



INSTITUTIONAL CONTROLS

Indiana Department of Environmental Management (IDEM)

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Indianapolis, IN 46204

September 1, 2021



Overview

- **History of Institutional Controls in Indiana**
- **Institutional Controls Types**
 - Environmental Restrictive Covenants (ERCs)
 - Environmental Restrictive Ordinances (EROs)
 - Deed Notices
 - Not Quite Institutional Controls
 - Administrative Control Areas (ACAs)
 - Point of Exposure/Engineering Controls
- **Informational Tools**
 - Institutional Controls Webpage
 - New ERC Template
 - GIS Map of Restricted Sites
 - Institutional Controls (IC) Registries
- **Other**
 - Self-Auditing
 - Long Term Stewardship



IDEM Cleanups – History

- Cleanups levels were absolute and conservative.
- Cleanups were expensive and difficult to achieve.
- Not all contaminants had established cleanup levels to use.
- Result: Sites were left open and unusable.
 - 👎 *Bad for property owners.*
 - 👎 *Bad for communities.*
 - 👎 *Bad for IDEM.*



House Enrolled Act 1162 (now referenced as Public Law 78-2009)

Effective July 1, 2009, the law requires IDEM to consider risk-based remediation objectives for hazardous substances and petroleum that (A) manage risk and (B) control completed or potential exposure pathways.

The department shall consider and give effect to environmental restrictive covenants (ERCs) and environmental restrictive ordinances (EROs) in evaluating risk-based remediation proposals.

 *Good for property owners*

 *Good for communities*

 *Good for IDEM*



Institutional Controls

Institutional controls (ICs) - non-engineered, administratively and legally enforceable measures that limit human exposure to environmental chemicals of concern at properties seeking closure under Indiana Department of Environmental Management (IDEM) review.

Types of Institutional Controls:

- Environmental Restrictive Covenants (ERCs)
- Environmental Restrictive Ordinances (EROs)
- Deed Notices



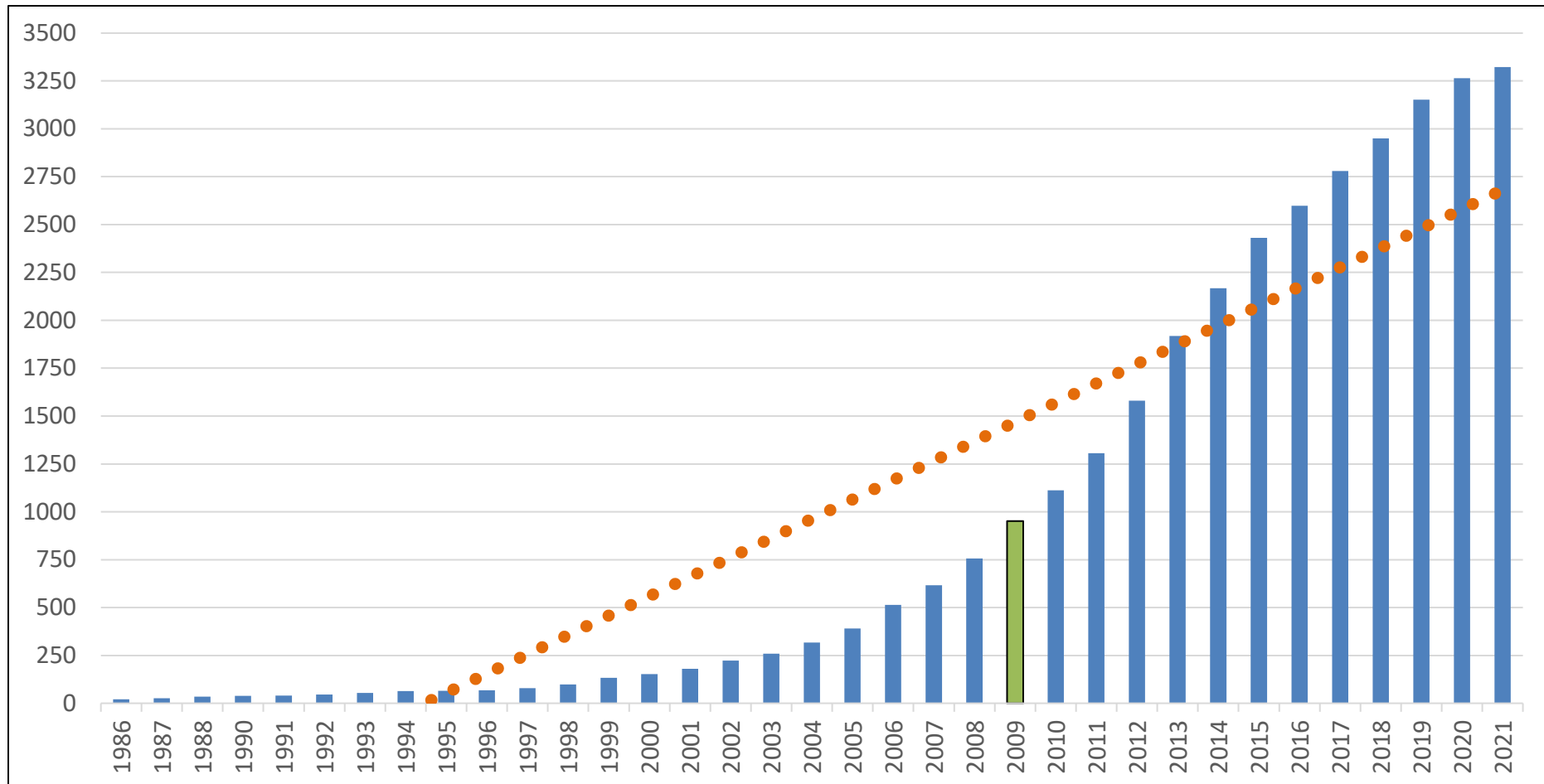
Environmental Restrictive Covenants (ERCs)

- Legally binding and IDEM enforceable documents.
- Recorded on individual property deeds by the current property owner.
- Attached to a property deed for-ev-err.
- Outlines that environmental contamination is present on a property.
- Lists *land use restrictions* designed to eliminate exposure pathways and protect human health from that environmental contamination.





ERCs by Year – Cumulative





IC 13-11-2-193.5

Restrictive Covenant Defined

An ERC executed after June 30, 2009:

- (A) limits the use of the land or the activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment;
- (B) by its terms is intended to run with the land and be binding on successors;
- (C) is recorded with the county recorder's office in the county in which the land is located;
- (D) explains how it can be modified or terminated;
- (E) grants the department access to the land;
- (F) requires notice to a transferee of:
 - (i) the land; or
 - (ii) an interest in the land; of the existence of the restrictive covenant; and
- (G) identifies the means by which the environmental files at the department that apply to the land can be located.

IC 13-11-2-193.5: As developed in the ERC

| Citation | | Section/Paragraph |
|----------|--|--|
| (A) | Limits the use of the land or activities that may be performed on or at the land or requires the maintenance of any engineering control on the land designed to protect human health or the environment. | I. Restrictions 1. The Owner: Select from the list below (In the form of “Shall not...”) |
| (B) | By its terms is intend to run with the land and be binding on successors | II. General Provisions 2. Restrictions to Run with the Land and 3. Binding upon Future Owners |
| (C) | Is recorded in the county recorder’s office in the county in which the land is located | Throughout |
| (D) | Explains how it can be modified or terminated | IV. Term, Modification and Termination 10. Modification and Termination |
| (E) | Grants the department access to the land | II. General Provisions 4. Access for Department |
| (Fi) | Requires notice to a transferee of the land; or | II. General Provisions 5. Written Notice of the Presence of Contamination and NOTICE: |
| (Fii) | Requires notice to a transferee of <i>an interest</i> in the land; of the existence of the restrictive covenant; and | |
| (G) | Identifies the means by which the environmental files at the department that apply to the land can be located | 4 th Whereas Para “...may be examined at the offices...” and VFC website link. |



Additional ERC Requirements for Hazardous Waste

Indiana Code [13-25-4-24](#). Contaminated property; restrictive covenants

Sec. 24. (a) This section applies to real property that is:

(1) the site of an existing or former hazardous waste facility that is or was subject to regulation under:

(A) [IC 13-22-2](#) through [IC 13-22-8](#) and [IC 13-22-13](#) through IC [IC 13-22-14](#); **or**

(B) Subchapter III of the federal Solid Waste Disposal Act (42 U.S.C. 6921 through 6939e); **or**

(2) a site:

(A) on which a hazardous substance has been: (i) deposited;

(ii) stored; **or**

(iii) disposed of; **and**

(B) that is or was listed on the Comprehensive Environmental Response, Compensation, and Liability Information System ([CERCLIS](#))* in accordance with Section 116 of CERCLA (42 U.S.C. 9616); if more than an insignificantly small amount of a hazardous substance remains on or beneath the surface of that property after the partial or final closure of a hazardous waste facility located on the property or the completion of a remedial action on the property under CERCLA or this chapter.



(b) The owner of real property described in subsection (a) shall execute and record, in the office of the county recorder of the county in which the property is located, a restrictive covenant applying to the property if the commissioner determines that a restrictive covenant meeting the requirements set forth in subsection (c) is necessary to protect the public health or welfare or the environment from unreasonable risk of future exposure to a hazardous substance.

(c) A restrictive covenant required under this section must: (1) to the extent feasible, describe:

(A) the identity, quantity, and location of every hazardous substance:

(i) deposited; (ii) stored;

(iii) disposed of; or

(iv) placed; on the property; and

(B) the extent to which each hazardous substance remains on the property; and

(2) incorporate the conditions and restrictions that the commissioner considers necessary to assure that the future use of the property will not disturb the final cover, any liners, or any components of the hazardous substance containment system on the property, or disturb the function of the monitoring system on the property, unless the commissioner finds that the disturbance: (A) is necessary to the proposed use of the property and will not increase the potential hazards to human health or to the environment; or

(B) is necessary to mitigate a threat to human health or to the environment.

(d) A restrictive covenant required by this section is subject to modification under IC 13-14-2-9.

As added by P.L.1-1996, SEC.15. Amended by P.L.220-2014, SEC.34.



Change of Ownership

IC 13-11-2-193.5(F)(ii) requires notification to the new Owner of the existence of an ERC recorded on a property deed. Also, Section II paragraph 6. Notice to Department of the Conveyance of Property - requires notification to IDEM.

ERC language requires that the Owner provide notice to the Department if the property is conveyed and:

- a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate, and
- b) if it has been recorded, its recording reference, and
- c) the name and business address of the transferee.



ERCs Require IDEM Review

IC 13-14-2-8 **Certain restrictive covenants not subject to department approval; department review and action on certain activities and land use restrictions**

Sec. 8. (a) Subject to subsection (b), a restrictive covenant executed after June 30, 2009, is not subject to approval by the department.

(b) The department shall: (1) review; and

(2) approve, disapprove, or partially approve and partially disapprove; activities and land use restrictions described in IC 13-11-2-193.5(2) that are proposed as part of a remediation, closure, cleanup, corrective action, or determination exercising enforcement discretion or of no further action being required to be included in a restrictive covenant. As added by P.L.78-2009, SEC.11. Amended by P.L.1-2010, SEC.61.

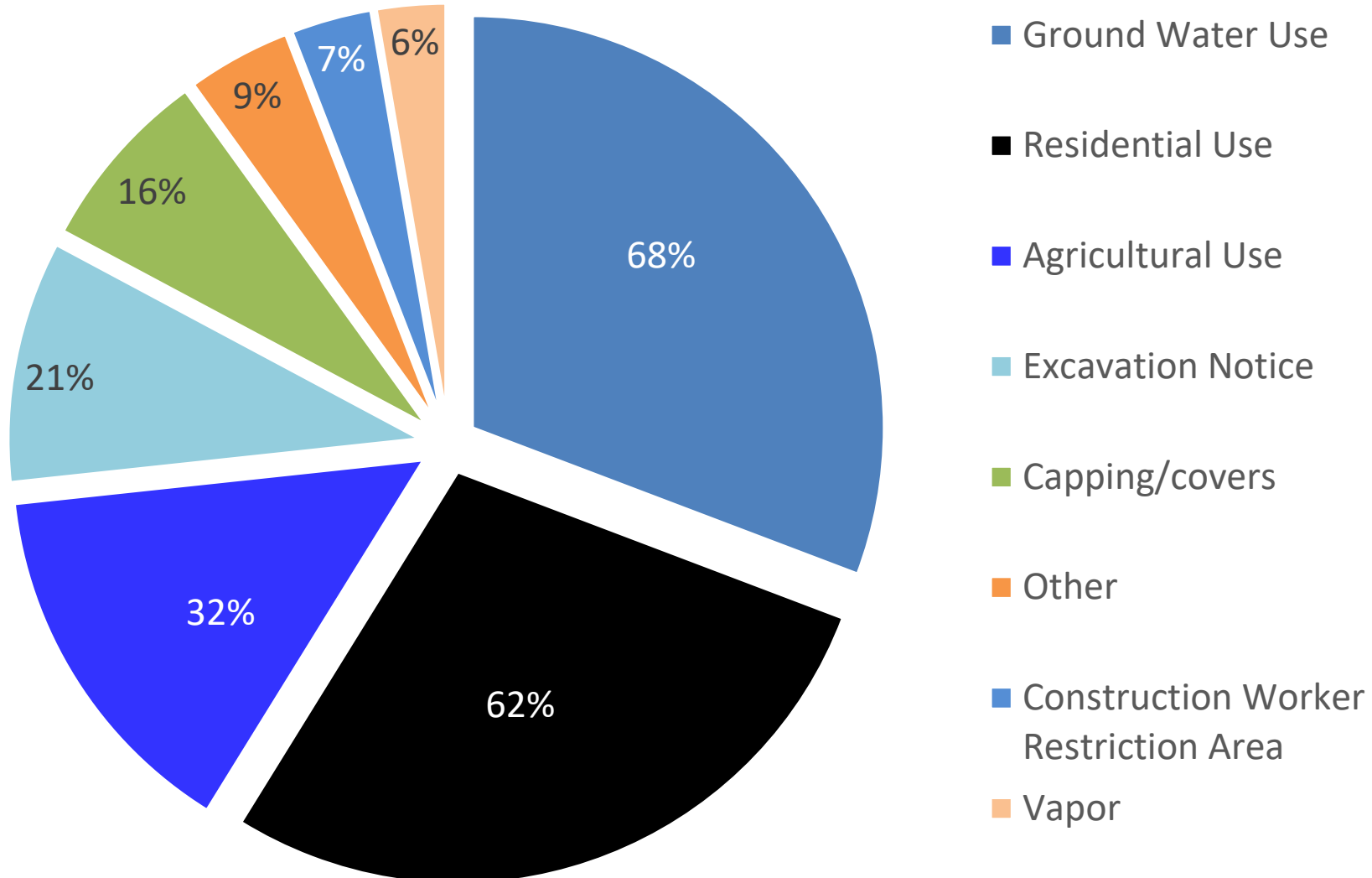
Land Use Restrictions

Table 12-A: Restrictions and Remedies

| Type | Exposure Pathway | Comments |
|---|--|--|
| Ground water use restriction | Ground water direct contact | <i>Use when:</i> Ground water exceeds residential remediation objectives. |
| Residential use restrictions | Soil direct contact | <i>Use when:</i> Easily accessible soils exceed residential soil direct contact remediation objectives. The remedy includes caps, covers, or the possibility of methane generation. Unexploded ordnance may be present. <i>Consider when:</i> Multiple exposure pathways may present increased long-term exposure risk (e.g., a combination of highly contaminated soil, ground water, and soil gas). |
| Excavation prohibition, restrictions, or notice | Soil direct contact: excavation worker | <i>Use when:</i> Unexploded ordnance may be present. The remedy includes an engineered cap. The remedy includes a soil or vegetative cover. Contamination remains above excavation worker remediation objectives. <i>Consider when:</i> Residual contamination remains at residential properties (e.g., fuel oil contamination beneath a house). |
| Prohibition on building construction | Soil direct contact, ground water direct contact, and VI | <i>Consider when:</i> Very high levels of contamination will remain in place for a long time (particularly chlorinated volatile organic compounds (VOCs)). Hazardous waste or contamination remains contained in place. Landfills produce methane (additional regulations may apply). |
| Vapor mitigation systems ⁶⁹ | VI | <i>Use when:</i> Indoor air contamination is confirmed, particularly for residences. <i>Consider when:</i> Ground water contamination exceeds VI screening levels. |
| Capping/covers ⁷⁰ | Soil direct contact; migration to ground water | <i>Use when:</i> Easily accessible soil exceeds remediation objectives. <i>Consider when:</i> Vadose zone soils exceed migration to ground water remediation objectives in wellhead protection areas, susceptible areas, or landfills. The site or surrounding property contains potable water wells. |
| Agricultural use restriction | Ingestion; possible soil direct contact | <i>Use when:</i> Contaminants may bioaccumulate in food chain. Unexploded ordnance may be present. Engineered cap or cover must be maintained. <i>Consider when:</i> Easily accessible soils exceed residential soil direct contact remediation objectives. Agricultural use or gardening seems likely. |



Land Use Restrictions by ERC





A Special Note About Affected Areas

- Remember the ERC is applied to the ENTIRE Site as defined by the Legal Description of the deed (the “Real Estate”).
- Specific land use restrictions to can be applied to defined areas of the “Real Estate”.
- Theses specific areas are the “Affected Areas”.
- Affected Areas must be mapped and defined by either a legal survey or GPS.



Closing a site with an ERC

Working with your IDEM PM, an ERC can be considered for closing the site.

- Using the ERC template found on the IC webpage draft an ERC by filling in the appropriate information
- Send in the ERC for IDEM review
- Revise the draft ERC based on the comments provided by IDEM
- Return revised final draft ERC.
- IDEM gives final approval the ERC is recorded by the property Owner



What to do with a Recorded ERC?

IDEM keeps a record of all Recorded ERCs in the State. That's why it is important to send in ERCs after they are recorded.

- Send a copy of the Recorded ERC to your IDEM PM or to the Institutional Controls Group email, institutionalcontrols@idem.in.gov
- Save a copy of the Recorded ERC for your records



ERC Modification (IC 13-14-2-9)

If a property owner wants to modify the recorded land use restrictions “*because of a change of conditions or an advancement in science or technology...*”

- There is a formal process in place that includes cost recovery:
 - ✓ The applicant will need to fill out State Form 56082 (link on ICG webpage) and provide a draft ERC modification (13-14-2-9)(c)(2) to ICG.
 - ✓ ICG will start cost recovery (329 IAC 1-2-7) and finalize the ERC modification.
 - ✓ The new, modified ERC will need to be recorded
 - ✓ Send recorded copy back to ICG for our records



ERC Termination

- The Site must meet unrestricted residential redevelopment
- There is a formal process in place that includes cost recovery:
 - ✓ The applicant will need to fill out State Form 56082, and provide a draft ERC termination.
 - ✓ ICG will start cost recovery (329 IAC 1-2-7) and finalize the ERC termination.
 - ✓ The ERC termination document is recorded and the original ERC's land use restrictions are terminated.
 - ✓ A copy of the recorded termination is sent to IDEM for our records.



ERC Scrivener's Error

- A Scrivener's Error is used for "minor" errors or omissions in a recorded document. Examples can be omission of exhibits, not defining an "Affected Area", or mis-identification of owners or property address.
- These corrections require an affidavit.



Environmental Restrictive Ordinance (ERO)

Indiana Code 13-11-2-71.2. “Environmental restrictive ordinance”

Sec. 71.2. “Environmental restrictive ordinance” means, with respect to land, any ordinance that:

- (1) Is adopted by a municipal corporation (as defined in [IC 36-1-2-10](#)).
- (2) Seeks to control the use of ground water in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances or petroleum, or both.



EROs

- EROs are developed and passed by local municipalities (e.g., town councils) based on their own needs and circumstances.
- EROs can be passed for a number of reasons to include:
 - Addressing contamination migrating on to private property
 - Wellhead protection
 - A requirement to hook up to municipal water

In fact, many EROs are unrelated to environmental contamination



Deed Notice

- A **Deed Notice** is a non-enforceable, informational document recorded on a deed that alerts anyone searching the records to important information about the property.
- Deed notices are *required* to be filed as part of landfill closure activities.
- Used in older VRP COCs.
- Attached to the deed for-ev-er .



Approved Deed Restriction Date Received on August 31, 2015

2015005854 MISC \$16.00
08/19/2015 11:17:07A 3 PGS
Tanya J Williams
SHELBY County Recorder IN
Recorded as Presented



A NOTATION IS BEING MADE ON THE BELOW DESCRIBED DEED IN DEED
BOOK 187 PAGE 484

PARCEL OF LAND
ACQUIRED IN 1944

CITY OF SHELBYVILLE CITY GARAGE

LAND DESCRIPTION

The City of Shelbyville acquired the below described Parcel of Land, as follows:

By a General Warranty Deed from Sarah H. Shock recorded on November 3, 1944 in deed book 187, page 484, in the records of Shelby County at Shelbyville, Indiana.

The City of Shelbyville City Garage, situated at 605 Hale Road in the State of Indiana, County of Shelby and more particularly described as follows:

Beginning at an Iron Stake in the middle of a public road on the East line of the West Half of the North-West Quarter of Section Six (6), Township Twelve (12) North, Range Seven (7) East, Four Hundred Eighty Eight (488) feet South of the point where the said East line intersects the middle line of the Shelbyville and Marietta Turnpike Road and running thence South, Sixty Eight (68) degrees and Ten (10) minutes West, along the South line of Mapleton Eight Hundred and Thirty Five and Nine Tenths (835.9) feet to and Iron Stake; thence South Fifty Two and one fourth (52 ¼) degrees East, One Hundred Five and Eight Tenths (105.8) feet to a stake; thence South Sixty Two and one Fourth (62 ¼) degrees East, Ninety Two and Sixty Seven Hundredths (92.67) feet to a stake six (6) inches North-West of a Wild Cherry Tree; thence South Sixty Eight and one half (68 ½) degrees East One Hundred Eight and Sixty Two hundredths (108.62) feet to a stake; thence South, Seventy Four and one Fourth (74 ¼) degrees East One Hundred Fifty Five and three tenths (155.3) feet to a stake; thence South, Eighty Three (83) degrees and Forty Five (45) minutes East One Hundred Forty Three and Seventy Two Hundredths (143.72) feet to a stake; thence North Seventy seven and one Half (77 ½) degrees East Two Hundred Twenty Six and Five Tenths (226.5) feet to an Iron Stake on the East line of said ¼ Quarter Section Four Hundred and Ninety Five and Four Tenths (495.4) feet South of the place of beginning, and thence North to the place of beginning, containing Five and Eighty Three (5.83) Hundredths Acres, more or less.

SALE DISCLOSURE
NOT REQUIRED
SHELBY COUNTY ASSESSOR

The abbreviated legal description for the parcel is the following: PT W/2 SW 6 12 7 5.83 AC CITY GARAGE ON HALE RD NON TAXABLE.

The property described was used as an open dump with acceptance of municipal type waste. It operated from approximately 1944-1963.

Enclosed is a copy of a contours map, point elevations, indicating land surface water runoff direction, surface water diversion structures, if any, parcel width, aerial and final grading. Full size copies are available from City Hall in Shelbyville.

No construction, installation of wells, pipes, conduits, or septic systems, or any other excavations shall be done on above described property without approval by the commissioner of the Solid Waste Management Board, of the State of Indiana.

This document is submitted to the Shelby County Recorder's Office for a notation to be made on above described Deed. All information is correct to my knowledge. This instrument adds a notation to the described parcel to inform future title searchers that the land was once used as a landfill. This is done in accordance with Indiana Administrative Code 329 IAC 2-15-5, under authority of Indiana Codes IC 13-1-12-8 and IC 13-7-7-5, affecting IC 13-1-3, IC 13-7 and IC 36-9-30.


Matt House, City Engineer
City of Shelbyville, Indiana

STATE OF INDIANA, COUNTY OF SHELBY. SS:

Before me, the undersigned, a Notary Public in and for said County and State, this day of 2015, personally appeared Thomas D. DeBaun and Frank Zerr, and acknowledged the same to be their voluntary act and deed for the uses and purposes herein mentioned. I have hereunto subscribed my name and affixed my official seal.

My County of Residence: Shelby

My Commission Expires:



I affirm, under the penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law.


Matthew House P.E., City Engineer

This instrument was prepared by Matthew House, City Engineer for Shelbyville, Indiana.



Institutional Controls Summary

| | Environmental Restrictive Covenant (ERC) | Environmental Ordinance (ERO) | Deed Notice |
|-------------------------------|---|---|---|
| Responsible Party? | Private Property Owner | Municipality | Private Property Owner |
| Enforcement? | IDEM Enforceable | Not IDEM Enforceable but may be municipal penalties | No enforcement but IDEM approval required |
| Duration? | Forever | Until revoked | Forever |
| Land Use Restrictions? | Site Dependent | Only Ground Water | Excavation of any kind |
| Properties? | Single Deed | Entire municipalities or multiple properties | Single deed |



Not Quite Institutional Controls

1. Administrative Control Areas (ACAs)

- County Health Officer creates groundwater use restrictions around a contaminated area.

2. Point of Exposure Controls/Engineering Controls

- Physically eliminates a direct exposure pathway of a receptor to contamination.



1. Administrative Control Areas

Incredibly similar to an ERO...

A geographic area established by the County Health Officer within or near an area of known or suspected groundwater contamination for which the Health Officer may establish restrictions on the installation and use of water wells to protect public health and safety of the groundwater.



2. Point of Exposure Controls

Anything intended to...

- Eliminate a direct exposure pathway,
- Requires long term maintenance and,
- Is (generally) not associated with an ERC.
 - Bottled water/Carbon filters
 - Vapor mitigation systems for off-Site impact
 - Fencing, soil caps, asphalt, building slabs, etc.



Informational Tools

- Institutional Controls Webpage (Updates Coming Soon)
 - NEW ERC Template
 - GIS Map of Restricted Sites
 - Institutional Controls Registry



Proposed ERC Template Changes

ERCs are a common path to closure since 2009. There has not been a meaningful change to the ERC template language, found on our website, since ERCs became common use.

| LOCATION | PROPOSED CHANGE | RESULT | | | | | | | | | | | | | | | | | | | | | | | | |
|---|------------------------------|--|------------------------------|---|--------|----------|------|--|---------------------|-------|------|--|---------------------|-------|---------------|--|-------------------|-------|---------------|--|-------------------|---------|-----|--|-------------------|---------|
| 1. | 2nd WHEREAS PARA | There is now ONE ERC template to be used for all programs | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <table border="1"> <thead> <tr> <th data-bbox="1031 68 1458 147">1st WHEREAS PARA</th> <th data-bbox="1458 68 1694 147">Program</th> <th data-bbox="1694 68 1928 147">Action</th> <th data-bbox="1928 68 1932 147">Citation</th> </tr> </thead> <tbody> <tr> <td data-bbox="1031 147 1458 358">RCRA</td> <td data-bbox="1458 147 1694 358"></td> <td data-bbox="1694 147 1928 358">"Corrective Action"</td> <td data-bbox="1928 147 1932 358">13-22</td> </tr> <tr> <td data-bbox="1031 358 1458 496">LUST</td> <td data-bbox="1458 358 1694 496"></td> <td data-bbox="1694 358 1928 496">"Corrective Action"</td> <td data-bbox="1928 358 1932 496">13-23</td> </tr> <tr> <td data-bbox="1031 496 1458 629">Petroleum/ICP</td> <td data-bbox="1458 496 1694 629"></td> <td data-bbox="1694 496 1928 629">"Response Action"</td> <td data-bbox="1928 496 1932 629">13-24</td> </tr> <tr> <td data-bbox="1031 629 1458 768">State Cleanup</td> <td data-bbox="1458 629 1694 768"></td> <td data-bbox="1694 629 1928 768">"Response Action"</td> <td data-bbox="1928 629 1932 768">13-25-4</td> </tr> <tr> <td data-bbox="1031 768 1458 861">VRP</td> <td data-bbox="1458 768 1694 861"></td> <td data-bbox="1694 768 1928 861">"Response Action"</td> <td data-bbox="1928 768 1932 861">13-25-5</td> </tr> </tbody> </table> | 1 st WHEREAS PARA | Program | Action | Citation | RCRA | | "Corrective Action" | 13-22 | LUST | | "Corrective Action" | 13-23 | Petroleum/ICP | | "Response Action" | 13-24 | State Cleanup | | "Response Action" | 13-25-4 | VRP | | "Response Action" | 13-25-5 |
| 1 st WHEREAS PARA | Program | Action | Citation | | | | | | | | | | | | | | | | | | | | | | | |
| RCRA | | "Corrective Action" | 13-22 | | | | | | | | | | | | | | | | | | | | | | | |
| LUST | | "Corrective Action" | 13-23 | | | | | | | | | | | | | | | | | | | | | | | |
| Petroleum/ICP | | "Response Action" | 13-24 | | | | | | | | | | | | | | | | | | | | | | | |
| State Cleanup | | "Response Action" | 13-25-4 | | | | | | | | | | | | | | | | | | | | | | | |
| VRP | | "Response Action" | 13-25-5 | | | | | | | | | | | | | | | | | | | | | | | |
| 2. | 3 rd WHEREAS para | Added GIS WebViewer language | | | | | | | | | | | | | | | | | | | | | | | | |
| | | <table border="1"> <thead> <tr> <th data-bbox="1031 861 1932 939">3rd WHEREAS para</th> </tr> </thead> <tbody> <tr> <td data-bbox="1031 939 1932 1232">Added, "...Real Estate is also depicted as a polygon at IDEM's https://on.in.gov/ideminteractivemap."</td> </tr> </tbody> </table> | 3 rd WHEREAS para | Added, "...Real Estate is also depicted as a polygon at IDEM's https://on.in.gov/ideminteractivemap ." | | | | | | | | | | | | | | | | | | | | | | |
| 3 rd WHEREAS para | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Added, "...Real Estate is also depicted as a polygon at IDEM's https://on.in.gov/ideminteractivemap ." | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3. | I. Restrictions | Added VFC citation for SMPs and OMM plans | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | |

| | | | |
|----|----------------|--|--|
| 4. | Signature Page | Removed Disinterested Witness Language | Removed “disinterested witness language” from the “IN WITNESS WHEREOF” signature block |
| 5. | Exhibits | Added request for Easement Search | RPs will need to do a title search to determine if there are easements that may conflict with LURs. Most likely example of a direct conflict is an easement that allows digging or excavation (e.g., for subsurface utilities) when the land use restriction prohibits digging or excavation. Easements must be shown on site maps to determine if they fall within a restricted area. If so, contact OLC for a Subordination Form that the RP will need to obtain from easement holder <u>or</u> contact OLC to assist in negotiating language so that the restrictions will remain protective. |



GIS Map of Restricted Sites

ArcGIS My Map Modify Map & Sign In

Details | Basemap | Print | Measure

About | Content | Legend

Contents

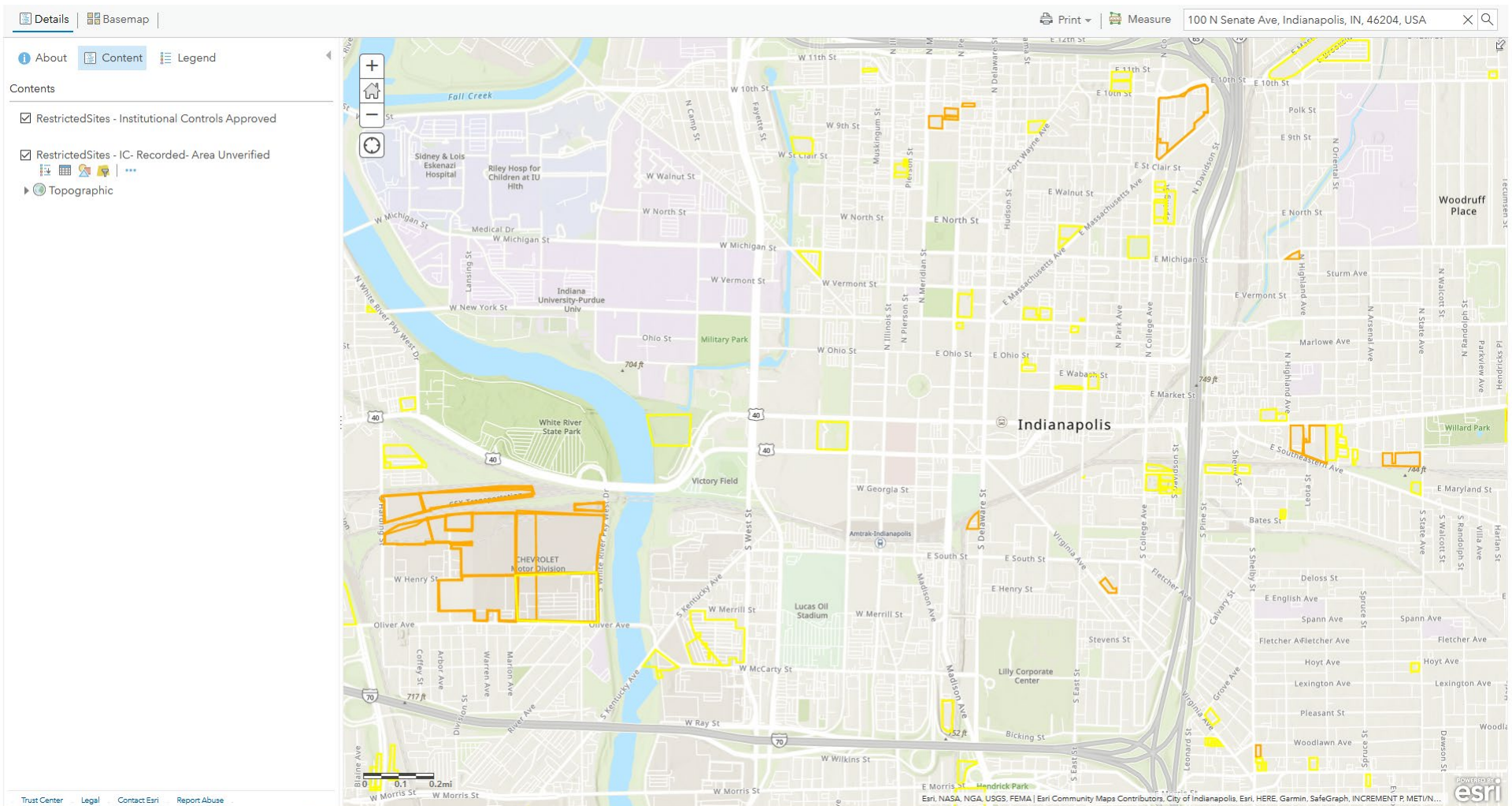
- RestrictedSites - Institutional Controls Approved
- RestrictedSites - IC- Recorded- Area Unverified
- Topographic

Trust Center | Legal | Contact Esri | Report Abuse

Esri, USGS | Esri, HERE, Garmin, FAO, METI/NASA, USGS, EPA, NPS | Engineering and GIS Services Section, Office of Land Quality, Indiana Dep...

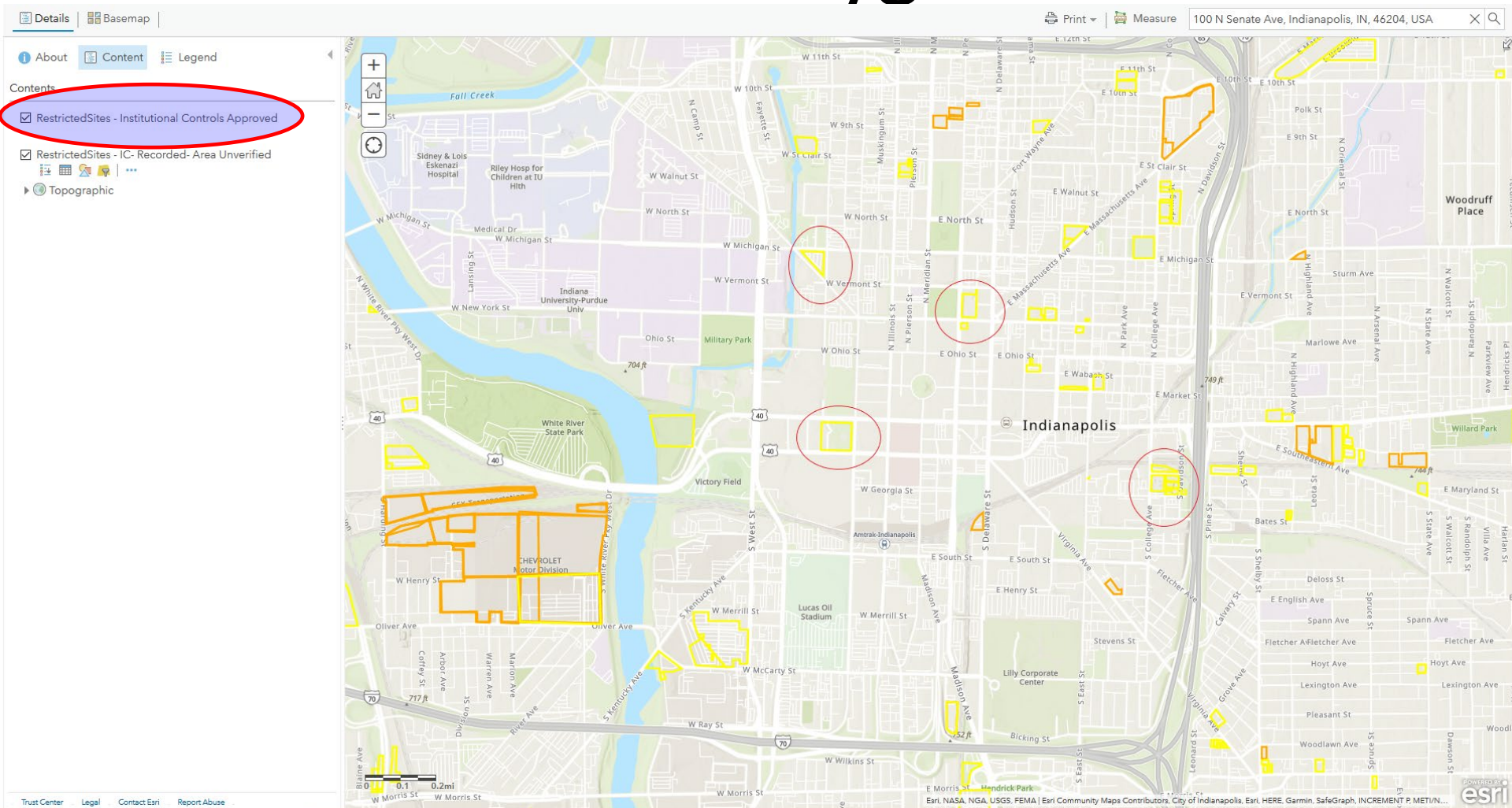


Downtown Indianapolis Restricted Sites



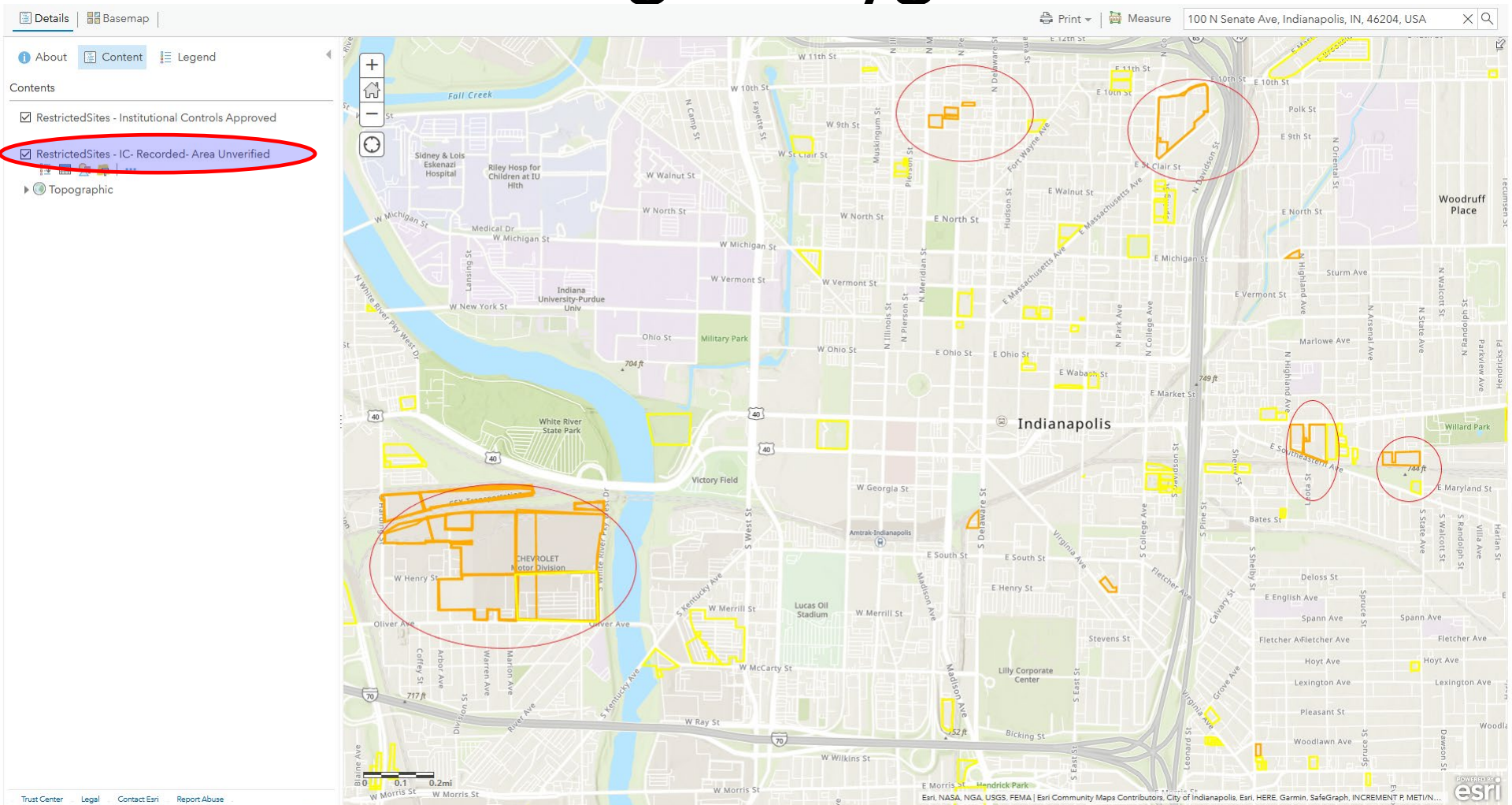


Yellow Polygons



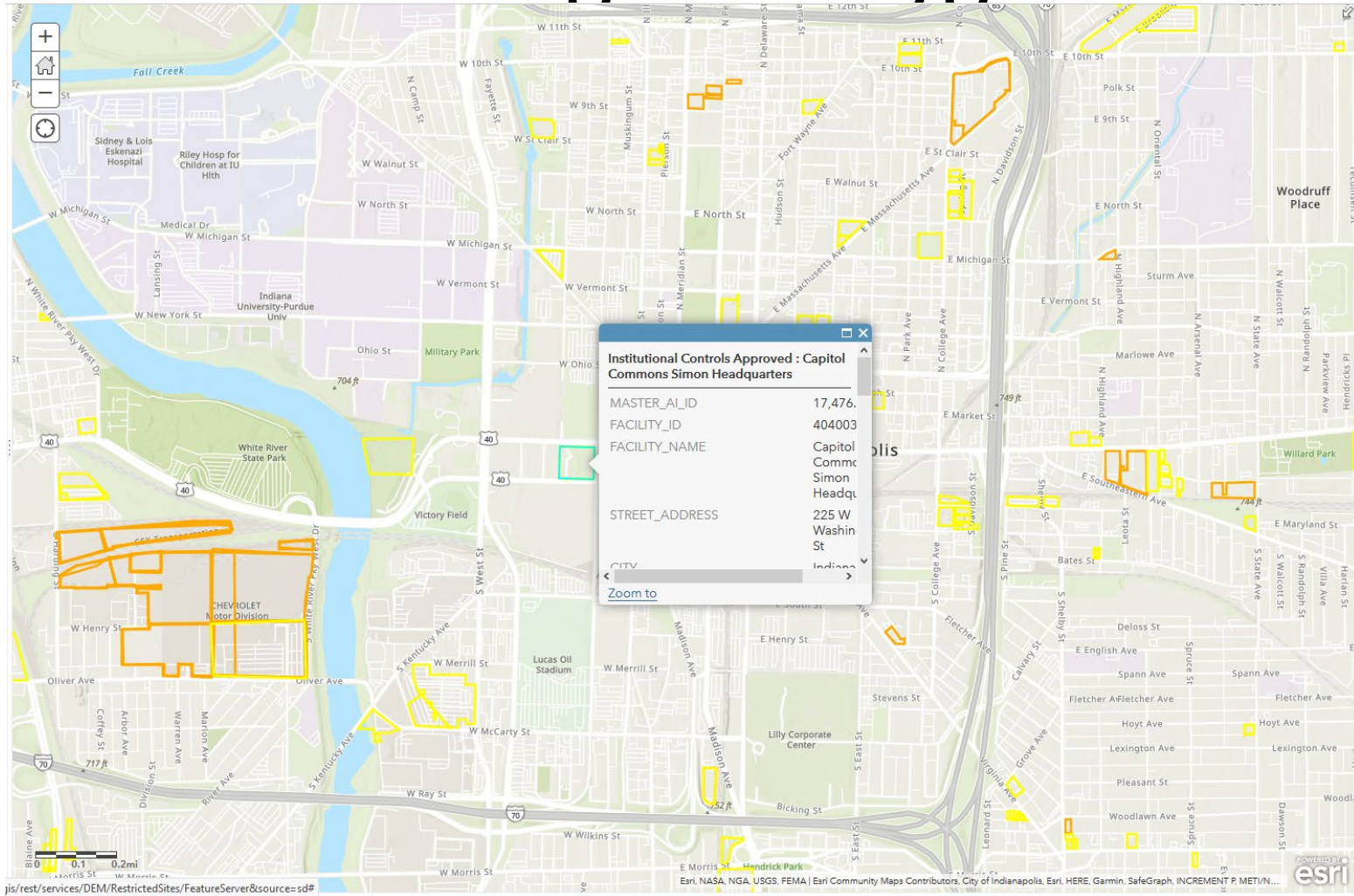


Orange Polygons





Clicking on Polygons





Pop-Up Block

Institutional Controls Approved : Capitol Commons Simon Headquarters

| | |
|-------------------------|---|
| MASTER_AI_ID | 17,476.00 |
| FACILITY_ID | 4040031 |
| FACILITY_NAME | Capitol Commons Simon Headquarters |
| STREET_ADDRESS | 225 W Washington St |
| CITY | Indianapolis |
| COUNTY | Marion County |
| REGULATORY_PROGRAM | Brownfields Program |
| CLOSURE_TYPE | BFF Comfort Letter 10/18/2004 |
| IC_TYPE | Environmental Restrictive Covenant |
| RM_IC_ID | 941.00 |
| DATE_IC_RECORDED | 11/9/2004, 7:00 PM |
| CONTROL_METHODS | Excavation Notice Required; Ground Water Use Restriction; Residential Use Restriction; Restricted Excavation Area |
| AFFECTED_MEDIA | Ground Water |
| CONTAMINANTS_OF_CONCERN | VOCs - Volatile Organic Compounds |
| RESTRICTION_COVERAGE | Entire Property |
| ACRES | 4.47 |
| COMMENTS | |
| IC_VFC_ID | 48232777 |
| VFC_URL | More info |
| IC_DATE_LAST_MODIFIED | |
| DATE_LAST_MODIFIED | 7/23/2012, 8:00 PM |
| STATUS | APPROVED |

Zoom to

E. MORRIS ST, Hendrick Park
Eri, NASA, NGA, USGS, FEMA | Eri Community Maps Contributors, City of Indianapolis, Eri, HERE, Garmin, SafeGraph, INCREMENT P, MET/N... esri



Why download the GIS layer?

- Institutional Controls layer becomes an interactive tool on your GIS system.
- Make better informed decisions impacting the health of your community
 - Building permits
 - Proposed residential developments
 - Sensitive developments - Daycares, schools, parks, etc.
 - Zoning & Variances
 - Well permitting programs



Institutional Controls Registries

A. Remediation Sites (IDEM OLQ programs)

https://www.in.gov/idem/cleanups/files/institutional_controls_registry_site_s.xlsx

B. Solid Waste Sites (Landfills)

https://www.in.gov/idem/cleanups/files/institutional_controls_registry_site_s.xlsx

The Registries identify restricted properties

- Links the IC documents in the Virtual File Cabinet

C. EXCEL Spreadsheet

- Combines both Remediation Sites and Solid Waste Sites

The updated Excel spreadsheet is posted the first Monday of every month on the IC website



Institutional Controls Registry

REMEDIATION SITES

2688 Properties Listed

List sorted by County, City, Facility Name, then Program Area.

The content of this Institutional Controls Registry is for informational purposes only. Although IDEM takes steps to ensure that site information is correct and complete, errors and omissions may occur.

The information contained in the IC Registry is summarized from project files. To obtain additional information, IDEM advises the user to search the [Virtual File Cabinet](#) electronic filing system using the site IDEM Program Area and identification number or to request assistance through the [Registry](#).

The "Map" link will open the IndianaMap viewer to the general vicinity of the property. Problems with the IndianaMap viewer should be reported to the Indiana Geological Survey.

The "View" link will open IDEM's Virtual File Cabinet viewer in a separate browser window.

Please report any errors, concerns, or general comments to the [Registry](#).

Adams County

Berne

Moser Motor Truck Sales

Agency Interest ID: 109070

526 W Franklin St, Berne 46711

Program ID: (201342637)

| Open IndianaMap | IC Type | Date IC Recorded | Description |
|---------------------------------|------------------------------------|----------------------|-------------|
| VFC Document | Environmental Restrictive Covenant | 11/18/2015 | |
| Program Area | | Affected Media | |
| State Cleanup | | Ground Water | |
| Control Method | Coverage | Chemicals of Concern | Comments |
| Ground Water Use Restriction | Entire Property | Petroleum | |

| Open IndianaMap | IC Type | Date IC Recorded | Description |
|---------------------------------|------------------------------------|----------------------|-------------|
| VFC Document | Environmental Restrictive Covenant | 11/18/2015 | |
| Program Area | | Affected Media | |
| State Cleanup | | Ground Water | |
| Control Method | Coverage | Chemicals of Concern | Comments |
| Ground Water Use Restriction | Entire Property | Petroleum | |

Adams County

Decatur

Find
greenfield
Previous Next

Hancock County

County

GASAMERICA 47 (ID: 17207) 2744 N SR 9, Greenfield 46140

| Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|--------------|------------------------------------|---------------------------------|------------------|-------------|
| LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/02/2012 | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern | Comments |
|------------------------------------|---------------------|------------------------------------|---|
| AUL - Agricultural or Food Crop | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| AUL - Residential Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| EC - Paved or Concrete Cap | Portion of property | Petroleum (Includes BTEX and MTBE) | Maintain the integrity of the existing asphalt pavement/concrete area which serves as an engineered barrier to prevent direct contact with the underlying soils and should not be excavated, removed, disturbed, demolished, or allowed to fall into disrepair. |

CLARK OIL & REFINING 1581 (ID: 2929)

849 W MAIN ST, Greenfield 461402064

| Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|--------------|-------------|----------------|------------------|-------------|
| LUST | Environment | | | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern | Comments |
|------------------------------------|---------------------|------------------------------------|---|
| AUL - Agricultural or Food Crop | Entire Property | TPH - Total Petroleum Hydrocarbons | |
| AUL - Excavation Notice Required | Portion of property | TPH - Total Petroleum Hydrocarbons | Do not excavate soil below 3 feet deep in affected areas without submitting a work plan to IDEM at least 30 days prior to work. |
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| AUL - Residential Use Restriction | Entire Property | TPH - Total Petroleum Hydrocarbons | |

SHELBY MART (ID: 389) 1124 W MAIN ST, Greenfield 46140

| Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|--------------|------------------------------------|---------------------------------|------------------|-------------|
| LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/27/2013 | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern |
|------------------------------------|-----------------|------------------------------------|
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) |
| AUL - Residential Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) |

Address

IDEM Program Areas:

- BF = Indiana Brownfields Program (IFA)
- DERP = Defense Environmental Restoration Program
- HW = Hazardous Waste Program (RCRA)
- LUST = Leaking Underground Storage Tank
- SCU = State Cleanup Program
- SF = Superfund Program (CERCLA/NPL)
- VRP = Voluntary Remediation Program
- EPA-IR = EPA Immediate Removal

Hancock County

GASAMERICA 47 (ID: 17207) 2744 N SR 9, Greenfield 46140

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/02/2012 | |

| View Document 1 | Control Method | Coverage | Chemicals of Concern | Comments |
|---------------------------------|------------------------------------|---------------------|------------------------------------|---|
| | AUL - Agricultural or Food Crop | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| | AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| | AUL - Residential Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| | EC - Paved or Concrete Cap | Portion of property | Petroleum (Includes BTEX and MTBE) | Maintain the integrity of the existing asphalt pavement/concrete area which serves as an engineered barrier to prevent direct |

CLARK OIL & REFINING 1581 (ID: 2929)

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 02/26/2007 | |

| View Document 1 | Control Method | Coverage | Chemicals of Concern | Comments |
|---------------------------------|------------------------------------|---------------------|------------------------------------|---|
| | AUL - Agricultural or Food Crop | Entire Property | TPH - Total Petroleum Hydrocarbons | |
| | AUL - Excavation Notice Required | Portion of property | TPH - Total Petroleum Hydrocarbons | Do not excavate soil below 3 feet deep in affected areas without submitting a work plan to IDEM at least 30 days prior to work. |
| | AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| | AUL - Residential Use Restriction | Entire Property | TPH - Total Petroleum Hydrocarbons | |

SHELBY MART (ID: 389)

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/27/2013 | |

| View Document 1 | Control Method | Coverage | Chemicals of Concern |
|---------------------------------|------------------------------------|-----------------|------------------------------------|
| | AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) |
| | AUL - Residential Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) |

Affected Media

Contaminant

Land Use Restrictions

IDEM Program Areas:

- BF = Indiana Brownfields Program (IFA)
- HW = Hazardous Waste Program (RCRA)
- SCU = State Cleanup Program
- VRP = Voluntary Remediation Program
- DERP = Defense Environmental Restoration Program
- LUST = Leaking Underground Storage Tank
- SF = Superfund Program (CERCLA/NPL)
- EPA-IR = EPA Immediate Removal

Hancock County

GASAMERICA 47 (ID: 17207) 2744 N SR 9, Greenfield 46140

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/02/2012 | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern | Comments |
|------------------------------------|---------------------|------------------------------------|----------|
| AUL - Agricultural or Food Crop | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes B | |
| AUL - Residential Use Restriction | Entire Property | Petroleum (Includes B | |
| EC - Paved or Concrete Cap | Portion of property | Petroleum (Includes B | concrete |

Open in IndianaMap

contact with the underlying soils and should not be excavated, removed, disturbed, demolished, or allowed to fall into disrepair.

CLARK OIL & REFINING 1581 (ID: 2929) 849 W MAIN ST, Greenfield 461402064

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 02/26/2007 | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern | Comments |
|------------------------------------|---------------------|------------------------------------|---------------|
| AUL - Agricultural or Food Crop | Entire Property | TPH - Total Petro | |
| AUL - Excavation Notice Required | Portion of property | TPH - Total Petro | areas without |
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | rior to work. |
| AUL - Residential Use Restriction | Entire Property | TPH - Total Petroleum Hydrocarbons | |

Open in VFC

SHELBY MART (ID: 389) 1124 W MAIN ST, Greenfield 46140

| Open IndianaMap | Program Area | IC Type | Affected Media | Date IC Recorded | Description |
|---------------------------------|--------------|------------------------------------|---------------------------------|------------------|-------------|
| | LUST | Environmental Restrictive Covenant | SubSurface Soil Ground Water | 11/27/2013 | |

[View Document 1](#)

| Control Method | Coverage | Chemicals of Concern | Comments |
|------------------------------------|-----------------|------------------------------------|----------|
| AUL - Ground Water Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |
| AUL - Residential Use Restriction | Entire Property | Petroleum (Includes BTEX and MTBE) | |

IDEM Program Areas:

- BF = Indiana Brownfields Program (IFA)
- HW = Hazardous Waste Program (RCRA)
- SCU = State Cleanup Program
- VRP = Voluntary Remediation Program
- DERP = Defense Environmental Restoration Program
- LUST = Leaking Underground Storage Tank
- SF = Superfund Program (CERCLA/NPL)
- EPA-IR = EPA Immediate Removal



Institutional Controls Registry

SOLID WASTE SITES REPORT

104 Properties Listed

The following is a partial list of closed solid waste land disposal facilities with a deed notice as required by Indiana Solid Waste Rule.

This is not a comprehensive list of all solid waste facilities in Indiana.

No construction, installation of wells, pipes, conduits, or septic systems or any other excavation may be done on these properties without the approval of the Commissioner of the Indiana Department of Environmental Management.

This report is for informational purposes only. Although IDEM takes steps to ensure that site information is correct and complete, errors and omissions may occur.

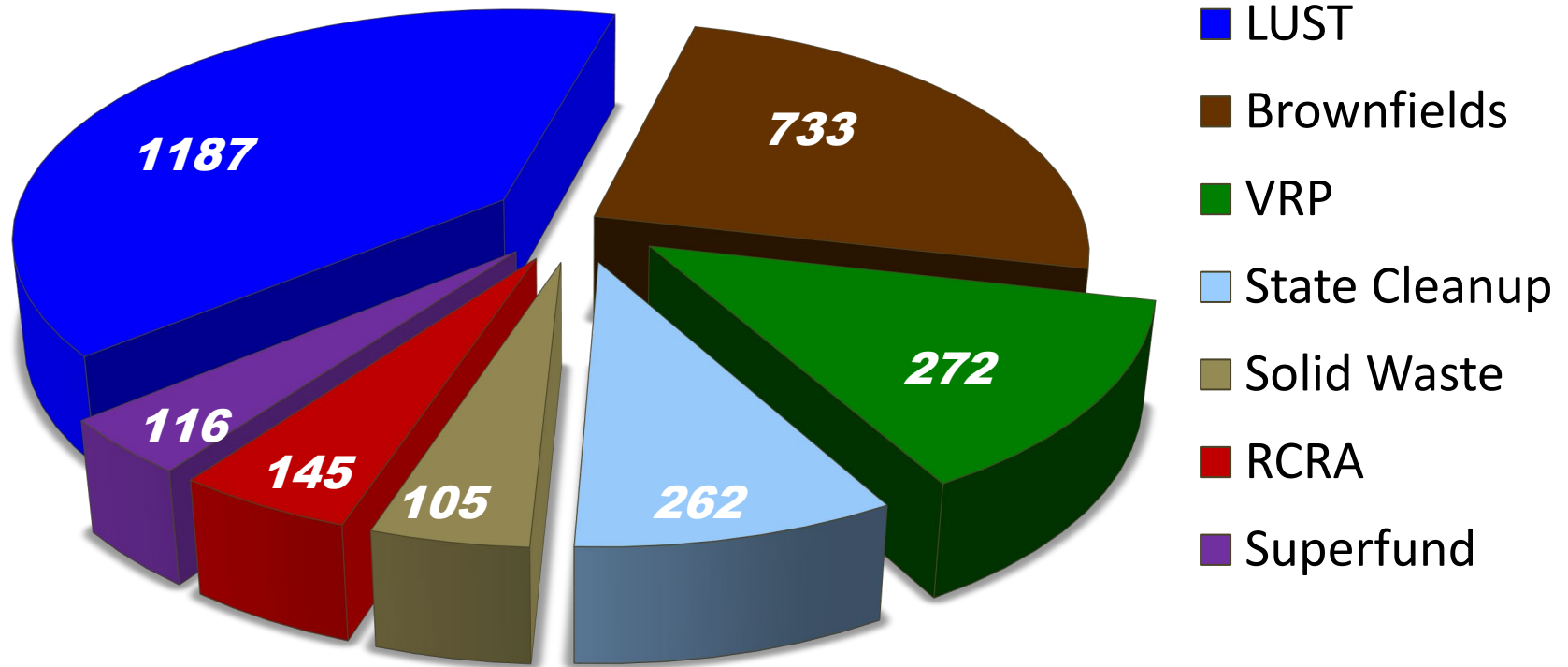
Adams

| ADAMS COUNTY NORTH LANDFILL | | US HWY 27 & CR 450 N 1.5 MI W, Decatur 46733 | | Decatur |
|---------------------------------|------------------------------|--|---------------------------|------------------|
| Solid Waste Program | IC Type | Engineering Control/Other Requirements | | Date IC Recorded |
| Program ID: (01-03) | Deed Notice | Landfill Gas System | | 11/4/1998 |
| Open IndianaMap | VFC Document | Soil or Vegetative Cap | | |
| ADAMS COUNTY SOUTH LANDFILL | | CR 850 S & US HWY 27 .125 MI E, Geneva 46740 | | Geneva |
| Solid Waste Program | IC Type | Engineering Control/Other Requirements | | Date IC Recorded |
| Program ID: (01-02) | Deed Notice | Soil or Vegetative Cap | | 10/7/1997 |
| Open IndianaMap | VFC Document | Leachate Collection System | | |
| | VFC Document | Landfill Gas System | <i>Methane monitoring</i> | |



Institutional Controls Registries

November 2017



As of July 8, 2021 there are 3,281 ERCs in both IC Registries.



Self Auditing

- As of this year, the ICG is implementing a Self Auditing program
- Goal is to reach 20% of the ERC Restricted properties in the initial year
 - Send a letter to property owner requesting them to perform an ERC Self Audit
 - Property Owner returns Self Audit Checklist (State Form 55715)
 - Allows IDEM to determine compliance with restrictions and obligations included in ERCs and potentially makes property owner aware of a recorded ERC



Institutional Controls Self Audit Checklist



**INSTITUTIONAL CONTROLS
SELF AUDIT CHECKLIST**
State Form 55715 (R/J 3/21)
Indiana Department of Environmental Management

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
Office of Land Quality
Remediation Services Branch
ATTN: Institutional Controls Group
100 North Senate Avenue, Room 1101
Indianapolis, IN 46204-2251

INSTRUCTIONS: When completing this checklist refer to the Environmental Restrictive Covenant (ERC) for property and restriction information. When completing Section I, include the current property owner information, which may be different than the property owner listed in the ERC. The Auditor completing this form may be the owner or any individual authorized by the owner to act as their delegate or agent. Shaded boxes are for Office Use Only.

SECTION I: PROPERTY INFORMATION

| | | | |
|--|-------------------|-------------------------------------|--|
| Name of Property | | County: | |
| Address of Property (number and street) | | | |
| City | State Indiana | ZIP / Postal Code | |
| State Identification Number | AI Identification | Federal Identification Number NA | |
| Property Owner | | | |
| Address of Owner (number and street) | | | |
| City | State | ZIP / Postal Code | |
| Telephone Number | E-mail Address | | |
| Date ERC recorded (month, day, year) | Instrument Number | VFC Number | |
| Has property owner changed since the ERC was recorded? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Is property being leased? <input type="checkbox"/> Yes <input type="checkbox"/> No | | If Yes, the lessee is: | |

SECTION II: LAND USE RESTRICTION INFORMATION

| | | | |
|--|--|---|--|
| A | Land Use Restrictions (Check all that apply.) | <input type="checkbox"/> Residential Use | <input type="checkbox"/> Agricultural or Food Crop |
| | | <input type="checkbox"/> Ground Water Use | <input type="checkbox"/> Engineering Control (If checked, complete Section III below.) |
| | | <input type="checkbox"/> Excavation Notice Required | <input type="checkbox"/> Other (Specify in Section V below.) |
| | | <input type="checkbox"/> Construction Restriction | |
| To view the ERC in its entirety, visit IDEM's Virtual File Cabinet at https://vfc.idem.in.gov/Documentsearch.aspx | | | |
| For boxes B through F, indicate if restrictions are being met by checking the appropriate box. N/A indicates that restriction does not apply. Explain any conflicts in more detail in the Section V below. | | | |
| B | Is the ground water being used or extracted in conflict with the restriction defined in the ERC? | <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> N/A |
| C | Is the property being used for non-residential purposes only? | <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> N/A |
| D | Has unapproved construction or excavation occurred on the property? | <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> N/A |
| E | If excavation has occurred, was notice provided to IDEM as required? | <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> N/A |
| F | Are agricultural crops being grown on the property? | <input type="checkbox"/> Yes | <input type="checkbox"/> No <input type="checkbox"/> N/A |

SECTION III: ENGINEERING CONTROL INFORMATION (If Not Applicable skip to Section IV.)

| | | | | |
|--|---|---|--|--|
| A | Engineering Controls (Check all that apply.) | <input type="checkbox"/> Soil/Vegetative Cap <input type="checkbox"/> Paved/Concrete Cap <input type="checkbox"/> Impervious Cap <input type="checkbox"/> Liner System <input type="checkbox"/> Building Slab | <input type="checkbox"/> Vapor Mitigation System | <input type="checkbox"/> Interceptor Well/Trench <input type="checkbox"/> Other (Specify) |
| For boxes B through I, indicate if the Engineering Control requirements are being met by the checking appropriate box. N/A indicates that the restriction does not apply. Explain any conflicts in more detail in the Section V below. | | | | |
| B | Do active engineering controls appear to be operational (e.g. fan running, pumping system functioning, etc.)? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| C | Are protective structures and covers free of cracks, erosion, or other signs of degradation? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| D | Is there an Operations and Maintenance Plan (O&M) for the site? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| E | If Yes to D, is the O&M Plan being followed? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| F | If Yes to D, does the O&M Plan require any sampling? Attach any sampling results to this checklist. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| G | If Yes to D, does the O&M Plan require any maintenance inspections? Attach any O&M documentation to this checklist. | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A | | |
| H | If Yes to D, provide the VFC Document Number for the O&M Plan. | VFC Number | | |
| I | After review of all documentation associated with the engineering control does it appear to have retained its functional integrity? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unclear <input type="checkbox"/> N/A | | |

SECTION IV: CURRENT PROPERTY DESCRIPTION

For boxes A through C, describe the current property condition and use(s). The date the ERC was recorded is provided in Section I.

| | | |
|---|--|---|
| A | Since the ERC was recorded, has the Property, or portions of the Property, been used for day care, school or other uses where children are present on the Property for extended periods of time? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| B | Since the ERC was recorded, has any construction taken place on the Property? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |
| If yes, describe any improvements, including new structures, made to the Property since the ERC was recorded. | | |
| C | Since the ERC was recorded, are there any newly occupied buildings on the Property? | <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A |

SECTION V: REMARKS

This section is reserved for explanation and details of Sections II and III.



Long Term Stewardship

“Long-term stewardship applies to sites where long-term management of contaminated environmental media is necessary to protect human health and the environment. Long-term stewardship includes the establishment and maintenance of physical and legal controls, implementation entities, authorities, accountability mechanism, information and data management systems, and resources that are necessary to ensure these sites remain protective of human health and the environment.”

Definition of LTS created by LTS Task Force.



Questions?

Email: institutionalcontrols@idem.IN.gov

| | |
|--|---|
| <p><i>Jim Walsdorf</i> jwalsdor@idem.IN.gov (317)234-2513</p> | <p><i>Lynette Schrowe</i> lschrowe1@idem.IN.gov (317) 234-8622</p> |
| <p><i>Victoria Zezula</i> vzezula@idem.IN.gov (317)234-7886</p> | <p><i>Nicole Wheeler</i> nwheeler@idem.IN.gov (317)234-0343</p> |

For more information:

Land Quality in Indiana: Institutional Controls
www.in.gov/idem/cleanups/investigation-and-cleanup-programs/institutional-controls/