EXHIBIT C. MEMORANDUM FROM STAFF

From: Oksana Polhuy, Planning AdministratorTo: Lapel Board of Zoning AppealsDate: 10/4/2023RE: BZA-2023-01

There were a few planning-related topics mentioned during the hearing and staff would like to address them in this memo.

Submittal Documents

It was noted during the public comment that the sewer letter and the warranty deeds were missing from the applicant's packet posted online. The warranty deeds were linked in the title document. Staff extracted and attached them so that they are more obvious. The sewer letter was submitted by the applicant at the rezone application in June and staff attached that letter to the revised online packet.

Conditions in the Staff Report

Staff has edited and added some conditions to the Staff report. Since the findings of fact are based on the petitioner's commitment to store only vehicle carcasses, the staff proposes to add an explicit commitment that that's the only kind of vehicle item that may be stored in the outdoor yard. The reason behind some of the changes are noted throughout this memo.

Traffic Study

It was noted during the public comment that a traffic study would be needed. Lapel's UDO doesn't explicitly require it. Since this project is located on the State road, the state INDOT would have to review the permit application for any road improvements to this road. Typically, INDOT may require a traffic analysis or a study to determine what kinds of improvements are warranted based on the traffic level. This is done during the permitting stage.

Fire Hydrant

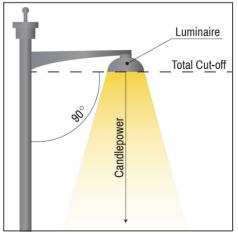
A written testimony had concerns about the location of existing fire hydrants that may be too far away.

Lapel's UDO permits the use of dry fire hydrants on site in the General Industrial zoning district (V 10.2.9.I), "In locations where fire hydrants served by a public water system cannot be provided, dry hydrants shall be provided in all lakes and storm water retention and detention ponds subject to the specifications of the appropriate local fire department." This item would be reviewed during the permitting stage.

Light Pollution

A concern about the light glare from the storage yard onto the surrounding uses was brought up during the public hearing. Lapel's UDO has the following regulations in place relevant to the storage yard (V 10.2.11):

- Lighting on each lot shall be designed to reduce light pollution while providing the maximum light necessary for security and safe pedestrian movements.
- All freestanding lights and lights mounted on walls or facades must have cut-off luminaries with 90 degrees or less of an angle (downlighting). (See Figure V10.2.11.1)





• Measurements of light readings shall be taken along any property line of the subject property with a light meter facing the center of the property at a height of six (6) feet.

The light standards do not explicitly go over the lighting in the storage yards and the regulations do not require a lighting plan explicitly during the permitting stage to ensure that the lighting is designed to produce little to no glare at the property line. Due to that, staff proposes to add the following condition to approval that would be enforceable during the permitting stage to safeguard the surrounding property uses from the noise pollution: *"Where exterior lighting is provided, lighting levels for all areas shall be designed and located so that the illumination measured in foot-candles along the property lines shall be at or below 1.0 foot-candle. The applicant shall submit a lighting plan during the <i>"Development Plan" / "Improvement Location Permit" stage showing a photometric layout indicating all photometric calculations including foot-candle levels on a regular grid across the site and extending beyond the lot; and the aiming direction of the light fixtures."*

Noise

Concerns were expressed about the noise produced by the operation. Lapel's Town Code has some noise provisions, but they may be a little too vague for this case. Staff proposes the following possible solutions:

- 1. Add a condition to limit operation hours. The range could be 7 am 10 pm on week days and a different range on weekends.
- 2. Add a condition about limiting blasting operations only on the week days and maybe giving a range of hours when that may occur.

Other communities handle noise differently. Noise regulations are typically noted in the town codes and then zoning ordinances may add additional standards to specific uses. Here are some examples:

• Indianapolis zoning ordinance has noise-specific regulations for mining operations, "The sound level created by any source shall not exceed 70 dB(C) and 60 dB(A), measured at the lot line except along a lot line contiguous to another property owned by the same property owner and approved for mining operations. Sound pressures shall be measured with a sound level meter meeting the standards of the American National Standards Institute's "American Standard Specification for General Purpose Sound Level Meters.... The following uses and activities shall be exempt from noise level regulation: noises of safety signals, warning devices, emergency pressure relief valves, and other emergency activity." There is a separate section on noise regulations of blasting activities that limits surface blasting to happen between 10 am and 3 pm on Mondays-Saturdays and subsurface blasting between 1 pm and 6 pm.

- Fishers zoning ordinance has a noise-specific regulation for car washes located within 200 feet of a residential use, "All vacuuming and compression machines located outside of the enclosed building shall be of a design that does not exceed a noise level reading of 45 dB(A), as measured from the property line, between the hour of 6 AM to 7 AM and 55 dB(A) at all other lawful hours of operation. Operation of the establishment shall be prohibited prior to 6 AM and after 11 PM on all days of the week."
- <u>Noblesville</u>'s zoning ordinance has a certain maximum decibel level for industrial, commercial, and residential uses *in general* during the day and night measured at the property line, with some exceptions. For example, industrial uses shouldn't go over 65 dB during the day and 60 dB during the night. When the day and the night starts/ends is unclear.

While the examples above differ and aren't consistent, they show a general pattern of the items that could be included into a condition if the Board desires to add it:

- Limit on hours of operation.
- Limit on the noise created to be measured in dB(A) at a property line at different times.
- Exemptions of certain "momentary" activities that don't occur the whole day, but occur for a few minutes.

Generally known decibel levels:

- Subdivision at night: 40 dB.
- Human normal conversation: 60-70 dB.
- Washing machine: 70 dB.
- Gas-powered lawn mowers: 85 dB.

Prolonged exposure over time to constant noises over 70 dB may start damage to hearing per <u>CDC</u>.

If BZA would like to add a condition about the noises, staff recommends something along the lines of, "The noise of normal operations of the use shall not go over 70 dB (A) during the day on weekdays (defined hours) and 55/60 dB at night (define hours), weekends (define days) and holidays. The crushing activities shall be limited to the following days and time of operation: [define] The noise produced by crushing may exceed the noise of the normal operation by 10-20 dB (A) for a single period no longer than [15-30] minutes a day. The noise level shall be measured at the property line with a sound level meter meeting the standards of the American

National Standards Institute. The instrument shall be set to the A-weighted response scale and the meter to slow response."

Fence Material

Lapel's UDO states that the fence surrounding the vehicle junk yard should be made out of 100 % wood, stone, or masonry fence. The general fence regulations in the General Industrial district (V 10.2.22) and fence regulations within the landscaping and screening portion of regulations (V 10.2.7) do not allow chain link and barbed/razor wire fencing (or do not allow unless a permit is applied for a chain link fence and a certain PVC coating is applied).

Finally, Lapel's UDO within "fences and walls" section states the following, "In instances when special uses in the Ig District require Fence & Wall Standards that are different than those in this section (for reasons of public health, safety, and welfare), the Plan Commission or Town Council may modify the requirements of section V10.2.22 to accommodate the needs of the development."

Due to a variety of types of fences permitted in the General Industrial district for other uses, staff interpreted that the main goal of stating different material types within the "junk yard" section was to stress that the fence should be *opaque* to visually screen the view onto the yard. There is no such requirement for any other storage yards or other industrial activities. It is possible that at the time of passing the ordinance, a metal opaque fence was not a common material and was omitted from the list of permitted materials.

Staff believes that the choice of material for the fence would be best if it matched the overall architecture of the building so that the overall look of the site is consistent. An industrial building with "concrete panel" outside look and a wooden fence may look at odds, though the wooden fence would be permitted.

It is within the Board's power to interpret this regulation differently from staff and ask the applicant if they can provide a material listed in the ordinance.

Water Quality

The biggest public concern about this proposal is how the proposed use could affect water quality in the area. Staff expressed a general opinion that a lot of environmental regulations come from the federal and state laws and are enforced by IDEM. When the applicant applies for the permits with IDEM, that would be the time when the petitioner would need to prove to the state that it can abide by those standards.

Additional conversations with IDEM resulted in the following findings:

- LKQ currently has stormwater runoff permits for all of its salvage yards in Indiana.
- LKQ has license to operate all salvage yards in Indiana.
- LKQ would need to apply for a "disturbance of more than 1 acre" permit, a state license to operate a salvage yard, and possibly a stormwater runoff permit depending on the type and scale of their activity.
- If any other environmentally sensitive areas like wetlands and floodplains are proposed to be disturbed, there would be an additional permit for that.

- IDEM doesn't test the groundwater before a use goes in. However, if a spill is reported, IDEM will send someone to investigate the spill.
- When IDEM looked at the water maps for the project site, it didn't find any special environmental sensitivities.

Is the project site located over a Wellhead Protection Area?

A <u>Wellhead protection area</u> is an area that a public water supplier may establish around the wells that provide the water to the public. The water supplier creates a plan for managing water quality and contingency plans if the spills happen. Indiana Code also has a few more regulations that apply to certain uses located inside of the wellhead protection area.

LKQ's site is NOT located in any wellhead protection area (see Figure 1 and 2):

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Source Water Proximity Determination Tool

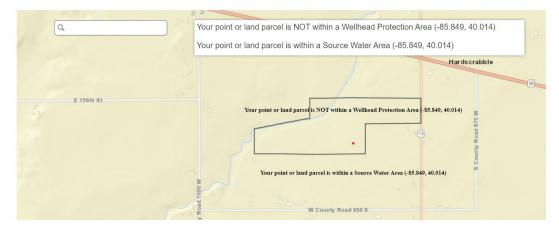
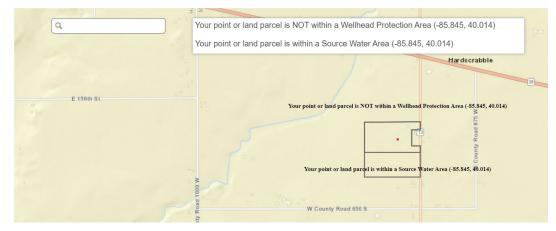


Figure 1

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Source Water Proximity Determination Tool





In addition to the information above, staff added a map from South Madison Citizens water. They have a Wellhead Protection Area around their well located 0.65 miles north of LKQ's site.

How far are the community wells from LKQ's site?

Per the information from the map of "unconsolidated aquifers" of Madison County, there is a Citizen's well located 0.65 miles north of the project site and Town of Lapel's well 0.54 miles north of the project site (Figure 3).

Aquifer Maps

Madison County Aquifer Maps show that there is some sort of bedrock or unconsolidated aquifer under every acre of land in the county. So, simply saying that a use should not be allowed because it's "over an aquifer" would be impractical.

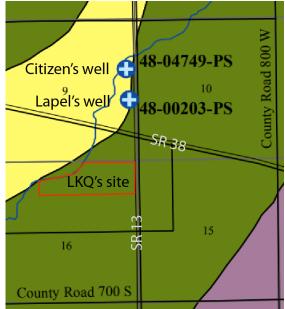


Figure 3

We can analyze the information on those maps to see if there anything else specific to the aquifers and the flow of water around the project site.

The bedrock and unconsolidated aquifer maps provide explanation for each "material", its thickness, ability to produce water, and its susceptibility to contamination. This is what the map states about the bedrock and the unconsolidated material under the project site:

- Bedrock. Silurian and Devonian Carbonates Aquifer System.
 - 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.
- Unconsolidated Aquifer. 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.

The potentiometric maps can shows us an approximate direction of surface and ground water movement. In the vicinity of the project site as well as north and south of it, the water would generally move from east to west.

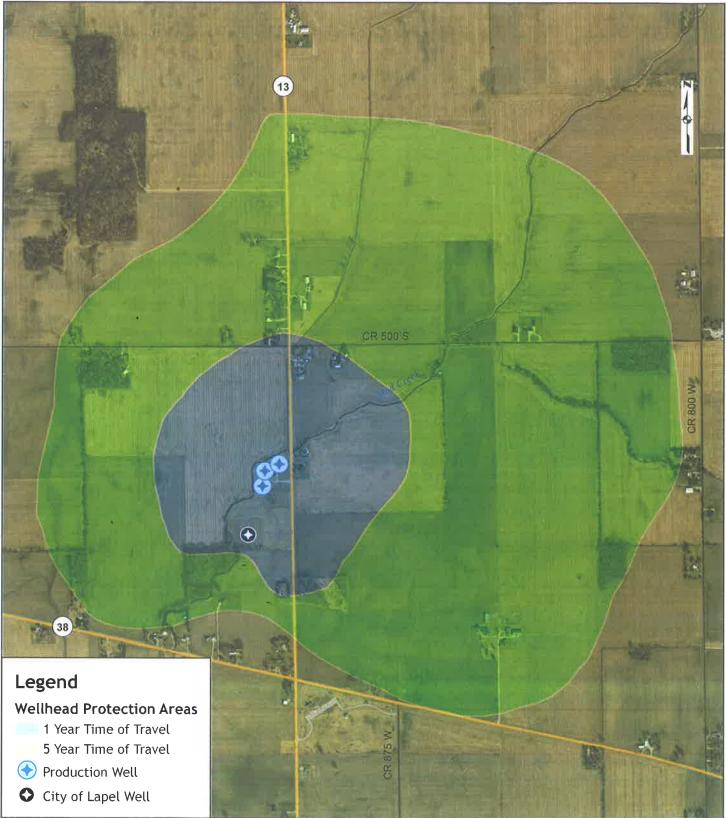
Since the most probably pollution source on LKQ's site, like on any parking lot or road, is the surface water runoff that then infiltrates into the ground is groundwater, it's prudent to look at where it's going to go. In general, the applicant already shows on the site plan the location of their retention/detention pond where stormwater will be collected before it's released into the nature. It's shown on the northwest side of the lot. Typically, sites need to be constructed in a way that the site would collect all stormwater produced by the activity and move and treat it in a way that doesn't negatively affect the surrounding properties. The reviews are done by the

Drainage Board (likely Madison County) and possibly by IDEM during the stormwater runoff permit review.

If the Board wants to know of the general direction of surface water flow, staff recommends looking at the topographic maps of Madison County (MCCOG's website). It shows that the ground elevations of the sites to the west of LKQ's site are higher than LKQ (862-864), SR 13 is generally 862, and then the elevations reduce from 860 to 842 across LKQ's site until it reaches the creek. Then the elevations increase back up west of the creek. The elevations of the sites north and south of LKQ follow LKQ's overall pattern of elevation reduction east to west. So, the overall groundwater flow pattern is east to west. Also, creek's elevations are higher north of LKQ's site than south. So, the overall flow of the water in the creek is north to south.

Citizens South Madison Wellfield Wellhead Protection Areas





Sources: Citizens Energy Group, U.S. Department of Transportation, U.S. Geological Society National Hydrography Database

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BEDROCK AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA

The occurrence of bedrock aquifers depends on the original composition of the rocks and which promote jointing, fracturing, and solution activity of exposed bedrock, generally increase the upper 100 feet are commonly the most productive aquifers.

several streams in the county.

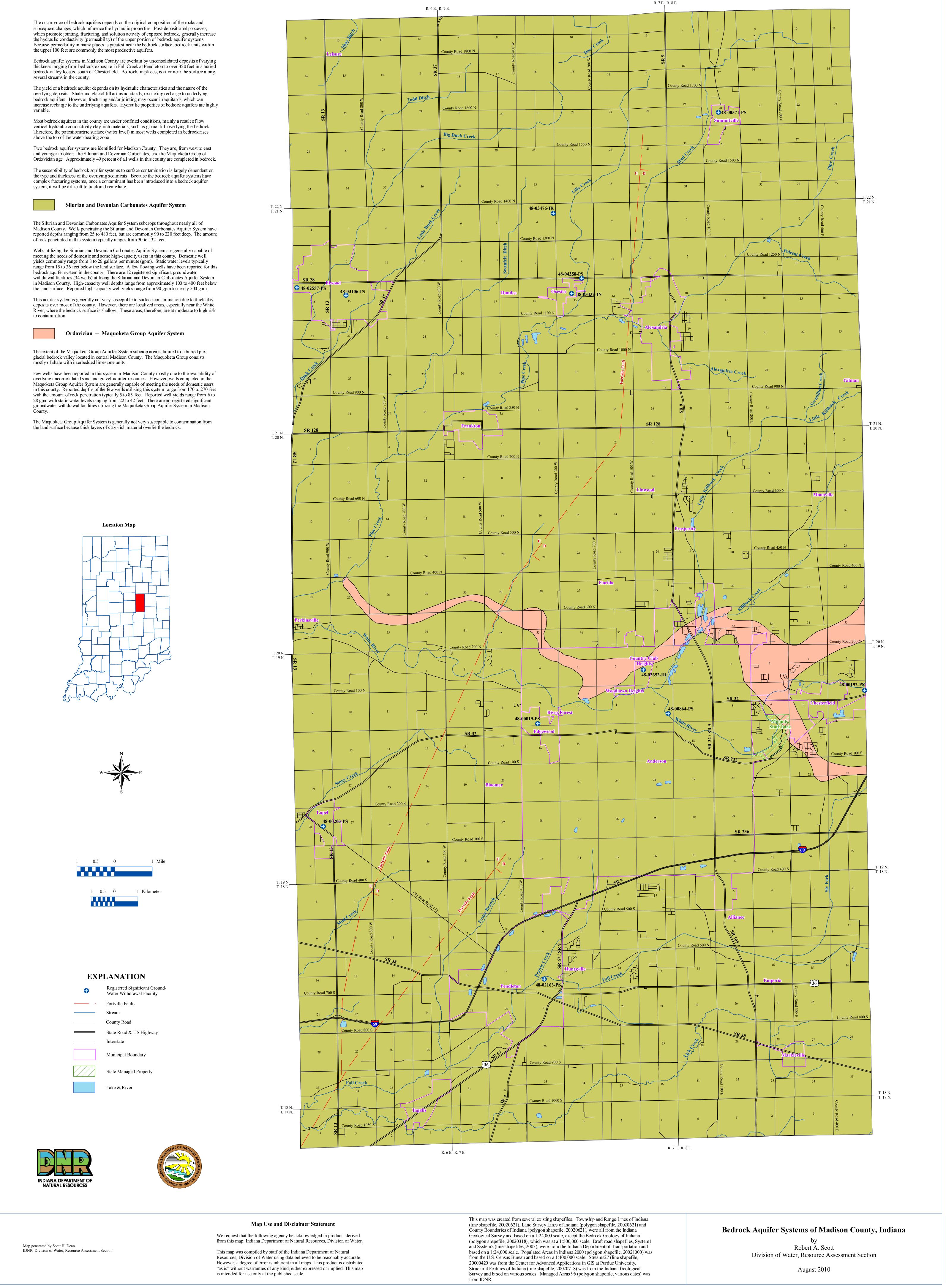
The yield of a bedrock aquifer depends on its hydraulic characteristics and the nature of the overlying deposits. Shale and glacial till act as aquitards, restricting recharge to underlying variable.

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. above the top of the water-bearing zone.

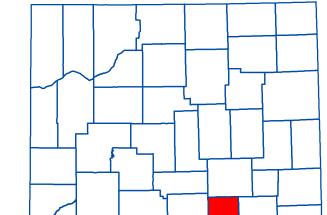
Two bedrock aquifer systems are identified for Madison County. They are, from west to east and younger to older: the Silurian and Devonian Carbonates, and the Maquoketa Group of

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.

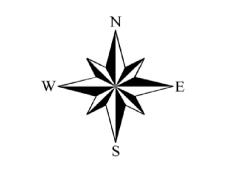
The Silurian and Devonian Carbonates Aquifer System subcrops throughout nearly all of of rock penetrated in this system typically ranges from 30 to 132 feet.











Potentiometric Surface Map 37-B

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.

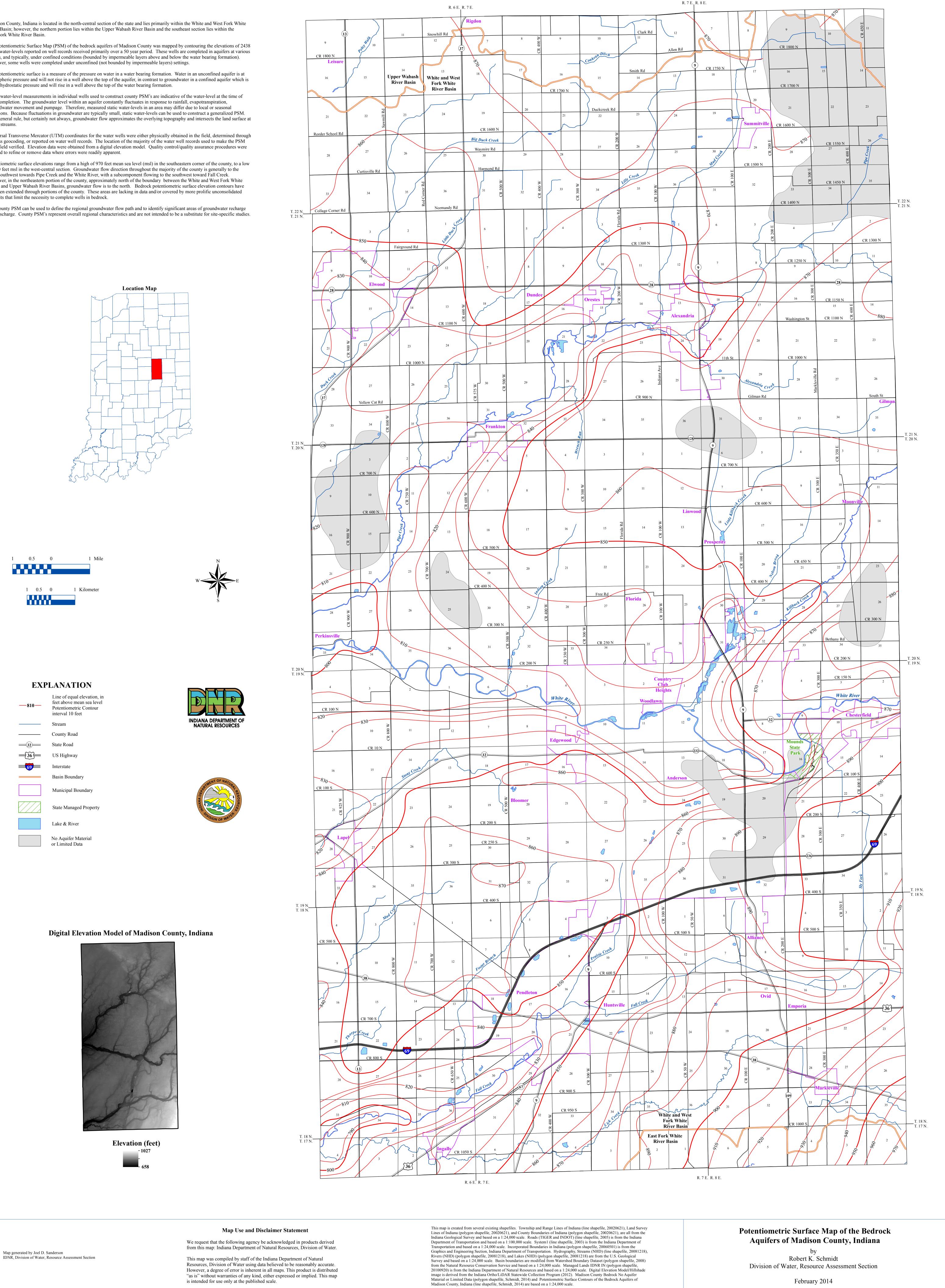
The potentiometric surface is a measure of the pressure on water in a water bearing formation. Water in an unconfined aquifer is at atmospheric pressure and will not rise in a well above the top of the aquifer, in contrast to groundwater in a confined aquifer which is under hydrostatic pressure and will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

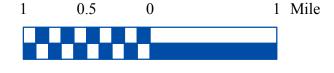
Universal Transverse Mercator (UTM) coordinates for the water wells were either physically obtained in the field, determined through address geocoding, or reported on water well records. The location of the majority of the water well records used to make the PSM were field verified. Elevation data were 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.







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

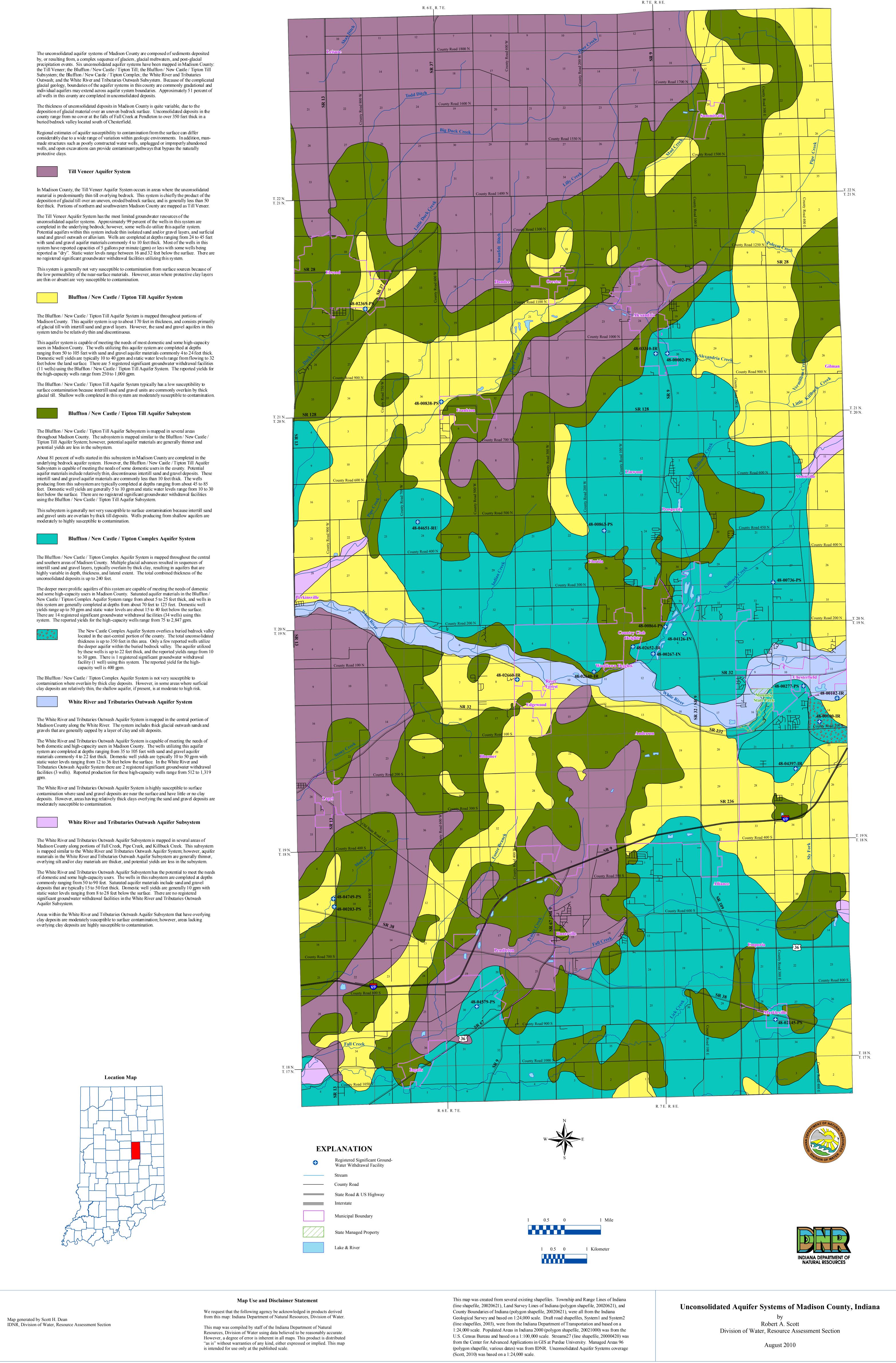
UNCONSOLIDATED AQUIFER SYSTEMS OF MADISON COUNTY, INDIANA

by, or resulting from, a complex sequence of glaciers, glacial meltwaters, and post-glacial 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 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

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, manmade 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.



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. 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









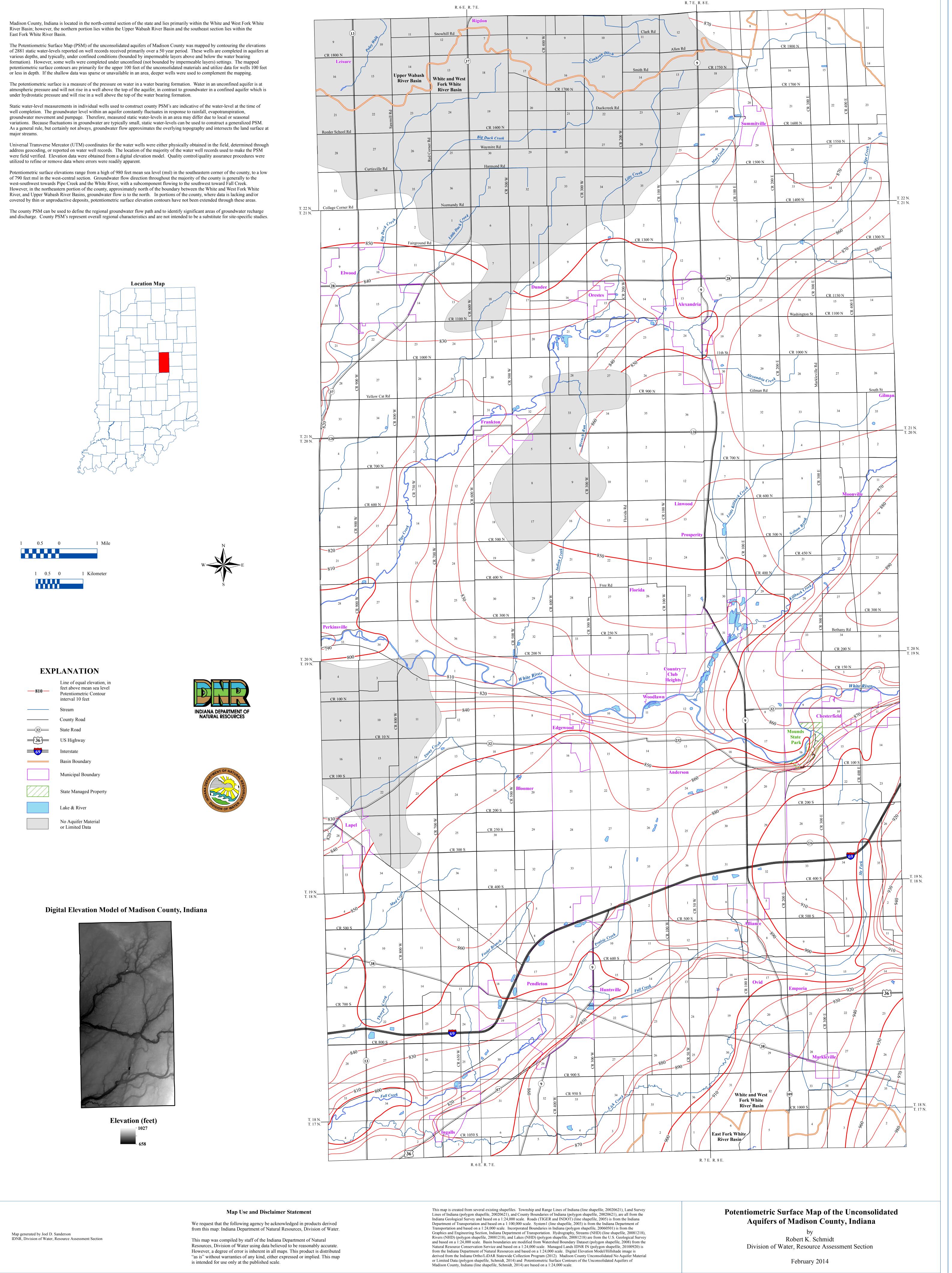






POTENTIOMETRIC SURFACE MAP OF THE UNCONSOLIDATED AQUIFERS OF MADISON COUNTY, INDIANA

The county PSM can be used to define the regional groundwater flow path and to identify significant areas of groundwater recharge



Division of Water



