash Aquifer System is mapped in the central portion of Madison County along the White River. The system includes thick glacial outwash sands and gravels that are generally capped by a layer of clay and silt deposits.

The White River and Tributaries Outwash Aquifer System is capable of meeting the needs of both domestic and high-capacity users in Madison County. The wells utilizing this aquifer system are completed at depths ranging from 35 to 105 feet with sand and gravel aquifer materials commonly 4 to 22 feet thick. Domestic well yields are typically 10 to 50 gpm with static water levels ranging from 12 to 36 feet below the surface. In the White River and Tributaries Outwash Aquifer System there are 2 registered significant groundwater withdrawal facilities (3 wells). Reported production for these high-capacity wells range from 512 to 1,319 gpm.

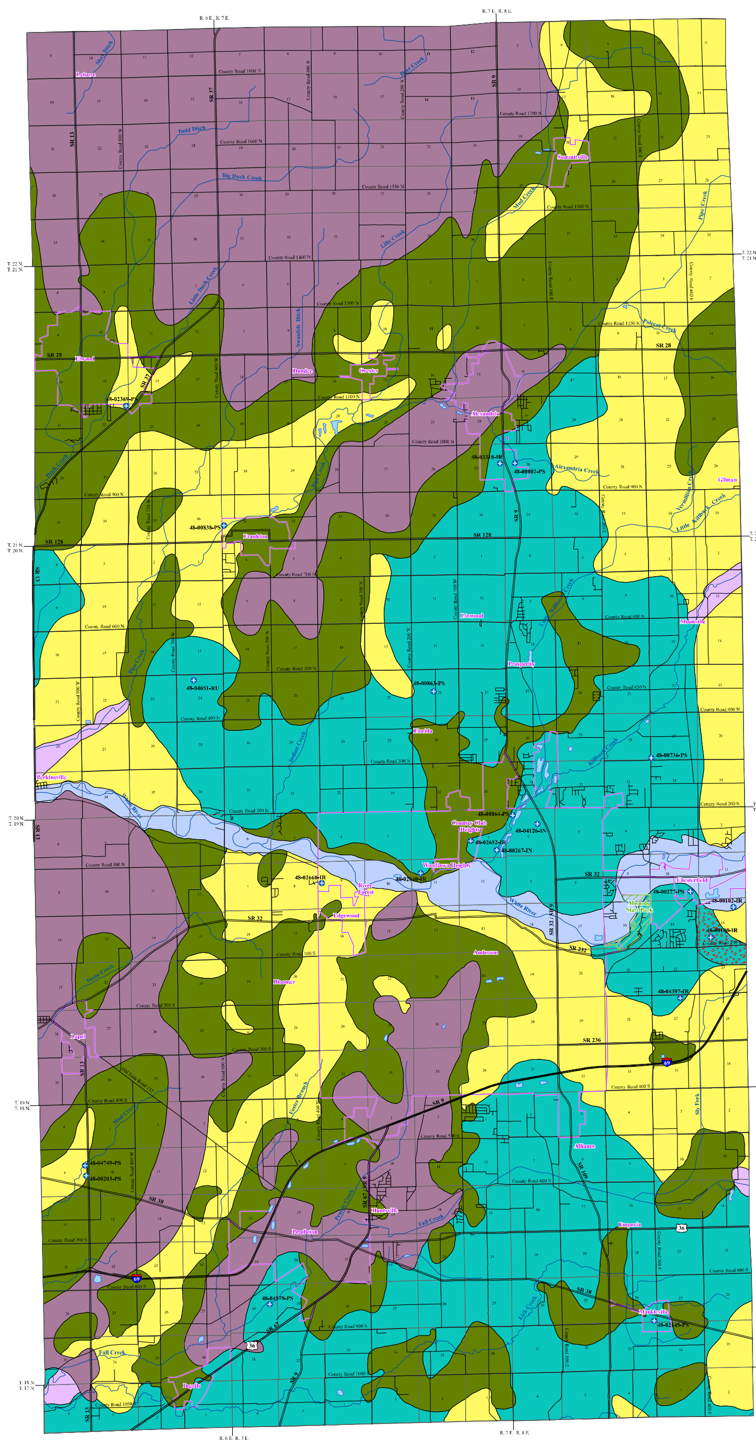
The White River and Tributaries Outwash Aquifer System is highly susceptible to surface contamination where sand and gravel deposits are near the surface and have little or no clay deposits. However, areas having relatively thick clays overlying the sand and gravel deposits are moderately susceptible to contamination.

White River and Tributaries Outwash Aquifer Subsystem

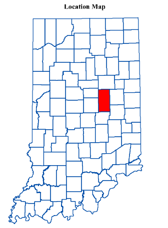
The White River and Tributaries Outwash Aquifer Subsystem is mapped in several areas of Madison County along portions of Fall Creek, Pipe Creek, and Killbuck Creek. This subsystem is mapped similar to the White River and Tributaries Outwash Aquifer System; however, aquifer materials in the White River and Tributaries Outwash Aquifer Subsystem are generally thinner, overlying silt and/or clay materials are thicker, and potential yields are less in the subsystem.

The White River and Tributaries Outwash Aquifer Subsystem has the potential to meet the needs of domestic and some high-capacity users. The wells in this subsystem are completed at depths commonly ranging from 50 to 90 feet. Saturated aquifer materials include sand and gravel deposits that are typically 15 to 50 feet thick. Domestic well yields are generally 10 gpm with static water levels ranging from 8 to 28 feet below the surface. There are no registered significant groundwater withdrawal facilities in the White River and Tributaries Outwash Aquifer Subsystem.

Areas within the White River and Tributaries Outwash Aquifer Subsystem that have overlying clay deposits are moderately susceptible to surface contamination; however, areas lacking overlying clay deposits are highly susceptible to contamination.



Location Map



EXPLANATION

- Registered Significant Ground-Water Withdrawal Facility
- Stream
- County Road
- State Road & US Highway
- Interstate
- Municipal Boundary
- State Managed Property
- Lake & River

1 0.5 0 1 Mile

1 0.5 0 1 Kilometer

Map generated by Scott H. Dean
IDNR, Division of Water, Resource Assessment Section

Map Use and Disclaimer Statement

We request that the following agency be acknowledged in products derived from this map: Indiana Department of Natural Resources, Division of Water.

This map was compiled by staff of the Indiana Department of Natural Resources, Division of Water using data believed to be reasonably accurate. However, a degree of error is inherent in all maps. This product is distributed "as is" without warranties of any kind, either expressed or implied. This map is intended for use only at the published scale.

This map was created from several existing shapefiles. Township and Range Lines of Indiana (line shapefile, 20020621), Land Survey Lines of Indiana (polygon shapefile, 20020621), and County Boundaries of Indiana (polygon shapefile, 20020621), were all from the Indiana Geological Survey and based on 1:24,000 scale. Draft road shapefiles, System1 and System2 (line shapefiles, 2003), were from the Indiana Department of Transportation and based on a 1:24,000 scale. Populated Areas in Indiana 2000 (polygon shapefile, 20021000) was from the U.S. Census Bureau and based on a 1:100,000 scale. Streams27 (line shapefile, 20000420) was from the Center for Advanced Applications in GIS at Purdue University. Managed Areas 96 (polygon shapefile, various dates) was from IDNR. Unconsolidated Aquifer Systems coverage (Scott, 2010) was based on a 1:24,000 scale.

Unconsolidated Aquifer Systems of Madison County, Indiana

by
Robert A. Scott
Division of Water, Resource Assessment Section

August 2010

Exhibit A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	**U.S. EPA Docket No. CAA-03-2021-0058**
	:	
Keystone Automotive Operations, Inc.	:	**Proceeding under Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1)**
Respondent.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. Pursuant to Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant") initiated this administrative proceeding for the assessment of civil penalties against Keystone Automotive Operations, Inc. ("Respondent"), by issuance of a Complaint and Notice of Opportunity for Hearing ("Complaint") filed with the Regional Hearing Clerk on January 29, 2021. The Complaint, incorporated herein by reference, alleges that Respondent violated Section 203(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7522(a)(3)(B), in connection with the sale of automotive aftermarket parts that bypass, defeat, or render inoperative emission controls on certified motor vehicles in 2015-2018. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the Clean Air Act (or the "Act") for the for the violations alleged in the Complaint.

2. This Consent Agreement is entered into by the Complainant and the Respondent (collectively the "Parties") pursuant to Section 205(c)(1) of the Act, 42 U.S.C. § 7524(c)(1), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 205(c)(1) of the Act, 42 U.S.C. § 7524(c)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant.

3. In accordance with 40 C.F.R. §§ 22.18(b)(2) and (3) of the Consolidated Rules of Practice, the Parties resolve this administrative proceeding.

Exhibit 4

JURISDICTION

4. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.

7. Except as provided in Paragraph 6, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.

10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

12. Pursuant to Section 205(c) of the Act, 42 U.S.C. § 7524(c), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

13. EPA incorporates by reference all factual allegations and legal conclusions contained in the Complaint.

CIVIL PENALTY

14. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of *TWO MILLION FIVE HUNDRED THOUSAND* dollars ($2,500,000), which Respondent shall be liable to pay in accordance with the terms set forth below.

15. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 205(c)(2) of the Act, including,

the following: the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of noncompliance, actions taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy which reflects the statutory penalty criteria and factors set forth at Section 205(c)(2) of the Act, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

16. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, Docket No.: CAA-03-2021-0058;

b. All checks shall be made payable to the "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:

Jennifer M. Abramson
Senior Assistant Regional Counsel
Abramson.Jennifer@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

17. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to

cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

18. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

19. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondent is notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

20. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

21. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

22. Failure by Respondent to pay the civil penalty assessed by the Final Order in full pursuant to this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 205 of the Act, 42 U.S.C. § 7524. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

23. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

24. The parties consent to service of the Final Order by e-mail at the following valid email addresses: Abramson.Jennifer@epa.gov (for Complainant), and Jennifer.Adams@hoganlovells.com (for Respondent(s).

GENERAL SETTLEMENT CONDITIONS

25. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

26. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

27. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

28. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Air Act, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

29. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it

under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

30. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

31. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

32. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: Keystone Automotive Operations, Inc.

Date: August 11, 2022 By: [redacted]
Matthew J. McKay
Secretary

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2022.08.18 09:08:07 -04'00'

[*Digital Signature and Date*]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: JENNIFER ABRAMSON Digitally signed by JENNIFER ABRAMSON Date: 2022.08.11 14:52:05 -04'00'

[*Digital Signature and Date*]
Jennifer M. Abramson
Dennis M. Abraham
Senior Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103

In the Matter of:	:	**U.S. EPA Docket No. CAA-03-2021-0058**
	:	
Keystone Automotive Operations, Inc.	:	**Proceeding under Section 205(c)(1) of the Clean**
	:	**Air Act, 42 U.S.C. § 7524(c)(1)**
Respondent.	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, Keystone Automotive Operations, Inc. have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, with specific reference to Sections 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA's January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy, and the statutory factors set forth in Section 205(c)(2) of the Clean Air Act.

NOW, THEREFORE, PURSUANT TO Section 205(c)(1) of the Clean Air Act, 42 U.S.C. § 7524(c)(1), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of *TWO MILLION FIVE HUNDRED THOUSAND* dollars ($2,500,000), in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 8/18/22 By: JOSEPH LISA Digitally signed by JOSEPH LISA Date: 2022.08.18 11:33:23 -04'00'

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	**U.S. EPA Docket No. CAA-03-2021-0058**
	:	
Keystone Automotive Operations, Inc.	:	**Proceeding under Section 205(c)(1) of the Clean**
	:	**Air Act, 42 U.S.C. § 7524(c)(1)**
Respondent.	:	

CERTIFICATE OF SERVICE

I certify that on 8/18/22, the foregoing ***Consent Agreement and Final Order***, was filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Bill Rogers
Keystone Automotive Operations, Inc. 44
Tunkhannock Avenue
Exeter, PA 18643
brogers@key-stone.com

Jennifer Adams
Hogan Lovells US LLP
609 Main Street, Suite 4200
Houston, TX 77002
Jennifer.Adams@hoganlovells.com

Copies served via email to:

Jennifer M. Abramson
Senior Assistant Regional Counsel
U.S. EPA, Region III
Abramson.Jennifer@epa.gov

Amelie Isin, P.E.
Case Development Officer
U.S. EPA, Region III
Isin.Amelie@epa.gov

Date: 8/18/22

CATHERINE MCCOOL

Digitally signed by CATHERINE MCCOOL
Date: 2022.08.18 13:24:43 -04'00'

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
POTOMAC GERMAN AUTO, INC. and	:	**U.S. EPA Docket No. CWA-03-2022-0017**
LKQ NORTHEAST, INC.,	:	
c/o LKQ CORPORATION	:	**Proceeding under Section 309(g) of the**
500 WEST MADISON STREET,	:	**Clean Water Act, 33 U.S.C. § 1319(g),**
SUITE 2800	:	**to Assess Class II Penalty**
CHICAGO, ILLINOIS 60661	:	
	:	
Respondents.	:	
	:	
MT. AIRY, MD	:	
EDGEWOOD, MD	:	
FREDERICK, MD	:	
ERDMAN, MD	:	
HAWKINS POINT, MD	:	
EASTON, MD	:	
YORK HAVEN, PA,		
Facilities.		

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement & Compliance Division, U.S. Environmental Protection Agency, Region III ("Complainant") and Potomac German Auto, Inc. and LKQ Northeast, Inc. ("Respondents"), (collectively the "Parties"), pursuant to Section 309(g) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. § 1319(g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22. Section 309(g) of the CWA, 33 U.S.C. § 1319(g) authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondents under Section 309(g) of the CWA, 33 U.S.C. § 1319(g) for the violations alleged herein.

Exhibit C

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(6).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and Final Order.

6. Except as provided in Paragraph 5, above, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement.

7. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.

8. For purposes of this proceeding only, Respondents hereby expressly waive their right to contest the allegations set forth in this Consent Agreement and Final Order and waive their right to appeal the accompanying Final Order.

9. Respondents consent to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

10. Respondents shall bear their own costs and attorney's fees in connection with this proceeding.

11. Pursuant to Section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45(b), EPA is providing public notice and an opportunity to comment on the Consent Agreement prior to issuing the Final Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.

A. STATUTORY AND REGULATORY BACKGROUND

13. Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), authorizes the assessment of administrative penalties against any person who violates any National Pollutant Discharge Elimination System ("NPDES") permit condition or limitation in an amount not to exceed $10,000 per day for each violation, up to a total penalty amount of $125,000.

14. Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. 19.4, Table 2, and Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), any person who has violated any NPDES permit condition or limitation after November 2, 2015 where the penalty is assessed on or after December 23, 2020, the maximum administrative penalty per day for each violation is up to $22,584, up to a penalty amount of $282,293. (Part 19 also specifies the maximum penalties applicable to other time periods.)

15. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any "pollutant" (other than dredged or fill material) from a point source into waters of the United States, except in compliance with a permit issued pursuant to the NPDES program under Section 402 of the CWA, 33 U.S.C. § 1342.

16. Section 402(a) of the CWA, 33 U.S.C. § 1342(a) provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of pollutants from point sources to waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the CWA, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permits.

17. Section 402(p) of the CWA, 33 U.S.C. § 1342(p), and 40 C.F.R. Sections 122.2 and 122.26 provide that, with some exceptions not pertinent here, storm water dischargers are "point sources" subject to NPDES permitting requirements under Section 402(a) of the CWA, 33 U.S.C. § 1342(a).

18. "Pollutant" is defined as "dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water." Section 502(6) of the CWA, 33 U.S.C. § 1362(6); 40 C.F.R. § 122.2.

19. "Storm water" is defined as "storm water runoff, snow melt runoff and surface runoff and drainage." 40 C.F.R. § 122.26(b)(13).

20. "Storm water discharge associated with industrial activity" means "the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing processing or raw materials storage areas at an industrial plant" and "includes, but is not limited to, storm water discharges from industrial plant yards;

immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process waste waters . . . ; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products . . . ." 40 C.F.R. § 122.26(b)(14).

21. An NPDES permit is required for storm water discharges associated with industrial activity. CWA Section 402(p), 33 U.S.C. § 1342(p); 40 C.F.R. § 122.26(a)(6), (c); 40 C.F.R. § 122.21.

22. Facilities within the categories set out in 40 C.F.R. § 122.26(b)(14), including those in Standard Industrial Classification ("SIC") code 5015 (Auto Salvage Yard—Sector M) are industrial activities that must obtain permit authorization for stormwater discharges.

23. Dischargers of stormwater associated with industrial activities to waters of the United States are required to seek NPDES permit coverage. 40 C.F.R. § 122.26(c).

24. Section 402(b) of the CWA, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may authorize states to issue permits under the NPDES Program.

25. The State of Maryland and the Commonwealth of Pennsylvania have been approved by EPA to administer the NPDES permit program in their respective states pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b).

26. The State of Maryland, through the Maryland Department of the Environment ("MDE") has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342 in Title 9 of the Environment Article, Annotated Code of Maryland ("Maryland Stormwater Regulations"). Similarly, the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), has incorporated the NPDES Permit program requirements of the CWA, 33 U.S.C. § 1342, into its Clean Streams Law, as amended, 35 P.S. § 691.1 et seq.,

27. Pursuant to the authority of the CWA, MDE issued a General Discharge Permit For Storm Water Associated with Industrial Activities, General Permit No. 12-SW, on January 1, 2014 (modified December 7, 2018) ("Maryland General Permit"). The Maryland General Permit had an expiration date of December 31, 2018, but was administratively extended and is still in effect.

28. Pursuant to the authority of the CWA, PADEP issued an NPDES General Permit for Discharges of Stormwater Associated with Industrial Activity General Permit, PAG-03, on September 24, 2016 ("Pennsylvania General Permit").

29. Collectively the Maryland General Permit and the Pennsylvania General Permit will be referred to herein as the "General Permits". The General Permits are issued for 5-year terms and require facilities that discharge storm water to a surface body of the state to comply with specific requirements governing storm water discharges associated with industrial activities.

30. The General Permits authorize the discharge of stormwater associated with industrial activity in accordance with the provisions of the respective state's General Permit.

31. A violation of a General Permit is also a violation of the CWA and may be subject to penalties established under that statute.

B. RESPONDENTS AND THEIR FACILITIES

32. Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are wholly-owned subsidiaries of LKQ Corporation.

33. As a corporation, incorporated in the State of Maryland, Respondent Potomac German Auto, Inc. is a "person" under Section 502(5) of the CWA, 33 U.S.C § 1362(5), and 40 C.F.R. § 122.2.

34. As a corporation, incorporated in the State of Delaware, Respondent LKQ Northeast, Inc. is a "person" under Section 502(5) of the CWA, 33 U.S.C § 1362(5), and 40 C.F.R. § 122.2.

35. Respondent Potomac German Auto, Inc. is, and at all times relevant to this Consent Agreement was, the owner and operator of auto salvage yards at the following locations:

a. DBA LKQ Pick Your Part/Jessup
Potomac German Auto, Inc.
8125 Washington Blvd,
Jessup, MD 20794

b. DBA LKQ Pick Your Part /Mount Airy
Potomac German Auto, Inc.
3923 Twin Arch Rd,
Mt. Airy, MD 21771

c. LKQ Pick Your Part / Edgewood
Potomac German Auto, Inc.
1706 Pulaski Hwy,
Edgewood, MD 21040

d. DBA LKQ Pick Your Part
DBA LKQ Potomac German Auto Parts

4305 Lime Kiln Road,
Frederick, MD 21703

e. LKQ Pick Your Part / Baltimore
Potomac German Auto, Inc.
6201 Erdman Ave,
Baltimore, MD 21205

f. LKQ Pick Your Part / Balt (Hawkins)
Potomac German Auto, Inc.
2801 Hawkins Point Rd,
Baltimore, MD 21226

36. Respondent LKQ Northeast, Inc. is, and at all times relevant to this Consent Agreement was, the owner and operator of auto salvage yards at the following locations:

a. DBA LKQ Heavy Truck Parts
LKQ Northeast, Inc.
29368 Matthewstown Road,
Easton, MD 21601

b. LKQ Penn-Mar Inc.
269 River Road,
York Haven, PA 17370

37. Collectively, the auto salvage yards owned and operated by Respondents, and listed in Paragraphs 35 and 36, above, will be referred to as the "Facilities."

38. At the Facilities, Respondents purchase unusable vehicles, dismantle them for parts, and conduct the retail sale of both the reusable parts and the remaining unsalvageable parts as crushed scrap metal.

39. The primary Standard Classification ("SIC") Code for each Facility in Paragraphs 35 and 36 is 5015 (Auto Salvage Yard—Sector M), NAICS Code 423930 (Auto Salvage Yard).

40. At the Facilities, Respondents are, and at all times relevant to this Consent Agreement were, engaging in "industrial activity" at the Facilities, within the meaning of 40 C.F.R. § 122.26(a)(1)(ii).

41. Respondents had applied for and were granted coverage under the Maryland General Permit and the Pennsylvania General Permit, under the Permit numbers listed below.

42. ***MT. AIRY, MD:*** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Mount Airy, located at or near 3923 Twin Arch Road, Mt. Airy, MD 21771.

43. The LKQ Pick Your Part/Mount Airy Facility discharges stormwater into the South Branch Patapsco River, which flows to the Patapsco River, which flows to the Chesapeake Bay. The South Branch Patapsco River is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

44. The discharges of stormwater from the LKQ Pick Your Part/Mount Airy Facility were authorized by the Maryland General Permit, under Permit Number MDR003074.

45. ***EDGEWOOD, MD:*** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Edgewood, located at or near 1706 Pulaski Hwy, Edgewood, MD 21040.

46. The LKQ Pick Your Part/Edgewood Facility discharges stormwater into Lower Winters Run, which flows into Winters Run, which flows into the Bush River, which flows to the Chesapeake Bay. Lower Winters Run is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

47. The discharges of stormwater from the LKQ Pick Your Part/Edgewood Facility were authorized by the Maryland General Permit, under Permit Number MDR002259.

48. ***FREDERICK, MD***: At all times relevant to this Order, Respondent LKQ Northeast, Inc. had owned and/or operated an auto salvage yard known as LKQ Pick Your Part at or near 4305 Lime Kiln Road, Frederick, MD 21703. (LKQ Northeast, Inc. closed this facility in March 2021, and MDE terminated its NPDES Permit on August 20, 2021.)

49. The LKQ Pick Your Part Facility in Frederick, MD discharged stormwater into the Lower Monocacy River, which flows to the Monocacy River, which flows to the Potomac River, which flows to the Chesapeake Bay. The Lower Monocacy River is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

50. The discharges of stormwater from the LKQ Pick Your Part Facility were authorized by the Maryland General Permit, under Permit Number MDR002069.

51. ***ERDMAN, MD:*** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part (1205)/Baltimore, located at or near 6201 Erdman Ave, Baltimore, MD 21205.

52. The LKQ Pick Your Part/Baltimore Facility discharges stormwater into the Back River, which flows to the Chesapeake Bay. The Back River is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

53. The discharges of stormwater from the LKQ Pick Your Part/Baltimore Facility were authorized by the Maryland General Permit, under Permit Number MDR001257.

54. ***HAWKINS POINT, MD:*** At all times relevant to this Order, Respondent Potomac German Auto, Inc. has owned and/or operated an auto salvage yard known as LKQ Pick Your Part/Balt (Hawkins), located at or near 2801 Hawkins Point Road, Baltimore, MD 21226.

55. The LKQ Pick Your Part/Balt (Hawkins) Facility discharges stormwater into Baltimore Harbor, which flows to the Patapsco River, which flows to the Chesapeake Bay. Baltimore Harbor is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

56. The discharges of stormwater from the LKQ Pick Your Part/Balt (Hawkins) Facility were authorized by the Maryland General Permit, under Permit Number MDR001880.

57. ***EASTON, MD***: At all times relevant to this Order, Respondent LKQ Northeast, Inc. has owned and/or operated an auto salvage yard known as LKQ Heavy Truck Parts at or near 29368 Matthewstown Road, Easton, MD 21601.

58. The LKQ Heavy Truck Parts Facility discharges stormwater into the Lower Choptank River, which flows to the Choptank River, which flows to the Chesapeake Bay. The Lower Choptank River is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

59. The discharges of stormwater from the LKQ Heavy Truck Parts Facility were authorized by the Maryland General Permit, under Permit Number MDR001037.

60. ***YORK HAVEN, PA:*** At all times relevant to this Order, Respondent LKQ Northeast, Inc. has owned and/or operated an auto salvage yard known as LKQ Penn-Mar, Inc. at or near 269 River Road, York Haven, PA 17370.

61. The LKQ Penn-Mar, Inc. Facility discharges stormwater into an unnamed tributary to the Susquehanna River, which flows to the Susquehanna River, which flows to the Chesapeake Bay. The unnamed tributary to the Susquehanna River is a "water of the United States" within the meaning of Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

62. The discharges of stormwater from the LKQ Penn-Mar, Inc. Facility were authorized by the Pennsylvania General Permit, under Permit Number PAR603587.

63. The General Permits require the Respondents to implement and maintain certain Best Management Practices ("BMP") to prevent pollution and minimize the exposure of industrial activities to precipitation and runoff.

64. The General Permits require the Respondents to develop and implement a Preparedness, Prevention, and Contingency Plan ("PPC Plan") to minimize the potential for leaks, spills or releases that may be exposed to stormwater.

C. INVESTIGATION

65. On June 11, 2020, EPA sent an information request letter ("IRL") to LKQ, pursuant to its authority under Section 308 of the CWA, 33 U.S.C. § 1318, in order to gather information about the seven facilities in Maryland (Jessup,[1] Mt. Airy, Easton, Frederick, Edgewood, Erdman, and Hawkins Point). LKQ responded to this IRL on August 4, 2020 ("IRL Response").

66. On August 26, 2020, representatives of EPA Region III conducted an inspection of the facilities in Jessup, MD and Mt. Airy, MD. On September 3, 2020, representatives of EPA Region III conducted an inspection of the facility in York Haven, PA. (Collectively, these inspections will be referred to herein as the "Inspections." The EPA representatives who conducted the Inspections and reviewed the IRL Response will be referred to herein as the "Inspection Team.")

67. During the Inspections and review of the IRL Response, the Inspection Team reviewed Respondents' General Permits, Stormwater Pollution Prevention Plans ("SWPPPs") and Preparedness, Prevention and Contingency ("PPC") Plans, sampling procedures, operations, and the current site conditions.

68. The Inspection Team prepared inspection reports for each of the three facilities that EPA inspected, with findings from the Inspections ("the Inspection Reports"), which include observations regarding Respondents' compliance with the requirements of the applicable General Permit.

69. EPA sent a copy of the Inspection Reports to the Respondents on or about October 23, 2020. Respondents responded to the Inspection Reports by letters dated February 15, 2021.

70. Based on the Inspections and review of the ILR Response, EPA has identified the following violations of the General Permits, and Section 301 of the CWA, 33 U.S.C. § 1311, described in the Paragraphs below.

Count 1
Failure to Comply with Permit Requirements Concerning the Storm Water Pollution Prevention Plan

71. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

[1] This Consent Agreement does not include penalties for violations at the Jessup, MD Facility because MDE assessed a penalty for similar CWA violations at this Facility.

72. The Maryland General Permit requires Stormwater Pollution Prevention Plans ("SWPPPs") to document the selection, design, and installation of measures for the control of stormwater discharges.

73. The Maryland General Permit, Part III.C.2.c., requires a SWPPP to include a site map which shows in the relevant subpart of Part III.C.2.c.:

> Site map. Provide a map showing:
> ii.) the location and extent of significant structures and impervious surfaces
> …
> iv.) directions of stormwater flow (use arrows);
> v.) locations of all existing structural control measures or [best management practices ("BMPs")];
> …
> vii.) locations of all stormwater conveyances including ditches, pipes, and swales…

74. The Maryland General Permit, Part III.C.4., provides:

> Description of Control Measures to Meet Technology- and Water Quality-Based Effluent Limits
>
> You must document the location and type of control measures you have installed and implemented at your site to achieve the non-numeric effluent limits in Part III.B.1.b and, where applicable, in Appendix D Sector-Specific Requirements for Industrial Activity, and the water quality-based effluent limits in Part III.B.2, and describe how you are addressing the control measure selection and design considerations, if applicable, in Part III.A.1.a. This documentation must describe how the control measures at your site address both the pollutant sources identified in Part III.C.3 and any stormwater run-on that commingles with any discharges covered under this permit.

75. Respondent Potomac German Auto, Inc.'s site map in the SWPPP for the LKQ Pick Your Part /Mount Airy Facility had the following deficiencies or discrepancies:

a. The site map does not include the location of the oil-water separator ("OWS") or the structure's discharge point.

b. An area on the southern perimeter of the site showed evidence of runoff flowing behind the constructed berm on the south side of the bioretention and sand filter structures. It appeared runoff from this area would be discharged through Outfall 001. The site map does not show this flow pattern.

c. The SWPPP does not reflect the 2019 installation of bioretention and sand filter BMPs on the south side of the site. The BMPs are included on the map, but not discussed in the narrative portion of the document.

d. At the time of the inspection, some drainage patterns onsite appeared to be different than those reflected on the map. The map does not include an apparent point of discharge at the southeastern corner of the site.

e. At the time of the inspection, the site appeared to be graded in such a way that drainage from the OWS, the fluid drainage area, the vehicle compactor area, and the storage area for pre-processed vehicles would not flow to Outfall 001.

76. Respondent Potomac German Auto, Inc. failed to prepare and include in its SWPPP for the Mt. Airy Facility an adequate site map and accurate description of control measures, in violations of the Maryland General Permit, Part III.,C.2 and C.4., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

77. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.,C.2 and C.4., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

Count 2
Failure to Comply with Permit Requirements Concerning the Preparedness, Prevention and Contingency Plan

78. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

79. The Pennsylvania General Permit requires Preparedness, Prevention and Contingency ("PPC") Plans to document the selection, design, and installation of measures for the control of stormwater discharges. Pennsylvania General Permit, Condition in Part C, IV.B, Preparedness, Prevention and Contingency Plan, requires:

> The Permittee shall review and if necessary, update the PPC Plan on an annual basis, at a minimum, and when one or more of the following occur:
>
> 1. Applicable DEP or federal regulations are revised, or this General Permit is revised.
>
> 2. The PPC Plan fails in an emergency.
>
> 3. The facility's design, industrial process, operation, maintenance, or other circumstances change in a manner that materially increases the potential for fires, explosions or releases of toxic or hazardous

constituents; or which changes the response necessary in an emergency.

4. The list of emergency coordinators or equipment changes.

5. When notified in writing by DEP.

The Permittee shall maintain all PPC Plan updates on-site, make the updates available to DEP upon request, and document the updates in Annual Reports.

80. At the time of the inspection, Respondent LKQ Northeast, Inc.'s PPC Plan for the York Haven, PA facility contained the version of the Pennsylvania General Permit that had expired on December 4, 2015. The Pennsylvania General Permit had been reissued September 30, 2016. The PPC Plan was required to be updated on an annual basis when the General Permit was reissued to include the current General Permit.

81. Respondent LKQ Northeast, Inc. failed to update the PPC Plan for the York Haven facility to contain the current Pennsylvania General Permit, in violation of the Pennsylvania General Permit Part C, Section IV.B., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

82. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit Part C, Section IV.B., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

Counts 3-6
Failure to Implement Adequate Control Measures or Take Corrective Action

83. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

84. The Maryland General Permit and Pennsylvania General Permit each contain requirements for implementing adequate control measures or taking corrective actions.

85. ***Mt. Airy (Good Housekeeping)***: the Maryland General Permit, Part III.B.1.b.ii, requires:

Good Housekeeping. You must keep clean all exposed areas that are potential sources of pollutants, using such measures as sweeping at regular intervals, keeping materials orderly and labeled, and storing materials in appropriate containers. A good practice for ensuring housekeeping activities are performed at regular intervals would be keeping a schedule for routine grounds maintenance and cleanup.

86. At the time of the Inspection, there were auto parts and broken glass littered throughout the Mt. Airy Facility. A particularly concentrated pile of parts and debris was observed by the Inspection Team on the eastern perimeter of the site, near the pre-processed vehicle storage area.

87. Respondent Potomac German Auto, Inc. failed to keep clean all exposed areas at the Mt. Airy Facility that are potential sources of pollutants, and keep materials orderly and labeled and storing materials in appropriate containers, in violation of the Maryland General Permit, Part III.B.1.b.ii., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

88. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.B.1.b.ii., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

89. ***York Haven (BMPs)***: the Pennsylvania General Permit, Part C.II.B.8. provides:

> II. BMPs Applicable to all Permittees
> …
> B. Pollution Prevention and Exposure Minimization. The Permittee shall minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges by either locating industrial materials and activities inside or protecting them with storm resistant coverings wherever feasible. The Permittee shall implement and maintain the following measures, at a minimum:
> . . .
>
> 8. Keep all dumpster lids closed when not in use. For dumpsters and roll off boxes that do not have lids, ensure that discharges have a control (e.g., secondary containment, treatment). This General Permit does not authorize dry weather discharges from dumpsters or roll off boxes.

90. At the time of the Inspection, there were open and uncovered dumpsters at the York Haven, PA Facility containing metal vehicle parts, located upgradient of a stormwater catch basin in the northeast portion of the facility. These dumpsters did not have fixed lids.

91. Respondent LKQ Northeast, Inc. failed to minimize the exposure of manufacturing, processing, and material storage areas at the York Haven, PA Facility to rain, snow, snowmelt, and runoff in order to minimize pollutant discharges, in violation of the

Pennsylvania General Permit, Part C.II.B.8., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

92. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part C.II.B.8., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

93. ***York Haven (Spill Prevention and Responses)***: the Pennsylvania General Permit, Part C.II.E.2., requires:

> II. BMPs Applicable to all Permittees
>
> E. Spill Prevention and Responses.
>
> The Permittee shall minimize the potential for leaks, spills and other releases that may be exposed to stormwater and develop a plan consistent with Part C IV for effective responses to such releases. The Permittee shall conduct the following spill prevention and response measures, at a minimum:
>
> …
>
> 2. Implement procedures for material storage and handling, including the use of secondary containment and barriers between material storage and traffic areas, or a similarly effective means designed to prevent the discharge of pollutants from these areas.

94. At the time of the Inspection of the York Haven, PA Facility, Respondent LKQ Northeast, Inc. failed to provide adequate secondary containment for the tank used for draining gasoline during vehicle processing, while this tank was stored outside, in violation of 40 C.F.R. § 112.6(a)(3)(ii).

95. Three 120-gallon tanks that were storing oil at the York Haven, PA Facility did not have double walls nor secondary containment.

96. Respondent LKQ Northeast, Inc. failed to minimize the potential for leaks, spills and other releases that may be exposed to stormwater at the York Haven, PA Facility, by failing to provide secondary containment or barriers to spills, in violation of the Pennsylvania General Permit, Part C.II.E.2., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

97. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part C.II.E.2., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

98. ***York Haven (Operation & Maintenance)***: Pennsylvania General Permit, Part B.I.D. requires:

> D. Proper Operation and Maintenance
>
> The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), including BMPs that are installed or used by the permittee to achieve compliance with the terms and conditions of this General Permit. Proper operation and maintenance includes, but is not limited to, adequate laboratory controls such as appropriate quality assurance procedures. The permittee shall properly operate and maintain backup or auxiliary facilities or similar systems installed by the permittee, as necessary to achieve compliance with the terms and conditions of this General Permit.

99. At the time of the Inspection of the York Haven, PA Facility, there was a buildup of wood debris from fallen trees obstructing the stormwater drainage channel on the north side of the facility. The channel diverts stormwater runoff around the north side of the facility, and into the stormwater pond.

100. Respondent LKQ Northeast, Inc. failed to maintain stormwater conveyances that direct flow to the pond (a BMP) at the facility, in violation of the Pennsylvania General Permit, Part B.I.D., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

101. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Part B.I.D., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

Counts 7-8: Failure to Provide Adequate Erosion and Sediment Controls

102. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

103. ***Mt. Airy, MD***: the Maryland General Permit, Part III.B.1.b.v., provides:

> Erosion and Sediment Controls. You must stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and sedimentation, and the resulting discharge of pollutants. Among other actions you must take to meet this limit, you must place flow velocity dissipation devices at discharge locations and within outfall channels where necessary to reduce erosion and/or settle out pollutants. In selecting, designing, installing, and implementing appropriate control measures, you are encouraged to consult with the Department's Soil Erosion &

> Sediment Control resources (found at), EPA's internet-based resources relating to BMPs for erosion and sedimentation, including the sector-specific Industrial Stormwater Fact Sheet Series, (www.epa.gov/npdes/stormwater/msgp), National Menu of Stormwater BMPs (www.epa.gov/npdes/stormwater/menuofbmps), and National Management Measures to Control Nonpoint Source Pollution from Urban Areas (www.epa.gov/owow/nps/urbanmm/index.html).

104. At the time of the Inspection of the Mt. Airy, MD Facility, there was erosion on the edge of the channel that conveys runoff from the northern and western portions of the site to Outfall 001. Erosion was also observed on the north bank of the bioretention BMP by the Inspection Team. The BMP receives sheet flow runoff from northern and central areas of the site. Additionally, the Facility's 2019 comprehensive site evaluation identified sediment overtopping the silt fence at the edge of the channel.

105. Respondent Potomac German Auto, Inc. failed to minimize onsite erosion and sedimentation at the Mt. Airy facility, in violation of the Maryland General Permit, Part III.B.1.b.v., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

106. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part III.B.1.b.v., Respondent Potomac German Auto, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

107. ***York Haven, PA***: the Pennsylvania General Permit, Section C.II.D, provides:

> D. Erosion and Sediment Controls.
>
> 1. The Permittee shall minimize erosion and pollutant discharges by stabilizing exposed soils and placing flow velocity dissipation devices at discharge locations to minimize channel and stream bank erosion and scour in the immediate vicinity of stormwater outfalls.
>
> 2. The Permittee shall conduct all earth disturbance activities and, when applicable, shall maintain all post-construction stormwater management (PCSM) BMPs in accordance with 25 Pa. Code Chapter 102.

108. At the time of the Inspection of the York Haven, PA Facility, there was gravel that migrated over a containment barrier, located approximately 30 feet upgradient of the stormwater pond forebay observed by the Inspection Team.

109. At the time of the Inspection of the York Haven, PA facility, there was also erosion under the filter socks placed on the northwest perimeter of the north lot, upgradient of the

stormwater pond observed by the Inspection Team. Additionally, mud and sediment buildup was present on the filter socks in this area observed by the Inspection Team.

110. Respondent LKQ Northeast, Inc. failed to minimize erosion and pollutant discharges by providing erosion and sediment controls, in violation of the Pennsylvania General Permit, Section C.II.D., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

111. In failing to comply with the Sections 301 and 402 of the CWA and the Pennsylvania General Permit, Section C.II.D., Respondent LKQ Northeast, Inc. is subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

Counts 9-13
Failure to Adequately Conduct or Report Compliance - Quarterly Visual Inspection

112. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

113. The Maryland General Permit, Part V.A. provides:

> A. Site Inspections and Evaluations
>
> You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations onsite with your SWPPP per Part III.C.8.g.
>
> 3. Quarterly Visual Inspections
>
> You are required to begin visual inspections in the first full quarter after you have been notified that you are covered by this permit. For example, if you obtain permit coverage in June, then your first monitoring quarter is July 1 - September 30 of that year. Once each quarter, you must collect a stormwater sample from each outfall (except in adverse weather conditions, substantially identical outfalls, or inactive and unstaffed sites as noted below) and assess the sample visually. Samples may be taken during any precipitation event (except as noted in Areas Subject to Snow below) where there is a measurable discharge and must be sampled within the first 30 minutes of the storm event. In the case of snowmelt, samples must be taken during a period with a measurable discharge from your site. These samples are not required to be collected consistent with 40 CFR 136 procedures but should be collected in such a manner that the samples are representative of the stormwater discharge.

> a. The Quarterly Visual Monitoring Form found in Appendix B of this permit must be completed for each sample.
> …
> d. *Substantially identical outfalls:* If your facility has two or more outfalls that you believe discharge substantially identical effluents, as documented in Part III.C.5.b, you may conduct quarterly visual assessments of the discharge at just one of the outfalls and report that the results also apply to the substantially identical outfall(s) provided that you perform visual assessments on a rotating basis of each substantially identical outfall throughout the period of your coverage under this permit. If stormwater contamination is identified through visual assessment performed at a substantially identical outfall, you must assess and modify your control measures as appropriate for each outfall represented by the monitored outfall.

114. Information provided in LKQ's response to the June 9, 2020 IRL indicates that five facilities were missing a total of 14 Quarterly Visual Inspections:

a. ***Edgewood, MD***: 1 missing Quarterly Visual Inspection (2Q 2020)

b. ***Frederick, MD***: 3 missing Quarterly Visual Inspections (2Q 2017, 4Q 2017, 4Q 2019)

c. ***Erdman, MD***: 1 missing Quarterly Visual Inspection (2Q 2018)

d. ***Hawkins Point, MD***: 5 missing Quarterly Visual Inspections (1Q 2017, 2Q 2017, 3Q 2017, 4Q 2017, 2Q 2018)

e. ***Easton, MD***: 4 missing Quarterly Visual Inspections (1Q 2017, 2Q2017, 3Q2017, 2Q2018)

115. Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. failed to conduct a total of 14 Quarterly Visual Inspections, in violation of the Maryland General Permit, Part V.A.3., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

116. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part V.A.3., Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

Counts 14-18
Failure to Conduct or Adequately Document Routine Inspections

117. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.

118. The Maryland General Permit, Part V.A. provides:

> A. Site Inspections and Evaluations
>
> You must conduct the following inspections or evaluations at your facility in accordance with the monitoring procedures outlined in Part V.C. You must keep a copy of the documentation from all inspections and evaluations onsite with your SWPPP per Part III.C.8.g.
>
> 1. Routine Facility Inspection
>
> At least once per quarter, you must conduct a site assessment that will review the effectiveness of the SWPPP. At least once each calendar year, the routine facility inspection must be conducted during a period when a stormwater discharge is happening. The facility inspections must be documented with a checklist or other summary signed in accordance with Part II.C.2 of this permit, by qualified personnel, with at least one member of your stormwater pollution prevention team participating. The checklist must include a certification that the site is in compliance with the SWPPP and this permit, or a record of the deficiencies and necessary follow up actions. Refer to Part IV.C Corrective Action Deadlines and Part IV.D. Corrective Action Report for appropriate time frames.

119. Respondents failed to conduct or adequately document a total of 22 Routine Facility Inspections at the following facilities, detailed as follows:

a. Frederick, MD Facility was missing 4 Routine Facility Inspection Reports:

1Q 2017, 2Q 2017 (2 quarterly reports).
At least one wet weather quarterly report per year is missing for the following years: 2018 & 2019
4 total reports missing

b. Mt. Airy, MD Facility was missing 3 Routine Facility Inspection Reports:

At least one wet weather quarterly report per year is missing for the following years: 2017, 2018 & 2019
3 total reports missing

c. Edgewood, MD Facility was missing 1 Routine Facility Inspection Reports:

At least one wet weather quarterly report per year is missing for the following years: 2019
1 report missing

d. Erdman, MD Facility was missing 5 Routine Facility Inspection Reports:

2 quarterly reports in 2017 (dates of missing reports unknown due to illegible writing)
At least one wet weather quarterly report per year is missing for the following years: 2017, 2018 & 2019
5 total reports missing

e. Hawkins Point, MD Facility was missing 5 Routine Facility Inspection Reports:

1Q 2017, 2Q 2017, 3Q 2017, 4Q 2017, 4Q 2018 (5 quarterly reports)
5 reports missing

f. Easton, MD Facility was missing 4 Routine Facility Inspection Reports:

1Q 2017, 2Q 2017, 3Q 2017 (3 quarterly reports).
At least one wet weather quarterly report per year is missing for the following years: 2017
4 total reports missing

120. Respondents LKQ Northeast, Inc. and Potomac German Auto, Inc. failed to conduct a total of 22 Routine Facility Inspections, in violation of the Maryland General Permit, Part V.A.1., and Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342.

121. In failing to comply with the Sections 301 and 402 of the CWA and the Maryland General Permit, Part V.A.1., Respondents Potomac German Auto, Inc. and LKQ Northeast, Inc. are subject to the assessment of penalties under Section 309 of the CWA, 33 U.S.C. § 1319.

CIVIL PENALTY

122. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondents consent to the assessment of a civil penalty in the amount of **ONE HUNDRED THIRTY THOUSAND DOLLARS ($130,000.00)**, which Respondents shall be liable to pay in accordance with the terms set forth below.

123. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in Section 309(g) of the CWA, 33 U.S.C. § 1319(g), including, the following: "the nature, circumstances, extent and gravity of the violation, or violations, and, with respect to the violator, ability to pay, any prior history of such violations, the degree of culpability, economic benefit or savings (if any)

resulting from the violation, and such other matters as justice may require," and the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

124. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

a. All payments by Respondents shall include reference to each Respondent's name and address, and the Docket Number of this action, *i.e.*, **CWA-03-2022-0017**;

b. All checks shall be made payable to the "United States Treasury";

c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

https://www.epa.gov/financial/makepayment

e. A copy of Respondents' check or other documentation of payment of the penalty using the method selected by Respondents for payment shall be sent simultaneously by email to:

Natalie L. Katz
Sr. Assistant Regional Counsel
katz.natalie@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

125. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment of the penalty as

specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

126. Payment of the civil penalty is due and payable immediately upon the effective date of this Consent Agreement and Final Order. Receipt by Respondents or Respondents' legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed as of the effective date of this Consent Agreement and Final Order by Respondents in accordance with 40 C.F.R. § 13.9(a).

127. INTEREST: Interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the effective date of this Consent Agreement and Final Order. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the effective date of this Consent Agreement and Final Order. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

128. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

129. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

130. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

131. By signing this Consent Agreement, Respondents acknowledge that this Consent Agreement and Final Order will be available to the public and represents that, to the best of each Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondents.

132. Respondents certify that any information or representation they have supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete

and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondents to the EPA regarding matters relevant to this Consent Agreement and Final Order, including information about Respondents' ability to pay a penalty, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondents and their officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

133. Respondents certify to EPA, upon personal investigation and to the best of their knowledge and belief, that they currently are in compliance with the Administrative Order on Consent between Respondents and EPA, Docket No. CWA-03-2022-0017, which addresses the violations alleged herein.

OTHER APPLICABLE LAWS

134. Nothing in this Consent Agreement and Final Order shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the Clean Water Act*,* or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

135. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violation[s] alleged against Respondents in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Water Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

136. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondents and the officers, directors, employees, contractors, successors, agents and assigns of Respondents. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondents is acknowledging that he or she is fully authorized by the Respondents to execute this Consent Agreement and to legally bind Respondents to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

137. Pursuant to 40 C.F.R. § 22.45(b), this Consent Agreement and Final Order shall be issued only after a 40-day public notice and comment period is concluded. This Consent Agreement and Final Order will become final and effective thirty (30) days after having been signed by the Regional Administrator or his delegate, the Regional Judicial Officer, and filed with the Regional Hearing Clerk.

ENTIRE AGREEMENT

138. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent:

Date: 10/6/21

For LKQ Northeast, Inc.

Walter Hanley

Walter Hanley, Vice President

For Respondent:

Date: 10/6/21

For Potomac German Auto, Inc.

Walter Hanley

Walter Hanley, Vice President

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 12/2/21 By: _____
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: 12/2/21 By: _____
Natalie L. Katz
Sr. Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	**U.S. EPA Docket No. CWA-03-2022-0017**
POTOMAC GERMAN AUTO, INC. and	:	
LKQ NORTHEAST, INC.,	:	**Proceeding under Section 309(g) of the**
c/o LKQ CORPORATION	:	**Clean Water Act, 33 U.S.C. § 1319(g),**
500 WEST MADISON STREET,	:	**to Assess Class II Penalty**
SUITE 2800	:	
CHICAGO, ILLINOIS 60661	:	
	:	
Respondents.	:	
	:	
MT. AIRY, MD	:	
EDGEWOOD, MD	:	
FREDERICK, MD	:	
ERDMAN, MD	:	
HAWKINS POINT, MD	:	
EASTON, MD	:	
YORK HAVEN, PA,	:	
	:	
Facilities.	:	
	:	

FINAL ORDER

Complainant, the Director of the Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondents, Potomac German Auto, Inc. and LKQ Northeast, Inc., have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of the statutory factors set forth in Section 309(d) and (g) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(d) and (g).

NOW, THEREFORE, PURSUANT TO Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents pay a civil penalty in the amount of **ONE HUNDRED THIRTY**

THOUSAND DOLLARS ($130,000), in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondents' obligation to comply with all applicable provisions of Clean Water Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is thirty (30) days after this Final Order is filed with the Regional Hearing Clerk and served on the Respondent, pursuant to 33 U.S.C. § 1319(g)(5).

Date: 12/8/21 By: _____
Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

LKQ Corporation Case Settlement

LKQ Corporation Case Settles for $294,000

An investigation by the California Air Resources Board (CARB) showed that LKQ Corporation (LKQ) was selling used diesel particulate filters (DPFs) for installation on heavy-duty diesel vehicles without first obtaining approval or certification from CARB. LKQ offered for sale, and sold, used DPFs intended for use as a part of a system that alters or modifies the original design or performance of the motor vehicle pollution control device or system. CARB documented that LKQ sold 147 used DPFs into California. This is a violation of Vehicle Code, section 27156 and California Code of Regulations, title 13, sections 2222(c) and (d).

This case is the first diesel case involving used filters sold as replacement parts in lieu of verified diesel emission control strategies (VDECS). The penalty amount agreed upon for these violations was $2,000 per unit, totaling $294,000.00.

LKQ agreed to the conditions of the settlement agreement including the total penalty payment going to the Air Pollution Control Fund, which provides funding for projects and research to improve California's air quality. LKQ has updated their website since 2016 and is no longer selling, offering for sale, or advertising used DPFs into the California market. .

Return to 2018 Case Settlements

(800) 242-4450 | helpline@arb.ca.gov
1001 I Street, Sacramento, CA 95814
P.O. Box 2815, Sacramento, CA 95812

Exhibit D

TECHNICAL GUIDANCE DOCUMENT

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Auto Salvage Yard Contaminants of Concern (COCs)

Office of Land Quality

(317) 232-3215 • (800) 451-6027 www.idem.IN.gov 100 N. Senate Ave., Indianapolis, IN 46204

Guidance Created: May 1, 2007
Guidance Revised September 17, 2014; September 13, 2018; August 12, 2021

This document was written to assist with the investigation or remediation of soils and groundwater at auto salvage yards. This document is not intended for waste disposal determinations.

Materials typically found at auto salvage yards are antifreeze, lead batteries, fuels (gas and diesel), motor oils, brake fluids, differential oils, hydraulic fluid, power steering fluid, transmission fluids, brake parts, mercury switches, fluff from shredding vehicles, and refrigerants.

The following table presents the contaminants of concern (COCs) and the analytical requirements for each material. Note: These requirements may be modified dependent upon historical site conditions and the type and nature of the release.

Material	Contaminant of Concern	Analytical Method
Antifreeze	Ethylene glycol and propylene glycol	8015
	Metals*	6010B, 6020, 7000 methods
Battery	Lead, Cadmium*	6010B, 6020, 7000 methods
	pH (soils)	9045C
Gasoline	VOCs** (including Naphthalenes***)	8260
	Ethanol	8015, 8260
Diesel Fuel	VOCs**	8260B
	PAHs	8270C SIM, 8310
Motor Oil, used	PAHs	8270C SIM, 8310
	Site specific only (metals and PCBs)	6010, 6020, 7000 methods, 8082
Brake fluids	PAHs	8270C SIM, 8310
Differential oils	PAHs	8270C SIM, 8310
Hydraulic fluids	PAHs	8270C SIM, 8310
Power steering fluid	PAHs	8270C SIM, 8310
Transmission fluids	PAHs	8270C SIM, 8310
Mercury switches	Mercury *	7470, 7471
Brake parts	Asbestos	Site Specific
Fluff from vehicles****	Metals*	6010B, 6020, 7000 methods
	PCBs	8082
Refrigerants	VOCs**(including Naphthalenes***)	8260B
Asbestos	Asbestos	PLM, TEM, SEM

PAHs – polyaromatic hydrocarbons
VOCs – volatile organic compounds
PCBs – polychlorinated biphenyls
SIM – Selective Ion Monitoring
PLM – Polarized Light Microscopy; TEM – Transmission Electron Microscopy; SEM – Scanning Electron Microscopy

Exhibit E

5-2014

Dirty Recycling: Auto Salvage and Its Potential Impacts on Marginalized Populations

Ethan B. Dively
Gettysburg College

Nicholas C. Ferreri
Gettysburg College

Cole D. Rossiter
Gettysburg College

Exhibit 6

Dirty Recycling: Auto Salvage and Its Potential Impacts on Marginalized Populations

Abstract
The salvage yard represents the final waypoint in the cradle-to-grave cycle of the automobile. Residual amounts of petroleum hydrocarbons, heavy metals, and acids used in automobiles can be extremely harmful to human health and the environment if not managed correctly. The purpose of this study was to assess the extent to which minority populations were exposed to the hazards of the auto salvage industry. Census data for population, income, race/ethnicity, sex, and age were organized using ArcGIS software. Population demographics were analyzed in the areas surrounding 98 auto salvage yards found in Philadelphia and Adams Counties, Pennsylvania. In Philadelphia County, the results showed that low-income minorities, females, and 65+ individuals are over represented groups near auto salvage yards. Conversely, Adams County showed few spatial relationships in demographic distribution. Our findings suggest that in urban counties, such as Philadelphia, depressed property values have resulted in a large percentage of below average income minorities inhabiting areas in close proximity to auto salvage yards. On the other hand, auto salvage yards in rural areas, such as Adams County, do not appear to have the same effect because population density and racial diversity are much lower.

Keywords
auto salvage, environmental justice, car, automobile, science, recycle, ArcGIS

Disciplines
Community-Based Research | Environmental Health and Protection | Environmental Sciences | Geography | Natural Resources and Conservation | Sustainability

Comments
Environmental Studies Thesis

Dirty Recycling:

Auto Salvage and Its Potential Impacts on Marginalized Populations

Ethan Dively, Nick Ferreri, and Cole Rossiter

Department of Environmental Studies
Gettysburg College
Gettysburg, PA

May 9, 2014

Abstract

The salvage yard represents the final waypoint in the cradle-to-grave cycle of the automobile. Residual amounts of petroleum hydrocarbons, heavy metals, and acids used in automobiles can be extremely harmful to human health and the environment if not managed correctly. The purpose of this study was to assess the extent to which minority populations were exposed to the hazards of the auto salvage industry. Census data for population, income, race/ethnicity, sex, and age were organized using ArcGIS software. Population demographics were analyzed in the areas surrounding 98 auto salvage yards found in Philadelphia and Adams Counties, Pennsylvania. In Philadelphia County, the results showed that low-income minorities, females, and 65+ individuals are over represented groups near auto salvage yards. Conversely, Adams County showed few spatial relationships in demographic distribution. Our findings suggest that in urban counties, such as Philadelphia, depressed property values have resulted in a large percentage of below average income minorities inhabiting areas in close proximity to auto salvage yards. On the other hand, auto salvage yards in rural areas, such as Adams County, do not appear to have the same effect because population density and racial diversity are much lower.

Introduction

With the perfection of the assembly line in 1913, Henry Ford transformed the American perspective of the automobile from a luxury of the rich to a reality for moderate-income middle-class families. Today, many people view the automobile as more than a means of transportation, but as an extension of their social status in society. The car evokes a sense of personal freedom, power, prestige, individualism, and privacy (Lucas 1973, Blank 1992). It allows people to liberate themselves mentally while also moving themselves geographically (Goode 2002). But, most of all, the automobile is a reflection of the restless spirit of America. As such, the car has attained a high stature in a society that has come to all but depend on it for mobility (Lewis 1997). In fact, this blind

necessity has created a disconnect between humanity and the environment, isolating the benefits of the automobile from the negative environmental and social impacts (Kunstler 1993).

In both the United States and around the world, used or inoperable automobiles tend to end up in auto salvage yards, with a large percentage of those eventually consolidated and sold as scrap metal for recovery (Loucks 1999). On one hand auto salvage yards act as the recyclers of functional second hand auto parts and remove some of the pressure on manufacturers to produce new parts for automobile owners who need replacements. But, they also represent expansive eyesores that damage property values and have the potential to contribute to public health issues and environmental degradation by polluting nearby soils, groundwater, and streams (Environmental 2010).

Since auto salvage yards are undesirable to live near, there is a corresponding devaluation of all nearby properties (Zeiss and Atwater 1989). This devaluation may result in a legacy of lower property values in the surrounding area or, in the case of an emergent auto salvage yard, may negatively impact a location's current residents by damaging the real value of their equity investment in a home. As a result, low-income families tend to comprise the majority of property owners in these areas. Given the potential for health hazards which result from environmental contaminants it follows logically that the majority of those people who may be at risk of harm due to the presence of auto salvage yards will be disproportionately low-income families who are more often than not racial minorities (Bryant 1995).

Background:

With the revolution of the assembly line in 1913, Ford was able to produce a new Model T every 93 minutes (Snow 2013). That year global production was estimated to be slightly more than 600,000 vehicles. Fast-forward to 1950 and that figure increased to about 10.5 million. Today, the estimate for global annual automobile production has reached 84 million vehicles (Wards 2007 and

Production 2013). Global automobile production has exploded in the last century and, at least in aggregate production, shows no sign of slowing down anytime soon. This high rate of production has resulted in a correspondingly high rate of automobile disposal as well. In 2009, approximately 14.8 million cars were disposed of in the United States alone. The enormity of this number necessitates the question, where are all of these cars ending up and how are they being disposed (U.S. 2010)?

Of the 14.8 million cars that Americans disposed of in 2009, dealers in the secondary market for scrap metals purchased the majority (U.S. 2010). Firms in the business of salvaging valuable materials tear apart cars, sort them into pieces based on type of metal, and then send them away to smelting facilities where the metals are reclaimed. The cars that are not sent to such facilities have ended up abandoned in rural yards, empty urban lots, and, in many cases, in the car lots owned by auto salvagers who allow the public to have their pick of used parts (U.S. 2010).

Human Health and the Environment

Large-scale salvage operations are tightly regulated by the EPA and state level agencies, and there are strict standards concerning the proper collection and disposal of potentially harmful materials found in automobiles. Small car lots may be expected to adhere to the same levels of hazardous material handling but are not likely subjected to the same rigorous level of scrutiny due to their small size and the sheer volume of small scale operations. Automobiles contain petroleum hydrocarbons, heavy metals, acids, and other chemicals that pose potential threats to the environment and human health (Environmental 2010, U.S. 2010, Vehicle 2011).

Petroleum hydrocarbons are found in gasoline, motor oil, and other fluids contained within an automobile. These fluids are a mixture of aromatic and aliphatic hydrocarbons. These chemicals have the potential to cause substantial environmental disturbances, potentially resulting in the toxification of water resources. They are also known carcinogens. Benzene, one of the most common

hydrocarbons found in these mixtures, has been linked to leukemia and other similar blood disorders (Rinsky et al. 1987).

Heavy metals found in automobiles include lead, cadmium, chromium, arsenic, zinc, copper, aluminum, mercury, and nickel. These metals have a wide array of impacts in humans should they be ingested through the skin, lungs, or contaminated water (Singh 2005). Lead poisoning, even at very low levels may result in severe impairment of brain development in children and at high levels may cause loss of brain function and nervous system responses (Byers and Lord 1943, Centers 1985). Cadmium poisoning has frequently been linked to renal damage and osteoporosis, particularly in women (Friberg 1950). Chromium ingestion can result in the rapid deterioration of the liver, kidneys, and blood cells. In large doses arsenic causes failure of the lungs, liver, and kidneys resulting in coma and death (Dayan and Paine 2001). In smaller doses arsenic exposure has been linked to an increased risk of heart disease, cancer, stroke, chronic respiratory diseases, and diabetes (Hughes 2002). Zinc and copper have not been found to present serious health threats when not ingested in exceptionally large quantities. Aluminum ingestion has the potential to impair nervous system responses such as voluntary and involuntary muscle control (Yokel 2000). Mercury poisoning presents a serious risk of fatality due to severe damage to the brain, kidneys, and lungs (Curley et al. 1971). Nickel is only toxic in large quantities but ongoing research has discovered a linkage between some forms of cancer and the oral or nasal inhalation of nickel (Singh 2005).

Acids contained within the batteries of automobiles can cause changes in soil chemistry that kill soil organisms and prevent the growth of vegetation (Sparks 2003). Ethylene glycol is a chemical similar to alcohol found in radiator coolant, brake fluid, power steering fluid, and transmission fluid that is toxic to humans and animals. Animals are the most common fatalities due to the attractive sweet taste and scent of this chemical (Harte 1991, Leth and Gregrsen 2005).

The level of automobile waste that is generated coupled with the toxicity of many chemicals and metals found in decaying cars suggests that auto salvage yards may pose a substantial risk to

both humans and the environment. The extensive list of health complications resulting from exposure to automobile waste puts those living near salvages yards at a greater risk of health problems than those people living further away.

Environmental Justice

Environmental justice is defined by the Environmental Protection Agency as, "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA has this goal for all communities and persons across the United States. It will be achieved when everyone enjoys the same degree of protection from environmental and health hazards and has equal access to the decision-making process to have a healthy environment in which to live, learn, and work" (Environmental 2014). By this definition, no person should be exposed to a higher than normal level of environmental or health risk factors simply because he or she is poor or a minority.

People of low socioeconomic status and of a racial or an ethnic minority are frequently the demographics that are most severely affected by such health hazards. One reason for this is a general lack of education and political representation. These affected demographics frequently lack the education necessary to be aware of the health risks associated with living near any of the aforementioned areas (Bryant 1995). If they are unaware of the risk, it is certain that they will not seek out a solution to an unknown problem. Money represents another significant barrier. Unless a population can be mobilized through a grassroots effort the financial barrier to environmental justice issues is enough to ensure that they will go unaddressed (Bryant 1995, Newton 1996).

Incoming development projects such as landfills or power plants tend to crop up in areas of previously depressed property values that are oftentimes inhabited by impoverished or minority populations. The insertion of hazardous development projects is generally the result of the lack of

representation by such groups (Newton 1996). When determining the location of an unwanted land use project, it is often the case that affluent and educated individuals will be the most successful at preventing the entry of the project. The result is then that the project gets shuffled around until it ends up in an area that provides the least amount of resistance (Bryant 1995). As explained above a lack of education and financial assistance prevents minority demographics from fighting the establishment of undesirable land use projects.

In the 1996 case of *Chester Residents Concerned for Quality Living V. Seif,* residents of Chester, Pennsylvania, filed a discrimination suit on the grounds that waste handling facilities were discriminatorily located nearby minority residents of the Philadelphia area. Their argument was that sixty percent of the region's waste facilities were located in an area containing only eight percent of the region's population. Furthermore the population affected was over seventy percent African American. The case was filed specifically to fight the construction of a soil reclamation facility. During the course of the case the Pennsylvania Department of Environmental Protection denied the projects permit, and when the case eventually made it to the Supreme Court in 1998, the court ruled it moot as there was no longer a decision to be made. Despite the lack of victory in court this case opened the door for environmental justice litigation under section 601 of Title VI of the Civil Rights Act of 1964. This section prevents discrimination based on race, color, or national origin by any government agency that receives federal assistance. The establishment of this precedent in 1998 has enabled the recognition of many cases of discrimination containing an environmental justice component to be heard since that time (Chester 1996, Hurwitz and Sullivan 2001).

The severity of the potential hazards associated with auto salvage yards begs the question of what demographic groups are most likely to be influenced by any spillover effects of the auto salvage industry? Based on information that suggests a depression in property value surrounding junkyards, this study seeks to assess variations in demographics with specific regard to distance from auto salvage yards. An answer to this inquiry would help to give a better understanding of the extent at

which particular demographic groups have been overexposed to potential hazards. This study has particular relevance given that the people found to be negatively impacted may not have the resources necessary to conduct such research on their own.

Methods

Two counties were selected as case studies for our research. The first, Adams County, is primarily rural compared to the much more urban Philadelphia County. Both are located in the state of Pennsylvania, giving the project local significance. Internet research using White Pages, Yellow Pages, Google Maps, and other sources was conducted to locate auto salvage yards across both counties. Additionally, the majority of each county was scanned using a combination of Google Maps and Google Earth Pro to locate any other auto salvage yards. A total of 11 auto salvage yards were located in Adams County and 87 in Philadelphia County (Figure 1). Although it is likely that we did not document every auto salvage yard, we are confident those that were observed are a more than satisfactory representation of auto salvage yards located across both counties. For each, name (if known), latitude/longitude, and lot size were determined using Google Maps and Google Earth Pro and recorded in an Excel file.

In order to model the distribution of population, census datas were collected from American Fact Finder, a government run website that hosts archived census datas. Aggregate income (applying to citizens 15 years of age and older) and the total population from the year 1999 were available at the census block group level of resolution. Race/ethnicity, age, and sex from the year 2010 were available at the census block level of resolution. Shapefiles containing the census block and block groups for both Adams and Philadelphia counties were obtained from the official census website. Care was taken to ensure that there were no omission errors due to changing block groups between 1999 and the present. Shapefiles for the block groups represent the regions as they were mapped in 1999 and there were no data matching errors.

Census blocks are the smallest geographic areas over which demographic data such as sex, age, and race/ethnicity are collected by the United States Census Bureau. Blocks are "bounded by visible features such as roads, streams, and railroad tracks, and by non-visible boundaries such as property lines, city, township, school district, county limits and short line-of-sight extensions of roads" (US Census Bureau 2014). Blocks are created by an automated computer process that references all visible and nonvisible features compiled in a geographic database. Each time a polygon is completed, a block is created. Population is not taken into account when census blocks are created so it is possible to have census blocks with a population of zero (US Census Bureau 2014).

Census block groups are the intermediary unit of statistical division between census blocks and census tracts. Each census block group is made up of a cluster of census blocks and in turn a group of census block groups make up a census tract. A block group usually contains between 600 and 3,000 individuals. They are used to present data and control block numbering. Additionally, block groups typically make up a contiguous area and never cross state, county, or census tract boundaries (US Census Bureau 2014) (Figure 2).

All of the GIS work was completed using ESRI's ArcGIS software package. While similar research pertaining to auto salvage yards has not been done, GIS has been used effectively to model other issues of environmental justice (Jerrett et al. 2001, Maantay 2007). County shapefiles were converted to geodatabases to calculate the area of each block group and the county as a whole in square kilometers. The raw census datas were joined to the aforementioned geodatabases by the census BLOCKID that corresponded to each unique census block or block group.

After assembling the list of auto salvage yards, the latitude and longitude coordinates of each were recorded in decimal degrees and converted into a point layer in ArcGIS (Figures 3 and 4). Around each of these points buffers were created with radii of 0.125, 0.25, 0.5, 1, and 2 km. These buffers were merged with the Union geoprocessing tool and then each distance was separated into

discrete layers resulting in five ranges that showed data from 0-0.125, 0.125-0.25, 0.25-0.5, 0.5-1, and 1-2 km. It should be noted that due to the larger size of block groups and blocks in Adams County, the 0-0.125 km range was omitted from the study because there was no significant difference between this range and the 0.125-0.25 km range. This was done so that each of these discrete regions could be compared to one another without having to give attention to the data that had already been considered within a smaller buffer zone.

Census blocks in each country were then selected for analysis if the geometric center of a given block was contained within the range being considered. For Philadelphia County the same process was performed for the income data, as the census block groups were small enough to allow meaningful results without modifying the process. However, in Adams County the census block groups were very large, and using a geometric center selection method would have yielded no results. Instead we selected all block groups that intersected with the buffer zones. This method, while not ideal, did yield unique results at each buffer distance.

After the datas were selected for each range they were exported to Excel where results were calculated by range and by county. Population density was calculated by dividing the total population by area. Since the aggregate income data only included individuals 15 years or older, all individuals younger than 15 were removed from the total population to calculate per capita income. Totals for each race/ethnicity, age, and sex were added and percent composition was calculated.

In the United States Census there are seven accepted race identifiers: Caucasian, African American, American Indian/Alaska Native (AI/AN), Asian-American, Native Hawaiian Islander/Pacific Islander (NHI/PI), Other, or Plus 2, which are people who identify as two or more of these categories. Gender is defined as either male or female. Age is broken down into 23 categories which we reorganized into 6 categories: 0-17, 18-24, 25-39, 40-54, 55-64, and 65 years and older.

Results

Philadelphia County

According to the 2010 census, the population density of Philadelphia County was 4,130 individuals km^{-2}. Within the 0-0.125 km range population density was 2,400 km^{-2} increasing logarithmically to 4,690 km^{-2} at 2 km with an R^2 value of 0.98 (Figure 5). In 1999, per capita income in Philadelphia County was $20,500. Between 0.125 and 2 km away from auto salvage yards per capita income increased from $15,200 to $16,500 following a linear regression with an R^2 value of 0.84 (Figure 6).

Regressions were not performed on the race/ethnicity, gender, and age parameters because they would not only clutter our figures but would be near mirror images for significant results. The racial composition of Philadelphia County is primarily made up of Caucasians and African Americans. At all points within 2 km of auto salvage yards, African Americans make up the greatest proportion of individuals, decreasing linearly from 0.125-1 km before increasing slightly to 2 km. In an opposite trend, the proportion of Caucasians increases steadily from 0.125-1 km before decreasing slightly to 2 km. For individuals who identify as Other, Asian American, Plus 2, AI/AN, or NHI/PI there were no apparent trends (Figure 7). The population of Philadelphia County was 53% female and 47% male. Within 0.125 km of auto salvage yards 57.5% of individuals identified as female and 42.5% identified as male. The percent composition decreased sharply to the county average for females and increased sharply to the county average for males at 1 km before leveling out (Figure 8). Within two kilometers of auto salvage yards the highest proportion of individuals were in the 0-17 age range, making up roughly a quarter of the population. The only age group that showed a significant trend were those individuals in the 65+ age bracket. At an eighth of a kilometer 21.5 percent of the population was 65 years or older. As the distance increased to one kilometer the

proportion of these individuals decreased to 9 percent before increasing to 14 percent two kilometers away (Figure 9).

Adams County

According to the 2010 census, the population density of Adams County was 75 individuals km^{-2}. Within the 0-0.25 range population density was 62 km^{-2} increasing following a reverse quadratic to 144 km^{-2} before decreasing to 74 km^{-2} at 2 km with an R^2 value of 0.99 (Figure 5). In 1999, per capita income in Adams County was $22,900. Between 0.125 and 2 km away from auto salvage yards per capita income decreased from $23,800 to $23,300 following a logarithmic regression with an R^2 value of 0.96 (Figure 6).

Regressions were not performed on the race/ethnicity, gender, and age parameters because they would not only clutter our figures but would be near mirror images for significant results. In 2010, the population of Adams County was 93.5% Caucasian. Within the 2 km range surrounding all 11 auto salvage yards across the county there was little to no variation in percent composition as a function of distance (Figure 7). The population of Adams County was 51% female and 49% male. Auto salvage yards did not appear to have effect on the proportion of males or females living near them compared to the rest of the county (Figure 8). Within 2 km of auto salvage yards the highest proportion of individuals were in the 0-17 age range, making up roughly a quarter of the population, and the lowest proportion of individuals were 18-24 years old, making up less than 10% of the population. No age bracket showed a significant trend as a function of distance from auto salvage yards (Figure 9).

Discussion

While for the majority of Philadelphia County the blocks and block groups are very small, those same units for Adams County are in some cases very large. As a result it is very difficult to

capture data about the desired buffer distances in Adams County. In some cases the blocks or block groups contained data within their extent that was many kilometers away from the auto salvage yard to which it was being related. This methodology may have had the impact of misrepresenting the composition of populations that live in close proximity to auto salvage yards.

Conspicuously missing from the data set is any information about Hispanic/Latino populations. This is an unfortunate result of the data that are available from the Census Bureau. When collecting census data on race/ethnicity, Hispanics are addressed as a subset of each race/ethnicity that has been reported. Because of the structure of the census data it was not possible to manage the volume of data that was being used to extract the population that identified as Hispanic/Latino. Had this been done, additional error may have been introduced in the form of double counting individuals as multiple races. Adams County is known for having a large Hispanic population and this population may have self-identified as “Plus 2” or “Other”.

In Philadelphia County some of the buffers intersected the edges of the county line. To maintain consistency with respect to only surveying Philadelphia County, any data that would have lied outside of the county were not included in this analysis. This decision obviously creates errors of omission that may have minimized the extent to which some of the larger buffers differed from the smaller ones that existed entirely within the county.

The income data that were available is nearly fifteen years old. In that time the United States has experienced two periods of economic downturn, the most serious of which being the recession of 2008-2009. It is likely that the results would be different with current data; however, how much change and in what demographic groups cannot be said.

Population Density and Per Capita Income

In Philadelphia County, 98% of the population density around auto salvage yards was explained by an increasing logarithmic function of distance. The steepest growth was seen closer to

auto salvage yards, leveling out as the distance increased. This observation is logical because auto salvage yards are undesirable to live near and are frequently found in areas that are zoned as commercial or industrial where populations are near zero. Adams County, on the other hand, shows a surprising trend of low population density increasing initially and then decreasing to near initial levels 2 km away. A reverse quadratic regression explains 99% of population density around auto salvage yards in Adams County. A possible explanation for this population shift could be related to the rural nature of the county. We expect a low population increasing as distance from auto salvage yards increases. The decrease in population density to two kilometers may be the result of the inclusion of large amounts of farmland that exist outside of communities where the salvage yards are located.

In Philadelphia County, per capita income increases with distance from an auto salvage yard. This is the expected result as individuals with higher incomes would not generally elect to live close to an auto salvage yard. Even so the per capita income is $4,000-$5,300 lower within the 2 km buffer than over the entire county as a whole. Conversely, in Adams County, the trend suggests that income decreases with increased distance. It seems likely that this trend is the result of the large census block groups and the rural nature of Adams County. Additionally, the range of per capita income figures varies by less than eight hundred dollars, which is not a significant amount.

Race, Sex, and Age

In Philadelphia County it is evident that racial bias exists in the regions immediately surrounding auto salvage yards. Almost three-quarters of the population living within 0.125 km of auto salvage yards is African American compared to a mere 13% Caucasian. This difference reaches a minimum 1 km away from the source. In Adams County, there is very little racial diversity. It is not surprising therefore that there is a fairly consistent and high percentage of Caucasians living at each distance from auto salvage yards.

In Adams County the results with regards to sex do not show any trends that are likely to be indicative of any sort of bias against women. However, in Philadelphia County it does appear that within 0.125 km of an auto salvage yard there is a higher proportion of women. While not likely being the direct result of gender discrimination it could be postulated that lower wages for working women result in their having to select less desirable housing that comes at a lower cost.

With respect to age, neither county's populations change dramatically except for the case of 65+ individuals in Philadelphia. The elderly population decreases sharply with increased distance from auto salvage yards. This may very well be the result of poverty within aging populations. Pensions and social security have failed to keep up with inflation and for individuals who may have retired twenty years ago, their monthly cash flows are very small and while they could have sustained them at the time that they retired, are no longer sufficient to afford such individuals the opportunity to be selective with regards to their housing (Engelhardt and Gruber 2004).

There are interactions between race, age and sex that may be responsible for some of the trends that we have seen. Women and minority women in particular are the group of people most likely to be living in poverty (Cawthorne 2008). Of impoverished women, greater than 25% of them are single parents. This relation to single parents ties the female population to the large percentage of young children that live nearby auto salvage yards. Information collected about women suggests that what is being seen in our trends is likely a higher concentration of impoverished, single, mothers (Cawthorne 2008, Poverty 2014).

Conclusion

These collective results have a variety of implications as they relate to the question of what minorities are potentially impacted and to what extent. In Adams County the results fail to show any overarching trends that suggest that minorities are being over exposed to potential hazards of auto salvage yards. Philadelphia County, however, does show some trends that may indicate the presence

of potential environmental justice issues similar to those found in the case of Chester, Pennsylvania (Chester 1996).

Adams County lacks diversity and as it is very rural auto salvage yards seem to be farther away from all people rather than a few select minority populations. In Philadelphia County the data results suggest that in general African Americans, women, the young, and the elderly make up the majority of people living in the areas closest to auto salvage yards. The results also suggest that the groups of people living there also have a lower income per capita. This result makes a strong argument for a locally developed case of environmental injustice (Environmental 2014).

Considering the health concerns associated with many of the materials found in auto salvage yards these populations may be at an increased risk of health related problems due to their composition. The large population of very young people is concerning when considering the probable presence of heavy metals in the area. Lead and other heavy metals have been proven to adversely affect brain development in young people (Byers and Lord 1943, Centers 1985). The large population of old people on the other hand have weaker immune systems and are more likely to have pre-existing organ system complications (Chandra 1997). Heavy metals also are responsible for organ damage. In a case where an individual may already be living with impaired kidney or liver function any additional stressor on such organ systems present a very real threat to health and safety.

The large population of women is also of concern as many of the metals and chemicals present at salvage yards can have strongly adverse effects on fetal development during pregnancy. There is a risk of developmental problems that could severely impair a child's ability to achieve a relatively normal quality of life (Glinianaia et al. 2004).

Racism continues to plague the United States and despite many efforts to ensure equality, they are not always successful. As in the case of the people of Chester, Pennsylvania, racial minorities frequently find themselves disproportionately exposed to undesirable and unhealthy living conditions (Chester 1996). This seems to be the case with respect to auto salvage yards in

Philadelphia County. The large percentage of African American individuals living near salvage yards could have several reasons. One explanation is that there could be a linkage between low incomes and membership in a minority population (Poverty 2014) . This is a national trend that may have manifested itself in this case by concentrating low-income African American households in an area where property values are lower and they can more easily afford housing. Lower property values and an increasing minority population may have caused what some call "white flight" where the Caucasian population responds to an increase in the presence of minorities by seeking new housing in a more homogeneously Caucasian community (Suarez 1999). As the age of these auto salvage yards is not known, it is also possible that they have been placed into these minority communities after the communities were already established. This placement would suggest that developers or businessmen might have abused the lack of education and representation that these communities have in order to secure a location for new development. There is a third possibility, which is that members of these minority communities have established some of these auto salvage yards themselves. Scrap consolidation is a field of work that does not require the pursuit of an expensive college education. It is possible that these communities have created employment opportunities for themselves; however, there is no way to approach such an idea from this method of study.

Based on our results it seems reasonable to suggest that minority populations in Philadelphia County are being exposed to the potential hazards of auto salvage yards at a higher rate than non-minorities. With regards to Adams County, the rural nature of the area combined with the general lack of minority populations prevents any trends similar to those seen in Philadelphia County from being observed. Future studies may choose to consider more widely the demographic composition of rural areas compared to suburban or urban areas and potentially make a statement about the relative risk of environmental justice issues as a function of level of development.

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Appendix

Figure 1. Google earth imagery of auto salvage yards in Philadelphia County (Top) and Adams (Bottom) County, Pennsylvania.

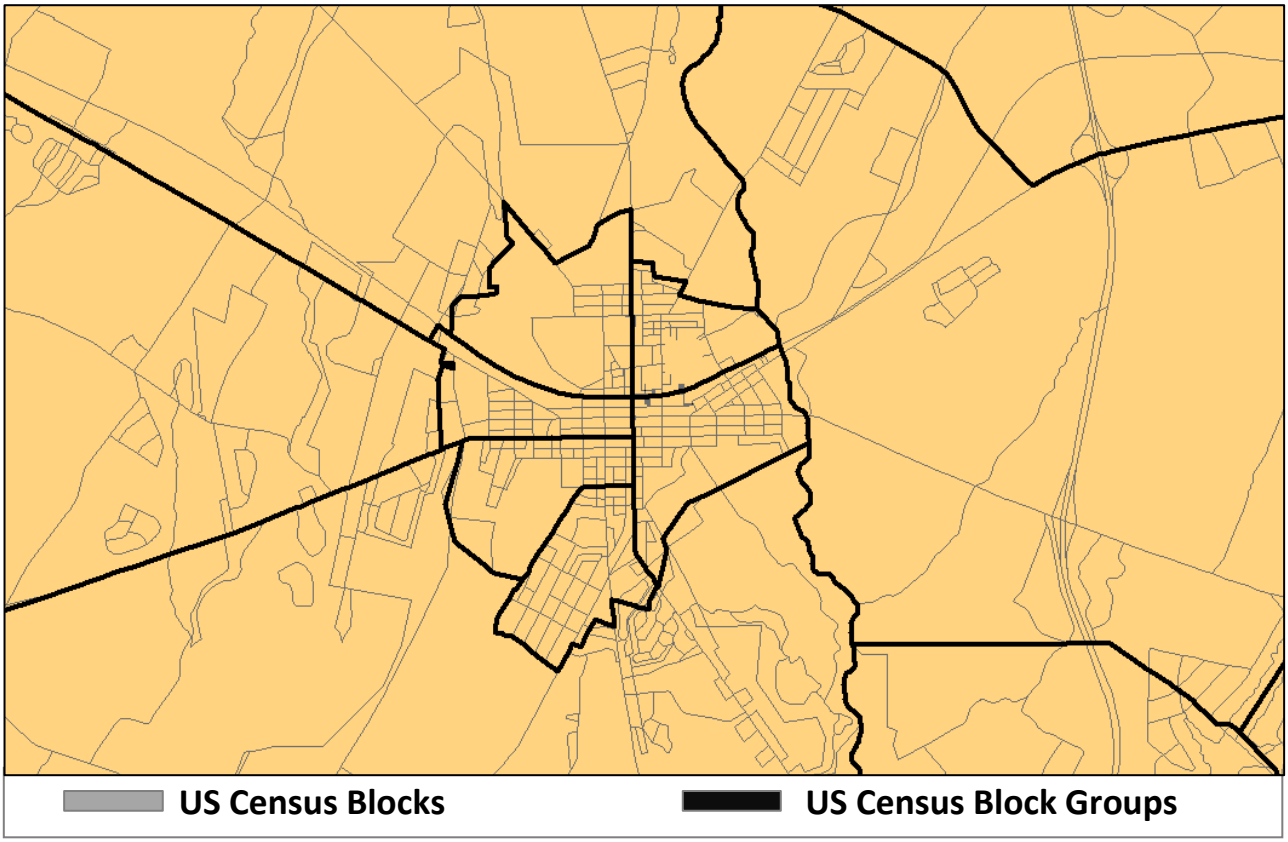

Figure 2. Map of the Gettysburg Borough in Adams County, Pennsylvania that shows the difference in size between US Census blocks and US Census block groups.

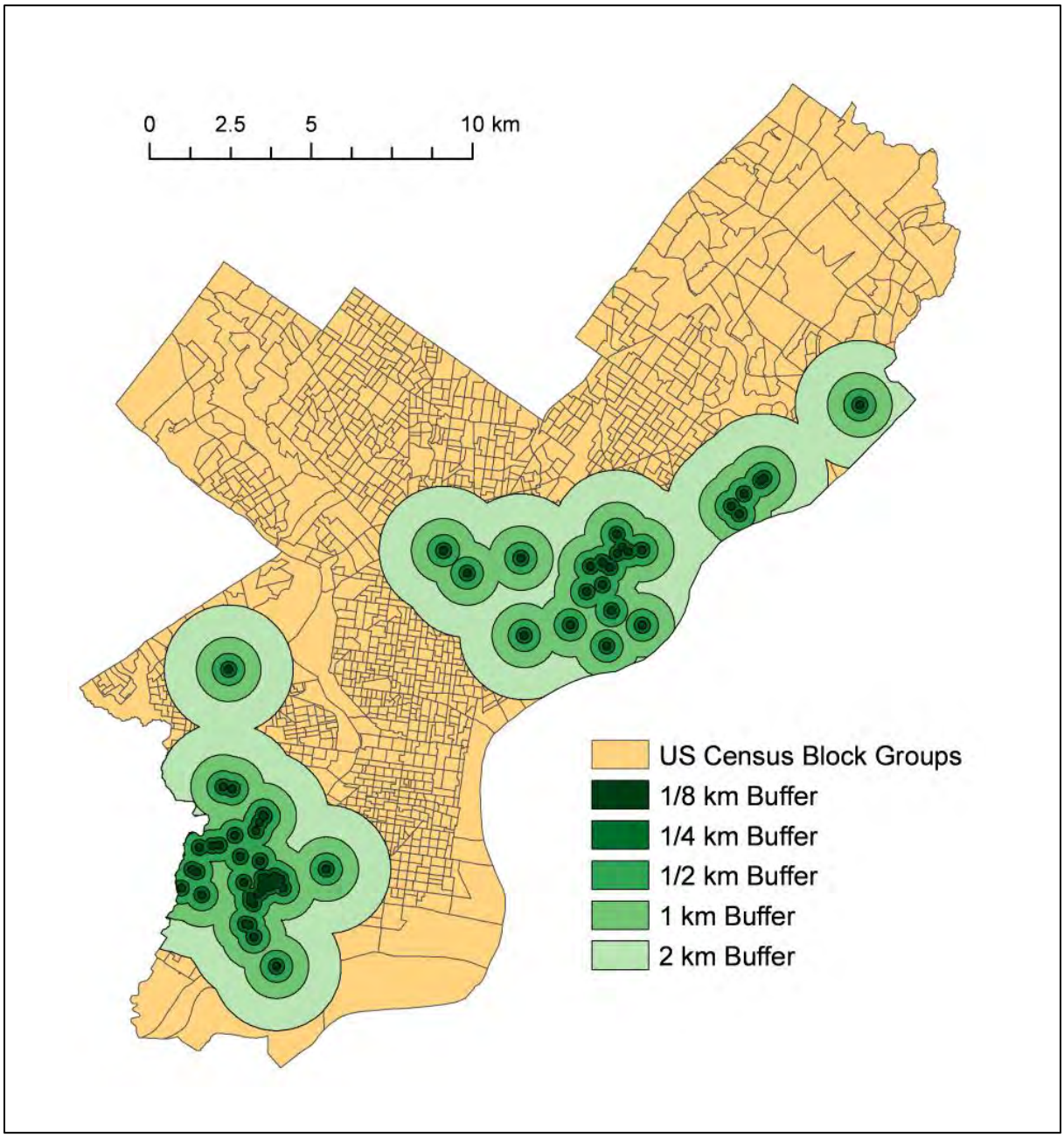

Figure 3. Map of 5 separate ranges representing distance from auto salvage yards in Philadelphia County, Pennsylvania. The ranges are 0-0.125 km, 0.125-0.25 km, 0.25-0.5 km, 0.5-1 km, and 1-2 km.

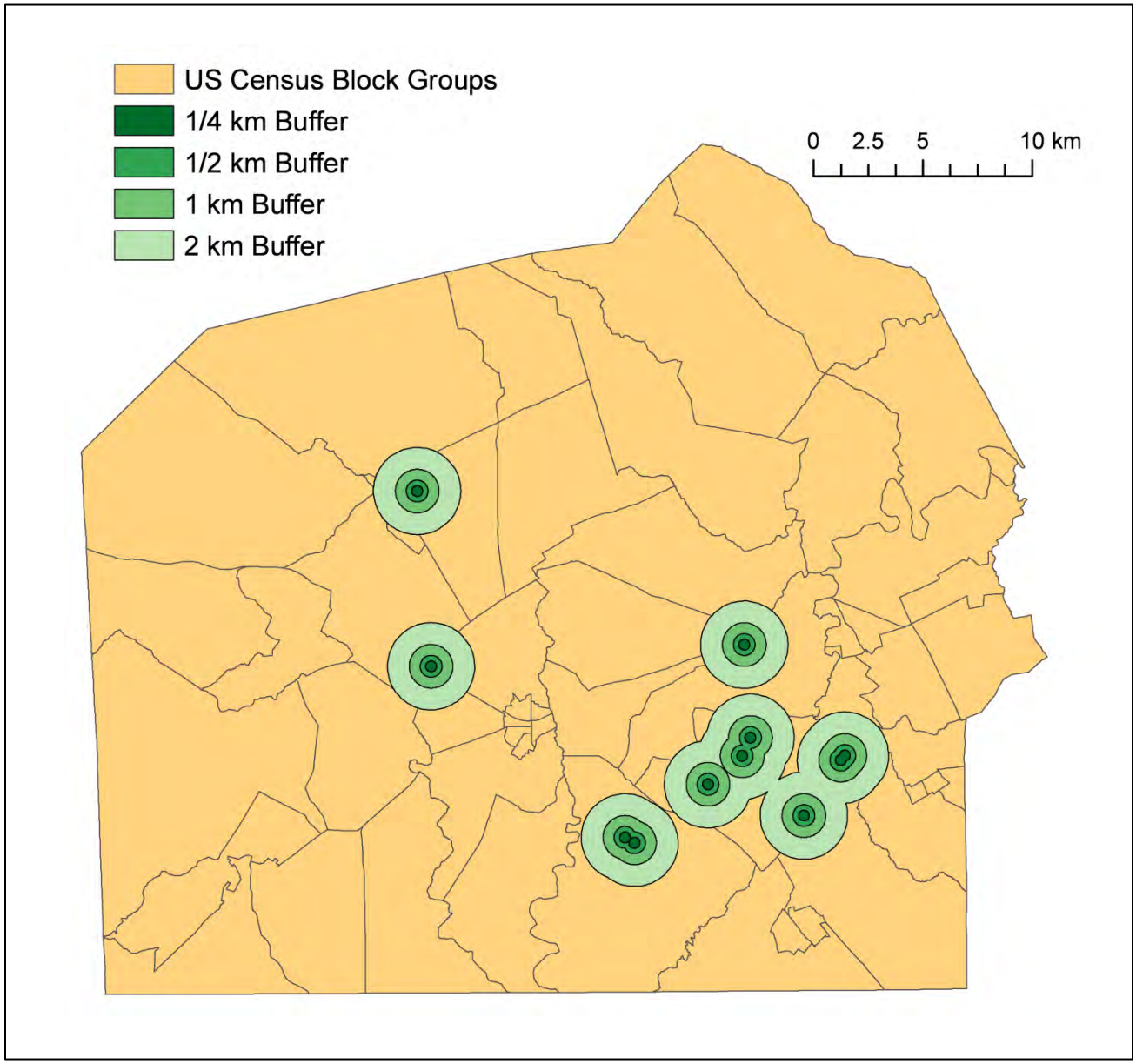

Figure 4. Map of 4 separate ranges representing distance from auto salvage yards in Philadelphia County, Pennsylvania. The ranges are 0-0.25 km, 0.25-0.5 km, 0.5-1 km, and 1-2 km.

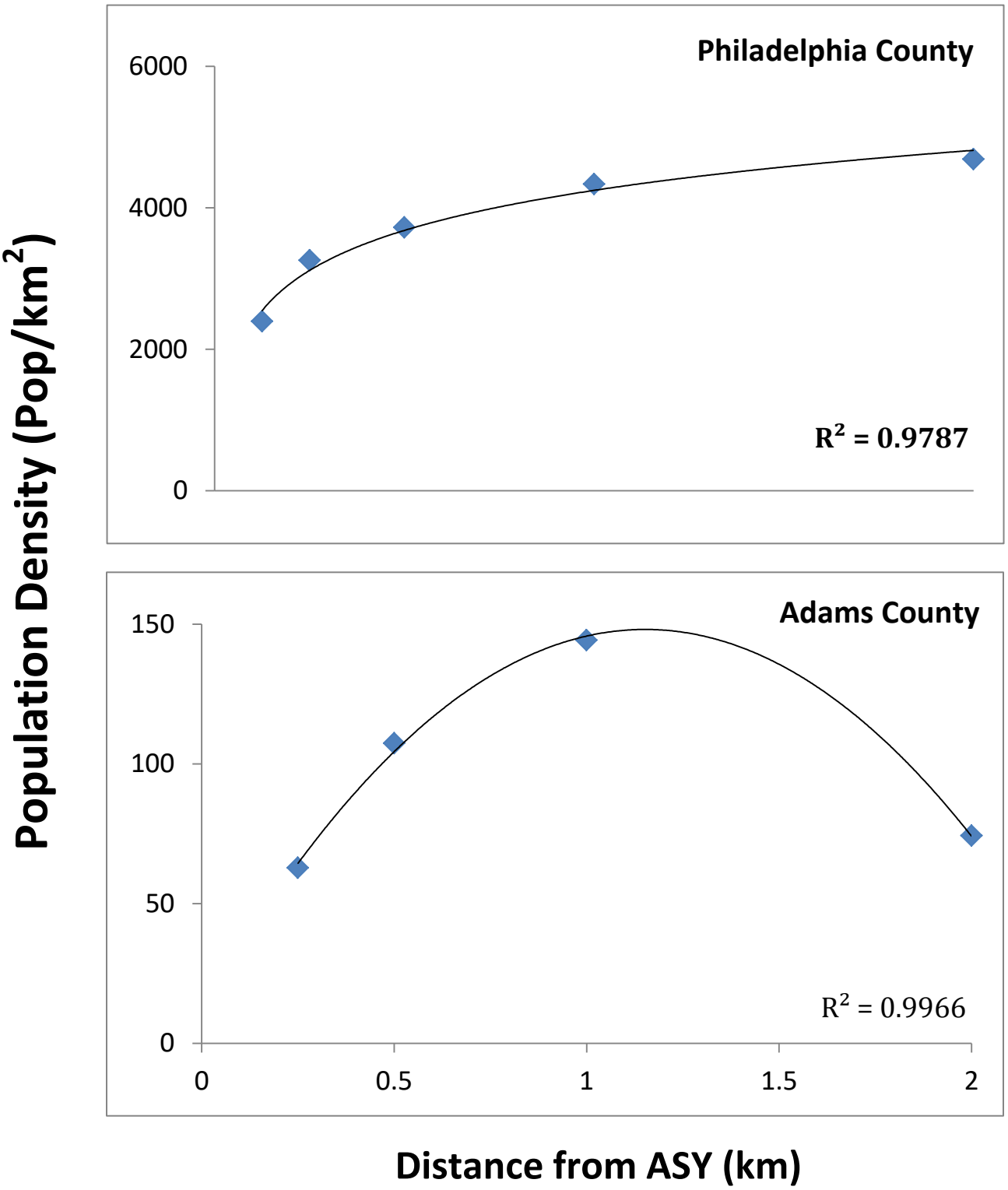

Figure 5. Regression curves representing population density as a function of distance from auto salvage yards in Philadelphia and Adams County, Pennsylvania.

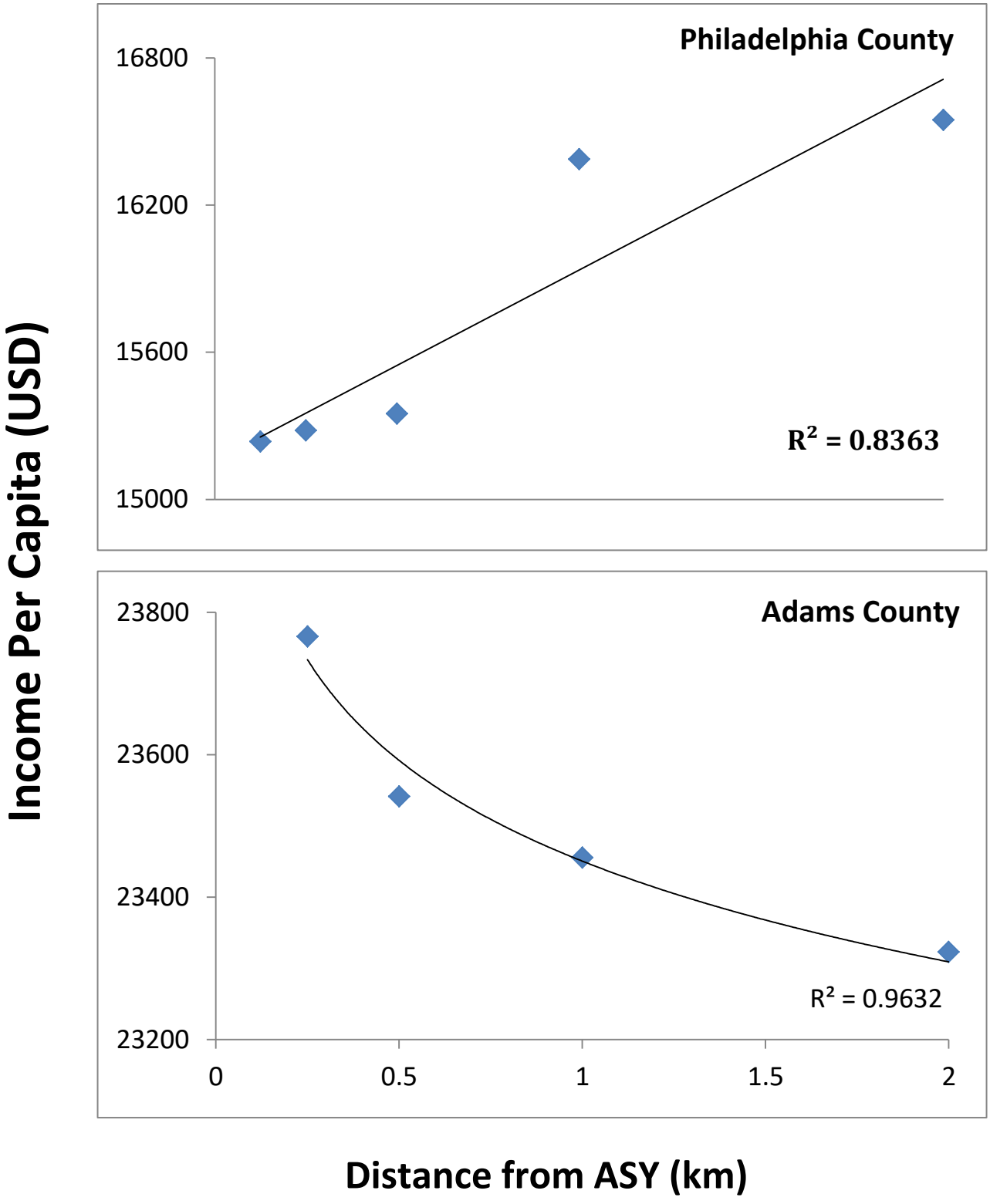

Figure 6. Regression curves representing income per capita as a function of distance from auto salvage yards in Philadelphia and Adams County, Pennsylvania.

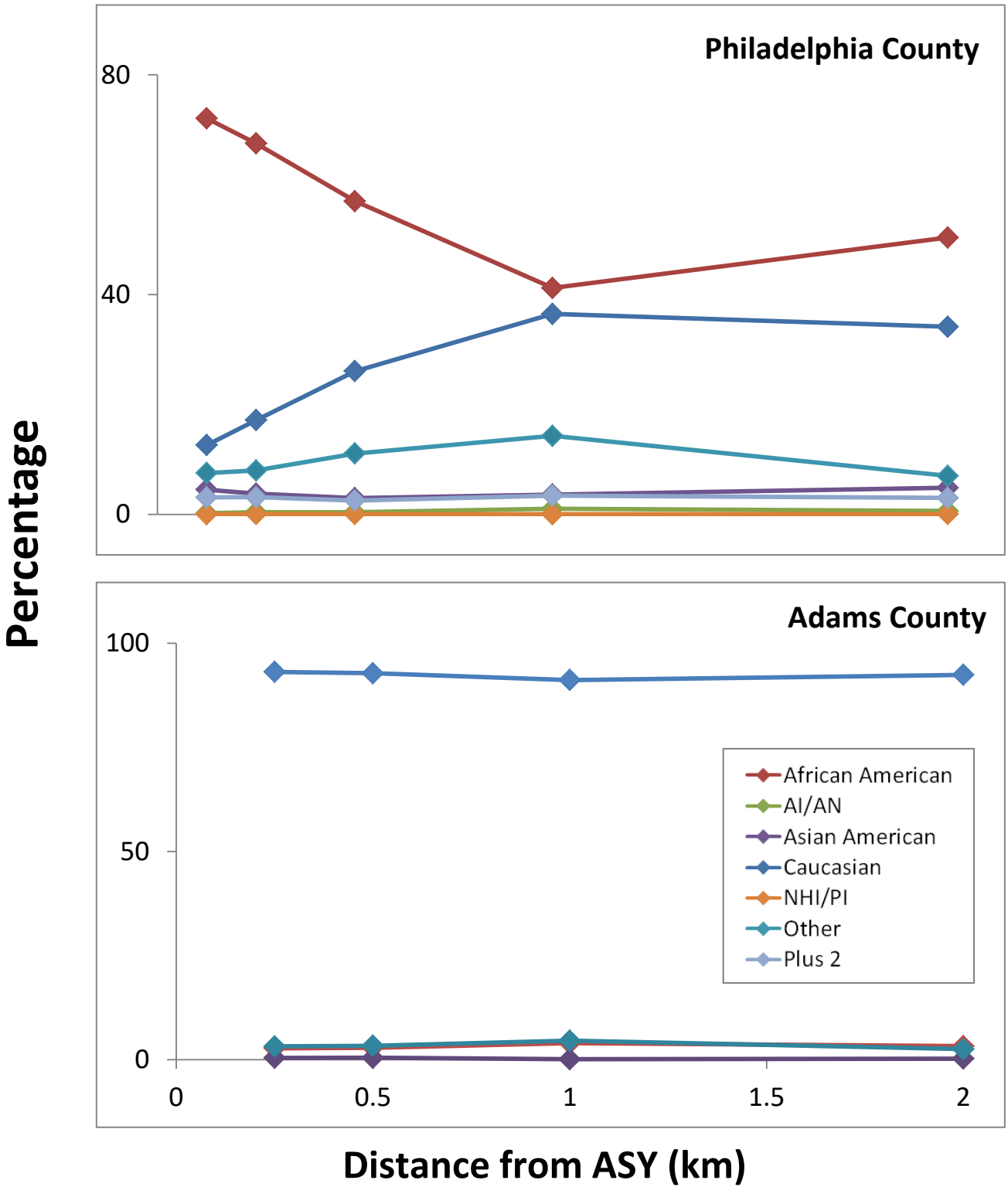

Figure 7. Line graphs representing racial composition as a function of distance from auto salvage yards in both Philadelphia and Adams County, Pennsylvania.

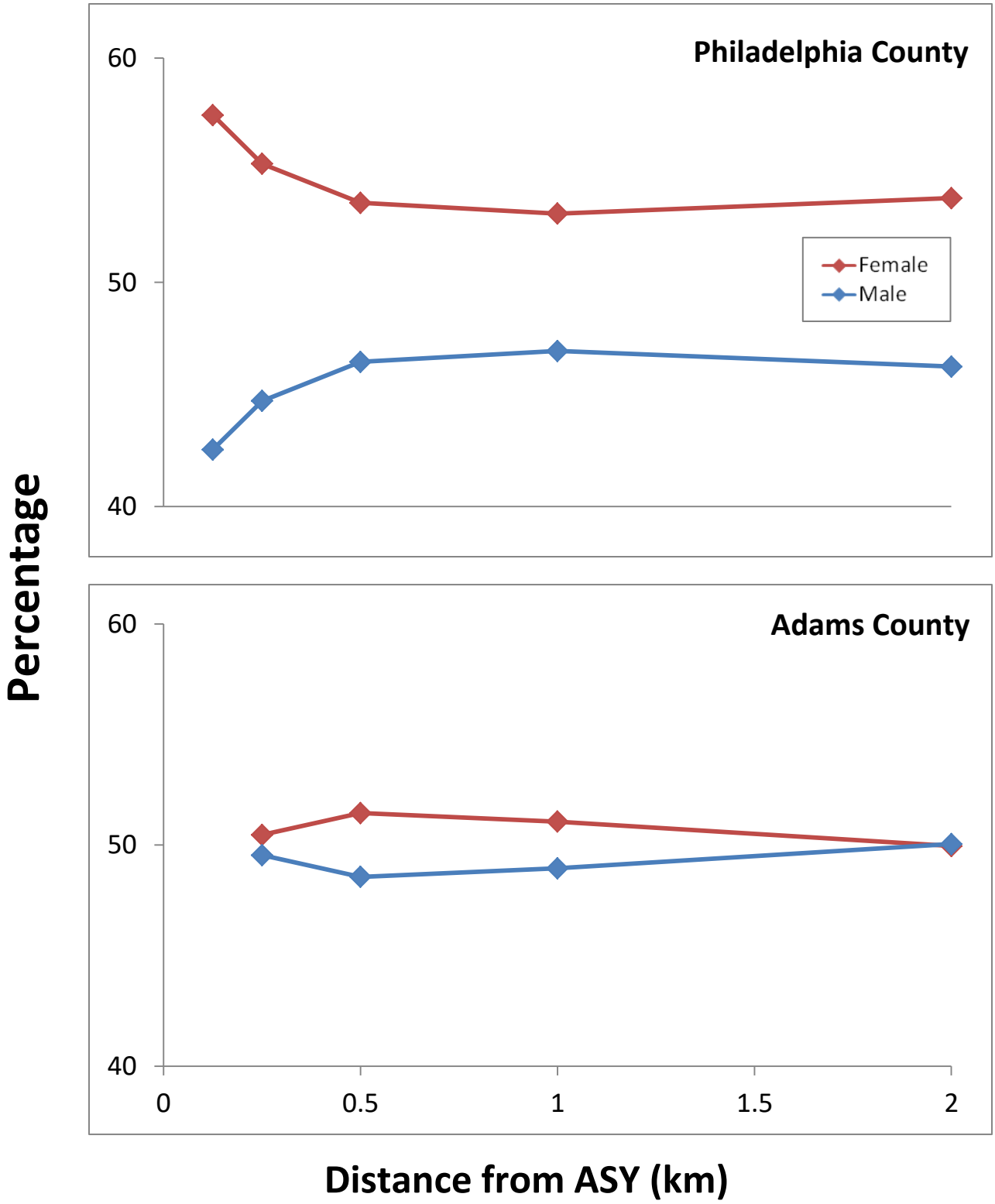

Figure 8. Line graphs representing gender as a function of distance from auto salvage yards in both Philadelphia and Adams County, Pennsylvania.

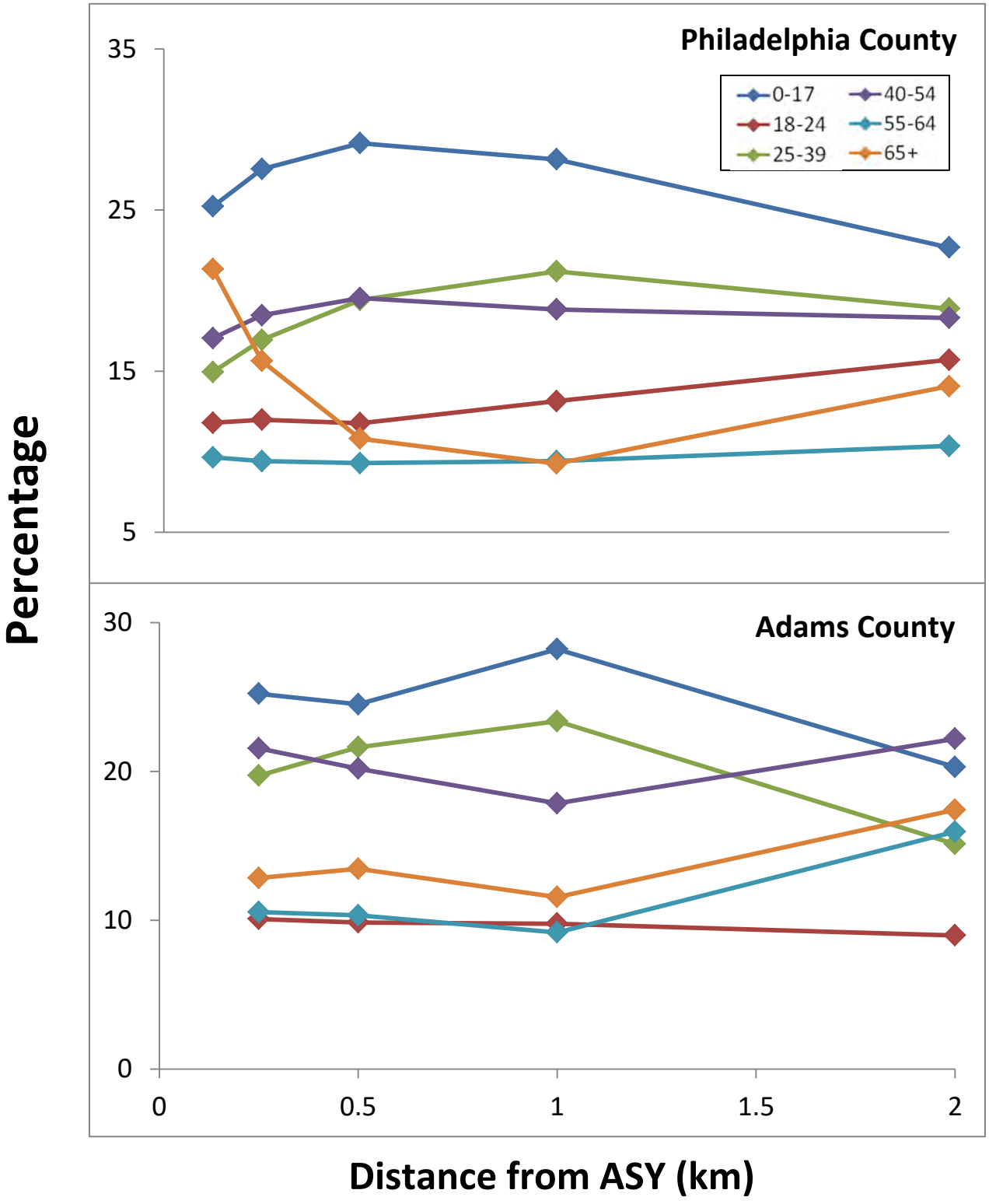

Figure 9. Line graphs representing age as a function of distance from auto salvage yards in both Philadelphia and Adams County, Pennsylvania.

Indiana Department of Environmental Management
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Eric J. Holcomb, *Governor*
Bruno L. Pigott, *Commissioner*

July 31, 2018

JB Salvage Incorporated West Side Auto Parts
ATTN: Rick Owen
1803 West Vernal Pike
Bloomington, IN 47401

Facility Name: JB Salvage Incorporated West Side Auto Parts
Permit Number: INRM00427
Location: 1803 West Vernal Pike Bloomington, IN 47401
County: Monroe

Dear Mr. Owen:

On Thursday, June 19, 2018, the Indiana Department of Environmental Management conducted an inspection of the facility referenced above to assess compliance with 327 IAC 15-6 (Industrial Storm Water Run-off). The inspection was conducted pursuant to Indiana Code (IC) 13-14-2-2 and consistent with the requirements of IC 13-14-6.

The following individuals were present during the inspection of the facility:

- JB Salvage – Rick Owen
- IDEM – Samantha Wickizer and Nick Carr

During the inspection, the following items were observed:

- The most recent sampling results indicate pollutant parameters above the EPA Industrial Storm Water Run-off benchmarks for both Outfall 001 and Outfall 003. Outfall 002 was not observable during the inspection, and has not historically been tested.
  - Outfall 001:
    - The result for PCB-1016 indicates <0.00037mg/L, and the EPA benchmark for this parameter is 0.000127 mg/L.
    - The result for Aluminum was 5.5 mg/L, and the EPA benchmark for this parameter is 0.75 mg/L.
    - The result for Copper was 0.15 mg/L, and the EPA benchmark for this parameter is 0.06 mg/L.
    - The result for Iron was 10 mg/L, and the EPA benchmark for this parameter is 1.0 mg/L.
    - The result for Lead was 0.11 mg/L, and the EPA benchmark for this parameter is 0.08 mg/L.

Exhibit 7

        - The result for Oil & Grease was 10.3 mg/L, and the EPA benchmark for this parameter is 5 mg/L.
            - This parameter was inaccurately documented in the annual report.
        - The result for Total Suspended Solids was 270 mg/L, and the EPA benchmark for this parameter is 100 mg/L.
        - The result for Chemical Oxygen Demand was 140 mg/L, and the EPA benchmark for this parameter is 120 mg/L.
    - Outfall 003:
        - The result for PCB-1016 indicates <0.00037mg/L, and the EPA benchmark for this parameter is 0.000127 mg/L.
        - The result for Aluminum were 18 mg/L, and the EPA benchmark for this parameter is 0.75 mg/L.
        - The result for Copper were 2.0 mg/L, and the EPA benchmark for this parameter is 0.06 mg/L.
        - The result for Iron were 65 mg/L, and the EPA benchmark for this parameter is 1.0 mg/L.
        - The result for Lead were 1.9 mg/L, and the EPA benchmark for this parameter is 0.08 mg/L.
        - The result for Oil & Grease was 147 mg/L, and the EPA benchmark for this parameter is 5 mg/L.
            - This parameter was inaccurately documented in the annual report.
        - The result for Total Suspended Solids was 1600 mg/L, and the EPA benchmark for this parameter is 100 mg/L.
        - The result for Carbonaceous Biochemical Oxygen Demand was 65 mg/L, and the EPA benchmark for this parameter is 30 mg/L.
        - The result for Chemical Oxygen Demand was 1300 mg/L, and the EPA benchmark for this parameter is 120 mg/L.
    - 327 IAC 15-6-6(c)(4) states: If parameter reductions are not indicated in the comparison conducted under subsection (b)(9) and they cannot be attributed to laboratory error or significant variability in the rainfall events, the source of the pollutant parameter must be investigated and either eliminated or reduced via a management practice or measure to the extent technologically practicable and cost beneficial. A lack of reduction does not, in and of itself, constitute a violation of this permit. However, insufficient reductions may be used to identify facilities that would be more appropriately covered under an individual storm water NPDES permit. If parameter concentrations are at, or below, laboratory detection limitations, further reductions are not necessary.
- Steel turnings and cast chips were stockpiled near Outfall 001. The materials have degraded with exposure. These materials should be stored in a container to minimize potential for pollution of storm water run-off. If at all possible these materials should be stored under roof or in a covered container.
- A spill of what appeared to be hydraulic fluid was observed from a crushed vehicle, and spill clean-up was conducted during the inspection. This spill

and any future releases are required to be documented within the Storm Water Pollution Prevention Plan.

- A riprap berm exists prior to discharge from Outfall 001. The berm was overgrown with vegetation, but appears to be functioning. Sediment accumulation was evident in this location. The sediment should be cleaned-out to maintain capacity of the measure. In addition, increasing the size of the vegetative buffer is highly recommended.
- Sediment accumulation was also evident at Outfall 003. It is recommended to clean this area out, and implement stabilization practices.
- The Storm Water Pollution Prevention Plan had one document indicating employee training that was dated 8/6/2013.
  - 327 IAC 15-6-7(c)(1)(B) states: An employee training program to inform personnel at all levels of responsibility that have the potential to engage in industrial activities that impact storm water quality of the components and goals of the SWP3. Training must occur at a minimum annually and should address topics such as spill response, good housekeeping, and material management practices. All employee training sessions, including relevant storm water topics discussed and a roster of attendees, must be documented and either contained in, or have on-site record keeping location referenced in the SWP3.
- Please continue to assess operations and potential sources of pollutants at the facility and as appropriate take corrective action. Corrective action may include, but is not limited to operational changes, elimination of potential sources of pollutants, or the installation/implementation of storm water quality measures. IDEM will also be evaluating information related to the facility and is considering the facility operating under an alternative permit.

Provide verification of corrective action to me no later than August 15, 2018 as to the action taken to address the items outlined above.

If you have any questions regarding this letter or require clarification on any issue, please contact Storm Water Specialist, Samantha Wickizer at (812) 380-1300 or by email at swickize@idem.IN.gov.

Sincerely,

S. Wick

Samantha Wickizer
Storm Water Specialist
Office of Water Quality

cc: Randy Braun, IDEM, Storm Water and Wetlands Section Chief
Nicole Gardner, IDEM, Wastewater Permits Section Chief
Mark Amick, IDEM Southeast Regional Office Director

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Exhibit 8

ENTRANCE HOURS

Monday:	**9:00 AM - 5:00 PM**
Tuesday:	9:00 AM - 5:00 PM
Wednesday:	9:00 AM - 5:00 PM
Thursday:	9:00 AM - 5:00 PM
Friday:	9:00 AM - 5:00 PM
Saturday:	9:00 AM - 5:00 PM
Sunday:	9:00 AM - 5:00 PM

Admission: $3

Must Be 16 Years Old To Enter Facility

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Quality Auto Parts - LKQ Pick Your Part Auto Parts of Holland, MI, has thousands of used cars and used trucks for you to choose from. LKQ Pick Your Part Auto Parts has acres of the most popular early and late model used automobiles, both import and domestic, including: Chevy, Dodge, Ford, Nissan, Honda and Toyota as well as many others. Dozens of new used cars and trucks enter their salvage yard everyday ensuring you'll receive the best selection of used car parts to pull from in the Holland area. Just bring your tools and wear clothing you don't mind getting dirty. And please, no open toe shoes (this is a salvage yard). LKQ Pick Your Part Auto Parts supplies wheelbarrows and engine hoists free of charge to help you pull larger used parts. LKQ Pick Your Part is Holland leading salvage car buyer, paying the most money for cars in the area. Call 1-800-962-2277 for your free quote and find out what your car is worth today.

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Exhibit 8

I. CALL TO ORDER

The Pendleton Plan Commission (PC) met on February 1, 2023 at 7:00 pm at 100 W State Street, Pendleton, Indiana. The meeting was called to order by Tim Pritchard at 7:00 pm.

II. ROLL CALL AND DETERMINATION OF QUORUM

Commission members present in-person were Tim Pritchard, Brad Ballentine, Kyle Eichhorn, Carol Hanna, Cheryl Ramey-Hunt, Jenny Sisson, and Andrew Holloway. A quorum was established.

Representing the Town in-person were Hannahrose Urbanski Planning Director, Denise McKee Planning and Zoning Administrator, Scott Reske Town Manager, Jeff Graham Town Attorney.

- Others present: Marissa Skaggs Town Council President, Chet Babb Town Council Member, Willie Boles Clerk-Treasurer, Jason Gaines of Gaines Development, Ed Wolenty of Decker, Lawyer and Maynard, Chris Farrar of Woodside Capital representing LKQ, Garry Brammer of 6228 W Foster Branch Dr, Jessica Bastin of 331 Pearl St, Thomas Bond of 6150 S Fox Ct, Rachel Christenson of 300 S Broadway St, John Lord of 6982 Lakeview Ct, Jeanette Isbell of 354 Pearl St, Jerry Burmeister of 406 W State St, Michael Wright of 6395 S Fox Chase, David Cloud of 634 S Fox Chase, Mike Bluel of 6221 Foster Branch Dr, Cathy Pasko of 433 E State St, Mark Farrer of 5429 W 132, Sam Karozob of 12890 Main St, Tammy Bowman of 130 N Main St, Joe Noel of 130 N Main St, Craig Campbell of 239 S Main St and Redevelopment Commission President and Historic Preservation Commission Vice-President, Doug Hineline of 6739 S 600 W, Jan Stamper of 7242 S 600 W, Jennifer Roberts of Pendleton Ave, Bryan Williams of Water St, Bret Swinford no address provided, Spencer Groby no address provided, Leah Groby Real Estate Pros, Nathan Davis of Imagication Station, John Higgins attorney representing Pendleton Development, Marc Farrer Pendleton Police Chief, Michelle Skaggs of HRM Attorneys of 12801 E. New Market St, Carmel, Indiana. Attending via Zoom Jim Wilson representing LKQ, approximately 20 residents.

III. APPROVAL OF JANUARY 2023 MEETING MINUTES

Tim Pritchard requested a motion to approve the January 2023 Meeting Minutes; motion made by Kyle Eichhorn, seconded by Brad Ballentine. Roll call taken and all members present voted in favor of the motion. Motion carried.

IV. OLD BUSINESS

A. PC01042023-02: 5517 W SR 38. Rezone form Agriculture-Large Lot to Light Industrial. Gaines Development LLC via LKQ Midwest Inc.

Hannahrose Urbanski summarized the proposed rezone

- Zoned: Large Lot Agriculture (A-1), two parcels
- Property is approximately 113 acres
- This property is part of the Southwest Quadrant of the 2021 I-69 Interchange Master Plan; adopted as a part of the Town's Comprehensive Plan

- Proposed Use: LKQ is a global distributor of used vehicle products. Per PC comments from January meeting, the warehouse would be along SR 38 set back behind future commercial/retail out lots (marked as future development). The remaining area of the property would be used as the stone storage yard
- Warehouse would be approximately 229,400 sq. ft with an approximately 70-acre stone yard
- On-site detention will retain existing natural tree line along western property border. Other locations of existing natural spaces on-site will be retained where feasible
- Bufferyards, berms and solid metal fencing will be used around entire property
- Will also require BZA approval for outdoor storage (contingent upon rezone approval)
- Photos were provided per January PC request of current LKQ facilities near residential areas and highways landscape renderings

Hannahrose Urbanski provided the Staff Analysis:

- Property is located within the 2021 I-69 Interchange Master Plan Southwest Quadrant. This area is conceptually planned for residential (south) and a portion of the Keystone Development District (north along SR 38)
- Property includes a portion of the conceptual 146th Street Extension project, which is slated to be a secondary arterial classification. It also touches the 67th Street Extension project from Anderson that stops at SR 38
- Fits size and access requirements for a Light Industrial lot. Will require coordination and engineering with INDOT for driveway cuts and spacing. The Town's 2021 Access Management Plan allows for two driveway cuts for this type of use and parcel size
- Parcels to both the east and west along SR 38 are zoned General Business (GB)
- Petitioner has company policies in place for meeting EPA standards for hazardous material disposal/recycling and proposes to have all auto servicing activity take place inside the warehouse structure

Hannahrose Urbanski provided the Planning Commission Recommendation, based on Indiana Code and the Town of Pendleton's Unifies Development Ordinance, consider the following:

- The Comprehensive Plan
- Current conditions and the character of current structures and uses in each district
- The most desirable use for which the land in each district is adapted
- The conservation of property values throughout the jurisdiction
- Responsible development and growth
- Commission can vote to recommend: Neutral; with or without conditions, Favorable; with or without conditions, Unfavorable; with or without conditions, or to Continue
- Next steps: Upon receiving the Planning Commission recommendation, Town Council will vote for adoption/denial of the proposed zone change at the February 9, 2023 meeting or continue and have up to 90 calendar days to vote

Hannahrose Urbanski asked for questions:

- Kyle Eichhorn requested clarification that a variance would be needed from the BZA for automobile and vehicle storage as conditional use in Light Industry. Urbanski confirmed. Eichhorn stated it also mentions no junk. Urbanski indicated it as salvage. Eichhorn pointed out the definitions from the UDO that inoperable vehicles are defined as junk. Would this also be given a variance. Urbanski affirmed.

Chris Farrar presented the three requests from the Plan Commission from the January Meeting:

- Updated elevations
- Accommodating the outparcel
- Showing current facility neighboring residential

Chris Farrar then reviewed the LKQ Presentation that was presented at the January Meeting.

Tim Pritchard asked the Board for questions or clarifications:

- Carol Hanna asked for Farrar to explain how this site was selected and why it is considered the perfect location for LKQ. Farrar responded that they look at an area and determine location logistics, topography, potential employee base, price, and interstate access. This property checks off all these components.
- Jeff Graham raised concerns of the Planning Staff and potentially others: typically, on a zoning change it is usually all-or-nothing; if zoned as Light Industrial then it's Light Industrial for everybody. Zoning stays with the land. Ways to alleviate concerns with that are commitments made by Petitioner as far as what the project will look like as a condition of the zoning being changed. Would the Petitioner commit to the project being substantially similar to the document that have been provided to the Town? Farrar agreed that would be the case, and that is why they provided the photos of newer facilities like Denver and Salt Lake City. He indicated that their screening renderings along the interstate might look slightly different based on the size of the trees, and that they would strive to preserve every tree possible. Farrar reiterated that what LKQ has presented is what LKQ is committed to; they stand behind their word.
- Carol Hanna referenced the conditional uses from the ordinances, the concern is that commercial use for auto/vehicle storage says no junk or salvage, this is only listed under the Heavy Industrial District that there are conditional uses for automotive storage, junk and damage storage yard facility. Hanna acknowledged the negative connotation associated with the verbiage but noted the ordinance definition is reclaimable material, inoperative vehicles in the process of being dismantled. Farrar stated that he understood and that he read it the same way. He said it could be a matter of zoning Heavy Industrial instead of Light Industrial. They would follow the guidance of the Town.
- Brad Ballentine inquired how many vehicles would be held in the gravel yard for processing. Chris Farrar was uncertain as to the exact number, and offered to provide that at a later time. Tim Pritchard said 5,000 - 7,000, based on prior presentation. Ballentine asked about security for the storage yard. Farrar said there have been some issues of theft at some of the older facilities, and they are in the process of securing third party security company. Farrar stated there would be security at the Pendleton facility.
- Jenny Sisson asked if alternative sites have been considered. Chris Farrar answered affirmatively, but this site checks most of the boxes.

Tim Pritchard opened up for questions or discussion from those residing in the immediate area of the proposed facility:

- John Higgins representing Pendleton Development; approximately 100 acres immediately to the west of proposed site. Stated his client's unequivocal objection

based on the time and money spent by the Town forming the Master Plan. This facility is completely incompatible with a residential use; Higgins referenced photos provided of current facility in residential areas. He provided actual photos from Google Street Map showing a road view, which show the visibility of the cars in the storage yard.

- Jerry Burmeister representing the Historic Fall Creek, Pendleton Settlement, Inc. read a statement of objection (available on Google Drive).
- Tim Pritchard presented statements of objection from: Anderson Madison County Visitors Bureau, Mystic Waters Campground, Community Sports & Wellness Center, Card Associates Athletic Facilities LLC, residents Jennifer and Jeff Blake (available on Google Drive).
- Jeanette Isbell acknowledged that LKQ seems to be a fine company and has no issues with them specifically, however this facility is not a good fit for the vision of the Town and especially located at the gateway into the Town.
- Doug Hineline objected based on concerns of excessive light pollution and that it is ridiculous that this facility is even being considered, as it does not even fit as Light Industrial.
- Nathan Davis objected and agrees that this does not fit for the Town's gateway, and the potential for theft spreading into the nearby residential area.
- Craig Campbell objected in agreement with previous comments. He also stated that the RDC worked hard on the Master Plan with Kimley Horn, one of the country's top organizations; they did trend work, research and numerous focus groups. Campbell has no issue with the company itself and finding a different location, but the proposed site is not the right place.
- Garry Brammer acknowledged the significance of this company's investment in the Town. His concern is what other companies would this attract instead of nice houses or retail strip malls, and the gain / loss of tax revenue of those situations.
- John Lord expressed agreement with expressed concerns. He asked if the Board knows of issue or concerns from other towns that have a current facility; Plainfield, Avon. Lord stated concern over environmental impact citing six million dollars of EPA fines based on a Google search, and the effect this might have on the residential area.
- Dave Cloud asked if LKQ has a wildlife mitigation plan as this site may be attractive to coyotes and other critters. Chris Farrar said they do not.
- Jan Stamper informed that her property butts right up to the site and she does not want to see something like this out there. She expressed concern that the high-end homes' value may be degraded. Stamper also expressed concern over the traffic pattern.
- Mike Bond asked if there is a performance bond of some kind in the event this business closed, that they would be responsible for cleanup. His concern was that this can end up being a huge expense and problem for the community. Bond asked, if this was approved, could there be an underground barrier to prevent leeching down into the soil to prevent contamination to the ground and wells. He asked if in-bound transports are ever considered HAZMAT, and if so, he is concerned these coming through town. Bond asked if conditional approval can be granted so that it has to be what the plan is now. Overall, he objects to the project, but wanted to ensure these things are being considered.
- Tim Pritchard asked Marc Farrer about HAZMAT coming through town versus interstate. Farrer said routes are established by the State based on what is on the

truck and the daily traffic. Hannahrose Urbanksi stated that truck routes should not go through town because State Street is no longer a state road, however they often do if they know the area.

- Jason Gaines expressed appreciation for all the people that showed up; he wants feedback. He really wants what is best for the town, he has lived here for a long time. Regardless of what happens here tonight, he wants what is best for the town. He has heard from the comments that residential is what's wanted. Gaines thought this company was a good fit for several reasons, it's a nice small building, good landscaping, but the idea of car carcasses / skeletons does not sound good even though they are lined up. But, you don't see them or smell them or taste them, but you know they're in there, like the prison. Gaines does not really like having a prison here, with a couple thousand people we may not really like, but we do not see them. Gaines said that he does not know what is best for them, he is asking them for guidance, the residential is fine with him, but when LKQ came along with a small owner-occupied building and the large berm, and when driving on the interstate it is hard to look and see any of that. He gets that the entrance way is important, but there are three other corners and for some reason it is up to the Gaines Family to put something really nice there. Gaines said he did not know or realize if he was in a historical district, he did not realize that was a concern. He knew this was going to be a small building and they would use all of the property, but then the alternative is residential which is what we all want. Gaines thought the traffic flow from the facility was good and minimal compared to something like a Starbucks. Also, positive points were high wage jobs and no tax abatements. On the flip side if we want residential for 110 acres, there could be several hundred houses and would have thousands of cars driving in and out of there, opposed to the minimal traffic from the facility. It would be great for the Town; new kids in the school, affordable housing, more diversity, but the traffic. Gaines addressed concerns about lighting, but adding a couple hundred houses, and the Urbahn's development and a couple more hundred houses and the population will grow real quick and driving out to the highway or into Town will take a while. Executive homes have been talked about, and he is all for that, but cannot find anyone interested in building that kind of home. So, we need to make a big decision in the Town that we can go with something like this with low traffic and high taxes and employment, and an attractive building with hopefully a nice fence line. If houses are put there, we will see a lot of light and a lot of people driving up and down 38 and 600 with new people. A member of the audience asked if it could stay farm. Gaines said in a perfect world, he would leave it as a farm, but it will not pay nearly as high. He needs to know what everyone wants, but we need to make a commitment. Gaines stated that people are comparing older buildings that LKQ purchased, which are not so attractive, and not as eco-friendly. Gaines said he thought this was a much cleaner, expedited project than having continuous construction from building house on his and Urbahn's property. Tammy Bowman addressed Gaines stating that this plan which was cast by this body is 18 months old, it is new and has not been marketed and we have not heard as a community from you and what your vision is for your property. She requested that this body give this plan a chance. It is a good plan, the community believes in it, we built it, we can make everybody happy but it will take longer than 18 months. Gaines questioned if the Fosters Branch residents want the long period of construction. A member of the audience stated the plan is a long-range plan, with mitigating traffic plans. Gaines stated that he is open to other ideas, and he thought that LKQ was a good deal and a fine company, and they worked hard with the planners.

- Craig Campbell stated that when the RDC focused on the business park, which is the TIF District, it was decided to move away from the industrial side of what was going in out there, and to move toward more professional things, such as medical, legal. We did not want to continue with industrial. Campbell also noted there was never discussion of low income or affordable housing.
- Sam Carosis, the realtor working with Gaines, based on research information, there is no demand for executive housing in this spot in Pendleton. Developments would need to happen in Fortville and McCordsville before it would be in demand here. Carosis claimed an estimate of housing on 114 acres would be upwards of 400 houses, lower income houses with higher density have 12-15 per acre, which would be well over 1,000 family units. The Plan Commission has the authority to make conditions on things such as lighting and wastewater. This is a company that partners with the community. Another benefit is that this is an end-user development, which normally does not exist in Indiana development. Most development is speculative development, with a build it, they will come focus. Conditions cannot be made on those developments, and tenants can change frequently. Carosis spoke to the tax base that is an annual number that would be added to the tax base; improvements to the fire department, police department, school system without adding families to those schools. This is a positive impact for everyone if we can get past stripping down cars and see how this company operates. You can absolutely apply conditional approvals and hold them to it.
- Leah Groby commented on all the speculation, there is not enough information to make a decision on what the land should be. She also commented on the visibility of all the parked car frames from the bridge across the interstate, and does not think this is necessarily what we want. Groby referenced the Comprehensive Plan and the promise of small-town charm and bold modern thinking.
- Marc Farrer questioned Chris Farrar, what are the work shifts, are there tow trucks out there at night beeping, do the car shells contain any wiring, upholstery. Farrar said shifts are 8-5, there are no trucks in and out at night, and there are no combustible materials left on the frames. Farrer stated that light pollution is also important. Is this something that would be clarified tonight, all the conditions? Tim Pritchard said that would not necessarily be done tonight.
- Online comments: Marilyn Bluel, Kelly Rahl agreed with previous statements of objections regarding environmental issues.
- Michelle Skaggs addressed the audience. She stated that she grew up in Pendleton and her dad still lives here. She said she lives in Fishers because there is nothing for her to do around here; there's not a lot here. But on the weekends, she brings her kids down here when it's nice. She would not present something here that she did not think was good. Because she is in Fishers, she can see that it is coming. Pendleton has an opportunity to do something with this land, where no realtor has contacted Gaines about anything residential. She stated that the land up the interstate in Fishers has been purchased and is going to be residential, but apartments, condos and lots of them. Her fear is that they have an opportunity, and if the Town waits to see what this should be, then when everything comes here, there will be no LKQ because they will go to another town, close to here, and those 80 employees will go to that town's restaurants, boutiques. The people here with businesses will continue to suffer. Skaggs said to those who have strongly opposed this project, have you considered all the information and done your research. A month ago, hardly anyone came here, even those who received notices, because no

one was concerned. It could have been passed last month, but the Board wanted more pictures. Pendleton has an opportunity. If you do not want to jump on it, so be it. But these fields will not last much longer. She does not want the tiny homes, condos and apartments to take over Pendleton. As far as the EPA, sure they have been fined. What happens when they buy a company that is a junk yard and clean it up? Does that happen in year one? No. If they cannot get it cleaned up, they get it closed. Why do you think they are building these new facilities? So it can be a clean facility and they go above and beyond what the EPA requires. She challenged the short-sightedness of the audience and said to be open and consider something because this is probably the best thing you will get.

- Denise McKee clarified the process for the Board as they consider their decision: this evening they have an opportunity to vote Neutral, Favorable, or Unfavorable. It can also be continued. If you vote Neutral, Favorable, or Unfavorable it will go to Town Council. It does not require a Favorable vote to go before Town Council. They can then take your certified recommendation and make a decision on this rezone application. McKee noted additional Plans that are in their shared drives for their review and comparison in relation to this proposal. Mckee stated if this moves forward and is passed by Town Council without any commitments, this will be the last opportunity for this Board to place any conditions on the zoning change. If LKQ would decide not to purchase the land, it would remain Light Industrial as passed. A primary plat would not be submitted, this is a commercial piece of land that would only require a site development plan, based on a UDO passed in 2021.
- Carol Hanna asked for clarification that the decision at hand is strictly on the zoning. Denise McKee confirmed.
- Chris Farrar followed up on earlier concerns regarding issues at older facilities, and assured that those issues will not apply to a new facility. There is no comparison.
- Jim Wilson representing LKQ commented on the older facilities, and that any EPA fines are not related to any of the newer facilities.
- Tim Pritchard commended Chris Farrar on a nice presentation and what appears to be a nice company. He appreciates Farrar's transparency. Pritchard stated the issue seems to be this does not fit with the Town's Thoroughfare Plan, Comprehensive Plan, Keystone Development Plan. It is labeled as Residential, based on time and effort put into those plans. It may be too early to determine what is going to go out there, but something will go there at some point. It will unlikely stay farm land. Ultimately the job of this Board is to protect the Town and the people.
- Jeff Graham stated the next step is, regardless of the recommendation this evening, an ordinance will be drafted and put before Town Council. If the zoning petition ordinance is passed, the change will occur; from Agriculture to Light Industrial. The ordinance itself will list conditions and commitments that are made and those are recorded and remain with the land. The commitments made tonight by the Petitioner that the building will be substantially compliant with verbal and written commitments made will be included in the ordinance if the Council adopts it. For zoning changes it is a binary Yes or No; the Town Council must act on what this Board sends them. So the commitments made today will be in that ordinance and sent to Town Council.

Tim Pritchard made a motion for an Unfavorable Recommendation with the Commitments/Conditions previously set forth. Motion seconded by Brad Ballentine. Roll call vote was taken. All members voted in favor; motion carried.

- Jeff Graham stated the next Council meeting is February 9th. The Council can continue it for up to 90 days. If they take no action, the Unfavorable will carry. The petition could also be withdrawn.
- Tim Pritchard announced a 15-minute recess.

B. PC Rules Update

Hannahrose Urbanski presented:

- Clarity on what role the PC has, as Secondary Plats and Site Development Plan Review no longer goes through PC, only zone changes, primary plats, and approving/amending new Town Plans and Codes.
- Clarity on radius mailing types (certificate of mailing and certified mail).
- Updating code references to the 2021 UDO, as the rules were referencing the old code numbers, which are no longer relevant.
- References to Zoom being an acceptable form of applicant participation.

Tim Pritchard made a motion to accept the updated PC Rules as submitted. Motion seconded by Kyle Eichhorn. All members voted in favor; motion carried.

V. NEW BUSINESS - None

VI. ADJOURNMENT

Meeting adjourned by Tim Pritchard at 8:50 pm.

Next meeting March 1, 2023 at 7:00 pm.

IndyStar.

ENVIRONMENT

Richmond plastics recycling warehouse that caught fire had previous safety citations

Sarah Bowman
Indianapolis Star

Published 5:38 p.m. ET April 12, 2023 | **Updated 8:00 p.m. ET April 12, 2023**

A massive blaze in eastern Indiana that created plumes of toxic smoke Tuesday, forcing the evacuation of more than 2,000 residents, took place at a warehouse that had previously been cited as being unsafe, according to court documents.

A 2020 review from the Richmond, Indiana, Unsafe Building Commission found that the site, which houses recycling plastic, was missing adequate fire suppression systems and that fire lanes around the building were blocked.

Richmond Fire Chief Tim Brown said during a Wednesday briefing that fire crews and the city had been trying to get My Way Trading Warehouse to clean up its buildings "for some time." And Mayor Dave Snow said that city officials "were aware that what was operating here was a fire hazard."

Richmond fire: Schools canceled; about 2K evacuate

He added that it was a matter of "when, not if" there was an issue.

It is unclear exactly what caused the fire, according to the state Department of Homeland Security. Agency spokesman David Hosick said officials were hoping to be able to access the building Wednesday evening or Thursday to begin their investigation.

When firefighters responded to the facility Tuesday, they found a semi trailer — loaded with an unknown type of plastic — behind one of the buildings engulfed in flames, Brown said. The fire then spread to other piles of plastic around the truck and eventually to the buildings.

The two warehouses at the site contained a "large amount of chipped, shredded and bulk recycled plastic," according to the U.S. Environmental Protection Agency. Brown added that

Exhibit 11

the 175,000-square foot facility was "completely full."

Stockpiling has become a common problem at plastics recycling facilities as the infrastructure and markets for these types of materials is lacking.

Still, the Richmond Unsafe Building Commission told the facility owners it needed to remove materials from the site to the amount allowed by code, according to the court order. It also said the facility needed to remove materials to open fire lanes.

Brown said Wednesday that firefighters had trouble getting access to the facility because piles of plastic were blocking access roads.

The State Fire Marshal said in a news briefing that the smoke is "definitely toxic." When plastics burn, they often can form dioxin — which the EPA describes as a highly toxic pollutant that take a long time to break down and can cause cancer.

Both the EPA and Indiana Department of Environmental Management are onsite and monitoring air quality at 15 different locations around the site. As of mid-morning Wednesday, the agency said it had not identified toxic compounds such as styrene or benzene.

The agency said it will continue 24-hour monitoring as part of its response, and it also is watching for things such as carbon monoxide, volatile organic compounds and chlorine.

"Most of the impacts (of the fire) are likely to be immediate," said Gabe Filippelli, director of the Indiana Environmental Resilience Institute. "The smoke is not only dangerous to pulmonary health, for people and their pets, but also might contain additional hazards of airborne chemicals that may be toxic."

IDEM also issued an air quality action day for Wayne and Randolph counties as a result of the fire. The agency said it is forecasting elevated levels of fine particles in the air due to the smoke, and that weather conditions will continue to spread the smoke. It added that conditions should improve overnight, but it has already issued another action day in those same counties for Thursday.

The Wayne County Health Department said the fine particles can cause tightening of the chest, burning in the eyes and aggravation of asthma.

Filippelli said residents should wipe down surfaces with a damp cloth if smoke particles accumulate in the home. Federal and state officials are advising residents not to pick up

debris. HVAC intakes should be turned off, they said, and those in the area should avoid spending time outside, if possible.

The EPA said it has started collecting debris samples from the community to check for asbestos due to the age of the building.

Train Derailment: Indiana communities at risk for train disasters like the one that devastated Ohio town

Environmental advocates said the situation is "unacceptable," drawing parallels to the fire and hazardous materials released after a train derailed in East Palestine, Ohio, in February. High levels of some chemicals released during that disaster could have long-term health impacts, experts have said.

"Once again, communities are being forced to leave their homes because of another inexcusable and unnecessary disaster," Sierra Club Executive Director Ben Jealous said in a release. "The failures at every level to enact even adequate oversight and safeguards continue to imperil our communities. Enough is enough."

The Indiana legislature passed a bill this year that would promote the burning of plastic waste, according to Amanda Shepherd, director of Sierra Club's Hoosier Chapter. In particular, Senate Bill 472 would exempt facilities that turn plastic into fuel to be burned from Indiana's solid waste laws. The bill currently is waiting to be signed by Gov. Eric Holcomb.

Call IndyStar reporter Sarah Bowman at 317-444-6129 or email at sarah.bowman@indystar.com. Follow her on Twitter and Facebook: @IndyStarSarah. Connect with IndyStar's environmental reporters: Join The Scrub on Facebook.

IndyStar's environmental reporting project is made possible through the generous support of the nonprofit Nina Mason Pulliam Charitable Trust.

courier journal

INDIANA

Fire breaks out at salvage yard in Clarksville, Indiana

Darcy Costello and Pat McDonogh Courier Journal

Published 10:12 a.m. ET Oct. 26, 2017 | Updated 1:06 p.m. ET Oct. 26, 2017

A fire broke out Thursday morning at a salvage yard in Clarksville, Indiana.

It wasn't immediately clear what started the blaze at Kenny's Imports at 1222 McCullough Pike, officials said.

No structures were involved in the fire and no injuries were reported, but the salvage yard holds hundreds of scrapped cars, Clarksville fire chief Brandon Skaggs said.

Small explosions reported by other local media outlets were likely tires popping, said Justin Ames, spokesman for the Jeffersonville Fire Department.

"With no fire hydrants in the area, water had to be trucked in from other fire departments," Skaggs said. Industrial equipment was used to move piles of junked cars to gain access to the fire's hot spots.

Multiple agencies, including fire departments from Clarksville, Jeffersonville and Charlestown, among others, were called in for assistance. Some police departments, as well as the Salvation Army and Duke Energy also responded.

Reach Darcy Costello at dcostello@courier-journal.com or 502-582-4834.

Exhibit 12

AFFIDAVIT OF GREGORY VALENTINE

I, Gregory Valentine, being first duly sworn upon my oath, state the following:

1. I am an adult of sound mind, and make the statements in this affidavit based upon my personal knowledge.

2. I reside in Lapel, Madison County, Indiana.

3. My family has owned farm ground near 6199 S. State Road 13 and 0 South State Road 13, Lapel Indiana (the "Property") since the 1850's.

4. The installation of an automotive graveyard or junk yard at the Property will adversely impact the value of my properties in Lapel.

5. The Property is within line of site of my residence.

6. Further, the construction of such a business at the Property has discouraged my adult children from locating at a neighboring parcel to my residence.

7. The Town of Lapel and its surrounding communities do not have the public safety resources available protect its citizens from a fire, chemical contamination or other hazard that could occur at a junk yard.

8. Specifically, the nearest fire hydrant is located one-half (1/2) mile away from the Property.

9. Additionally, the Town of Lapel nor its surrounding communities do not own a ladder truck. The nearest ladder truck to the Property is the City of Anderson Fire Department approximately 13 miles away.

10. According to the Indiana University Indiana Geological & Water Survey the Fortville Fault line is located near the Property. See **Exhibit A**.[i]

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

Date: 9-15-2023

Gregory Valentine

Gregory Valentine

Exhibit 13

ALEXA CHAMBERLIN
Notary Public - Seal
Madison County - State of Indiana
Commission Number NP0738978
My Commission Expires Feb 6, 2030

STATE OF INDIANA)
) ss:
COUNTY OF Madison)

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for said County and State, this 15th day of Sept, 2023.

Notary Public

My Commission Expires: Feb 6th, 2030 Resident of Madison County Indiana

[i] Map of Indiana showing known faults and historic earthquake epicenters having magnitude of 3.0 and larger (2015) | Indiana Geological & Water Survey

IGS INDIANA GEOLOGICAL SURVEY

John C. Steinmetz, Indiana State Geologist

Map of Indiana Showing Known Faults and Historic Earthquake Epicenters having Magnitude 3.0 and Larger

By Walter E. Gray and John C. Steinmetz
Miscellaneous Map 84

ID	Date	Magnitude
1	January 10, 1827	3.3
2	August 7, 1827	3.3
3	July 5, 1827	4.6
4	August 7, 1827	3.9
5	June 1, 1869	3.3
6	September 25, 1876	4.3
7	August 12, 1886	4.3
8	August 25, 1890	4.3
9	February 28, 1889	3.5
10	August 21, 1891	4.3
11	December 14, 1893	3.4
12	January 12, 1893	3.2
13	December 20, 1893	3.8
14	April 30, 1899	4.4
15	August 18, 1899	3.9
16	February 11, 1899	4.1
17	September 7, 1906	3.0
18	May 11, 1906	3.2
19	May 8, 1906	3.2
20	January 29, 1907	3.3
21	September 22, 1909	3.5
22	September 27, 1909	4.7
23	January 7, 1916	3.3
24	May 25, 1916	3.9
25	January 11, 1922	3.7
26	September 2, 1925	4.6
27	April 27, 1925	4.8
28	February 14, 1929	3.1
29	January 6, 1931	3.1
30	February 11, 1938	3.6
31	December 11, 1968	3.3
32	August 29, 1984	3.5
33	July 26, 1984	3.7
34	January 20, 1986	3.0
35	January 24, 1990	3.9
36	December 20, 1990	3.5
37	December 17, 1990	3.3
38	December 7, 2000	3.7
39	April 14, 2000	3.2
40	June 18, 2002	4.6
41	September 22, 2004	3.9
42	December 30, 2010	3.8
43	January 26, 2012	3.8
44	May 10, 2012	3.1

INTRODUCTION

REFERENCES

ACKNOWLEDGEMENTS AND DISCLAIMER

BASE MAP INFORMATION

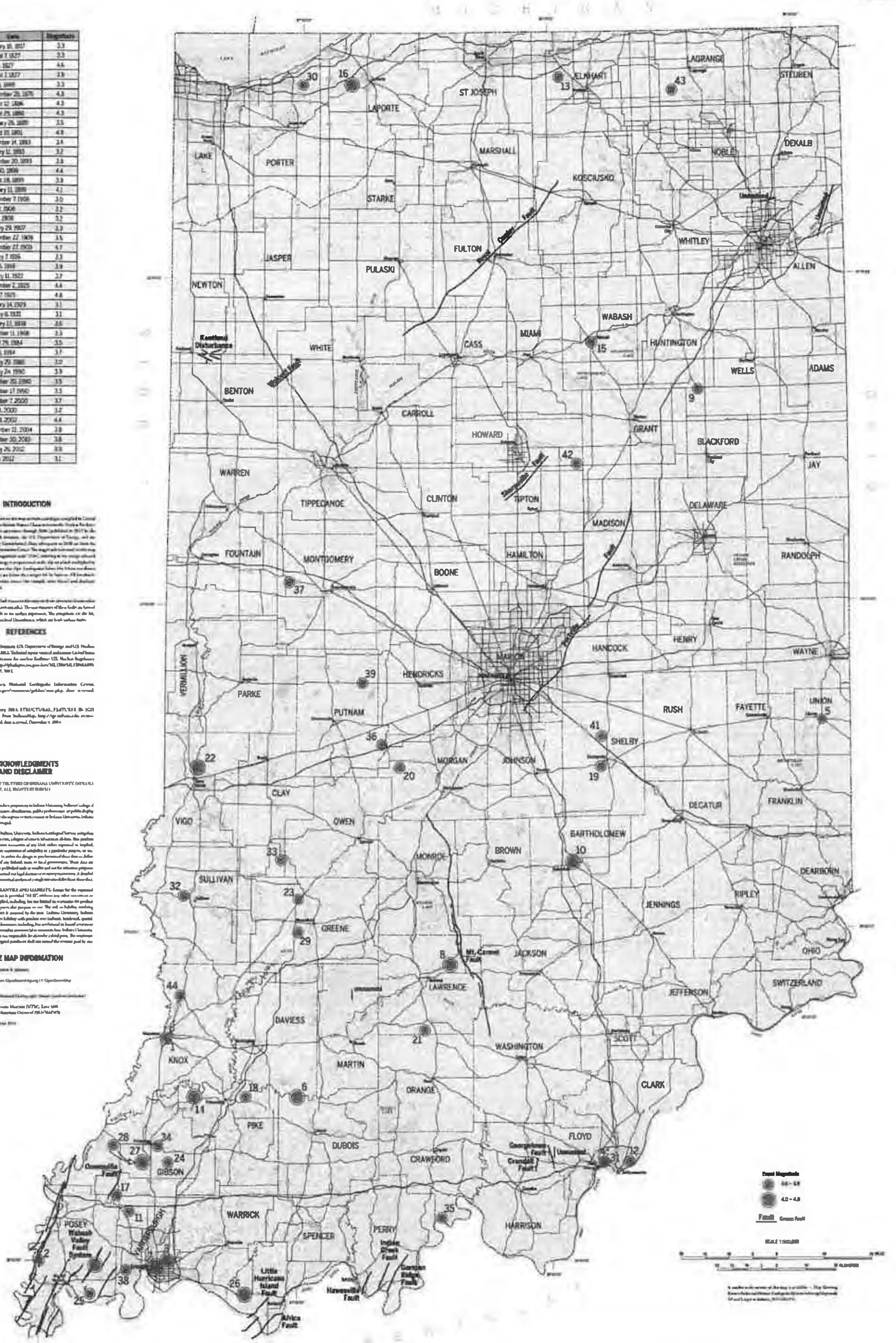

Exhibit A

IndyStar.

NOBLESVILLE

Noblesville to develop land at old Firestone tire plant where toxins are buried

John Tuohy
Indianapolis Star

Published 5:08 a.m. ET Dec. 27, 2022

A vacated Firestone tire plant property in Noblesville is ready for development after more than a decade of environmental clean-up and testing — but city officials aren't ready to say what will be built there.

Bridgestone Americas Tire Operations recently donated most of the property at 1700 Division Street to the city, which had been in talks to acquire it since the plant closed in 2009.

Deputy Mayor Matt Light said at a City Council meeting this week that the city is considering putting a municipal building or something for a non-profit on the property but did not elaborate. Because of underground contamination at the site, it can only be used for industrial or commercial projects, not homes or apartments.

Noblesville officials declined to elaborate on possible development at the site but issued a joint statement with Bridgestone saying "several ideas have been discussed regarding the future use of the property."

"Our final decisions will be made until further analysis can be performed and community conversations can take place about highest and best use going forward," the statement read.

Illuminating: Carmel plans $2M light show on Palladium instead of water tower. Here's when it's live

Mayor Chris Jensen declined a request for further comment.

It will be the city's third try at developing the land just east of downtown, which was demolished after Firestone closed and moved 300 jobs to Mexico.

Exhibit 14

In 2014, former Mayor John Ditslear announced plans for a dog park. In 2017, he said a $14.1 million new police headquarters was a possibility.

Neither of those plans advanced and the U.S. Environmental Protection Agency has been supervising soil testing since then.

City Councilor Greg O'Connor described the vacant land as a "blight on the landscape," and said a police station or public safety facility is still in play.

"We'd want to make sure the employees feel comfortable there, that there are no environmental issues," said O'Connor, who has been involved with the effort to acquire the property since the plant closed.

A senior activity center has also expressed some interest in moving there, O'Connor said.

The city would likely choose a development that best fits with the ongoing $113 million rebuilding of Pleasant Street, which is expected to increase property values along the corridor.

"A consideration will be, 'What do you want the corridor to look like?" O'Connor said.

O'Connor said the city would be leery of putting any heavy industry there but that no developers have yet approached about commercial developments. A multi-use apartment/commercial/retail structure — most favored by developers — obviously can't be considered because of the restriction on housing, he said.

Firestone made air springs for trucks and buses, using potentially cancer-causing PCBs (polychlorinated biphenyls), which were banned domestically in 1979. The PCBs leaked from overhead condensers into the ground and seeped into nearby Wilson Ditch and Stony Creek, which were cleaned under EPA supervision.

The factory, built in 1936, also buried large drums of burned trash, rubber, solvent-based cement, sulfuric acid, limestone and cyanide waste under 17 acres of the 70-acre site. The 7,700 barrels are still buried and will remain deep underground because attempting to excavate them would risk leaking, the EPA said in 2017.

The EPA said then that a couple of years more of testing the soil was needed before the site could be developed. O'Conner said that has been completed. "It's as clean as it's ever been," he said.

Representatives of the EPA, Bridgestone and Noblesville did not respond to inquiries about the status of the clean-up and soil monitoring.

Development of the property would be where the since-demolished factory stood, not the landfill where the drums are buried, O'Conner said. Bridgestone still owns the landfill portion and is responsible for its continued testing, he said.

Light told the council "extensive" environmental testing had been done and officials were "confident of the safety of the site going forward." He also said the city sought legal advice on protecting it from liability and wanted to build something "for the benefit of the community."

Call IndyStar reporter John Tuohy at 317-444-6418. Email at john.tuohy@indystar.com and follow on Twitter and Facebook.

AFFIDAVIT OF CHRISTOPHER DEVORE

I, Christopher DeVore, being first duly sworn upon my oath, state the following:

1. I am an adult of sound mind, and make the statements in this affidavit based upon my personal knowledge.

2. I am a licensed realtor.

3. I assist clients with buying and selling homes in central Indiana including Madison, Hamilton, Hancock, and Boone counties.

4. Selling homes in the Town of Lapel would be difficult if a junk yard is located nearby.

5. Home values in the Town of Lapel would be negatively impacted if a junk yard is located nearby.

6. A junk yard in a community like the Town of Lapel is likely to dissuade residents from moving into the town and make prospective homebuyers more likely to seek homes in nearby Hamilton County.

7. A junk yard in the Town of Lapel is also likely to discourage housing developers from building homes in Lapel.

I AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FOREGOING REPRESENTATIONS ARE TRUE.

Date: 9-15-2023

Christopher DeVore

STATE OF INDIANA)
) ss:
COUNTY OF Hamilton)

SUBSCRIBED AND SWORN to before me, a Notary Public, in and for said County and State, this 15th day of September, 2023.

Jessica O. Smith
Notary Public, State Of Indiana
Madison County
Commission Number NP0727707
My Commission Expires
07/06/2028

Notary Public

My Commission Expires: 7/6/28

Resident of Madison County

Exhibit 15

September 18, 2023

Lapel Board of Zoning Appeals
825 N. Main Street
Lapel, Indiana 46051-0999

RE: BZNA Application No. BZA-2023-01

Dear Lapel Board of Zoning Appeals:

We are a group of real estate professionals who practice in Madison County, including Lapel and surrounding areas. We are aware of the aforementioned application where Petitioner, LKQ Midwest Inc., is seeking permission to operate a junk yard in Lapel. It is our professional opinion that construction of a junk yard along the southern most ingress corridor into Lapel will substantially impact property values in a negative way.

Not only will homes have to be priced lower to become attractive to buyers willing to live near a junk yard, but convincing potential residents that Lapel is an attractive place to live, work, and play will be extraordinarily difficult, if not impossible, if there is a junk yard constructed next to the main corridor into and out of the town.

As a group of realtors servicing clients who are new to the area as well as long time residents who have had family ties to the area for over a hundred years, the potential environmental hazards posed by a junk yard operation of this magnitude are insurmountable when competing against neighboring municipalities such as Pendleton and Noblesville. It is our professional opinion that not only will the construction of a junk yard bring a negative connotation to the Town of Lapel, but that this negative connotation, founded or unfounded, will create a public perception translating into slower home sales, lower home prices, and a lack of desirability to reside in Lapel.

For these reasons, we believe the BZA should DENY the applicant's request for a special use.

Sincerely,

Barry W. Teter

Printed: /S/ Barry W. Teter

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

September 15, 2023

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For these reasons, we believe the BZA should DENY the applicant's request for a special use.

Sincerely,

Stephanie Evelo

Printed: Stephanie Evelo

Michelle Frazier

Printed: Michelle Frazier

Printed: Derek Evelo

Printed:

Printed:

Printed:

Printed:

Printed:

September 15, 2023

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825 N. Main Street
Lapel, Indiana 46051-0999

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For these reasons, we believe the BZA should DENY the applicant's request for a special use.

Sincerely,

Authentisign
Kelly Wood 09/15/2023
9/15/2023 6:07:40 PM CDT

Printed: Kelly Wood

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

Printed: _____

External Obsolescence if a major factor in market value appraisals. Not only for selling purposes but also for financing. Homes in close proximity to junkyards and industrial properties suffer from significant external obsolescence. The presence of this type of property severely limits the buyer pool in any sale situation.

As for financing. The location of a property next to this type of industrial property would be difficult to value in an appraisal for financing. Many appraisers will simply turn down work on homes that are next to industrial land and many lenders will not loan on properties that are subject to this type of external obsolescence.

Certified Residential Appraiser

Robert W Allard

Indiana Clean Yards

What is the "Indiana Clean Yard" Program?

The Indiana Clean Yard program recognizes auto salvage recyclers who make sure that the environment and their communities are protected from pollution. There are two levels of recognition: Indiana Clean Yard, and Indiana Clean Yard Gold Level.

How do I become an Indiana Clean Yard?

The first step to become an Indiana Clean Yard is for the owner or operator to conduct a self-audit of the facility using the Auto Salvage Recyclers Environmental Self-Audit Workbook [PDF] (/idem/waste/files/waste_auto_salvage_workbook.pdf), and fix any issues found. Then, the owner or operator can submit the Auto Salvage Recyclers Environmental Self-Audit Checklist and Certification Statement (both available on the IDEM Agency Forms (/idem/forms/idem-agency-forms#olq_auto) page). IDEM will review the forms and schedule a site visit to verify that your facility follows environmental regulations, has necessary licenses and approvals, and has an effective recycling program. If IDEM finds no issues during the review and site visit, we will present you with the Indiana Clean Yard Award.

What are the benefits of being an Indiana Clean Yard?

- You will receive a logo that identifies you as an Indiana Clean Yard for your use on letterhead, signs, paperwork, etc.
- You will receive an Indiana Clean Yard certificate signed by the commissioner of IDEM.
- You will receive a counter mat that you can use to advertise your status as an Indiana Clean Yard.
- IDEM will issue a press release to local newspapers announcing that you received an Indiana Clean Yard award.
- Your name will appear on this website and be made available to citizens and local government agencies who call IDEM looking for environmentally friendly auto salvage recyclers.
- You will have a reduced inspection priority.
- You will be ready to respond quickly and adequately to a complaint inspection.
- If you decide to sell your business or the land on which you have been operating, the certification may help with the sale.

Exhibit 17

- You will have confidence that you are doing the right thing by protecting the environment.

What is Indiana Clean Yard - Gold Level?

Indiana Clean Yard - Gold Level is a higher level of recognition for auto salvage recyclers that meet the criteria to be an Indiana Clean Yard, and make a greater commitment to environmental protection. This is achieved by using Best Management Practices (BMPs) and having a Storm Water Pollution Prevention Plan (SWPPP). IDEM uses a checklist to evaluate the BMPs when you apply for Indiana Clean Yard Gold Level.

To be considered for Gold Level, check the box on the Auto Salvage Recyclers Certification Program Certification Statement and write "Gold Level" under the box to indicate your interest. An IDEM representative will contact to you to schedule a visit and review any BMPs you have put in place. IDEM will also evaluate your SWPPP. A score of 75% or better on the BMP checklist and a complete SWPPP will qualify you for Gold Level Status. Indiana Clean Yard Gold Level award winners receive all the benefits listed above for Clean Yards. Additionally, the commissioner of IDEM will present your award, and IDEM will issue a media advisory inviting local press to be present.

When does my award expire?

Your Indiana Clean Yard Gold Level award expires two years after receipt.

Congratulations to the following auto salvage recyclers who have received the Indiana Clean Yard Gold Award!

- **Car Recyclers (2017 - 2023)**
  - 13685 N SR13, North Manchester, IN 46962

- **Metro Auto Recyclers (2010 - 2020 and 2021-2023)**
  - 2155 W. Lincolnway, Valparaiso, IN 46385

- **Metro Auto Recyclers (2021-2023)**
  - 1724 Roosevelt Avenue, Indianapolis, IN 46218

- **Northlake Auto Recyclers (2009 - 2023)**
  - 105 Industrial Road, Hammond IN 46320

- **Pull-A-Part (2009 - 2017, 2018 - 2024)**
  - 2505 Producers LN, Indianapolis IN 46218

- **Ray's Auto Parts (2017 - 2025)**
  - 9653 S. State Road 19, Amboy, Indiana 46911

- **U-Pull-&-Pay LLC (2017 - 2023)**
  - 940 West 16th Street, Indianapolis, Indiana 46202

- **Veldman's Auto Parts (2016 - 2024)**
  - 25926 State Road 2, South Bend, IN 46619

Congratulations to the following Indiana Clean Yard winners

- **Go Green Auto LLC (2019-2025)**
  - 1341 West 29th Street, Indianapolis, IN 46208

- **Kowalski Auto Parts City (2013 - 2023)**
  - 25958 Western Ave, South Bend, IN 46619

- **Mike's Auto Salvage & Towing (2013 - 2023)**
  - 1732 E. McKinley Highway, Mishawaka, IN 46545

- **Ray's Auto Parts (2012 - 2017)**
  - 9653 South State Road 19, Amboy IN 46911

Previous Winners

- **Adkins (2009 - 2016)**
  - 1010 North Main Street, Martinsville IN 46151

- **Legal Chop Shop (2013 - 2017)**
  - 2532 Goshen Road, Fort Wayne, In 46808

- **Wrights Auto Parts (2010 - 2016)**
  - 4881 Old State Road 46, Nashville IN 47448

I Want To

- Find grants & loans information(/idem/resources/funding)
- Find public notices(/idem/public-notices)
- Find a job with IDEM(/idem/jobs)
- Know where I can recycle(/idem/recycle/where-to-recycle)

Online Services

- Acronyms List(/idem/about/idem-acronyms)
- Electronic Permitting(/idem/resources/e-services/regulatory-services-portal)
- IDEM Forms(/idem/forms)
- Online Air Permit Search(http://www.in.gov/ai/appfiles/idem-caats)
- Real-Time Monitoring(/idem/airmonitoring/air-quality-data)
- Virtual File Cabinet(/idem/legal/public-records/virtual-file-cabinet)

- Wastewater Certification Renewal(https://mylicense.in.gov)
- More IN.gov Online Services(http://www.in.gov/services.htm)
- IN.gov Subscriber Center(http://www.in.gov/subscriber_center.htm)

ⓘ Top FAQs

- Do I need to remove asbestos? (https://faqs.in.gov/hc/en-us/articles/360000389903-Do-I-need-to-remove-asbestos-)
- Who can I contact with questions about asbestos regulations? (https://faqs.in.gov/hc/en-us/articles/360000389166-Who-can-I-contact-with-questions-about-asbestos-regulations-)
- How can I find a licensed asbestos contractor or building inspector? (https://faqs.in.gov/hc/en-us/articles/360000389146-How-can-I-find-a-licensed-asbestos-contractor-or-building-inspector-)
- Do I need an asbestos license? (https://faqs.in.gov/hc/en-us/articles/360000389126-Do-I-need-an-asbestos-license-)
- Where can I find the notification form that is required for the demolition/renovation of a facility? (https://faqs.in.gov/hc/en-us/articles/360000389863-Where-can-I-find-the-notification-form-that-is-required-for-the-demolition-renovation-of-a-facility-)
- Where can I recycle?(https://faqs.in.gov/hc/en-us/articles/115005043587-Where-can-I-recycle-)

More FAQs (https://ingov.zendesk.com/hc/en-us/sections/115001504468-Environmental-Management-Department-of)

CLAIM FOR PAYMENT FOR MERCURY SWITCHES FROM END-OF-LIFE VEHICLES

State Form 53238 (R5 / 1-18)
Approved by State Board of Accounts, 2018
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

INSTRUCTIONS:

1. *Use this form to request payment for mercury switches removed from end-of-life vehicles under IC 13-20-17.7.*
2. *Print or type all requested information. Sign and date the certification. IDEM will verify the number of switches shipped with the End of Life Vehicle Solutions (ELVS) / US Ecology database. State reimbursement will be based upon the certified number in the ELVS / US Ecology database.*
3. *Mail the form to Indiana Department of Environmental Management, Office of Program Support, Mercury Switch Program, 100 North Senate Avenue, IGCN N1316, Indianapolis, IN 46204-2273.*
4. *If you have not already done so, you must submit an Automated Direct Deposit Authorization Agreement Form (State Form 47551) and Request for Taxpayer Identification Number and Certification Form (IRS W-9) to IDEM.*
5. *For more information or for help completing your claim, contact IDEM's Office of Program Support at (800) 988-7901.*

Claim Number: *(IDEM Use Only)*	MS – –

COMPANY INFORMATION *(Remittance to Address)*		
Name of company		
Address *(number and street)*		
City	State	ZIP code
Contact person		Telephone number ( )

PROJECT SITE INFORMATION AS REFERENCED BY ELVS / US ECOLOGY DATABASE *(Physical Site Location)*		
Name of company		
Address *(number and street)*		
City	State	ZIP code
Contact person		Telephone number ( )

Vehicle salvage license number (from Bureau of Motor Vehicles)	
Number of mercury switches or switch pellets removed and shipped to recycler in this container	
Number of ABS G-Force sensors removed and shipped to recycler in this container	
Date this container of mercury switches was shipped to the recycler / ELVS *(mm/dd/yyyy)*	

Certification by company official *(Claim cannot be paid without valid signature.)*

All convenience switches and ABS G-force sensor switches that were removed and sent for recycling and for which reimbursement is requested in this claim contain mercury. I certify that the information I have provided in this claim is true and accurate to the best of my knowledge.

Signature	Print name
Title	Date *(mm/dd/yyyy)*

IDEM USE ONLY	
ELVS / US Ecology invoice date *(mm/dd/yyyy)*	Approved to pay:
Date processed *(mm/dd/yyyy)*	Approved by:
Requisition number	Purchase order (PO) number
Invoice number	Received number

Exhibit 18

INDIANA CLEAN YARD CERTIFICATION STATEMENT

State Form 53766 (R / 1-17)

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
ASSITANCE AND OUTREACH BRANCH
OFFICE OF PROGRAM SUPPORT
100 North Senate Avenue
Indianapolis, IN 46204-2251

INSTRUCTIONS: 1. Complete the Auto Salvage Recyclers Environmental Self-Audit Checklist (State Form 53765).
2. Sign and mail this form (State Form 53766) along with Auto Salvage Recyclers Environmental Self-Audit Checklist (State Form 53765) to the address at the upper right.

AUTHORITIVE STATEMENT

1. I _____, hereby certify to the following:

I) That I have personally examined and am familiar with the information contained in this submittal, including any and all documents accompanying this certification statement.
II) That, based on my inquiry of those individuals responsible for obtaining the information, the information contained in this submittal is, to the best of my knowledge, true, accurate and complete.
III) Those systems to maintain compliance are in place.
IV) That I am fully authorized to make this attestation on behalf of this facility.

I certify that the information I have provided in this form is true, accurate and complete, to the best of my knowledge.

Signature	Date (*month, day, year*)

Printed Name	Title

2. Source of Signatory Authority:

If a Corporation: ☐ **President** ☐ **Secretary** ☐ **Treasurer**
☐ **Vice President** (*If authorized by corporate vote.*)
☐ **Representative of the above** (*If authorized by corporate vote and if responsible for overall operation of the facility.*)

If a Partnership: ☐ **General Partner**

If a Sole Proprietorship: ☐ **Owner / Proprietor**

INDIANA CLEAN YARD PARTICIPATION

3. Please indicate the level of Indiana Clean Yard recognition for which you are applying:

☐ Indiana Clean Yard

☐ Indiana Clean Yard Gold

Exhibit 19

LETTER #4

Oksana Polhuy <oksana@lapelindiana.org>

Request for these February minutes to be emailed to BZA for review

1 message

Stephanie Evelo <stephanieevelo@gmail.com> Tue, Oct 3, 2023 at 9:18 AM
To: oksana@lapelindiana.org
Cc: Derek Evelo <derek@eveloteam.com>

Derek and Stephanie Evelo, owners at 3054 Hickory Lane in Lapel, IN 46051
Would like to request that these minutes and email is emailed to all of the BZA members of the committee to be reviewed.

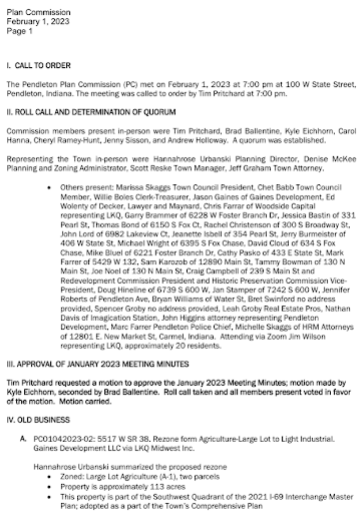
We think it's important that it's noted all of the reasons and questions and concerns that were brought up within the leader ship and community members in Pendleton, Indiana.

Also note, there was a unanimous vote from all of the planning committee to recommend this project, as "unfavorable" to their town council.
It is further noted that it was never even voted on in the council and the project request stopped there.
Therefore, we would ask our leadership to consider "why is Lapel considering this project when Pendleton and Anderson have both turned it down"?

We believe Lapel is a very special community and should proceed with special caution.

We highly recommend that LKQ is not permitted to locate in the proposed 100 acres yet they can pursue another location elsewhere for the sake of our special Lapel community.

Lapel is just as precious as Pendleton and should be taken under consideration likewise For all the reasons Pendleton community leaders and citizens considered it unfavorable, Lapel should consider it the same as unfavorable…. and for even more reason… our sacred water source.



Plan Commission
February 1, 2023
Page 1

I. CALL TO ORDER

The Pendleton Plan Commission (PC) met on February 1, 2023 at 7:00 pm at 100 W State Street, Pendleton, Indiana. The meeting was called to order by Tim Pritchard at 7:00 pm.

II. ROLL CALL AND DETERMINATION OF QUORUM

Commission members present in-person were Tim Pritchard, Brad Ballentine, Kyle Eichhorn, Carol Hanna, Cheryl Ramey-Hunt, Jenny Sisson, and Andrew Holloway. A quorum was established.

Representing the Town in-person were Hannahrose Urbanski Planning Director, Denise McKee Planning and Zoning Administrator, Scott Reske Town Manager, Jeff Graham Town Attorney.

- Others present: Marissa Skaggs Town Council President, Chet Babb Town Council Member, Willie Boles Clerk-Treasurer, Jason Gaines of Gaines Development, Ed Wolenty of Decker, Lawyer and Maynard, Chris Farrar of Woodside Capital representing LKQ, Garry Brammer of 6228 W Foster Branch Dr, Jessica Bastin of 331 Pearl St, Thomas Bond of 6150 S Fox Ct, Rachel Christenson of 300 S Broadway St, John Lord of 6862 Lakeview Ct, Jeanette Isbell of 354 Pearl St, Jerry Burmeister of 406 W State St, Michael Wright of 6395 S Fox Chase, David Cloud of 634 S Fox Chase, Mike Bluel of 6221 Foster Branch Dr, Cathy Pasko of 433 E State St, Mark Farrer of 5429 W 132, Sam Kamzeb of 12690 Main St, Tammy Bowman of 130 N Main St, Joe Noel of 130 N Main St, Craig Campbell of 239 S Main St and Redevelopment Commission President and Historic Preservation Commission Vice-President, Doug Hineline of 6739 S 600 W, Jan Stamper of 7242 S 600 W, Jennifer Roberts of Pendleton Ave, Bryan Williams of Water St, Bret Swinford no address provided, Spencer Groby no address provided, Leah Groby Real Estate Pros, Nathan Davis of Imagication Station, John Higgins attorney representing Pendleton Development, Marc Farrer Pendleton Police Chief, Michelle Skaggs of HRM Attorneys of 12801 E. New Market St, Carmel, Indiana. Attending via Zoom Jim Wilson representing LKQ, approximately 20 residents.

III. APPROVAL OF JANUARY 2023 MEETING MINUTES

Tim Pritchard requested a motion to approve the January 2023 Meeting Minutes; motion made by Kyle Eichhorn, seconded by Brad Ballentine. Roll call taken and all members present voted in favor of the motion. Motion carried.

IV. OLD BUSINESS

A. PC01042023-02: 5517 W SR 38, Rezone form Agriculture-Large Lot to Light Industrial. Gaines Development LLC via LKQ Midwest Inc.

Hannahrose Urbanski summarized the proposed rezone

- Zoned: Large Lot Agriculture (A-1), two parcels
- Property is approximately 113 acres
- This property is part of the Southwest Quadrant of the 2021 I-69 Interchange Master Plan; adopted as a part of the Town's Comprehensive Plan

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- Proposed Use: LKQ is a global distributor of used vehicle products. Per PC comments from January meeting, the warehouse would be along SR 38 set back behind future commercial/retail out lots (marked as future development). The remaining area of the property would be used as the stone storage yard
- Warehouse would be approximately 229,400 sq. ft with an approximately 70-acre stone yard
- On-site detention will retain existing natural tree line along western property border. Other locations of existing natural spaces on-site will be retained where feasible
- Bufferyards, berms and solid metal fencing will be used around entire property
- Will also require BZA approval for outdoor storage (contingent upon rezone approval)
- Photos were provided per January PC request of current LKQ facilities near residential areas and highways landscape renderings

Hannahrose Urbanski provided the Staff Analysis:

- Property is located within the 2021 I-69 Interchange Master Plan Southwest Quadrant. This area is conceptually planned for residential (south) and a portion of the Keystone Development District (north along SR 38)
- Property includes a portion of the conceptual 146th Street Extension project, which is slated to be a secondary arterial classification. It also touches the 67th Street Extension project from Anderson that stops at SR 38
- Fits size and access requirements for a Light Industrial lot. Will require coordination and engineering with INDOT for driveway cuts and spacing. The Town's 2021 Access Management Plan allows for two driveway cuts for this type of use and parcel size
- Parcels to both the east and west along SR 38 are zoned General Business (GB)
- Petitioner has company policies in place for meeting EPA standards for hazardous material disposal/recycling and proposes to have all auto servicing activity take place inside the warehouse structure

Hannahrose Urbanski provided the Planning Commission Recommendation, based on Indiana Code and the Town of Pendleton's Unifies Development Ordinance, consider the following:

- The Comprehensive Plan
- Current conditions and the character of current structures and uses in each district
- The most desirable use for which the land in each district is adapted
- The conservation of property values throughout the jurisdiction
- Responsible development and growth
- Commission can vote to recommend: Neutral; with or without conditions, Favorable; with or without conditions, Unfavorable; with or without conditions, or to Continue
- Next steps: Upon receiving the Planning Commission recommendation, Town Council will vote for adoption/denial of the proposed zone change at the February 9, 2023 meeting or continue and have up to 90 calendar days to vote

Hannahrose Urbanski asked for questions:

- Kyle Eichhorn requested clarification that a variance would be needed from the BZA for automobile and vehicle storage as conditional use in Light Industry. Urbanski confirmed. Eichhorn stated it also mentions no junk. Urbanski indicated it as salvage. Eichhorn pointed out the definitions from the UDO that inoperable vehicles are defined as junk. Would this also be given a variance. Urbanski affirmed.

Chris Farrar presented the three requests from the Plan Commission from the January Meeting:

- Updated elevations
- Accommodating the outparcel
- Showing current facility neighboring residential

Chris Farrar then reviewed the LKQ Presentation that was presented at the January Meeting.

Tim Pritchard asked the Board for questions or clarifications:

- Carol Hanna asked for Farrar to explain how this site was selected and why it is considered the perfect location for LKQ. Farrar responded that they look at an area and determine location logistics, topography, potential employee base, price, and interstate access. This property checks off all these components.
- Jeff Graham raised concerns of the Planning Staff and potentially others: typically, on a zoning change it is usually all-or-nothing; if zoned as Light Industrial then it's Light Industrial for everybody. Zoning stays with the land. Ways to alleviate concerns with that are commitments made by Petitioner as far as what the project will look like as a condition of the zoning being changed. Would the Petitioner commit to the project being substantially similar to the document that have been provided to the Town? Farrar agreed that would be the case, and that is why they provided the photos of newer facilities like Denver and Salt Lake City. He indicated that their screening renderings along the interstate might look slightly different based on the size of the trees, and that they would strive to preserve every tree possible. Farrar reiterated that what LKQ has presented is what LKQ is committed to; they stand behind their word.
- Carol Hanna referenced the conditional uses from the ordinances, the concern is that commercial use for auto/vehicle storage says no junk or salvage, this is only listed under the Heavy Industrial District that there are conditional uses for automotive storage, junk and damage storage yard facility. Hanna acknowledged the negative connotation associated with the verbiage but noted the ordinance definition is reclaimable material, inoperative vehicles in the process of being dismantled. Farrar stated that he understood and that he read it the same way. He said it could be a matter of zoning Heavy Industrial instead of Light Industrial. They would follow the guidance of the Town.
- Brad Ballentine inquired how many vehicles would be held in the gravel yard for processing. Chris Farrar was uncertain as to the exact number, and offered to provide that at a later time. Tim Pritchard said 5,000 - 7,000, based on prior presentation. Ballentine asked about security for the storage yard. Farrar said there have been some issues of theft at some of the older facilities, and they are in the process of securing third party security company. Farrar stated there would be security at the Pendleton facility.
- Jenny Sisson asked if alternative sites have been considered. Chris Farrar answered affirmatively, but this site checks most of the boxes.

Tim Pritchard opened up for questions or discussion from those residing in the immediate area of the proposed facility:

- John Higgins representing Pendleton Development; approximately 100 acres immediately to the west of proposed site. Stated his client's unequivocal objection

based on the time and money spent by the Town forming the Master Plan. This facility is completely incompatible with a residential use; Higgins referenced photos provided of current facility in residential areas. He provided actual photos from Google Street Map showing a road view, which show the visibility of the cars in the storage yard.

- Jerry Burmeister representing the Historic Fall Creek, Pendleton Settlement, Inc. read a statement of objection (available on Google Drive).
- Tim Pritchard presented statements of objection from: Anderson Madison County Visitors Bureau, Mystic Waters Campground, Community Sports & Wellness Center, Card Associates Athletic Facilities LLC, residents Jennifer and Jeff Blake (available on Google Drive).
- Jeanette Isbell acknowledged that LKQ seems to be a fine company and has no issues with them specifically, however this facility is not a good fit for the vision of the Town and especially located at the gateway into the Town.
- Doug Hineline objected based on concerns of excessive light pollution and that it is ridiculous that this facility is even being considered, as it does not even fit as Light Industrial.
- Nathan Davis objected and agrees that this does not fit for the Town's gateway, and the potential for theft spreading into the nearby residential area.
- Craig Campbell objected in agreement with previous comments. He also stated that the RDC worked hard on the Master Plan with Kimley Horn, one of the country's top organizations; they did trend work, research and numerous focus groups. Campbell has no issue with the company itself and finding a different location, but the proposed site is not the right place.
- Garry Brammer acknowledged the significance of this company's investment in the Town. His concern is what other companies would this attract instead of nice houses or retail strip malls, and the gain / loss of tax revenue of those situations.
- John Lord expressed agreement with expressed concerns. He asked if the Board knows of issue or concerns from other towns that have a current facility; Plainfield, Avon. Lord stated concern over environmental impact citing six million dollars of EPA fines based on a Google search, and the effect this might have on the residential area.
- Dave Cloud asked if LKQ has a wildlife mitigation plan as this site may be attractive to coyotes and other critters. Chris Farrar said they do not.
- Jan Stamper informed that her property butts right up to the site and she does not want to see something like this out there. She expressed concern that the high-end homes' value may be degraded. Stamper also expressed concern over the traffic pattern.
- Mike Bond asked if there is a performance bond of some kind in the event this business closed, that they would be responsible for cleanup. His concern was that this can end up being a huge expense and problem for the community. Bond asked, if this was approved, could there be an underground barrier to prevent leeching down into the soil to prevent contamination to the ground and wells. He asked if in-bound transports are ever considered HAZMAT, and if so, he is concerned these coming through town. Bond asked if conditional approval can be granted so that it has to be what the plan is now. Overall, he objects to the project, but wanted to ensure these things are being considered.
- Tim Pritchard asked Marc Farrer about HAZMAT coming through town versus interstate. Farrer said routes are established by the State based on what is on the

truck and the daily traffic. Hannahrose Urbanksi stated that truck routes should not go through town because State Street is no longer a state road, however they often do if they know the area.

- Jason Gaines expressed appreciation for all the people that showed up; he wants feedback. He really wants what is best for the town, he has lived here for a long time. Regardless of what happens here tonight, he wants what is best for the town. He has heard from the comments that residential is what's wanted. Gaines thought this company was a good fit for several reasons, it's a nice small building, good landscaping, but the idea of car carcasses / skeletons does not sound good even though they are lined up. But, you don't see them or smell them or taste them, but you know they're in there, like the prison. Gaines does not really like having a prison here, with a couple thousand people we may not really like, but we do not see them. Gaines said that he does not know what is best for them, he is asking them for guidance, the residential is fine with him, but when LKQ came along with a small owner-occupied building and the large berm, and when driving on the interstate it is hard to look and see any of that. He gets that the entrance way is important, but there are three other corners and for some reason it is up to the Gaines Family to put something really nice there. Gaines said he did not know or realize if he was in a historical district, he did not realize that was a concern. He knew this was going to be a small building and they would use all of the property, but then the alternative is residential which is what we all want. Gaines thought the traffic flow from the facility was good and minimal compared to something like a Starbucks. Also, positive points were high wage jobs and no tax abatements. On the flip side if we want residential for 110 acres, there could be several hundred houses and would have thousands of cars driving in and out of there, opposed to the minimal traffic from the facility. It would be great for the Town; new kids in the school, affordable housing, more diversity, but the traffic. Gaines addressed concerns about lighting, but adding a couple hundred houses, and the Urbahn's development and a couple more hundred houses and the population will grow real quick and driving out to the highway or into Town will take a while. Executive homes have been talked about, and he is all for that, but cannot find anyone interested in building that kind of home. So, we need to make a big decision in the Town that we can go with something like this with low traffic and high taxes and employment, and an attractive building with hopefully a nice fence line. If houses are put there, we will see a lot of light and a lot of people driving up and down 38 and 600 with new people. A member of the audience asked if it could stay farm. Gaines said in a perfect world, he would leave it as a farm, but it will not pay nearly as high. He needs to know what everyone wants, but we need to make a commitment. Gaines stated that people are comparing older buildings that LKQ purchased, which are not so attractive, and not as eco-friendly. Gaines said he thought this was a much cleaner, expedited project than having continuous construction from building house on his and Urbahn's property. Tammy Bowman addressed Gaines stating that this plan which was cast by this body is 18 months old, it is new and has not been marketed and we have not heard as a community from you and what your vision is for your property. She requested that this body give this plan a chance. It is a good plan, the community believes in it, we built it, we can make everybody happy but it will take longer than 18 months. Gaines questioned if the Fosters Branch residents want the long period of construction. A member of the audience stated the plan is a long-range plan, with mitigating traffic plans. Gaines stated that he is open to other ideas, and he thought that LKQ was a good deal and a fine company, and they worked hard with the planners.

- Craig Campbell stated that when the RDC focused on the business park, which is the TIF District, it was decided to move away from the industrial side of what was going in out there, and to move toward more professional things, such as medical, legal. We did not want to continue with industrial. Campbell also noted there was never discussion of low income or affordable housing.
- Sam Carosis, the realtor working with Gaines, based on research information, there is no demand for executive housing in this spot in Pendleton. Developments would need to happen in Fortville and McCordsville before it would be in demand here. Carosis claimed an estimate of housing on 114 acres would be upwards of 400 houses, lower income houses with higher density have 12-15 per acre, which would be well over 1,000 family units. The Plan Commission has the authority to make conditions on things such as lighting and wastewater. This is a company that partners with the community. Another benefit is that this is an end-user development, which normally does not exist in Indiana development. Most development is speculative development, with a build it, they will come focus. Conditions cannot be made on those developments, and tenants can change frequently. Carosis spoke to the tax base that is an annual number that would be added to the tax base; improvements to the fire department, police department, school system without adding families to those schools. This is a positive impact for everyone if we can get past stripping down cars and see how this company operates. You can absolutely apply conditional approvals and hold them to it.
- Leah Groby commented on all the speculation, there is not enough information to make a decision on what the land should be. She also commented on the visibility of all the parked car frames from the bridge across the interstate, and does not think this is necessarily what we want. Groby referenced the Comprehensive Plan and the promise of small-town charm and bold modern thinking.
- Marc Farrer questioned Chris Farrar, what are the work shifts, are there tow trucks out there at night beeping, do the car shells contain any wiring, upholstery. Farrar said shifts are 8-5, there are no trucks in and out at night, and there are no combustible materials left on the frames. Farrer stated that light pollution is also important. Is this something that would be clarified tonight, all the conditions? Tim Pritchard said that would not necessarily be done tonight.
- Online comments: Marilyn Bluel, Kelly Rahl agreed with previous statements of objections regarding environmental issues.
- Michelle Skaggs addressed the audience. She stated that she grew up in Pendleton and her dad still lives here. She said she lives in Fishers because there is nothing for her to do around here; there's not a lot here. But on the weekends, she brings her kids down here when it's nice. She would not present something here that she did not think was good. Because she is in Fishers, she can see that it is coming. Pendleton has an opportunity to do something with this land, where no realtor has contacted Gaines about anything residential. She stated that the land up the interstate in Fishers has been purchased and is going to be residential, but apartments, condos and lots of them. Her fear is that they have an opportunity, and if the Town waits to see what this should be, then when everything comes here, there will be no LKQ because they will go to another town, close to here, and those 80 employees will go to that town's restaurants, boutiques. The people here with businesses will continue to suffer. Skaggs said to those who have strongly opposed this project, have you considered all the information and done your research. A month ago, hardly anyone came here, even those who received notices, because no

one was concerned. It could have been passed last month, but the Board wanted more pictures. Pendleton has an opportunity. If you do not want to jump on it, so be it. But these fields will not last much longer. She does not want the tiny homes, condos and apartments to take over Pendleton. As far as the EPA, sure they have been fined. What happens when they buy a company that is a junk yard and clean it up? Does that happen in year one? No. If they cannot get it cleaned up, they get it closed. Why do you think they are building these new facilities? So it can be a clean facility and they go above and beyond what the EPA requires. She challenged the short-sightedness of the audience and said to be open and consider something because this is probably the best thing you will get.

- Denise McKee clarified the process for the Board as they consider their decision: this evening they have an opportunity to vote Neutral, Favorable, or Unfavorable. It can also be continued. If you vote Neutral, Favorable, or Unfavorable it will go to Town Council. It does not require a Favorable vote to go before Town Council. They can then take your certified recommendation and make a decision on this rezone application. McKee noted additional Plans that are in their shared drives for their review and comparison in relation to this proposal. Mckee stated if this moves forward and is passed by Town Council without any commitments, this will be the last opportunity for this Board to place any conditions on the zoning change. If LKQ would decide not to purchase the land, it would remain Light Industrial as passed. A primary plat would not be submitted, this is a commercial piece of land that would only require a site development plan, based on a UDO passed in 2021.
- Carol Hanna asked for clarification that the decision at hand is strictly on the zoning. Denise McKee confirmed.
- Chris Farrar followed up on earlier concerns regarding issues at older facilities, and assured that those issues will not apply to a new facility. There is no comparison.
- Jim Wilson representing LKQ commented on the older facilities, and that any EPA fines are not related to any of the newer facilities.
- Tim Pritchard commended Chris Farrar on a nice presentation and what appears to be a nice company. He appreciates Farrar's transparency. Pritchard stated the issue seems to be this does not fit with the Town's Thoroughfare Plan, Comprehensive Plan, Keystone Development Plan. It is labeled as Residential, based on time and effort put into those plans. It may be too early to determine what is going to go out there, but something will go there at some point. It will unlikely stay farm land. Ultimately the job of this Board is to protect the Town and the people.
- Jeff Graham stated the next step is, regardless of the recommendation this evening, an ordinance will be drafted and put before Town Council. If the zoning petition ordinance is passed, the change will occur; from Agriculture to Light Industrial. The ordinance itself will list conditions and commitments that are made and those are recorded and remain with the land. The commitments made tonight by the Petitioner that the building will be substantially compliant with verbal and written commitments made will be included in the ordinance if the Council adopts it. For zoning changes it is a binary Yes or No; the Town Council must act on what this Board sends them. So the commitments made today will be in that ordinance and sent to Town Council.

Tim Pritchard made a motion for an Unfavorable Recommendation with the Commitments/Conditions previously set forth. Motion seconded by Brad Ballentine. Roll call vote was taken. All members voted in favor; motion carried.

- Jeff Graham stated the next Council meeting is February 9th. The Council can continue it for up to 90 days. If they take no action, the Unfavorable will carry. The petition could also be withdrawn.
- Tim Pritchard announced a 15-minute recess.

B. PC Rules Update

Hannahrose Urbanski presented:

- Clarity on what role the PC has, as Secondary Plats and Site Development Plan Review no longer goes through PC, only zone changes, primary plats, and approving/amending new Town Plans and Codes.
- Clarity on radius mailing types (certificate of mailing and certified mail).
- Updating code references to the 2021 UDO, as the rules were referencing the old code numbers, which are no longer relevant.
- References to Zoom being an acceptable form of applicant participation.

Tim Pritchard made a motion to accept the updated PC Rules as submitted. Motion seconded by Kyle Eichhorn. All members voted in favor; motion carried.

V. NEW BUSINESS - None

VI. ADJOURNMENT

Meeting adjourned by Tim Pritchard at 8:50 pm.

Next meeting March 1, 2023 at 7:00 pm.