US EPA RECORDS CENTER REGION 5
481039

HIMCO DUMP SUPERFUND SITE Elkhart, IN

U.S. EPA, IDEM, USACE & USGS

US Army Corps of Engineers

- Site Background
  - Site Description
  - Site History
- Previous Site Work

- Post Record of Decision (ROD) Sampling Locations & Discussion of Analytical Results (1995-2000)
  - Construction Debris Area (CDA)
    - Ground Water
    - Soil
    - Soil Gas (South)
  - Residential (East)
    - Ground Water
    - Soil Gas

- Recommended Changes To The Clean up Remedy For The Site.

- Next Steps

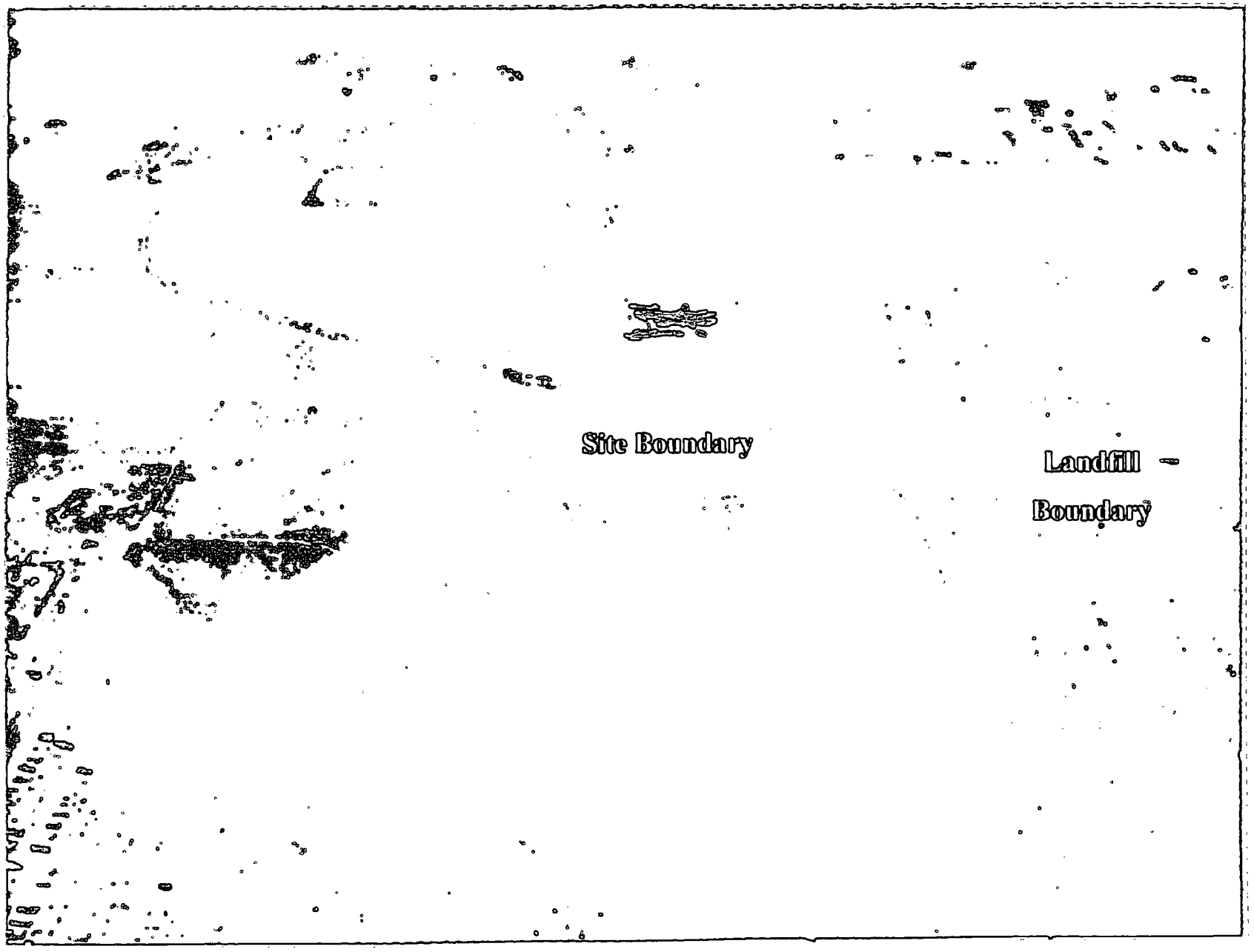
Site Background

- Himco Dump is a closed landfill covering approximately 60 acres.

- Operated between 1960 and September 1976.

- The Site was privately owned by Mr. Charles Himes and was operated by Himco Waste Away Service, Inc.

- The Site is located at the intersection of County Road 10 and the Nappanee Street Extension in the town of Elkhart, Elkhart County, Indiana.


Site Boundary
Landfill
Boundary

- The area was initially a mixture of marsh and grassland.

- There was no liner, leachate collection or gas recovery system constructed as part of the land filling.

- An estimated two-thirds of the waste in the landfill was calcium sulfate from Miles Laboratories.

- As much as 360 tons/day of calcium sulfate were dumped over an unknown time period.

- Other waste accepted included household and commercial refuse, construction demolition debris, as well as industrial and medical waste.

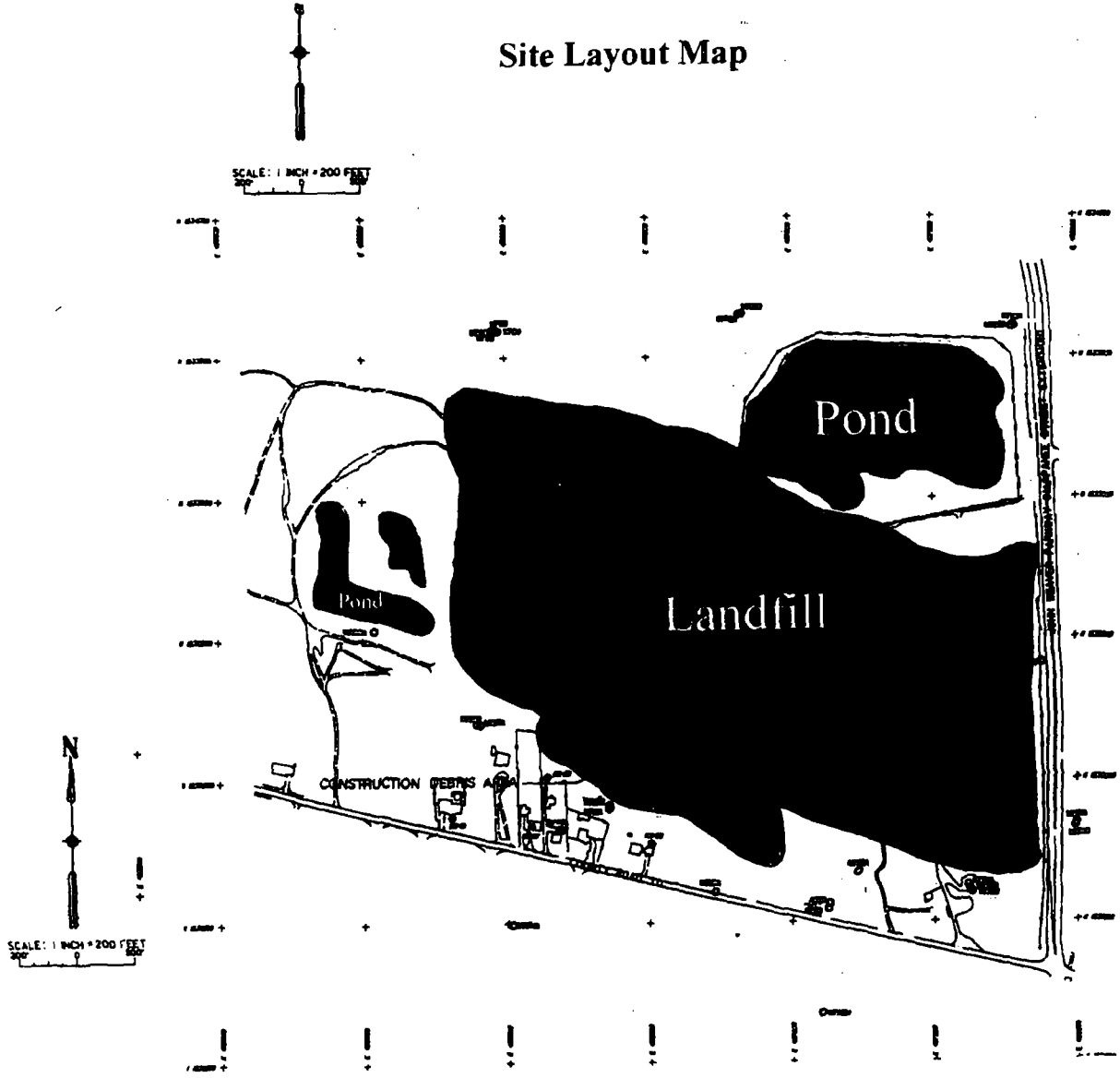
- The area bordering the southern perimeter of the landfill consists of construction rubble mixed with a non-native soil and has been named the construction debris area (CDA).

- The CDA boundaries were defined primarily by 13 tes trenches excavated in 1991, *Remedial Investigation/Feasibility Study* Donohue, August 1992.

- The CDA area is approximately four acres in size and is subdivided into 7 residential and one commercial property parcels. The residential properties are currently occupied, and the commercial parcel is currently vacant.

- The existing homes on these residential parcels are connected to the local municipal water supply. However, these homes also have operable private water wells.

Site Layout Map



Previous Site Work

- **1971** - Indiana State Board of Health (ISBH) first identified the Site as an open dump.

- **1974** - ISBH after receiving complaints about the color, taste, and odor analyzed samples from the residential wells located in the CDA.

- The analyses indicated the presence of high levels of manganese and iron.

- Mr. Himes was advised by ISBH to replace the 6 shallow water wells to deep water wells for the residences south of the landfill on County Road 10.

(15-22 feet bgs shallow)

(152- 172 feet bgs deep)

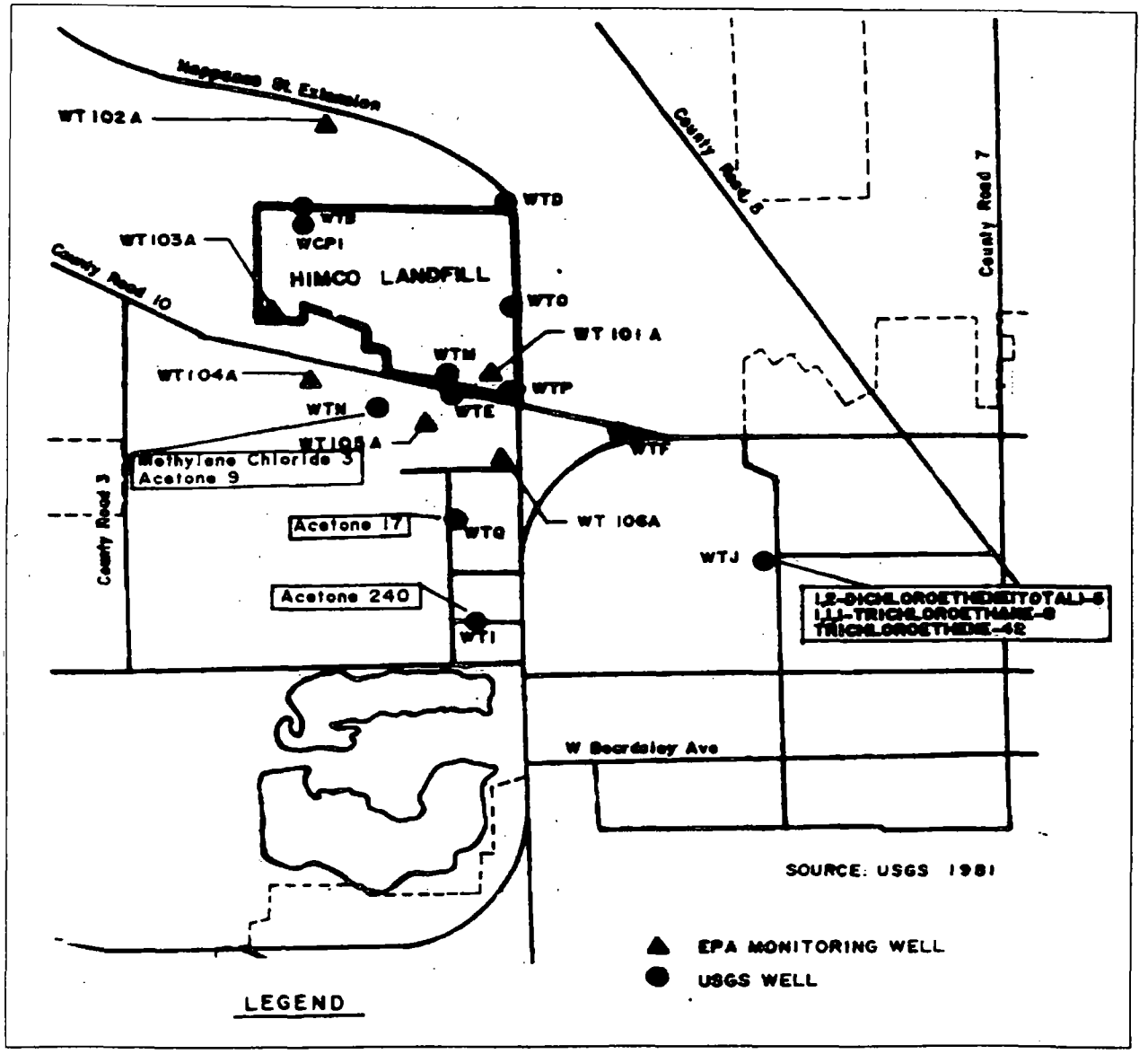
- **1975** - Mr. Charles Himes, Sr., signed an agreement with the ISBH Stream Pollution Control Board to close the dump by September 1976 with the application of final cover consisting of calcium sulfate overlain by sand.

art Water Works, completed a 3-year study to determined

- **1984** - EPA Field Investigation Team (FIT), prepared a Hazard Ranking System (HRS) scoring package for the Site.

- Monitoring wells previously installed by the USGS showed that the down gradient ground water was contaminated with inorganics, semi volatile organic compounds (SVOCs), and volatile organic compounds (VOCs)

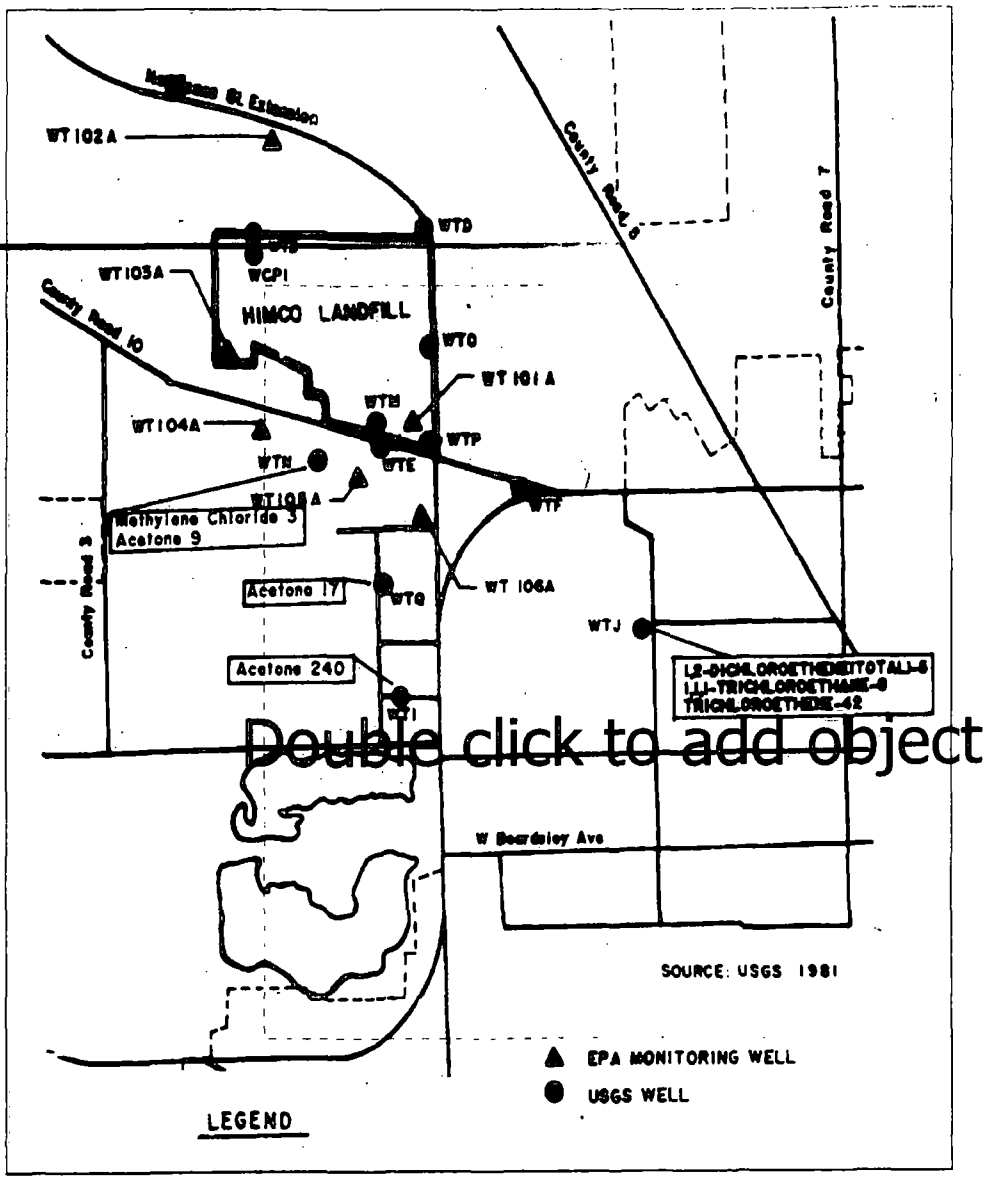
Imbrigotta and Martin USGS Wells Location



1984

Metals detected:

- Aluminum
- Arsenic
- Barium
- Beryllium
- Cadmium
- Chromium
- Cobalt
- Copper

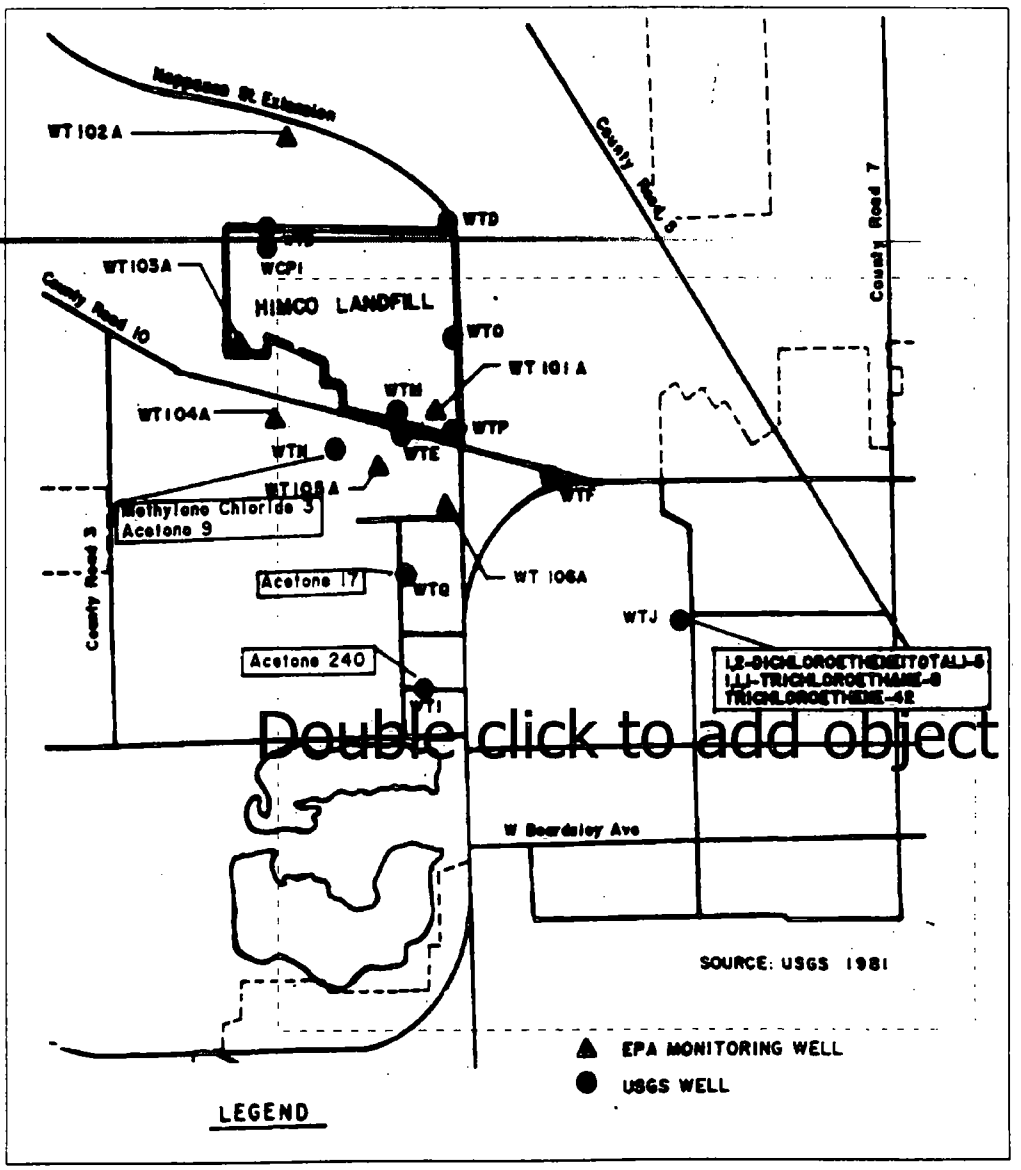


Double click to add object

1984

- **VOCs/SVOCs detected:**

Acetone,
Benzene
2-Butanone,
chloroethane
trans-1, 2
Dichloroethene,
Freon
4-Methylphenol
Phenol
Pyrene



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- **June 1988** - The Site was proposed for the National Priorities List (NPL).

- **1989** - A Remedial Investigation/ Feasibility Study (RI/FS) was initiated by SEC Donohue, under contract for the U.S. EPA

- **February 1990** - The Site was placed on the NPL.

- **April 1990** - Residents with private wells living south of the landfill complained again about the taste, odor, and the color of their water.
  - The EPA's Emergency Response Branch sampled 27 residential wells in late April 1990. The water quality analysis indicated relatively high concentrations of iron, manganese, and sodium.
  - Agency for Toxic Substances and Disease Registry (ATSDR) recommended an alternative source of potable water due to the high levels of sodium, 3,600 *parts per million (ppm).*

- **September 1991** - Test pits were excavated to characterize the Site's constituents during the remedial investigation.
- During one of the excavations, near the southern edge of the landfill, large quantities of leachate were observed flowing from the landfill's fill materials.
- The leachate was analyzed and found to contain:

  ethylbenzene (6,400 ppm)
  2-hexanone (29,000 ppm)
  toluene (480,000 ppm)
  xylene (44,000 ppm)

- November 1991- Municipal water service was provided to the residents living south of the landfill. Himco Waste Away Services, Inc., Miles Laboratories, and the City of Elkhart paid for the municipal water services extension to the residences.

- **May 22, 1992** - U.S. EPA initiated an emergency removal action, which located and removed seventy-one (71), 55-gallon drums containing VOCs including ethyl benzene and toluene.

- **1992** - The Remedial Investigation Report, *Himco Dump Remedial Investigation and Feasiblilty Study (Donohue, 1992)* was completed.

- **1992** RI field work included geophysics, surveying, trenching, soil sampling, monitoring well installation, ground water leachate sampling, landfill waste mass sampling, residential basement gas sampling, surface water and sediment sampling and wetland determination.

- **1992** - The results of the Baseline Risk Assessment indicated that the potential excess lifetime cancer risk for the Site exceeded the acceptable Superfund carcinogenic risk range of $1x10^{-4}$ to $1x10^{-6}$.

- Risk from ingestion, dermal contact and inhalation of volatiles from ground water presented carcinogenic risk in the range of $4 x10^{-4}$ to $1x10^{-1}$.

- The Hazard Index (HI) for humans interacting with the Site exceeded the acceptable HI of 1.0 (HI of 1.0 or less is desired). For future use of the ground water beneath the landfill, the HI values were 500-1000. Antimony was the primary contributor to that risk.

- The other chemicals contributing to these risks included:
  - arsenic, beryllium, cadmium, chromium, vanadium, alpha-chlordane, and nitrate/nitrite.

- **September 1992** - The Proposed Cleanup Plan was issued to the public for review and comment.

- **September 30, 1993** - EPA issued the ROD for the Site. The purpose of the selected remedial action, as specified in the ROD, was to eliminate or reduce the migration of contaminants to ground water and to reduce risks associated with exposure to the contaminated materials.

The major elements of the remedial action per the 1993 ROD were:

- Construction of a composite barrier, landfill cover (cap) consisting of the following components:
  - A 18-inch thick vegetative soil layer
  - A 6-inch thick sand drainage layer
  - 40-mil high density polyethylene flexible membrane liner
  - 2-foot thick low permeability (1×10^{-7}) clay liner
  - A soil buffer layer of variable thickness to attain the State of Indiana grade requirements (4 % minimum)

- Use of institutional controls on landfill property to limit land and ground water use.

- Installation of an active landfill gas collection system including a vapor phase carbon system to treat the off-gas from the landfill.

- Ground water monitoring to ensure effectiveness of the remedial action and to evaluate the need for future ground water treatment.

- Mitigative measures to be taken during the remedial construction activities to minimize adverse impacts to wetlands.

POST ROD SITE ACTIVITIES 1995-2000

- The overall objectives of the post ROD activities were to collect additional data to supplement the existing data such as a soil gas investigation that was needed to supplement the *Final Pre-Design Technical Memorandum, Himco Dump Superfund Site*, (USACE, 1996), and a supplemental human health risk evaluation was needed for the area south of the Site, the CDA.

- The purpose of the Supplemental Risk Assessment wa to conduct human health risk evaluations for the Site's off-property areas that were not addressed in the 1992, Baseline Risk Assessment for the CDA.
- Additional ground water data was needed to ensure t effectiveness of the 1993 remedial action, and to evaluate the need for future ground water treatment.
- The supplemental investigations include the Septemb 1995 sampling event, (detailed in the *Final Pre-Design Technical Memorandum, Himco Dump Superfund Site*, USACE March 1996).

- In the 1996 and the 1998 investigations, data was collected from the CDA's: soils, soil gas, and ground water south (down gradient) of the landfill.

- The investigations conducted during April, May and November 2000 involved characterizing ground water migrating east and southeast (side gradient) of the landfill.

- Investigative data collected and risk evaluation was to get additional information to determine if further remedial elements were necessary and warranted in the CDA, as well as the area surrounding the landfill affected by the ground water migrating from the Site.

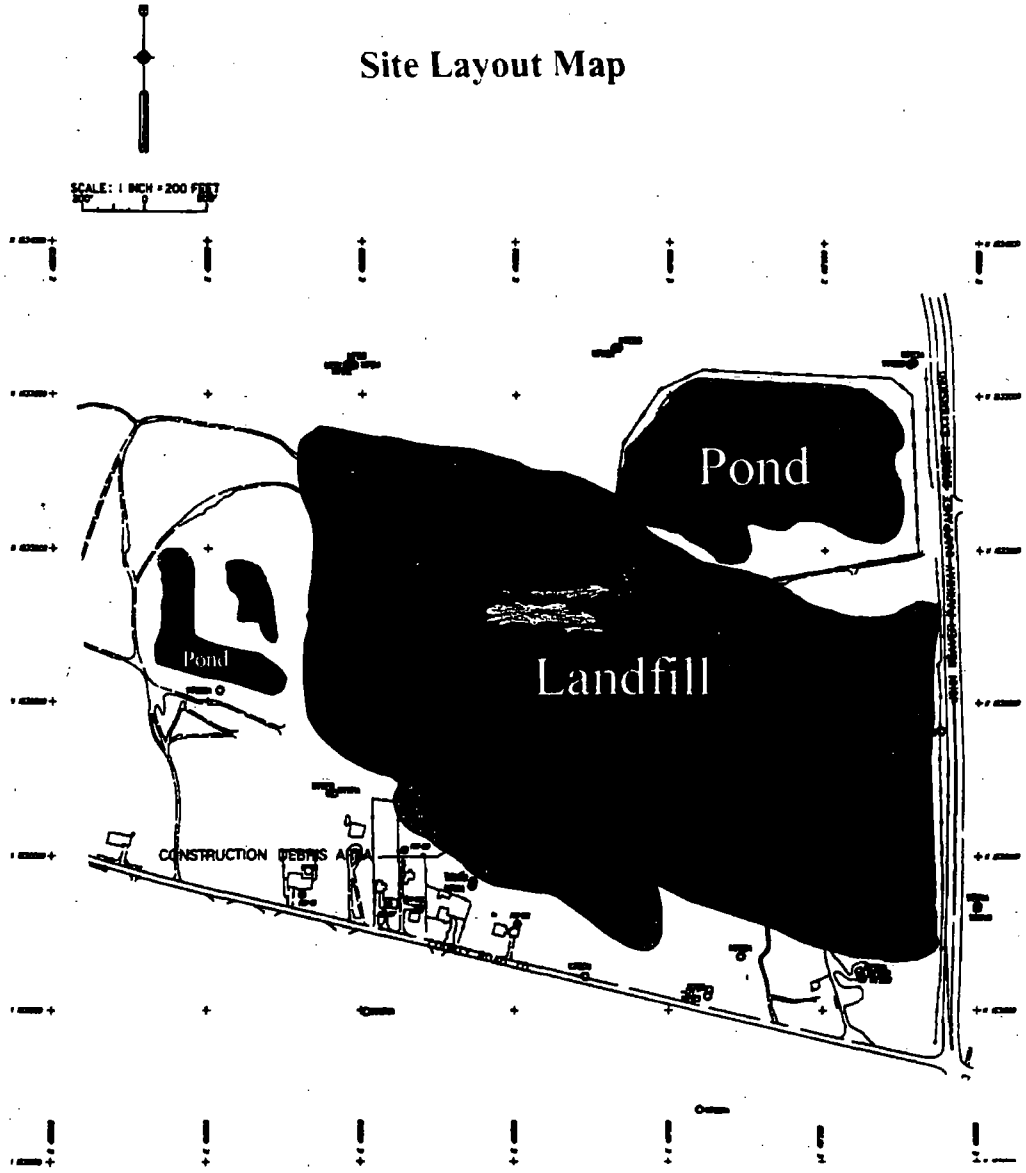
- A complete list of contaminants and sampling results for the sampling analysis of 1995-2000 may be found in the *Himco Dump Superfund Site Supplemental Site Investigation/Site Characterization Report (USACE, 2002).*

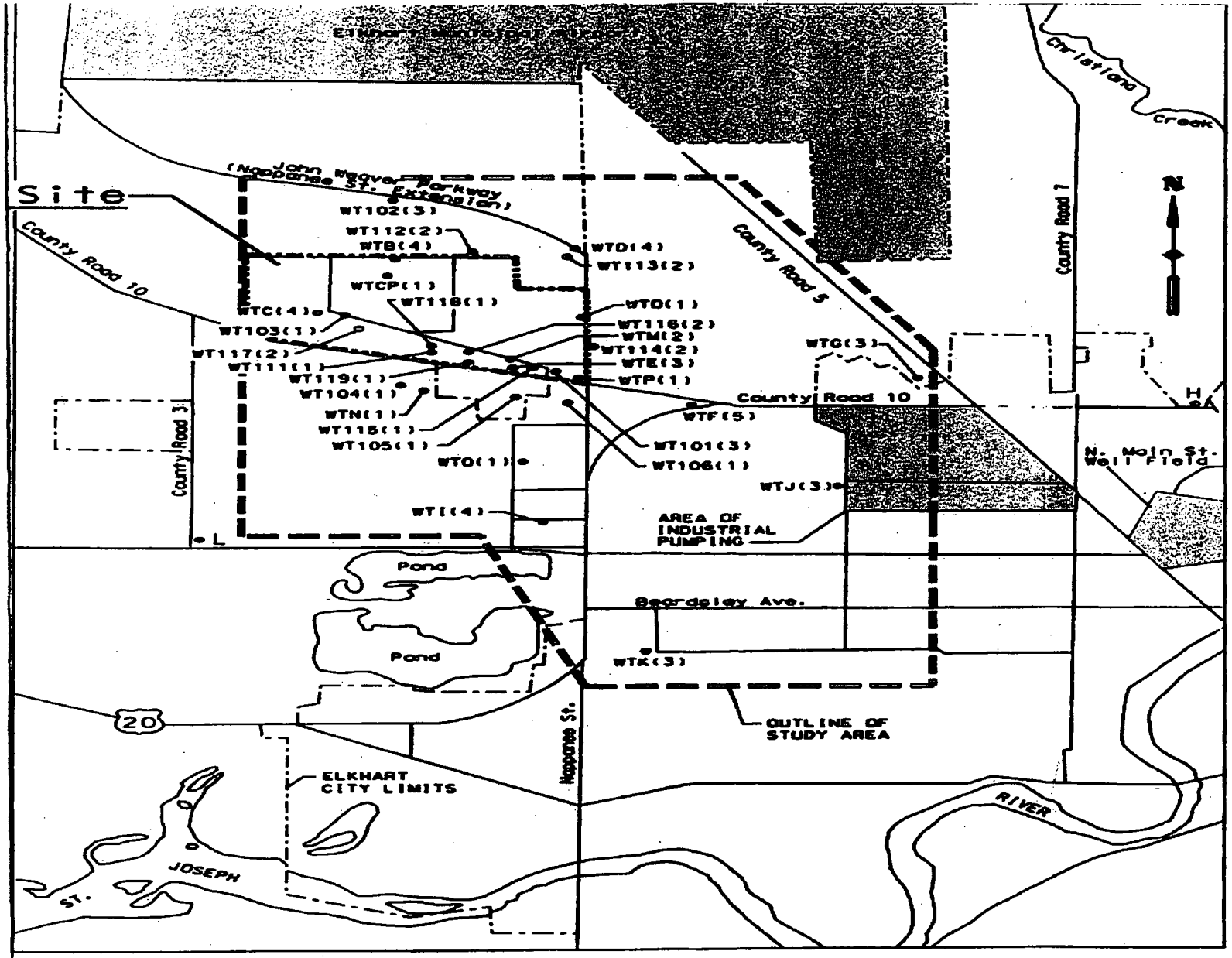
SUMMARY OF SITE RISK

- The 2002 Supplemental Risk Assessment identified the CDA, and the eastern residential area as *exposure "pathways"* for the Site.

- The *exposure routes* for these areas are:
  - Dermal contact with the ground water (showering or bathing)
  - Contact with the soil
  - Inhaling vapors from the ground water or the soil
  - Drinking the ground water
  - Ingesting the soil

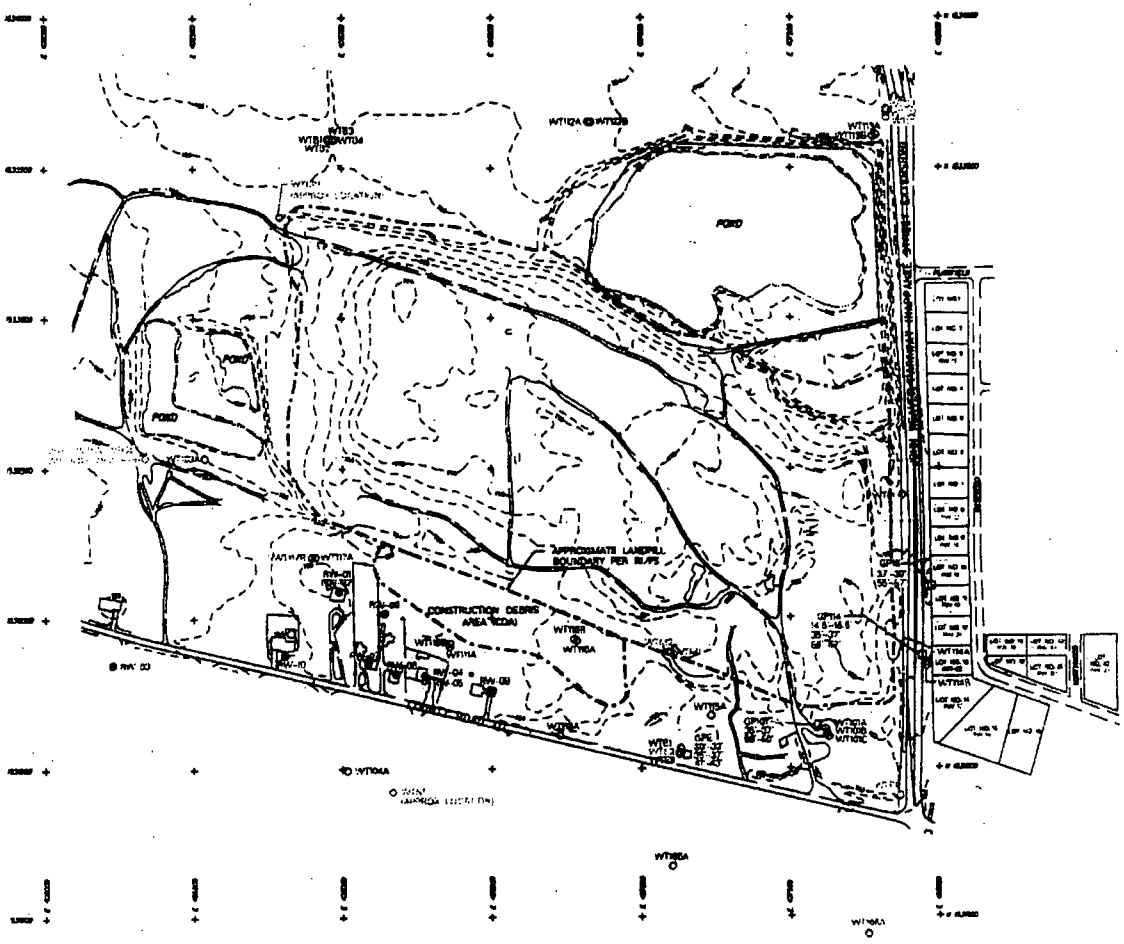
Site Layout Map




Site
County Road 10
(Nappanee St. John Weaver Parkway Extension)
WT102(3)
WT112(2)
WTB(4)
WTCP(1)
WT118(1)
WTC(4)
WT103(1)
WT117(2)
WT111(1)
WT119(1)
WT104(1)
WTN(1)
WT115(1)
WT105(1)
WTO(1)
WTI(4)
WTD(4)
WT113(2)
WTD(1)
WT116(2)
WTM(2)
WT114(2)
WTE(3)
WTP(1)
WTF(5)
WT101(3)
WT106(1)
WTG(3)
WTJ(3)
County Road 5
County Road 10
County Road 1
County Road 3
Christiana Creek
N
H
L
N. Main St. Well Field
AREA OF INDUSTRIAL PUMPING
Pond
Pond
Beardsley Ave.
WTK(3)
20
Nappanee St.
OUTLINE OF STUDY AREA
ELKHART CITY LIMITS
JOSEPH
ST.
RIVER

NOT TO SCALE

EPA Sampling Locations



Construction Debris Area Groundwater

- The Maximum Contaminant Level (MCL) for drinking water has not been exceeded recently (1998-2000) for any constituent in ground water samples from the CDA.

- The non-cancer hazard risk for the child resident is unacceptable for ground water in the CDA.

CDA-Groundwater

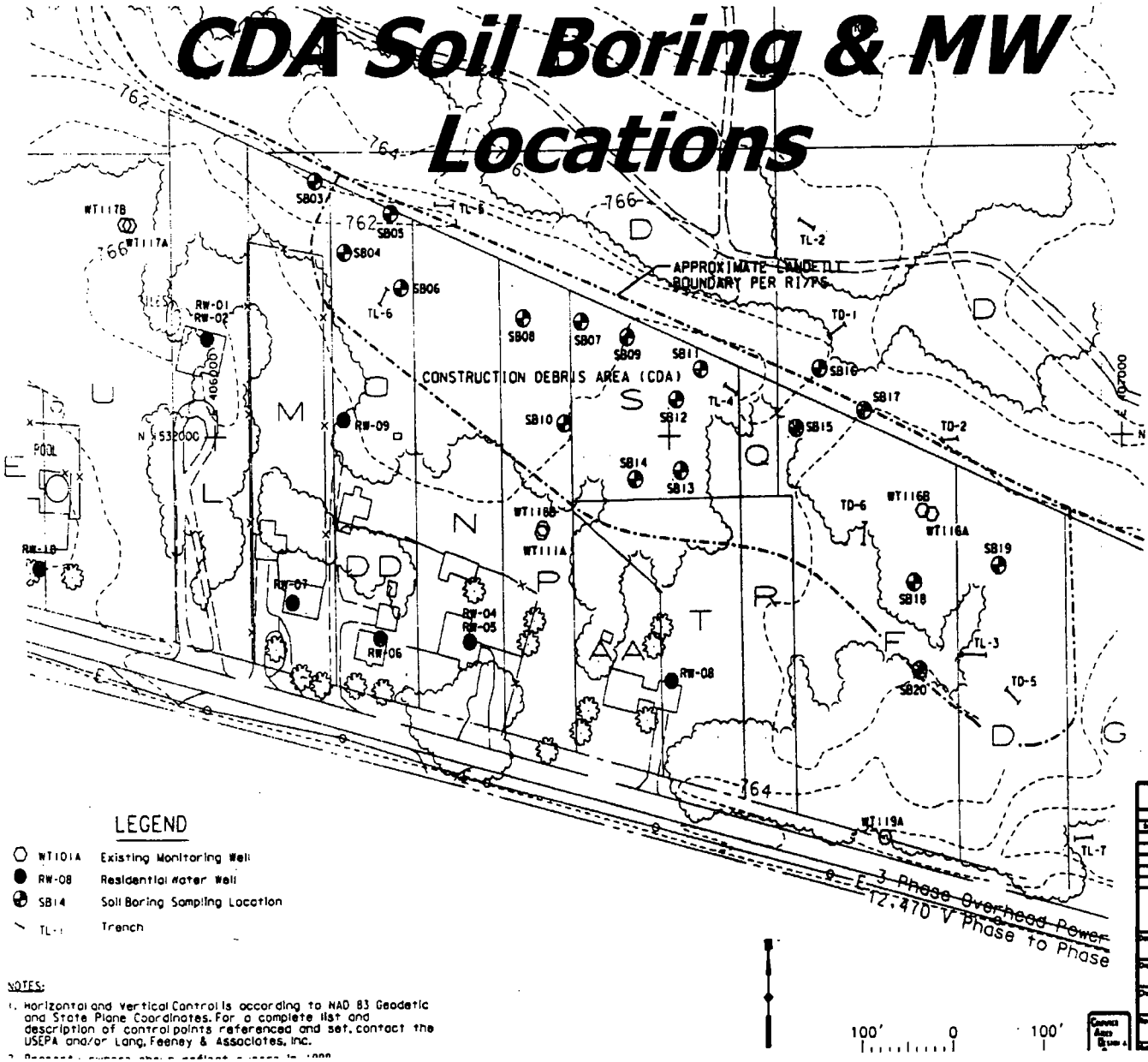
- The total (across all exposure routes) Hazard Index (HI) is 46.0 due to the following:
  - antimony
  - arsenic
  - iron
  - manganese
  - thallium
  - 1,2 dichloropropane
  - benzene
  - vinyl chloride

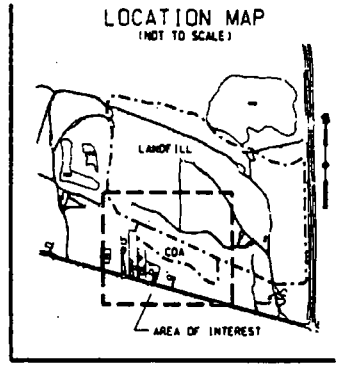
- The HI, is an expression on non-carcinogenic toxic effects, that measures whether a person is being exposed to adverse levels of non-carcinogens.
- The HI for non-carcinogenic health risks is the sum of all contaminants for a given target organ.
- Any HI value greater than 1.0 suggests that a non-carcinogen potentially presents an unacceptable health risk.

CDA-Soil

- For surface soils, the EPA, Soil Screening Guidance uses 400 mg/kg as a lead screening level for residential soil as an appropriate screening level for inorganic lead.
- In the CDA, lead was detected in one of the land parcels at the concentration of 695 mg/kg.
- Lead was also detected in other surface, near surface and subsurface soil samples for several of the other parcels. However the concentrations detected were below the screening level.

CDA Soil Boring & MW Locations





KEY	PROPERTY OWNERS
B	CLD CORP.
C	MILES, INC.
D	ALONZO CRAFT, JR.
E	RICHARD L. SUBIC
F	ALONZO CRAFT, JR.
G	AMERICAN ELECTRIC POWER CO.
H	CITY OF ELKHART LEGAL DEPT.
I	CITY OF ELKHART LEGAL DEPT.
J	CLD CORP.
K	CLD CORP.
L	HERMAN & PATRICIA RUMFELT
M	DAN STRAHM
N	HELEN KOLANOWSKI
O	STEVE COULBY
P	NOBLE BOWERS, c/o SELMA BOWERS
Q	ALONZO CRAFT, JR.
R	NOBLE & SELMA BOWERS
S	ALONZO CRAFT, JR.
T	NOBLE & SELMA BOWERS
U	CLD CORP.
V	ARCHITECTURAL CORP. OF AMERICA
W	ARCHITECTURAL CORP. OF AMERICA
X	ALBERT M. MORSE
Y	MILES, INC.
Z	MILES, INC.
AA	SELMA BOWERS
BB	RICHARD & WANDA SMITH
CC	ELKHART COMMUNITY SCHOOL
DD	DAVE AND JOAN GEESAMAN

FIGURE 2-2

LEGEND

- WT101A — Existing Monitoring Well
- RW-08 — Residential Water Well
- SB14 — Soil Boring Sampling Location
- TL-1 — Trench

NOTES:

1. Horizontal and Vertical Control is according to NAD 83 Geodetic and State Plane Coordinates. For a complete list and description of control points referenced and set, contact the USEPA and/or Lang, Feeney & Associates, Inc.

88 - THINK VALUE ENGINEERING - 88

U.S. ARMY ENGINEER DISTRICT
CORPS OF ENGINEERS
OMAHA, NEBRASKA

ELKHART INDIANA
SUPPLEMENTAL SITE INVESTIGATIONS / SITE CHARACTERIZATION REPORT
HIMCO DUMP SUPERFUND SITE
1988 SUPPLEMENTAL SITE INVESTIGATION
SOIL BORING LOCATIONS

CDA-Soil Gas (Phase I)

- The soil gas data collected in this investigation were not included in the risk assessment.

- A total of 43 soil vapor samples and two duplicates were collected from the area adjacent to the southern side of the landfill and analyzed for VOCs.

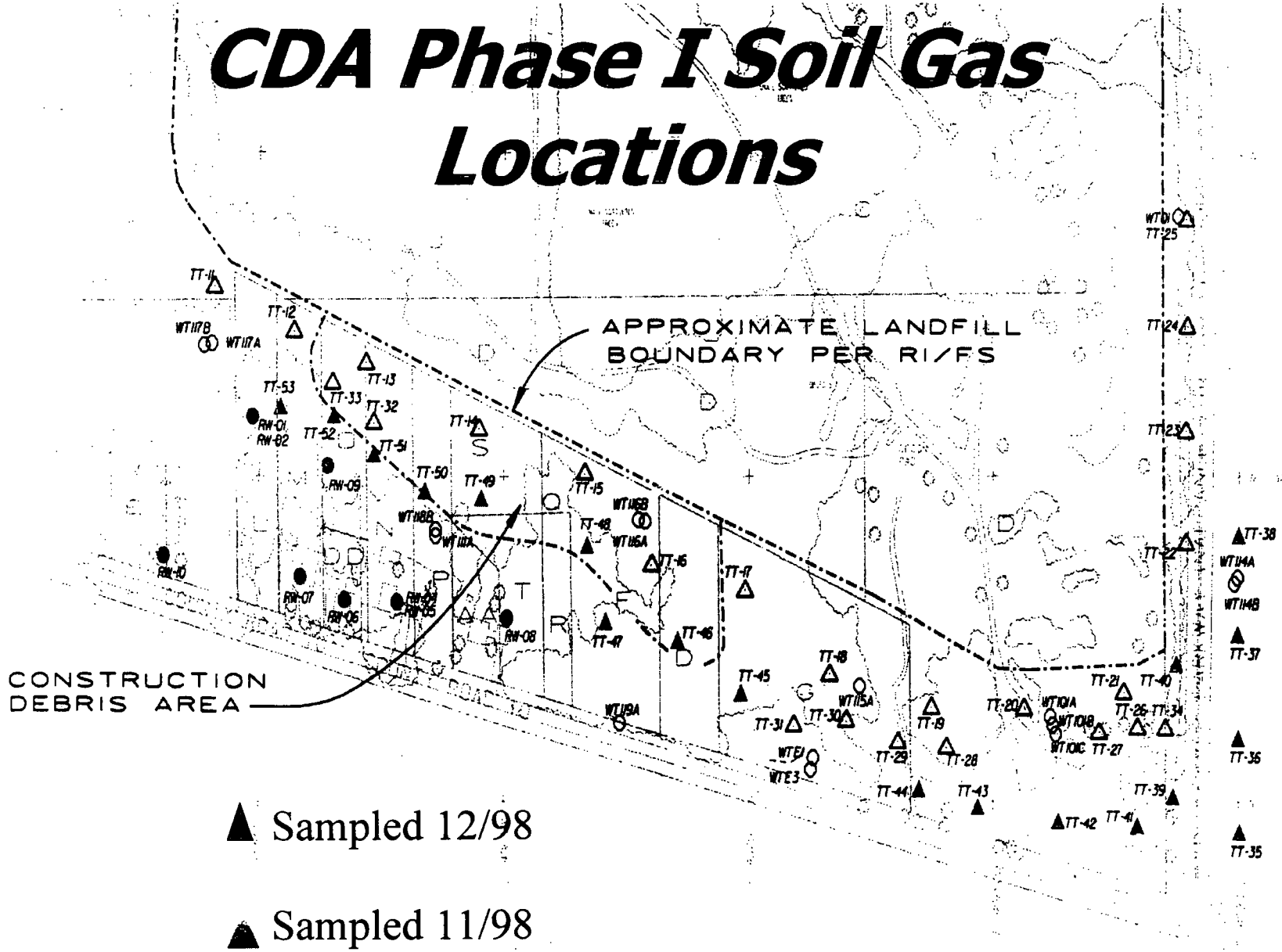
- All detected compounds appear to be distributed with higher concentrations measured just off the boundary of the landfill, and a trend of decreasing concentrations moving away from the landfill perimeter.

- In all cases, the highest detected concentrations were found in the southeast corner of the site (sample location TT-26).

CDA-Soil Gas (Phase I)

- The compounds detected in the soil gas are:
  - Carbon disulfide
  - BTEX compounds
  - Chlorinated ethenes
  - Chlorinated ethanes

CDA Phase I Soil Gas Locations

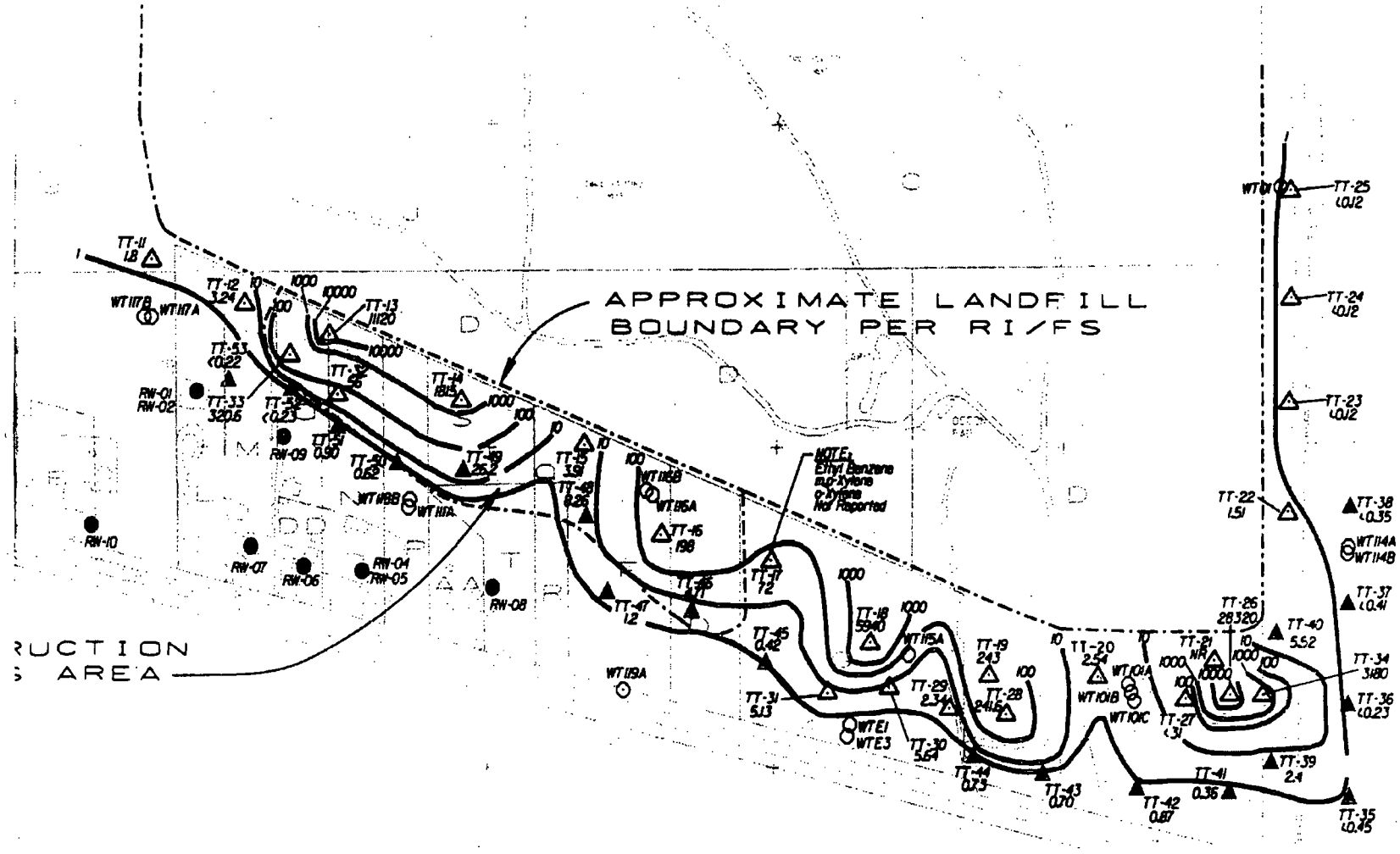


▲ Sampled 12/98

▲ Sampled 11/98

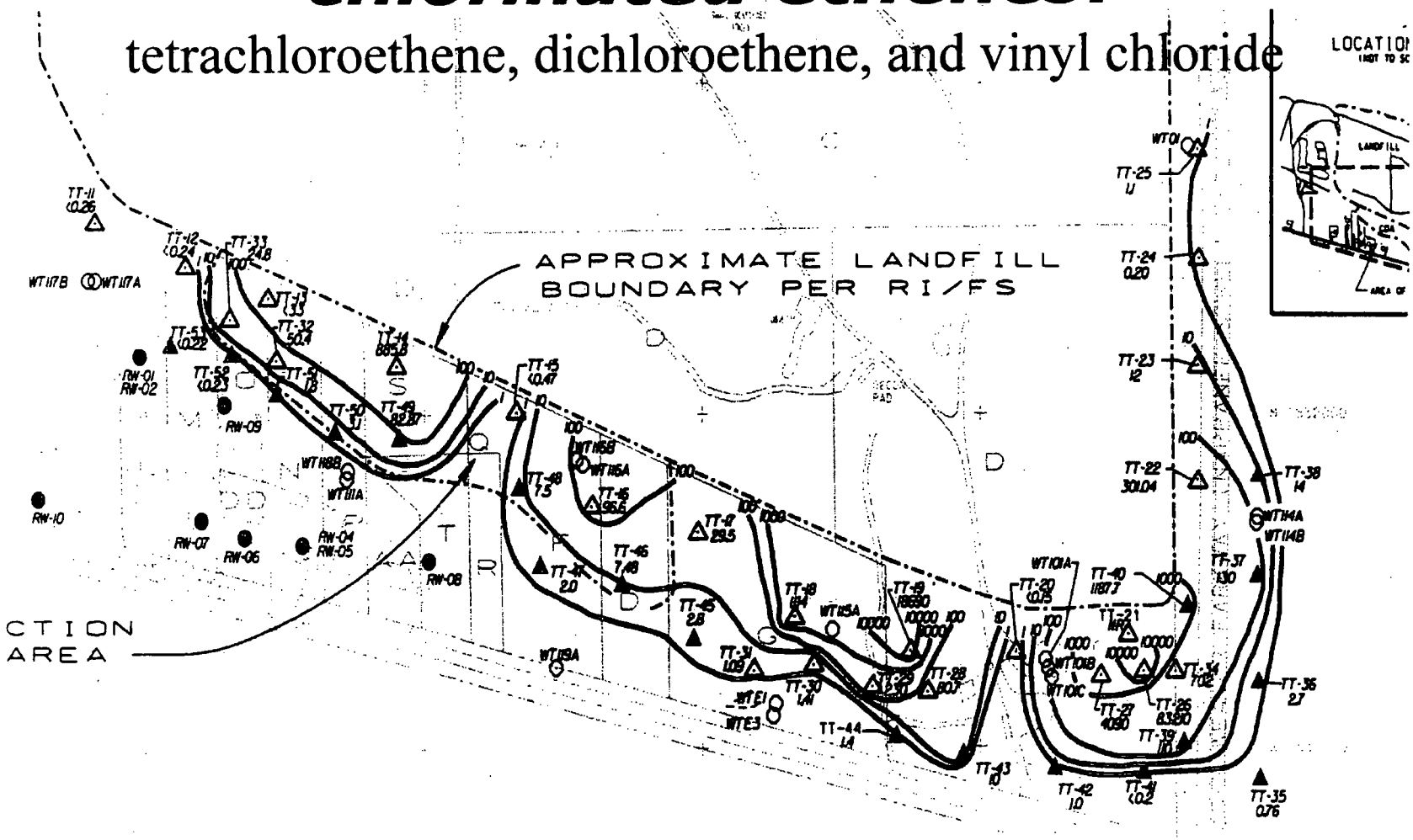
Phase I soil gas detected BTEX:

Benzene, toluene, ethylbenzene, and toluene



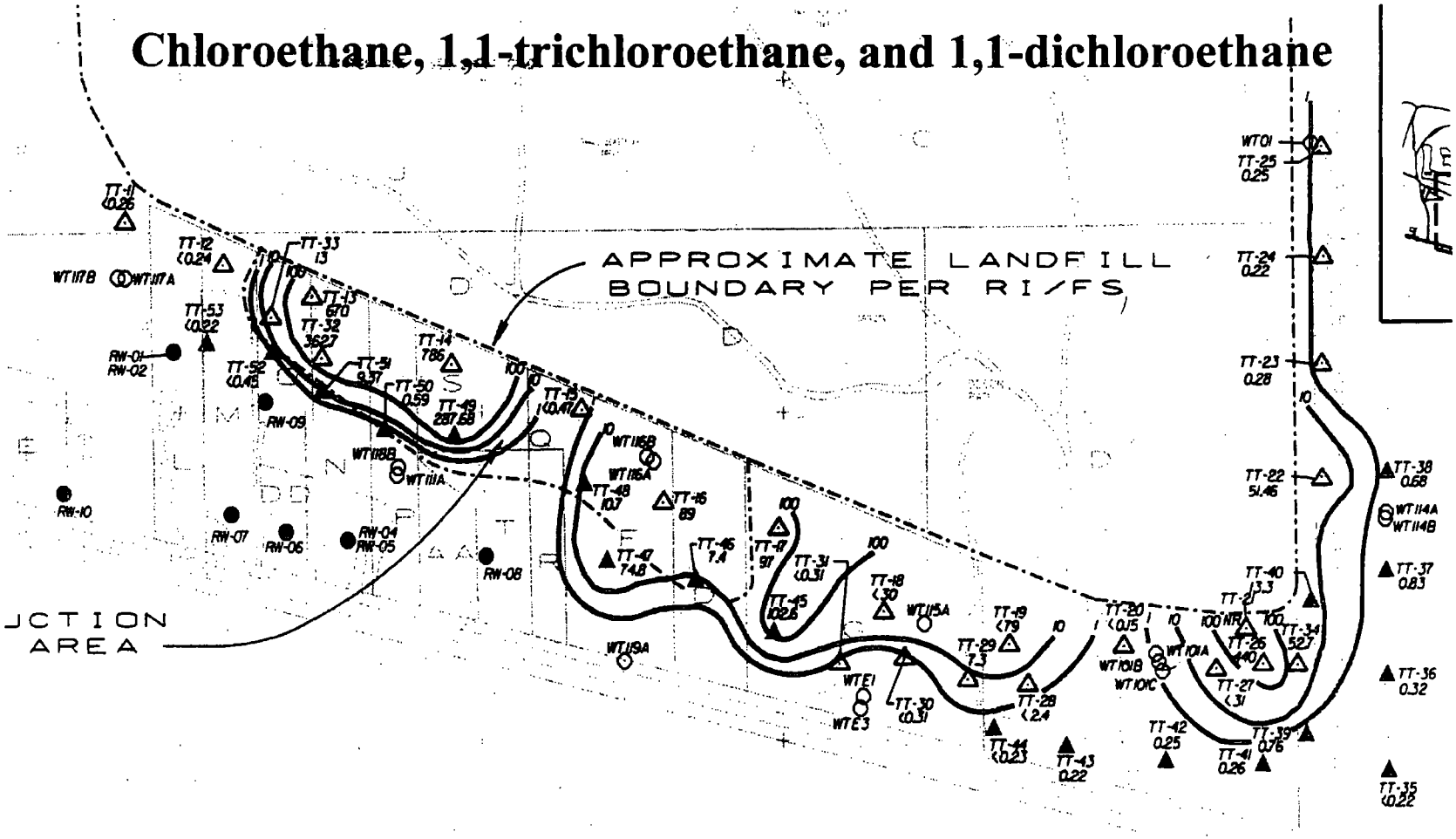
Phase I soil gas detected chlorinated ethenes:

tetrachloroethene, dichloroethene, and vinyl chloride

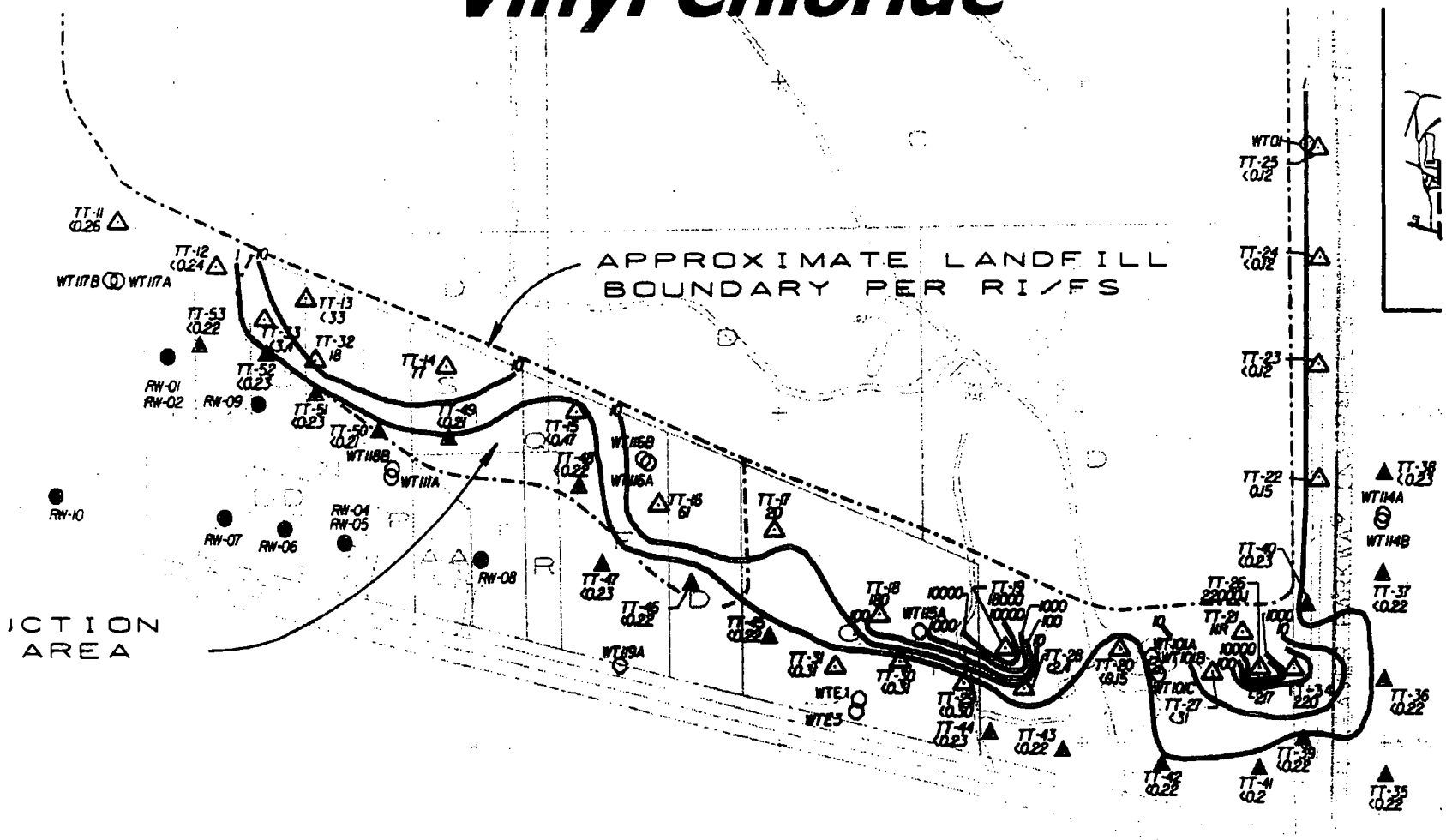


Phase I soil gas detected total chlorinated ethanes:

Chloroethane, 1,1-trichloroethane, and 1,1-dichloroethane



Phase I soil gas detected : Vinyl Chloride



Eastern area soil gas (Phase II)

- A total of 49 soil vapor samples and 3 duplicates were collected from the area adjacent to the eastern side of the landfill.
- The compounds detected in the soil gas were:
  - **Carbon disulfide**
  - **Styrene**
  - **Dichlorobenzene**
  - **1,2-dichloropropane**
  - **BTEX**
  - **Chlorinated ethanes and ethenes**
  - **Halogenated methanes** (chloroform, bromomethane)
  - **Freon**
  - **Ketone compounds** (acetone, butanone)

- All detected compounds appear to be distributed with higher concentrations measured just off the boundary of the landfill, and a trend of decreasing concentrations moving away from the landfill perimeter.

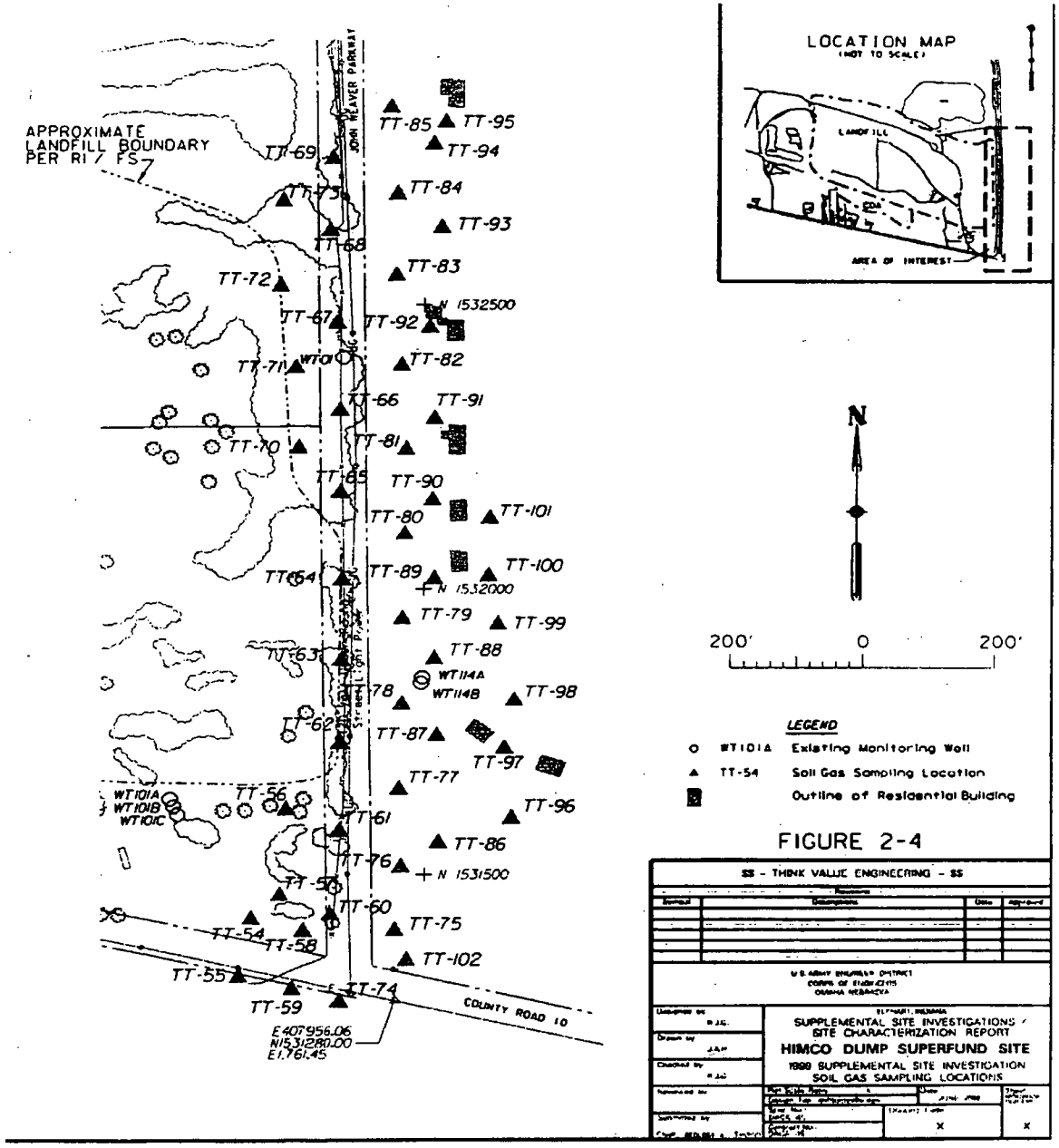
- In all cases, the results are consistent wi observations from the Phase I soil gas investigations; the extent of detectable concentration has been delineated.

Eastern Area Soil Gas (Phase II)

- A total of 49 soil gas and 3 duplicate samples were collected from the area adjacent to the eastern side of the landfill. The compounds detected in the soil gas are:
  - Carbon disulfide
  - 1,2-dichloropropane
  - Dichlorobenzene
  - Chlorinated ethenes
  - Styrene
  - BTEX

Phase II soil gas detects cont.

- Chlorinated ethanes
- Freon 11
- Halogenated methanes:
  - bromomethane, chloroform, chloromethane, methylene chloride)
- Ketone compounds
  - Acetone
  - 2-butanone,
  - 4-methyl-2-pentanone)



LEGEND

- ○ WT101A Existing Monitoring Well
- ▲ TT-54 Soil Gas Sampling Location
- ■ Outline of Residential Building

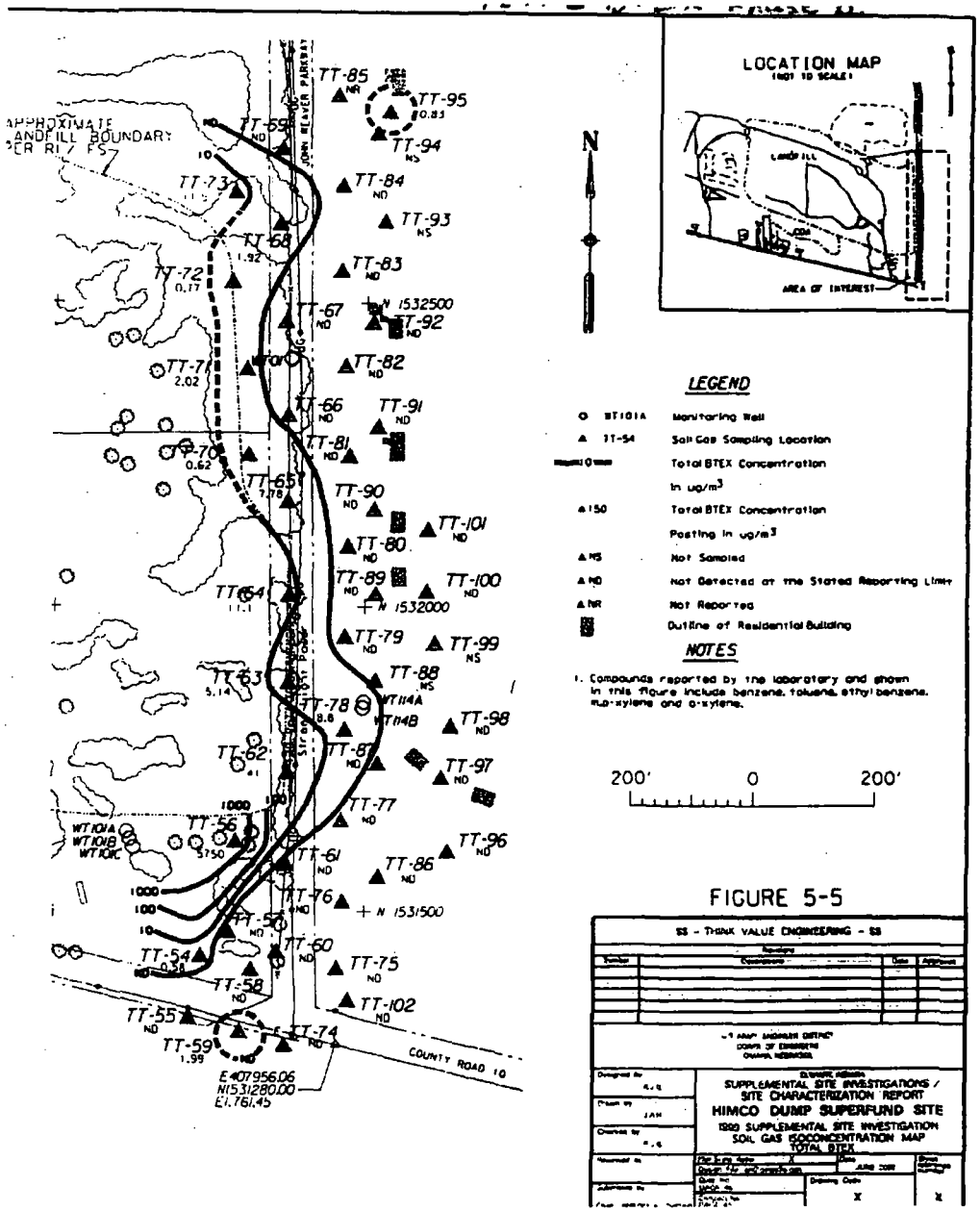
FIGURE 2-4

$$ - THINK VALUE ENGINEERING - $$

U.S. ARMY ENGINEER DISTRICT
CORPS OF ENGINEERS
OMAHA NEBRASKA

ELWOOD, NEBRASKA
SUPPLEMENTAL SITE INVESTIGATIONS / SITE CHARACTERIZATION REPORT
HIMCO DUMP SUPERFUND SITE
1999 SUPPLEMENTAL SITE INVESTIGATION
SOIL GAS SAMPLING LOCATIONS

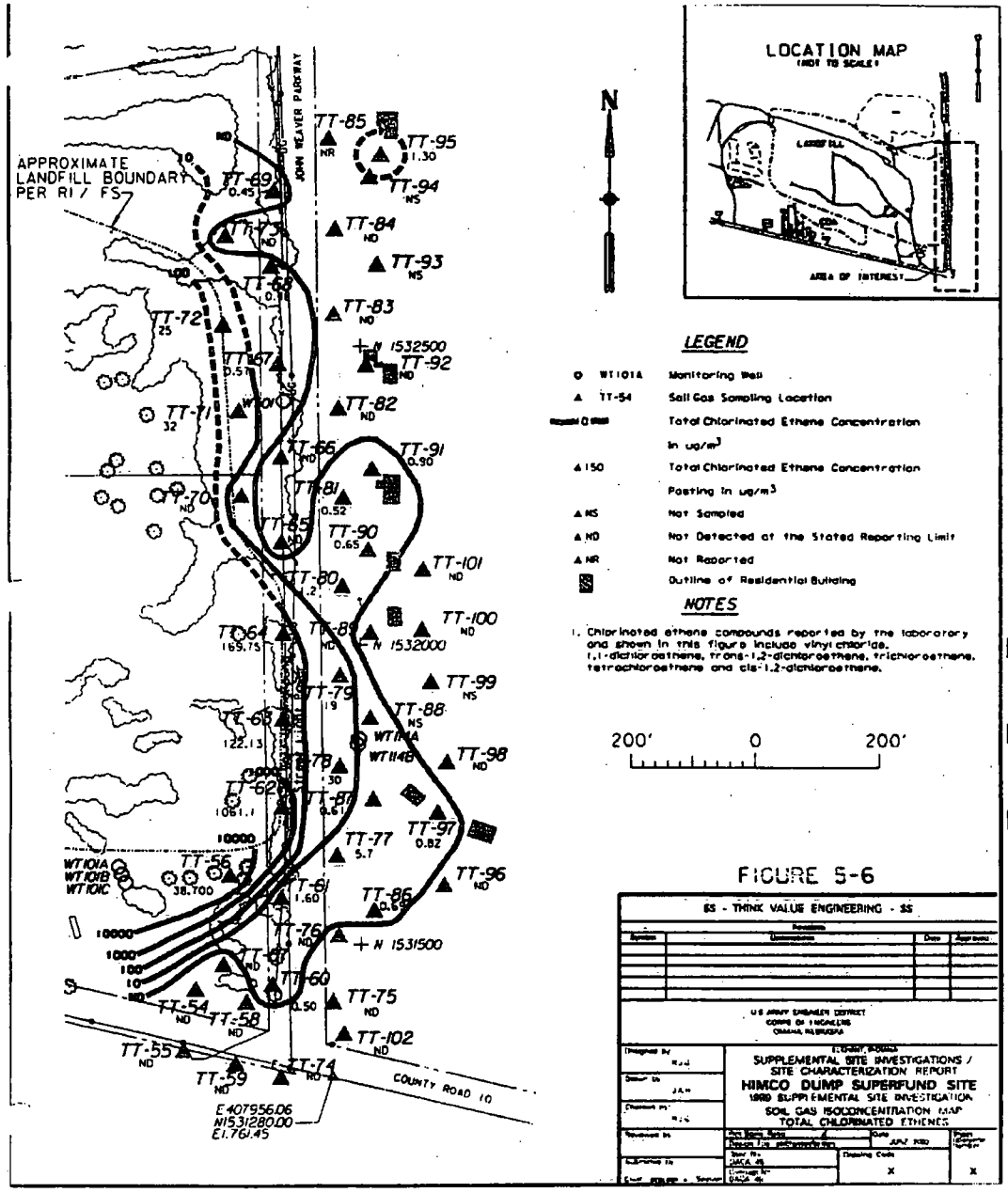
Eastern Area Phase II Soil Gas Locations



Phase II soil gas detected BTEX

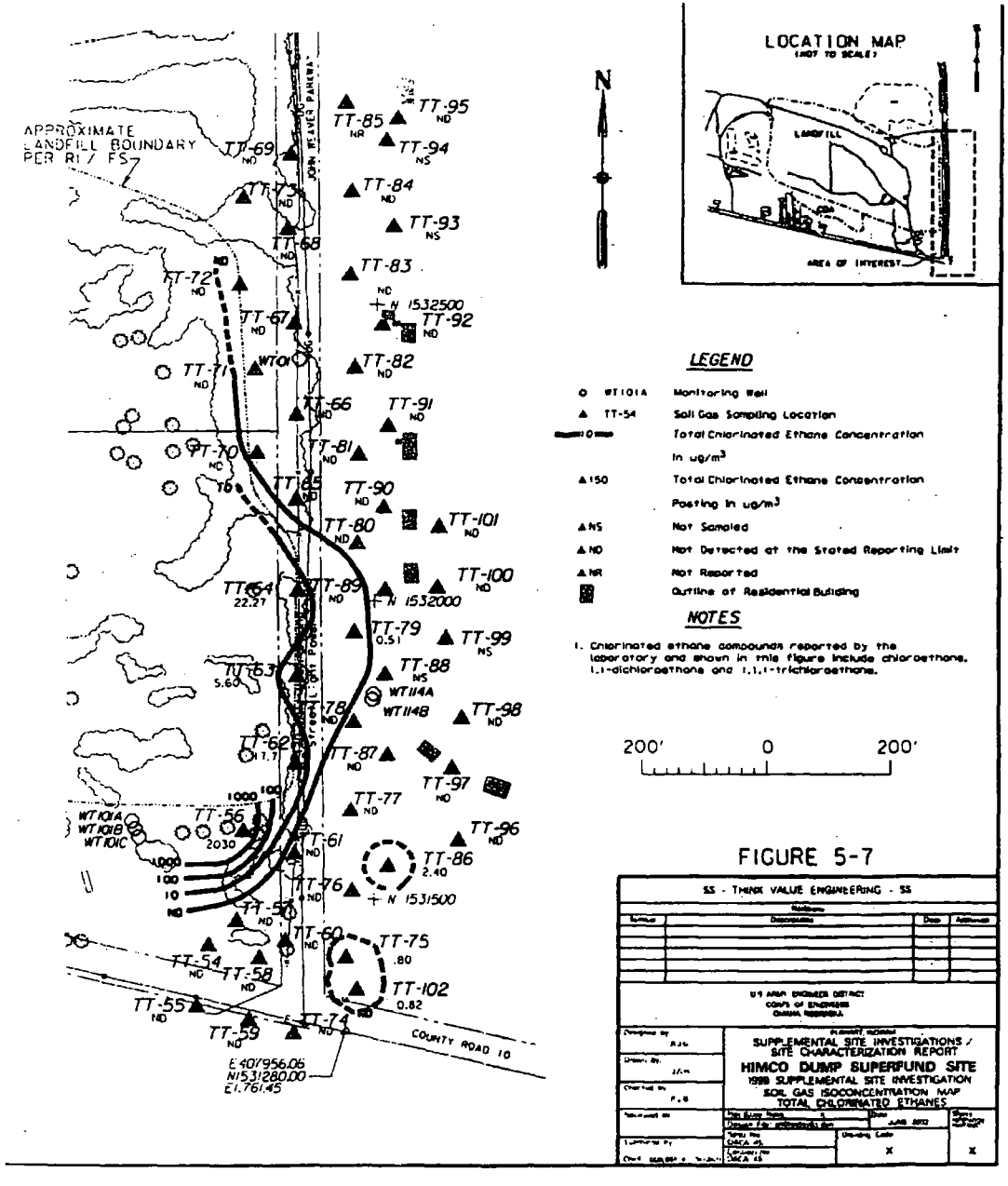
Phase II

- benzene
- toluene
- ethylbenzene
- xylene



Phase II soil gas detected chlorinated ethenes

- tetrachloroethene
- dichloroethene
- vinyl chloride



Phase II soil gas sampling detected chlorinated ethanes:

Chloroethane

1,1-trichloroethane

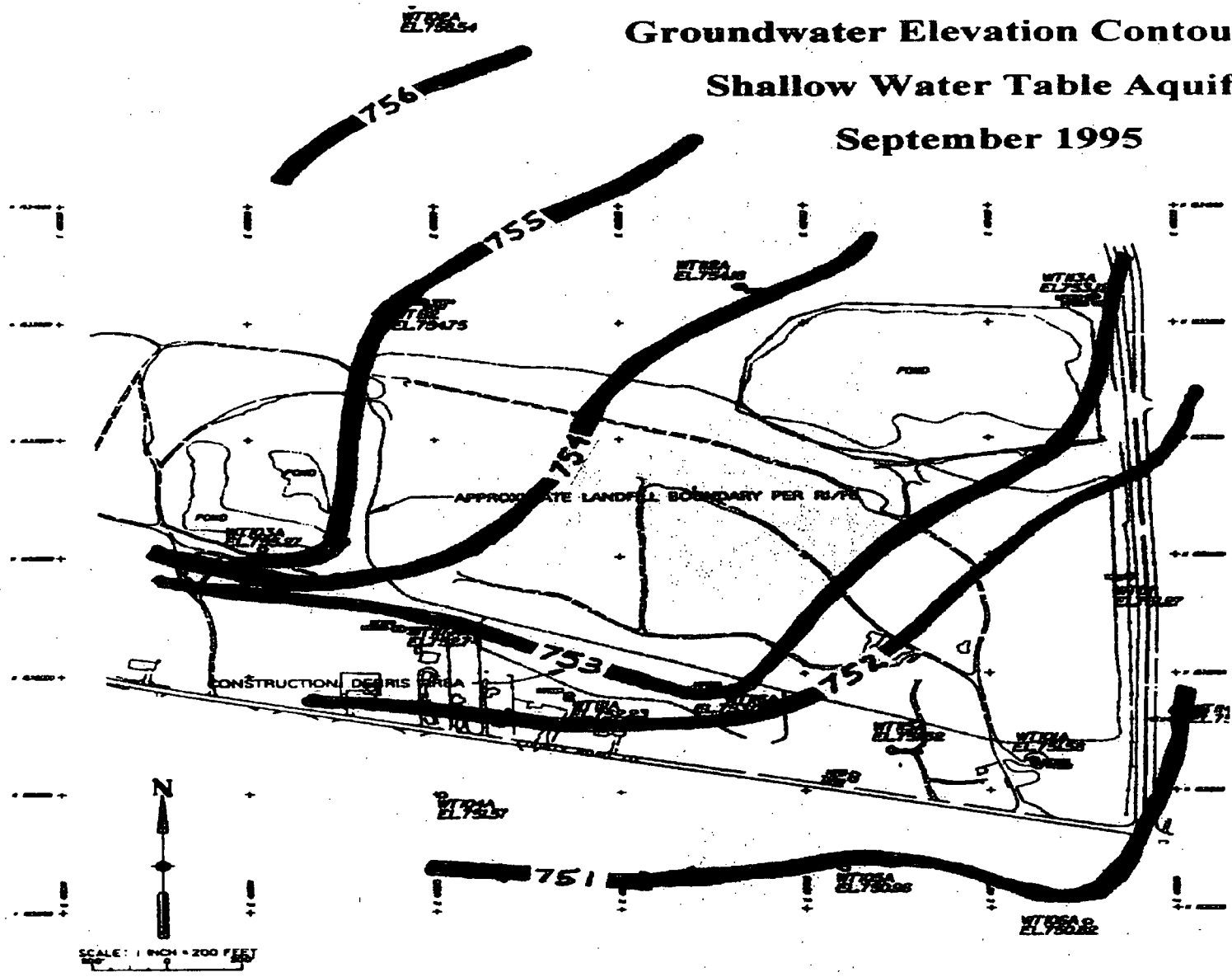
1,1-dichloroethane

Eastern Residential Area Ground Water

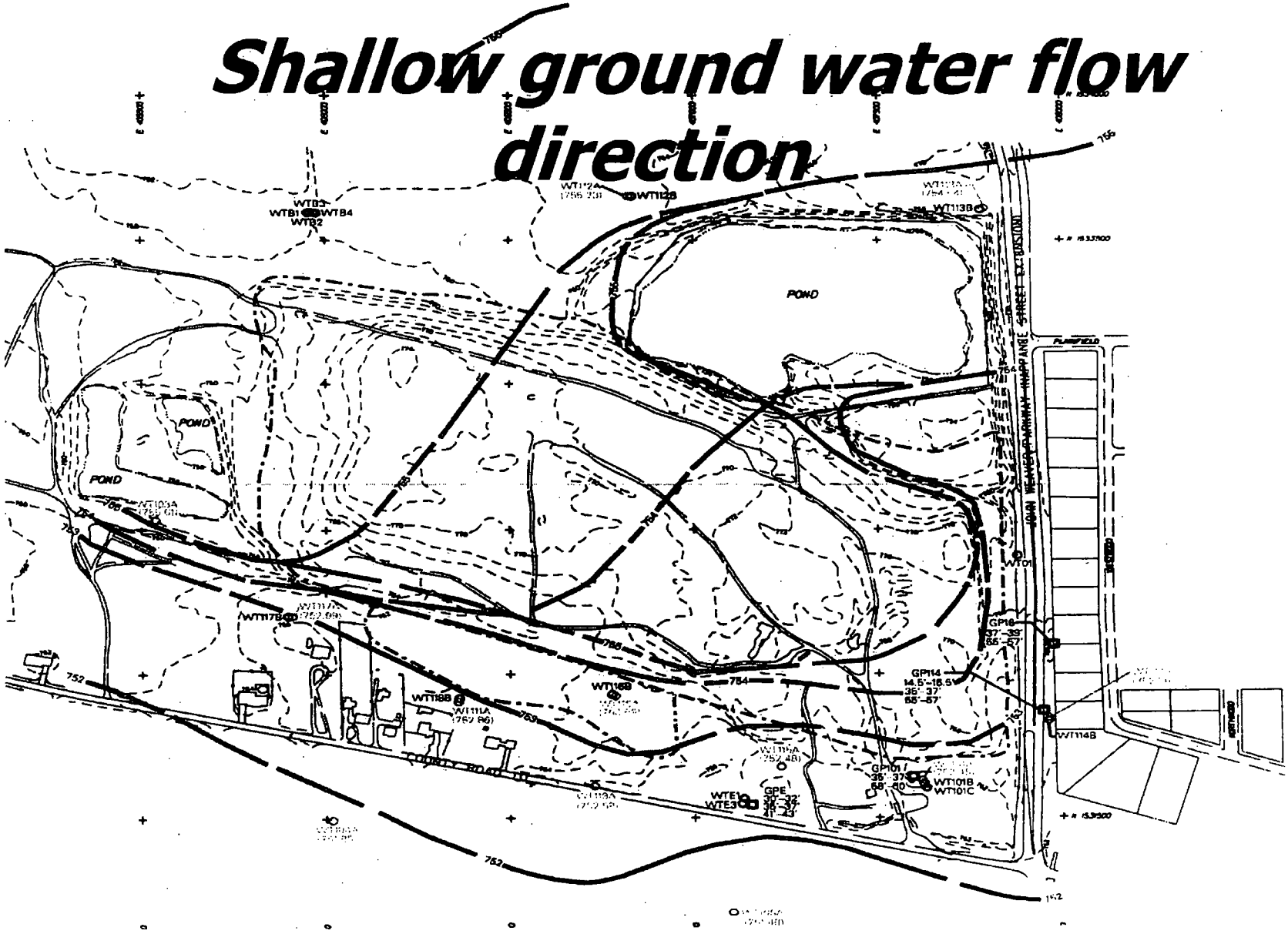
- The MCL for 1,2 dichloropropane (5 mg/L) a suspected carcinogen, was exceeded in an individual's private well this area.

- The estimated Site related incremental lifetime cancer risk for this area was 5.5×10^{-4}, which exceeds the 1×10^{-4} to 1×10^{-6} acceptable risk ranges for an adult resident.

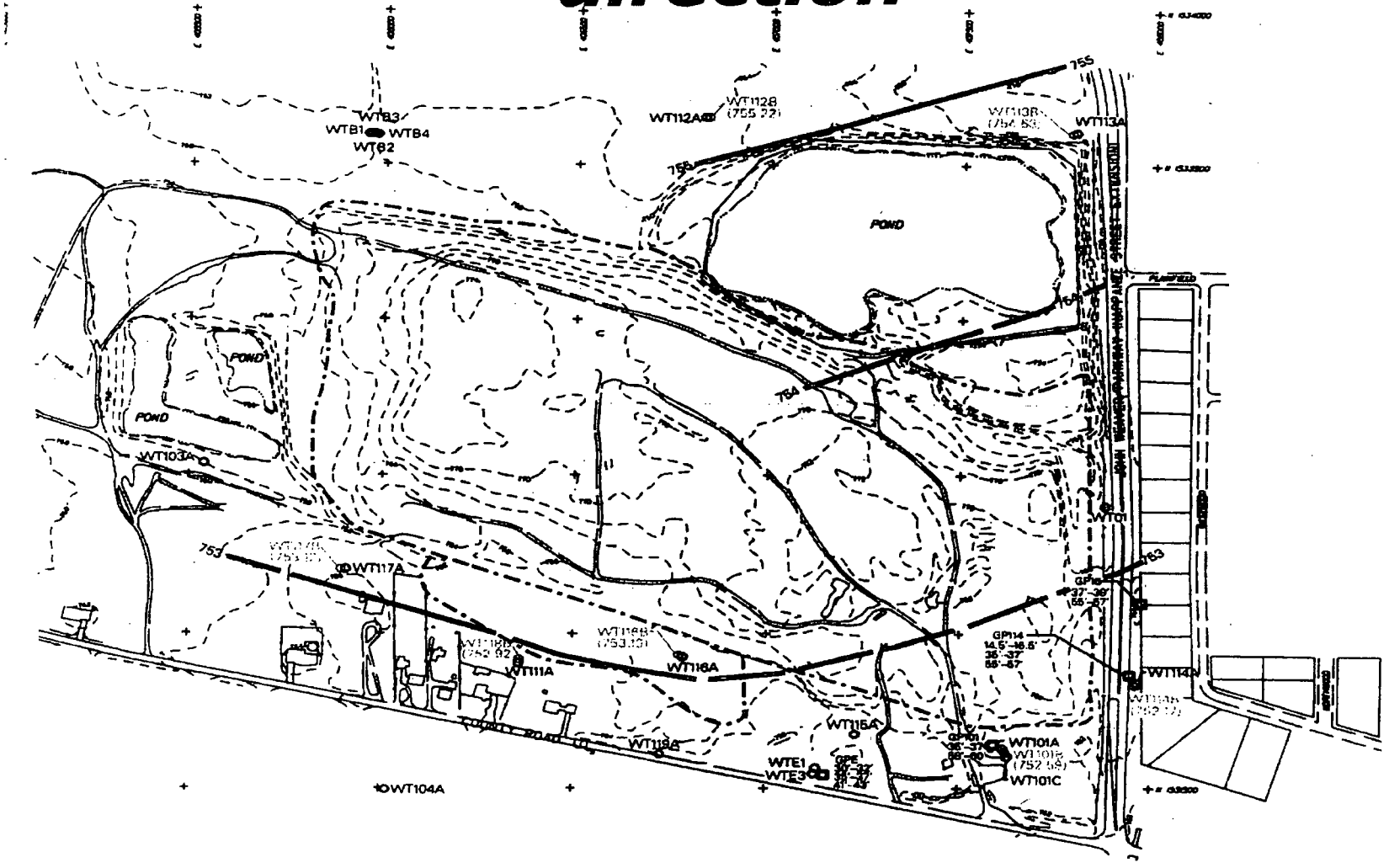
Groundwater Elevation Contour Map
Shallow Water Table Aquifer
September 1995



Shallow ground water flow direction



Intermediate ground water flow direction



Eastern Residential Ground Water

- The HI value of 28.95 for the child resident, for all exposure routes, are unacceptable due to the following:
  - arsenic
  - chromium
  - iron
  - manganese
  - thallium
  - benzene
  - 1,2-dichloropropane

Phase II soil gas detects:

- Chlorinated ethanes
- Halogenated methanes:
  - bromomethane, chloroform, chloromethane, methylene chloride)
- Ketone compunds
  - acetone, 2-butanone, 4-methyl-2-pentanone).

Recommended Changes To The Clean Up Remedy For The Site

- The EPA proposes to amend the Site's ROD to modify the 1993 landfill composite cap design, and to establish a contingency for further ground water containment and remediation.

- If during the long-term monitoring of ground water a hazardous constituent exceeds the "trigger" number, a contingency remedy will be implemented.

- The contingency remedy will be developed at that time to meet the performance standards of a remedial action implemented to decrease the hazardous constituent's ground water concentration back to below the "trigger" number within a twelve-month time frame of the initial exceedence.

- EPA's "trigger"levels will be based on the multiple exposure routes for ground water for the individual hazardous constituent, i.e., inhalation, dermal contact, and ingestion.

- For example, the suggested "trigger" for 1,2-dichloropropane, a carcinogen, would be 16 ppm.

- For non-carcinogens, the "trigger" levels measured would be any HI value greater than 1.0 for drinking water.

The rationale for modifying the 1993 cap is as follows:

- Since the landfill waste mass is in contact with the water table, the effectiveness of the 1993 cap is minimized and therefore is not cost effective.

- The 1993 cap will not remove the potential threat to the receptor. In this proposed plan the receptor (residents) will be connected to the local municipal water supply, therefore the increased cost of the 1993 cap is not necessary.

- The architectural/structural requirement of the 1993 cap to protect the cap's integrity would have increased the cost or prohibited the potential redevelopment of the Site.

- An extensive ground water monitoring system will be implemented to ensure the protectiveness of all potential receptors

- A Brownfields Grant has been recently awarded to the City of Elkhart for the Site to ascertain the feasibility of restoring this property to productive reuse.

The proposed 2003 modified soil cover

- A modified soil cover will be constructed over the "footprint" of the entire 60-acre landfill, which will consist of the following:
  - Contour and grade the existing cover
  - Add 30 inches of a vegetated soil cover
    - An erosion layer of at least 6-inches of soil capable of sustaining the growth of native plants
    - A barrier layer consisting of at least 24 inches of compacted low permeability ($1x10^{-5}$ cm/sec) soil cover. The rationale for the 30-inch soil cover had to do with that area of Indiana having a 24-inch freeze/thaw depth.

- The bottom six inches of soil will not be impacted by the potential 24-inch freeze/thaw phenomenon.
- Random fill/existing waste

- Use of institutional controls on landfill property to limit the land reuse to industrial, recreational, or commercial.
- Construction of the cover will be implemented to avoid or minimize adverse effects on the wetland.
- Final grading of the total cover to no less than 2% slope, after an accounting for the anticipated settlement

- Install an active landfill gas collection system to remove the gas generated in the landfill waste mass, and vent this gas to the atmosphere after treatment with a vapor phase activated carbon to remove the VOCs and control the odors.

- If necessary, a thermal oxidation process with a flare stack will be constructed as required by Indiana Administrative Code (IAC) 326.

- Quarterly monitoring of the soil gas to assure that the performance standards of the active gas collection system are functioning properly for a duration of one year.

- Semiannually for the next four years; and then reevaluated to determine the monitoring schedule for the next 25 years.

- Periodic Inspections Of Landfill Gas Collection System:

  - A complete inspection of the landfill cover system, drainage structures, landfill gas (LFG) collection and treatment system, and ground water wells.

  - LFG monitoring probes will be conducted periodically during the post-closure period.

- Periodic inspections will be performed on a quarterly bases during the first two years post closure. Following this period, periodic inspections will be conducted on a semiannual basis.

- Operation & Maintenance (O & M) of the and the vegetative cover, soil gas collection system and monitoring well network for a minimum 30 years.

2003- Residential Area East And Southeast Of The Landfill

- Connect select residents (including a buffer zone) living on the east and southeast side of the landfill to the local municipal water supply.
  - 20 select and 15 buffer zone residents for a total of 35 residents

- Abandon all residential private wells once the municipal water supply has been established.
  - An appurtenant deed restriction will be applied to each property to prohibit any future private well installation and future ground water use

- Abandon the 10 private wells in the CDA:
  - Residential wells must be abandoned after municipal water is provided to the resident according to the Indiana Department of Natural Resources' (IDNR) requirements listed in 312 IAC 13-10-2.
  - Once the private wells are abandoned at the residence, an appurtenant deed restriction will be applied to that property to prohibit any future private well installation and future ground water use.

2003 - CDA

- Excavate the lead from the parcel that exceeded the screening level of 400 ppm, and backfill with clean soil.
  - Excavated soil will be disposed of per land disposal requirements.
- Remove all construction debris and rubbl from the CDA , backfill with clean soil.

- Establish a long-term ground water monitoring program to monitor the future ground water conditions from all the monitoring wells associated with the landfill, including the newly installed monitoring wells.

  - The purpose is to determine if the ground water threshold trigger has been initiated or to determine if a municipal water supply should be extended past the "buffer zone."

- The "trigger" for extending municipal water to the residential properties is reached when a monitoring well sample located in the buffer zone meets or exceeds the MCL four consecutive sampling event.

- **Nested** monitoring wells will be installed in the buffer zone, not in the area where the residents are still using their private wells. The purpose of the monitoring wells is to find a potential problem before it can impact the receptors. Residential wells must be abandoned once municipal water is provided to the resident according to the IDNR requirement listed in 312 IAC 13-10-2.

Landfill Long Term Ground Water Monitoring

- Monitor all ground water monitoring wells associated with the landfill for a minimum of 10 years; quarterly for the first two years.

- Based on the results, ground water monitoring may be decreased to semiannually for the next three years.

Landfill Long - Term Ground Water Monitoring cont.

- At the five-year review periods (Superfund requirement for all Sites where waste remain on-site), the ground water long-term monitoring requirements will be reassessed to determine the continued frequency and duration at that time.

Landfill Long - Term Ground Water Monitoring cont.

- Implement institutional controls with dee restrictions:
  - limiting future ground water use
  - prohibiting the installation of new private ground water wells in the Site's vicinity,
  - no drilling or digging into the landfill cover.

- Installation of a perimeter fence around the entire Site for security.

Landfill Redevelopment

[redacted] determine the property's suitability for a particular reuse scenario, a future land use feasibility study must be conducted by the entity responsible for the redevelopment of the property.

- For example, any anticipated building constructed on the Site will have to be evaluated to determine the soil gas interaction/impact on any structures on the landfill, as well as the "displacement" of contaminated soils, wastes, etc.

5-Year Review Periods

- Evaluate the following criteria to determine the [redacted] for more or less remedial measures:

  - Ground water results collected during the previous monitoring period years to determine trends in contaminant concentrations, if any;

  - Effectiveness of the source control measures to prevent contaminant migration beyond the down gradient boundary; and

5-year Review Periods cont.

[redacted]tential for the contaminants in the ground water [redacted]meet or exceed the "trigger" levels.

- Additional measures may be necessary if an evaluation of the above criteria indicates:
  - Contaminant concentrations in the ground water have not decreased; and
  - Source control measures do not meet their remedial objectives.

Next Steps

- The EPA will accept written comments on its recommendation during the public comment period beginning now through **May 12, 2003.**

- The EPA will evaluate and respond to all comments received.

- The clean up plan will be described in detail in the ROD Amendment.

Next Steps cont.

- EPA will meet with the parties believed responsible for the clean up.
  - If these parties are unable to reach an agreement with the EPA, or they are unwilling to perform the clean up activities, fund monies may be used to pay for the clean up. The EPA would then seek to recover these cost in court.