

*Not*  
Duty Entered for Taxation  
Subject to Final Acceptance for Transfer

RECORDED

11/16/2017 3:00:25 PM

FEB: 23 00 PGS: 12

LINDA SMITH

MADISON COUNTY RECORDER, IN  
RECORDED AS PRESENTED

NOV 15 2017

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RECORDED  
LINDA SMITH

*Paul A. Smith*  
AUDITOR, MADISON COUNTY

**Environmental Restrictive Covenant**

THIS ENVIRONMENTAL RESTRICTIVE COVENANT is made this 8<sup>th</sup> day of November, 2017, by John Ritchison, Commissioner on behalf of Madison County Tax Certificate Lien Holder pursuant to November 1, 2017 Order in Cause No. 48C05-1708-PL-000085.

WHEREAS: LLL Incan Ind. Corp. is the fee owner of certain real estate in the County of Madison, Indiana, which is located at 2425 Walton Street in Anderson and more particularly described in the attached Exhibit "A" ("Real Estate"), which is hereby incorporated and made a part hereof. The Real Estate was acquired by deed on March 29, 2013. The Real Estate consists of 2.21 acres and is also identified by the county by parcel identification number 48-11-14-303-002.000-003. The Real Estate to which this Covenant applies is depicted on a map attached hereto as Exhibit "B."

WHEREAS: A No Further Action ("NFA") Letter, a copy of which is attached hereto as Exhibit "C," was prepared and issued by the Indiana Department of Environmental Management ("the Department" or "IDEM") pursuant to the Indiana Brownfields Program's ("Program") recommendation to address the redevelopment potential of a brownfield site resulting from a release of petroleum products, Program site number BFD #4110404.

WHEREAS: The NFA Letter, as approved by the Department, provides that certain contaminants of concern ("COCs") remain in soil and groundwater on the Real Estate but will not pose an unacceptable risk to human health at the concentrations detected provided that the land use restrictions contained herein are implemented and maintained to ensure the protection of public health, safety, or welfare, and the environment. The COCs are 1,3,5-trimethylbenzene, benzene, methylene chloride, 2-methylnaphthalene, naphthalene, benzo(a)pyrene, and lead in soil and carbon tetrachloride and naphthalene in groundwater.

WHEREAS: Soil and groundwater on the Real Estate were sampled for volatile organic compounds ("VOCs"), 1,2-dichloroethane, 1,2-dichloroethane, polycyclic aromatic hydrocarbons ("PAHs"), total petroleum hydrocarbons ("TPH")-gasoline range organics ("GRO"), TPH-diesel range organics ("DRO"), TPH-extended range organics ("ERO"), and/or Resource Conservation and Recovery Act ("RCRA") metals. Confirmatory soil results collected following over-excavation activities revealed levels of benzo(a)pyrene and lead in surficial soils (< 10 feet below ground surface ("bgs")) in the northwest area above their respective Direct Contact residential default closure levels ("RDCLs") but below their respective Direct Contact industrial default closure levels ("IDCLs") established by IDEM in the Risk Integrated System of Closure ("RISC") Technical Resource Guidance Document (February 15, 2001 and applicable revisions). Soil concentrations in the former UST area were below IDEM RDCLs except for 1,3,5-trimethylbenzene, benzene, methylene chloride, 2-methylnaphthalene, and naphthalene in soil, which were above their respective IDEM RDCLs but below their respective IDEM IDCLs and their respective RISC levels for construction worker exposure. Contaminant levels detected in groundwater above RDCLs include carbon tetrachloride detected in MW-5 at 5.5 ppb and



naphthalene in MW-3 at 10.5 ppb. The detected levels of both constituents were, however, below their respective IDCLs of 22 ppb and 2,000 ppb. The sample locations and levels of COCs detected in soil and groundwater on the Real Estate are summarized in Table 1, Table 2, and Table 3 in Exhibit "D", which are attached hereto and incorporated herein. A site map, attached hereto as Exhibit "E", depicts the sample locations at which COCs were detected above applicable RISC closure levels on the Real Estate.

WHEREAS: IDEM approved an industrial closure of environmental conditions on the Real Estate under RISC because 1) the source of the contamination was eliminated by the removal of the USTs and associated contaminated soil; 2) the depth of remaining soil contamination in the former UST area is approximately 15 feet bgs making it unlikely any person would be exposed to contaminant levels above RISC IDCLs or construction worker exposure limits; 3) detected lead levels in soils in the northwest excavation area on the Real Estate did not exceed the Direct Contact IDCL; 4) the potential exposure pathway to detected levels of carbon tetrachloride and naphthalene above their respective RISC RDCLs in groundwater can be eliminated through the land use controls in this Covenant; and, 5) drinking water is supplied to the Real Estate from a municipal water supply.

WHEREAS: Environmental reports and other documents related to the Real Estate are hereby incorporated by reference and may be examined at the Public File Room of the Department, which is located in the Indiana Government Center North at 100 N. Senate Avenue, 12<sup>th</sup> Floor East, Indianapolis, Indiana. The documents may also be viewed electronically by searching the Department's Virtual File Cabinet on the Web at: <http://www.in.gov/idem/4101.htm>.

NOW THEREFORE, Madison County Commissioner subjects the Real Estate to the following restrictions and provisions, which shall be binding on Madison County Commissioner and all future owners:

## I. RESTRICTIONS

### 1. Restrictions. The Owner:

- (a) Shall not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).
- (b) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to, human or animal consumption, gardening, industrial processes, or agriculture, without prior Department approval, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.

## II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the

Owner of the Real Estate and the Owner's successors, assigns, heirs and lessees or their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control ("Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in all or any part of the Real Estate by any person shall limit the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.

Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.

Access for Department The Owner shall grant to the Department and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of determining whether the land use restrictions set forth in paragraph 1 above are being properly maintained (and operated, if applicable) in a manner that ensures the protection of public health, safety, or welfare and the environment. This right of entry includes the right to take samples, monitor compliance with the remediation work plan (if applicable), and inspect records.

Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances) the following notice provision (with blanks to be filled in):

**NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED NOVEMBER   8  , 2017, RECORDED IN THE OFFICE OF THE RECORDER OF MADISON COUNTY ON                     , 20  , INSTRUMENT NUMBER (or other identifying reference) IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.**

Notice to Department of the Conveyance of Property. Owner agrees to provide notice to the Department of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances). Owner must provide the Department with the notice within thirty (30) days of the conveyance and include (a) a certified copy of the instrument conveying any interest in any portion of the Real Estate, and (b) if the instrument has been recorded, its recording reference(s), and (c) the name and business address of the transferee.

Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

## III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, the Department may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate the Department if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, the Department shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

## IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until the Department determines that contaminants of concern on the Real Estate no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without the Department's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Madison County and within thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to the Department.

## V. MISCELLANEOUS

11. Waiver. No failure on the part of the Department at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect the Department's right to enforce such term, and no waiver on the part of the Department of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner from complying with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, RISC guidelines, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.

14. **Notices.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

**To Owner:**  
Madison County Commissioner  
16 East 9<sup>th</sup> Street Anderson,  
Indiana 46016  
ATTN: County Administrator  
With Copy To:  
Jeffrey K. Graham  
County Attorney  
1601 S. Anderson Street  
Elwood, IN 46036

**To Department: Indiana**  
Brownfields Program 100 N.  
Senate Avenue, Rm. 1275  
Indianapolis, Indiana 46204  
ATTN: John Morris

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

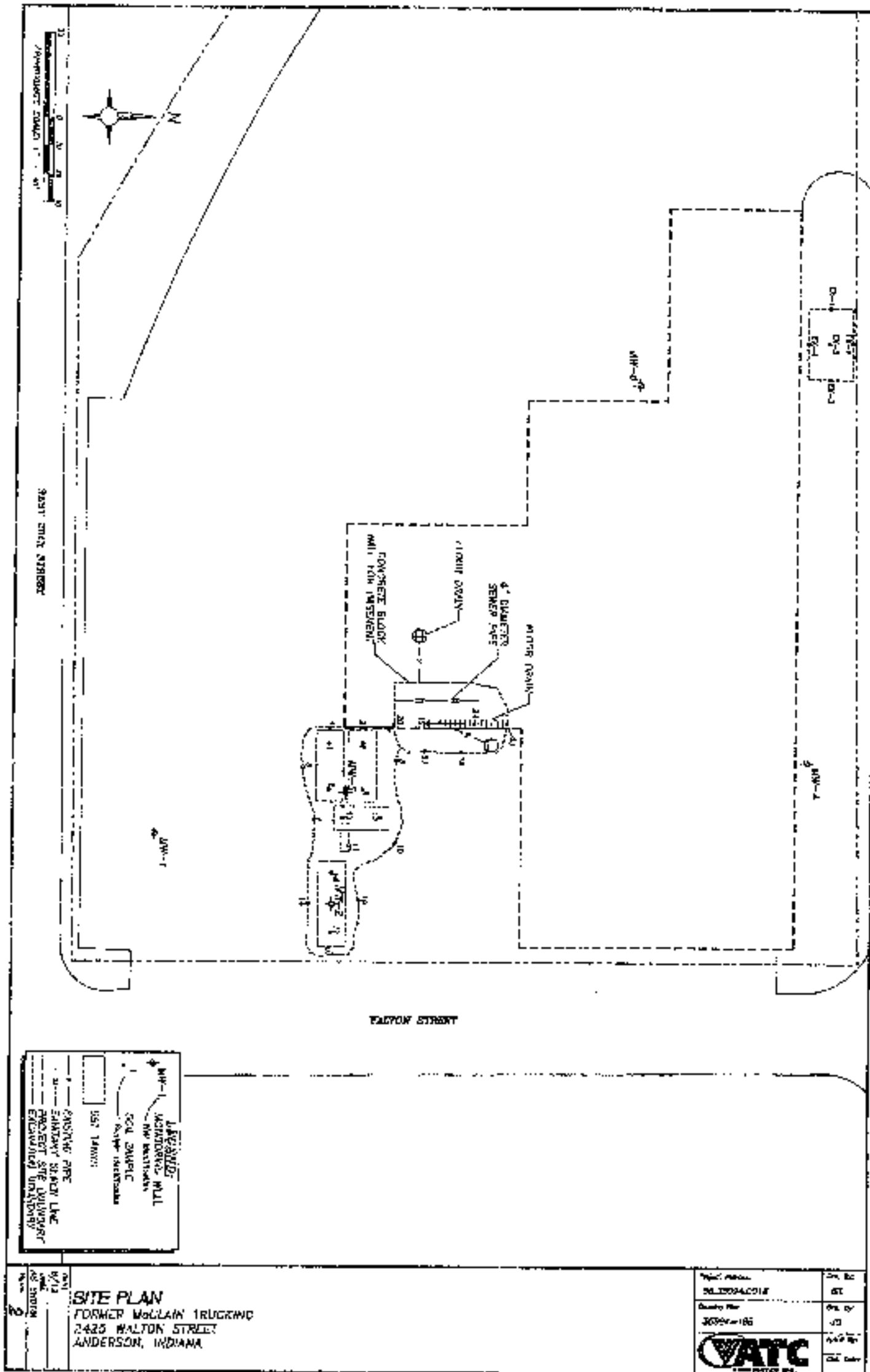
15. **Severability.** If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
16. **Authority to Execute and Record.** The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.



Exhibit "A"

COMMENCING AT THE INTERSECTION OF THE WEST LINE OF WALTON STREET AND THE SOUTH LINE OF TWENTY-FOURTH STREET IN THE CITY OF ANDERSON, INDIANA, THENCE SOUTH 267 FEET ALONG THE WEST LINE OF WALTON STREET TO THE NORTH RIGHT-OF-WAY LINE OF THE ANDERSON BELT RAILROAD; THENCE WESTERLY ALONG SAID RAILROAD RIGHT-OF-WAY LINE 81.5 FEET; THENCE NORTHWESTERLY ALONG SAID RIGHT OF WAY ALONG A CURVE 520 FEET MORE OR LESS TO THE SOUTH RIGHT OF WAY LINE OF TWENTY-FOURTH STREET; THENCE EAST 513 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF TWENTY-FOURTH STREET TO THE PLACE OF BEGINNING, CONTAINING 2.21 ACRES, MORE OR LESS, AND BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 19 NORTH, RANGE 7 EAST.

Property Address: 2425 Walton Street, Anderson, IN 46016



LAYING OUT  
 EXISTING UTILITIES  
 WITH NEW UTILITIES  
 SOIL SAMPLE  
 1/4" = 1'-0"

EXISTING PIPE  
 EXISTING SEWER LINE  
 PROJECT SITE UTILITIES  
 EXCAVATED UTILITIES

**SITE PLAN**  
 FORMER MOLLAIN TRUCKYARD  
 2425 WALTON STREET  
 ANDERSON, INDIANA

Project Name	2425 WALTON
Client	ATC
Scale	1/4" = 1'-0"
Drawn By	ATC
Checked By	ATC
Project No.	2425 WALTON

EXHIBIT "B"



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

*Mitchell F. Daniels, Jr.*  
Governor

*Thomas W. Easterly*  
Commissioner

100 North Senate Avenue  
Indianapolis, Indiana 46204  
(317) 232-8603  
Toll Free (800) 451-8027  
[www.idem.IN.gov](http://www.idem.IN.gov)

July 30, 2012

Steffanie Owens  
Madison County Commissioner  
16 East 9<sup>th</sup> Street  
Anderson, Indiana 46016

Re: **No Further Action Determination**  
**Pursuant to Risk Integrated System of Closure**  
**American Recovery and Reinvestment Act**  
Former McLain Trucking  
2425 Walton Street  
Anderson, Madison County  
PID #5881  
LUST #201206504  
Brownfield Site #4110404

Dear Ms. Owens:

Indiana Department of Environmental Management (IDEM) Indiana Brownfields Program (Program) staff reviewed the following documents regarding the environmental activities conducted for the subject property located at 2425 Walton Street in Anderson, Madison County (Site):

- *Phase I Environmental Site Assessment (Phase I)* report dated July 1, 2011 by Hull & Associates, Inc. (Hull).
- *Phase II Subsurface Investigation (Phase II)* report dated Nov. 18, 2011 by Hull.
- *Corrective Action Plan (CAP)* dated March 21, 2012 by ATC Associates, Inc. (ATC).
- *Underground Storage Tank Closure Report and Remediation Completion Report (UST Closure Report)* dated June 13, 2012 by ATC.

Investigation activities related to the above-referenced reports were funded by a United States Environmental Protection Agency (U.S. EPA) Brownfields Petroleum Assessment Grant awarded to the City of Anderson while remediation activities were funded by Leaking Underground Storage Tank (LUST) American Reinvestment and Recovery Act of 2009 (ARRA) funds allocated by the Indiana Brownfields Program (Program) to complete corrective action related to the underground storage tanks (USTs).

### Site History and Description

The 2.21-acre Site (Parcel # 48-11-14-303-002.000-003) has been vacant since 2009 and has been used by several trucking facilities since the 1930s. The Site is bordered by West 25<sup>th</sup> Street to the south, Walton Street to the east, West 24<sup>th</sup> Street followed by residential homes to the north, and residential properties to the west. The western portion of the Site is undeveloped with soil/gravel cover and the eastern half is comprised of concrete foundations from buildings that were purportedly demolished in late 2011 and early 2012. The UST fueling system was located in the southeast portion of the Site. The Site is located within a primarily residential and light commercial area with future redevelopment expected to be commercial or light industrial in nature. Drinking water is supplied to the area by the City of Anderson.

### EPA Brownfields Petroleum Assessment Grant Activities

In June 2011, Hull conducted a Phase I on the property for the City of Anderson. The Phase I was conducted utilizing the American Society for Testing and Materials (ASTM) Practice E1527-05, Standard Practice for Environmental Site Assessment, which satisfies the federal "All Appropriate Inquiries" rule set forth in 40 CFR Part 312. The assessment identified the following three recognized environmental conditions (RECs):

- Underground storage tanks (USTs) of unknown capacity and contents including ancillary equipment such as dispensers and fill ports located east/southeast of the trucking facility building. The environmental database records indicate that two 5,000-gallon USTs and one 8,000-gallon UST exist at the Site.
- Various drums and storage containers of unknown contents, many in poor condition, were noted within the building interior.
- The surface water drainage collection system located adjacent to the trucking garage bay door may have historically trapped and/or may contain petroleum products or hazardous substances. The drainage collection system drains into a manhole on Site. A petroleum sheen was noted on water in the manhole during Site reconnaissance. This system may discharge water off Site into the municipal storm water drainage system.

In September 2011, Hull advanced eleven soil borings (HSB-1 through HSB-11) at the Site in order to evaluate the RECs identified in the Phase I. Six of the borings were converted to piezometers for the collection of groundwater samples. The borings were advanced to depths ranging from 15 to 35 feet below ground surface (bgs). The November 2011 Phase II report documented that soil and groundwater samples were collected and analyzed for some or all of the following constituents:

- Volatile organic compounds (VOCs)
- Carcinogenic polynuclear aromatic hydrocarbons (cPAHs) and naphthalene
- Total Petroleum Hydrocarbons (TPH)-Gasoline Range Organics (GRO)
- TPH-Extended Range Organics (ERO)

- TPH- Diesel Range Organics (DRO)
- Resource Conservation and Recovery Act (RCRA) metals, (arsenic, barium, cadmium, chromium, lead, mercury, nickel, and zinc)

Sample results were compared to IDEM's Risk Integrated System of Closure (RISC) Technical Resource Guide Document (February 15, 2001 and applicable revisions) residential default closure levels (RDCLs) and industrial default closure levels (IDCLs). The Phase II investigation revealed that the Site is contaminated with hazardous substances and petroleum products in soil and hazardous substances in groundwater.

The soil sample collected from HSB-1 at a depth of 12.5 to 15.0 feet bgs exhibited concentrations of TPH-ERO at 2,570 parts per million (ppm) and TPH-DRO at 2,690 ppm, which exceed their respective RISC IDCL.<sup>1</sup> This sample was collected northeast of the apparent UST pit and the dispenser island on the west central area of the Site. Hull concluded the source of these petroleum impacts is most likely a release from the UST system present in this portion of the Site. The soil sample collected from HSB-10 from a depth of zero to 2.5 feet bgs exhibited concentrations of lead at 493 ppm, which is above the Direct Contact RDCL of 400 ppm but below its Direct Contact IDCL of 1,300 ppm; and benzo(a)pyrene at 3.18 ppm, which is above its Direct Contact RISC IDCL of 1.5 ppm.

Groundwater samples collected from HSB-3, HSB-4, and HSB-7 exhibited concentrations of lead exceeding the RISC IDCL of 42 parts per billion (ppb), ranging in concentration from 78 ppb in HSB-7 to 1,800 ppb in HSB-4. These samples were collected in the east central and eastern portion of the Site. Hull concluded that the source of the lead in these locations is a petroleum release from the UST system.

#### **UST ARRA Investigation and Remediation Activities**

ATC submitted the March 2012 Corrective Action Plan (CAP), which proposed to conduct a geophysical survey across the Site to identify the presence of USTs or other suspect anomalies, removal of any identified USTs at the Site, and up to 750 tons of petroleum impacted soil, with the possible application of Oxygen Releasing Compound (ORC) at the Site. The CAP was approved by the Program on March 27, 2012. On April 3, 2012, a ground penetrating radar (GPR) survey conducted across the Site identified the presence of a number of metallic anomalies, specifically, several USTs on-Site in the southeast portion of the property.

Between May 7 and May 10, 2012, ATC removed and properly disposed of three (3) 5,000-gallon steel diesel USTs, one (1) 8,000-gallon steel diesel UST, and associated piping. During UST removal activities, 916 tons of petroleum impacted soil and 1,150 gallons of product/sludge in the USTs were removed and properly disposed. In addition, soil was excavated on the northwest portion of the Site based on elevated concentrations of

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<sup>1</sup> As of June 17, 2010, IDEM no longer evaluates TPH contamination when determining RISC closure. Therefore, the levels of TPH-ERO and -DRO detected in soil samples were not considered when determining closure.

benzo(a)pyrene and lead in shallow soil discovered during the Phase II investigation. Based on information regarding the possibility of another UST located at the Site, an exploratory excavation was performed May 17 to May 18, 2012. No additional UST was found; however, an additional 466 tons of petroleum impacted soil was encountered and removed for a total of 1,382 tons of petroleum impacted soil removed from the Site during LUST ARRA activities.

Twenty four (24) confirmatory soil samples were collected and analyzed for VOCs and polyaromatic hydrocarbons (PAHs). Soil sample results were compared to their respective, applicable IDEM RISC RDCLs and IDCLs. In addition, confirmatory soil samples from 0-10 feet bgs were compared to RISC RDCLs and IDCLs direct contact exposure pathway (Direct Contact) while soil samples collected from 10 to 18 feet bgs were compared to construction worker exposure pathway (Construction Worker). Groundwater was not encountered during UST and soil removal activities.

Soil analytical results revealed the presence of 1,3,5-trimethylbenzene, benzene, methylene chloride, 2-methylnaphthalene, and naphthalene in soil above their respective IDEM RDCLs but below their respective IDEM IDCLs. The reported VOCs and PAHs were reported at approximately 15 feet bgs. None of the sidewall samples contained VOCs or PAHs above their respective IDEM RDCLs. Table 1, below, documents contaminant concentrations detected above RDCLs in soil from the UST excavation area. Table 2, below, documents contaminant concentrations detected above RDCLs in soil from the northwest excavation area.

**TABLE 1**  
**UST Excavation Area Soil Concentrations Above RDCLs**

Sample ID	Depth (ft)	Contaminants Detected (parts per million)				
		1,3,5-Trimethylbenzene	Benzene	Methylene Chloride	2-Methyl-naphthalene	Naphthalene
#1	15	<i>0.671</i>	<i>0.154</i>	<i>0.164</i>	0.019	0.0308
#3	15	ND	ND	<i>0.389</i>	0.0034	0.0077
#8	15	0.121	ND	<i>0.205</i>	4.52	1.5
#9	15	0.228	<i>0.155</i>	<i>0.288</i>	9.97	2.01
#12	15	ND	ND	ND	5.26	0.697
#13	15	0.0249	ND	<i>0.116</i>	0.0448	0.0502
RDCL		0.61	0.034	0.023	3.1	0.7
IDCL		68	0.35	1.8	42	170
Construction Worker		380	560	22,000	3,300	17,000

Notes: *italic* = above RDCL      ND = Not Detected above laboratory detection limits

**TABLE 2**

**Northwest Excavation Area Soil Concentrations Above Direct Contact RDCLs**

Sample ID	Depth (ft)	Contaminants Detected (parts per million)	
		Benzo(a)pyrene	Lead
HX-2	1.5	<i>1.49</i>	414
EX-3	1.5	<i>0.634</i>	97
HX-4	1.5	<i>0.361</i>	563
EX-5	3	<i>0.29</i>	791
Direct Contact RDCL		0.5	400
Direct Contact IDCL		1.5	1,300

Notes: *italic* = above Direct Contact RDCL.

Following completion of excavation and backfilling activities, five (5) permanent monitoring wells (MW-1 through MW-5) were installed on-Site to determine whether groundwater had been contaminated from historical on-Site activities. Groundwater samples were collected from each of the monitoring well locations and analyzed for VOCs, PAHs and/or RCRA metals. Groundwater results revealed the presence of carbon tetrachloride in MW-3 at 5.5 parts per billion (ppb), which is above its RISC RDCL of 5 ppb but below its RISC IDCL of 22 ppb; and naphthalene detected in MW-5 at 10.5 ppb, which is above its RDCL of 8.3 ppb, but below its IDCL of 2,000 ppb. All other groundwater results were either not detected or were detected below their respective RISC RDCLs. Table 3, below, documents contaminant concentrations detected above RDCLs in groundwater. Groundwater flow was determined to be to the northeast across the Site.

**TABLE 3**

**Groundwater Concentrations Above RISC RDCLs**

Sample ID	Sample Date	Contaminants Detected (parts per billion)	
		Carbon Tetrachloride	Naphthalene
MW-3	5/16/2012	ND	<i>10.5</i>
MW-5	5/16/2012	<i>5.5</i>	ND
RISC RDCLs		5	8.3
RISC IDCLs		22	2,000

Notes: *italic* = above RISC RDCL

ND = Not detected above laboratory detection limits

## Conclusion

IDEM has determined that environmental conditions on the Site meet default industrial closure criteria under RISC because 1) the source of the contamination was eliminated by the removal of the USTs and associated contaminated soil; 2) the depth of remaining soil contamination in the former UST area is approximately 15 feet bgs making it unlikely any person would be exposed to contaminant levels above RISC IDCLs or construction worker exposure limits; 3) detected lead levels in Site soils in the northwest excavation area did not exceed the Direct Contact IDCL; 4) the potential exposure pathway to detected levels of carbon tetrachloride and naphthalene above their respective RISC RDCLs in groundwater can be eliminated through land use controls; and, 5) drinking water is supplied to the Site from a municipal water supply.

Based on the information of known contaminant levels submitted to or otherwise reviewed by IDEM, IDEM concludes that current Site conditions do not warrant a response action at this time and does not plan to take a response action at the Site at this time. If IDEM later discovers that the above-referenced reports or other information submitted to IDEM was inaccurate, or if any activities undertaken by an owner or operator exacerbate the Site contamination, then IDEM reserves the right to revoke this letter and pursue any responsible parties. Additionally, this determination does not apply to any contamination that is not described in this NFA letter or any future releases at the Site. Furthermore, this letter does not constitute an assurance that the Site is safe or fit for any particular use.

IDEM encourages the commercial/industrial redevelopment of this Site. Please be advised that any work performed at the Site must be done in accordance with all applicable environmental laws. Redevelopment of this Site in a manner consistent with the land use restrictions discussed below will lessen the possibility that environmental conditions at the subject Site could deteriorate in the future.

Since levels of 1,3,5-trimethylbenzene, benzene, methylene chloride, 2-methylnaphthalene, naphthalene, benzo(a)pyrene, and lead detected in soil and carbon tetrachloride and naphthalene in groundwater at the Site were above applicable RISC RDCLs, an environmental restrictive covenant (ERC) is required to be recorded on the deed for the Site to ensure no exposure to contaminated soils and groundwater. As a condition of effectiveness of this NFA letter, the Site owner must record the enclosed ERC on the deed for the Site which prohibits use of the property for residential use and prohibits the use of Site groundwater.

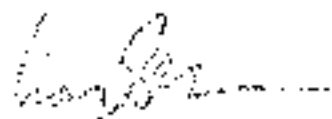
In order for IDEM to consider this NFA letter effective, the enclosed ERC, which includes a copy of this letter as an Exhibit, must be recorded on the deed for the Site in the Madison County Recorder's Office. Please return a certified copy of the filed document to the address listed below:

Indiana Brownfields Program  
100 North Senate Avenue, Room 1275  
Indianapolis, Indiana 46204  
ATTN: John Morris

McLain Trucking – ARRA No Further Action Letter  
BFD# 4116404  
July 30, 2012  
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IDEM is pleased to assist with this redevelopment project. If you have any questions, please contact John Morris at 317/234-8099 or toll free from within Indiana at 800/451-6027. He can also be reached via email at [jomorris1@ifa.in.gov](mailto:jomorris1@ifa.in.gov).

Sincerely,



Craig Schroer, Chief  
Underground Storage Tank Branch  
Office of Land Quality

Enclosure

cc: Jan Pels, U.S. Environmental Protection Agency, Region V (*electronic copy*)  
Patricia Pulson, U.S. Environmental Protection Agency, Region V (*electronic copy*)  
Tim Veatch, Leaking Underground Storage Tanks Program, IDEM (*electronic copy*)  
Cindy Klem, Indiana Brownfields Program (*electronic copy*)  
Nawai Hopkins, Underground Storage Tanks, IDEM (*electronic copy*)  
Jeffrey Bahling, ATC Associates, Inc. (*electronic copy*)  
John Morris, Indiana Brownfields Program (*electronic copy*)  
Gary McKinney, City of Anderson (*electronic copy*)

**TABLE 1**

**Former McLain Trucking, Anderson  
UST Excavation Area Soil Concentrations Above RDCLs**

Sample ID	Depth (ft)	Contaminants Detected (parts per million)				
		1,3,5-Trimethylbenzene	Benzene	Methylene Chloride	2-Methylnaphthalene	Naphthalene
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#12	15	ND	ND	ND	5.26	0.697
#13	15	<i>0.0249</i>	ND	<i>0.116</i>	0.0448	0.0502
RDCL		0.61	0.034	0.023	3.1	0.7
IDCL		68	0.35	1.8	42	170
Construction Worker		380	560	22,000	3,300	17,000

Notes: *italic* = above RDCL      ND - Not Detected above laboratory detection limits

**TABLE 2**

**Former McLain Trucking, Anderson  
Northwest Excavation Area Soil Concentrations Above Direct Contact RDCLs**

Sample ID	Depth (ft)	Contaminants Detected (parts per million)	
		Benzo(a)pyrene	Lead
EX-2	1.5	<i>1.49</i>	<i>414</i>
EX-3	1.5	<i>0.634</i>	97
EX-4	1.5	0.361	563
EX-5	3	0.29	791
Direct Contact RDCL		0.5	400
Direct Contact IDCL		1.5	1,300

Notes: *italic* = above Direct Contact RDCL

**TABLE 3**

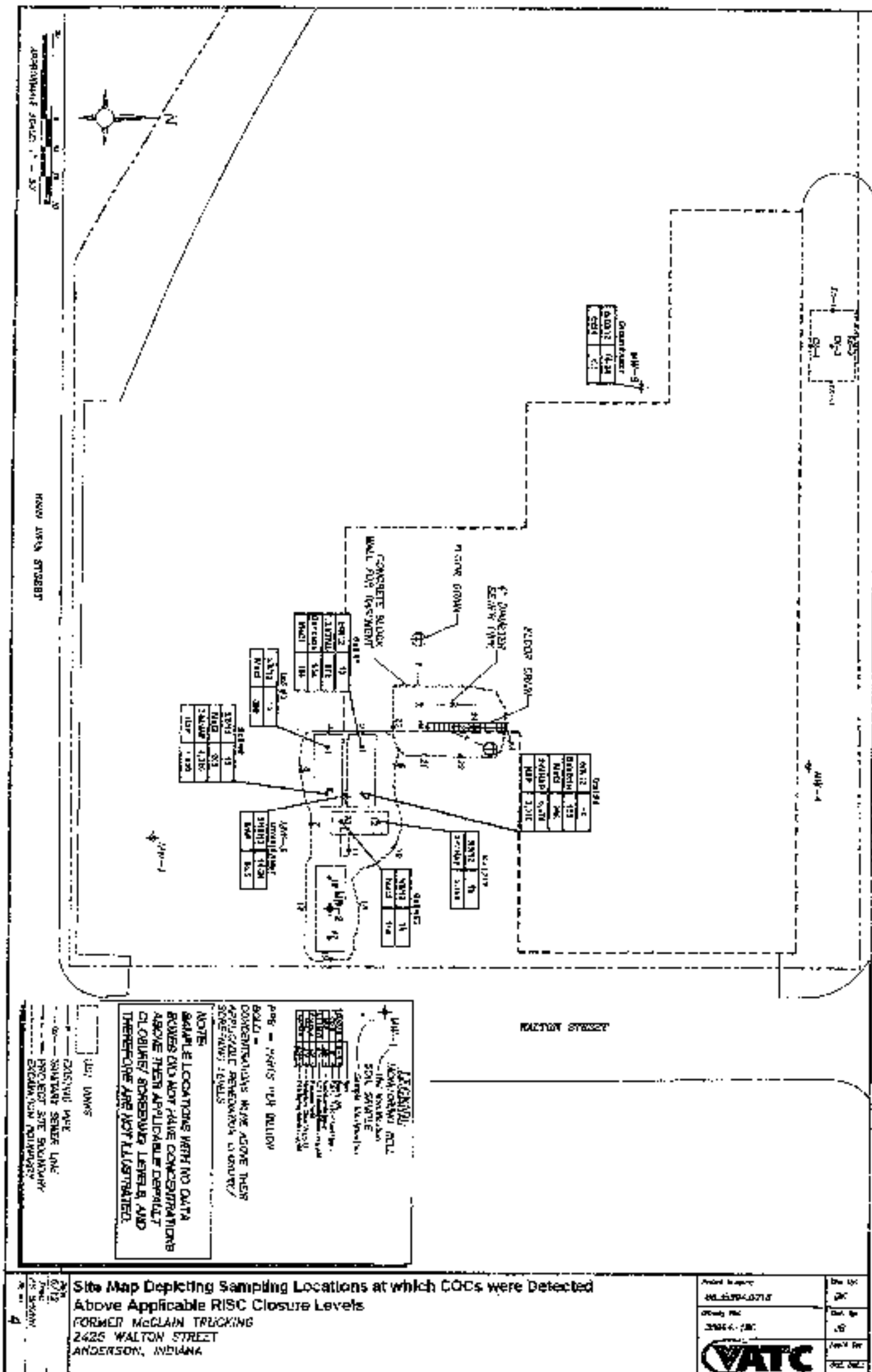
**Former McLain Trucking, Anderson**

**Groundwater Concentrations Above RISC RDCLs**

Sample ID	Sample Date	Contaminants Detected (parts per billion)	
		Carbon Tetrachloride	Naphthalene
MW-3	5/16/2012	ND	<i>10.5</i>
MW-5	5/16/2012	<i>5.5</i>	ND
RISC RDCLs		5	8.3
RISC IDCLs		22	2,000

Notes: *italic* - above RISC RDCL

ND - Not detected above laboratory detection limits



**Site Map Depicting Sampling Locations at which COCs were Detected Above Applicable RISC Closure Levels**  
 FORMER McCLAIN TRUCKING  
 2425 WALTON STREET  
 ANDERSON, INDIANA

Project No. 001-001-001-001  
 Date: 10/1/00  
 Scale: 1" = 100'

**VATC**  
 CONSULTANTS, INC.

