

IN THE CIRCUIT COURT OF ST. LOUIS COUNTY, MISSOURI

STATE OF MISSOURI ex rel.)
Attorney General Chris Koster and)
Missouri Department of)
Natural Resources,)

Plaintiff,)

v.)

Case No. 13SL-CC01088

REPUBLIC SERVICES, INC.,)

ALLIED SERVICES, LLC, d/b/a)
Republic Services of Bridgeton, and)

BRIDGETON LANDFILL, LLC,)

Defendants.)

**PLAINTIFF'S APPLICATION FOR FURTHER RELIEF UNDER THE
FIRST AGREED ORDER OF PRELIMINARY INJUNCTION,
OR IN THE ALTERNATIVE, FOR SUPPLEMENTARY PRELIMINARY
INJUNCTIVE RELIEF**

Plaintiff, the State of Missouri, by and through Attorney General Chris Koster and Assistant Attorney General Joseph P. Bindbeutel, applies to this Court for further relief under the May 13, 2013 First Agreed Order of Preliminary Injunction ("First Agreed Order"). Specifically, as a result of a dispute between the parties regarding the interpretation of the First Agreed Order, the State requests the Court to enter an Order holding that the Defendant, Bridgeton Landfill, LLC ("Bridgeton Landfill"), is required under the First Agreed Order to submit comprehensive carbon monoxide data.

In the alternative, the State applies to the Court for supplementary preliminary injunctive relief in the form of an Order requiring the timely submittal of comprehensive carbon monoxide data, and in support states as follows:

1. On March 27, 2013, Plaintiff filed a Petition for Public Nuisance, Injunctive Relief, Civil Penalties, Cost Reimbursement, and Natural Resource Damages (“Petition”) against Defendants. The Petition alleges violations of the Missouri Solid Waste Management, Hazardous Waste Management, Clean Water, Air Conservation laws, as well as claims for nuisance, cost recovery and natural resource damages. All allegations set forth in the Petition are fully incorporated herein.

2. As set forth in the Petition, the Bridgeton Sanitary Landfill is currently experiencing a “Subsurface Smoldering Event,” as evidenced by rapid surface soil and landfill debris settlement, increased odors, elevated hydrogen levels and high landfill temperatures.

3. On May 13, 2013, the Court entered the First Agreed Order between the Plaintiff and Defendant, Bridgeton Landfill. The First Agreed Order did not resolve all the allegations set forth in the State’s Petition, but granted preliminary, emergency, and remedial relief to compel Bridgeton to take actions necessary to prevent further environmental violations, protect the public, as well as mitigate nuisance conditions at the Site.

4. Paragraph 5(A) of the First Agreed Order provides that “nothing in this Agreed Order shall prevent the State from applying to the Court for further orders of relief if violations of this Agreed Order occur.”

5. As set forth in more detail below, there is a dispute between the parties regarding what data submittals are required under the First Agreed Order, and in order to ensure full protection of public health, welfare, and the environment, the State is now seeking relief from the Court.

6. The First Agreed Order required, among other things, weekly, monthly and quarterly data submittals by the Defendant to the Department of Natural Resources (the “Department”). (See ¶ 52 of the First Agreed Order: “Information Collection”).

7. Specifically, for purposes of this application, under Paragraph 52(E)(iv) of the First Agreed Order, the Court ordered the Defendant to provide monthly carbon monoxide maps of the Bridgeton Sanitary Landfill, located at 13570 St. Charles Rock Road, in Bridgeton, St. Louis County, Missouri (the “Site”).

8. In addition, Paragraph 52(C) of the First Agreed Order requires the Defendant to submit “[f]inal, QA/QC’d data collected by Bridgeton Landfill in support of the reports submitted under this Agreed Order,” or raw data.

9. To date, the Department has received only *partial* carbon monoxide maps and raw data for the Site. In particular, Bridgeton Landfill has submitted carbon monoxide maps and raw data for only the southern 34.6 acres of the Site, known as the “South Quarry.” (See Bridgeton Landfill, LLC December 20, 2013 Monthly Data Submittals, Attachment C, attached as Exhibit 1).¹ This carbon monoxide data is currently being collected from a series of gas extraction wells (“GEWs”) placed throughout the South Quarry of the Bridgeton Sanitary Landfill.

10. Despite repeated requests from the State, the Defendant has not submitted carbon monoxide data for the northern 17.4 acres of the Site, or the “North Quarry.” Paragraph 52(E)(iv), however, does not distinguish nor differentiate between the North and South Quarries and therefore Defendant is under a court-ordered obligation to submit data for the Bridgeton Sanitary Landfill in its entirety.

11. There are numerous GEWs in the North Quarry from which carbon monoxide data can be safely and effectively collected. In fact, the Defendant is currently collecting and submitting temperature data from GEWs in the North Quarry.

12. Carbon monoxide, the by-product of any type of combustion event, provides crucial information about the character, extent, magnitude,

¹ Please note that the GEWs in the South Quarry that do not reflect carbon monoxide data are wells deemed too dangerous to extract data from.

and potential migration of the Subsurface Smoldering Event the Bridgeton Landfill is currently undergoing.

13. Therefore, timely, comprehensive and on-going submission of carbon monoxide data for the South and North Quarries, as well as the narrow strip of land between the South and North Quarries (or the “neck”), is critical to the State’s ability to properly monitor and manage the Site and to ensure the public’s safety.

14. Moreover, comprehensive carbon monoxide data is of vital importance to the Pattonville and Robertson Fire Protection Districts (“Fire Districts”), the local first responders responsible for the Site.

15. Without the carbon monoxide data for both the North and the South Quarries, as well as the neck, first responders lack the information necessary to properly respond to a potential emergency situation, including, for instance, addressing the potential Subsurface Smoldering Event reaching the surface of the landfill.

16. In addition, the Fire Districts are the designated first responders for any incident on scene at the Site. Any 911 call related to the Bridgeton Landfill, including calls related to the individuals who are working on site, falls under the jurisdiction of the Fire Districts. As a result, if there is a situation where a worker, or any other individual, has been injured or is in danger at the Site, local first responders need to have the most current and

comprehensive information available to make rapid decisions about how to respond to conditions at the Site.

17. Currently, without the carbon monoxide data for the North Quarry, local first responders do not have the information they need to effectively respond to a range of emergency situations; this puts workers, responders, and the public at imminent and serious risk.

18. The State is additionally concerned about the management of the Bridgeton Sanitary Landfill in relation to the adjacent West Lake Landfill, Operable Unit 1 (“OU 1”), which is listed on the federal Superfund National Priorities List, and which contains radiologically contaminated cells.

19. Specifically, recent analysis of OU1, provided to US EPA on November 25, 2013, suggested the presence of higher-than-background-level radioactivity at depth outside the area where previous maps represented the radioactive material was located. This suggests that radiologically-impacted material may be closer to the border between OU1 and the North Quarry than had been previously detected.

20. Despite the responsible parties ongoing exploration of the extent of the radiological contamination, the uncertainty of where the radiologically-impacted material is located, and its proximity to the North Quarry, increases the possible interaction between the SSE and radiologically-impacted material. Carbon monoxide data is a critical component to

understanding any potential interaction between the radiologically-impacted material in OU-1, and the Bridgeton Sanitary Landfill SSE and is therefore vital to the State's efforts to protect the public from any risks associated with OU-1.

21. Both the State and the Fire Districts have requested continuing comprehensive carbon monoxide data from the Defendant, but the Defendant has failed to provide the necessary carbon monoxide data as required by the First Agreed Order.

WHEREFORE, Plaintiff requests that the Court order the Defendant to provide, on an on-going basis, carbon monoxide data, including maps and raw data, for both the North and South Quarries, as well as the neck, within 15 days of entry of the Order. Thereafter, the Plaintiff requests the Court to order the Defendant to submit carbon monoxide data, for both the North and South quarries, as well as the neck, consistent with the schedule set forth in Paragraph 52(E).

IN THE ALTERNATIVE, Plaintiff requests supplementary preliminary injunctive relief:

1. Under Paragraph 5(E) of the First Agreed Order, the State reserved "all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare or the environment

arising at, or posed by, the Site, whether by acts or omissions and whether related to the violations addressed in this Agreed Order or otherwise.”

2. In this case, the Defendant’s failure to provide carbon monoxide data for the entirety of the Bridgeton Landfill creates an imminent and substantial endangerment to the public health and welfare, as well as poses a risk to the environment. Accordingly, if the Court does not grant the relief discussed above, Plaintiff requests the Court to grant supplemental injunctive relief in addition to the First Agreed Order.

3. Specifically, the State requests that the Court order the Defendant to provide, on an ongoing basis, comprehensive carbon monoxide data, including maps and raw data, for both the North and South Quarries, as well as the neck, within 15 days of entry of this Order; and further order that the Defendant shall submit carbon monoxide data, for both the North and South quarries, as well as the neck, every thirty days.

4. The State reserves its rights to apply to the Court for any further orders or relief related to the First Agreed Order and the State’s Petition against the Defendants and, in addition, reserves all legal and equitable remedies available to protect the public health, welfare or the environment.

Respectfully submitted,

CHRIS KOSTER

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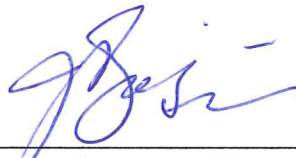
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent
by electronic mail this 9th day of January, 2014, to:

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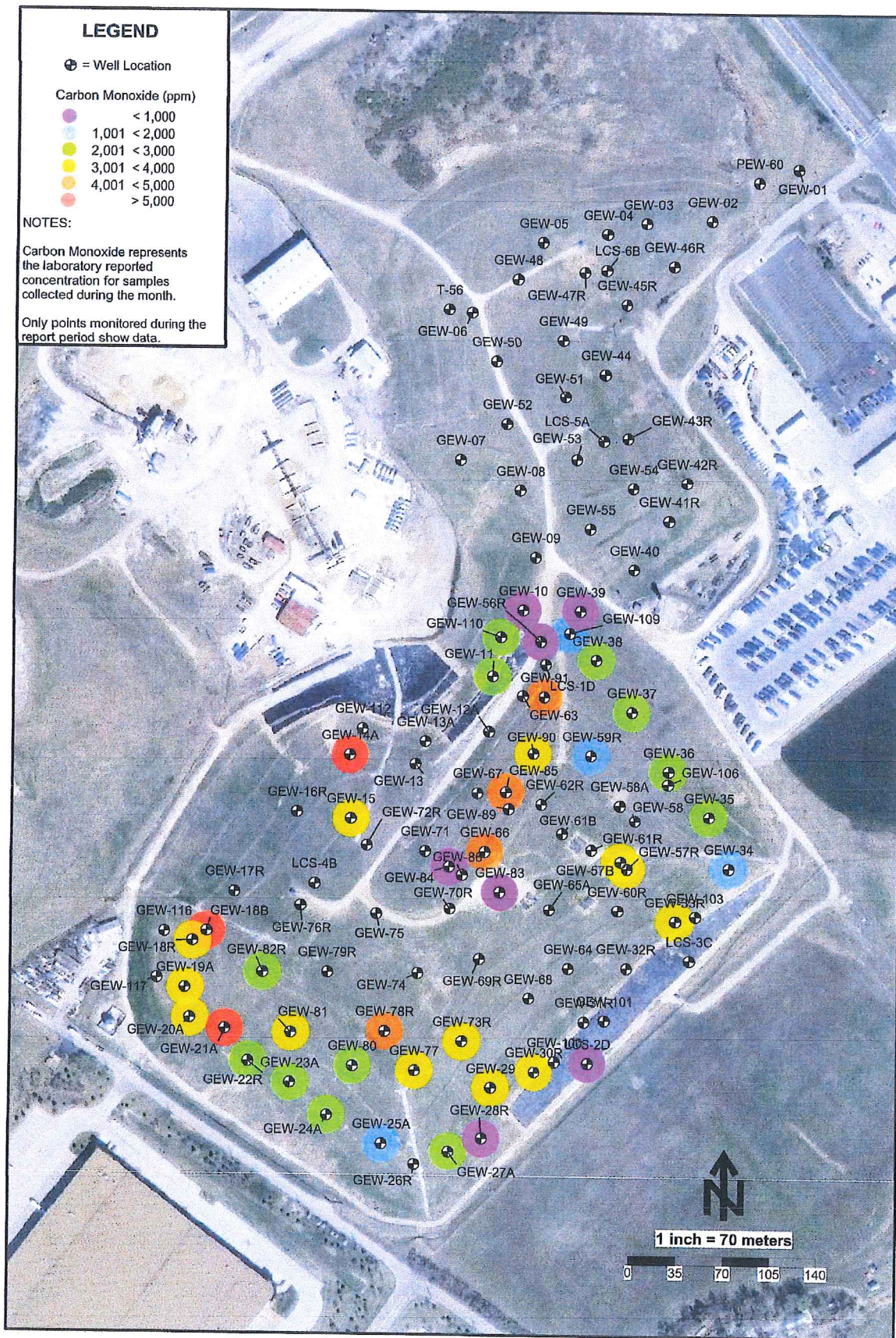
Joseph P. Bindbeutel

Assistant Attorney General

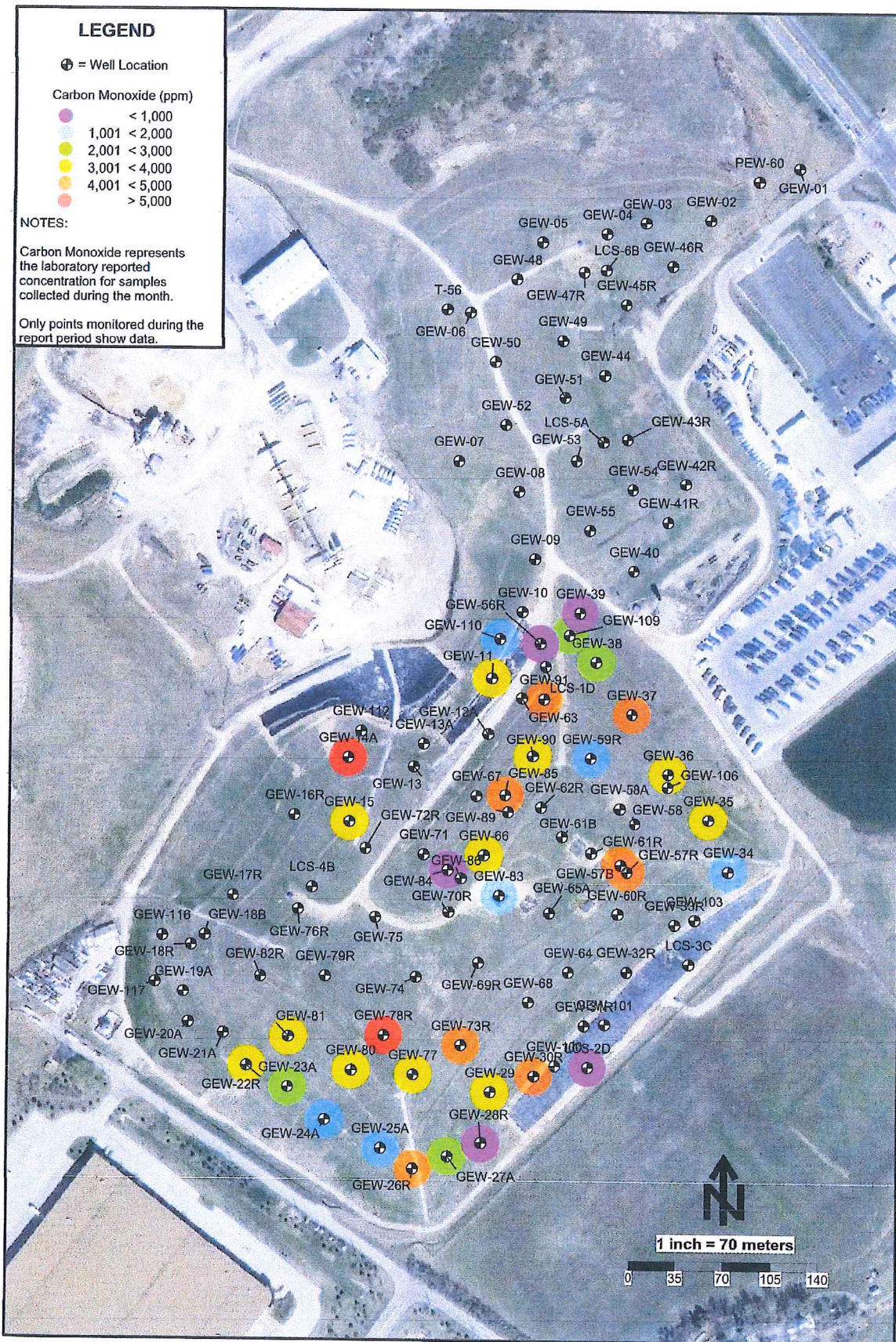
EXHIBIT 1

ATTACHMENT C

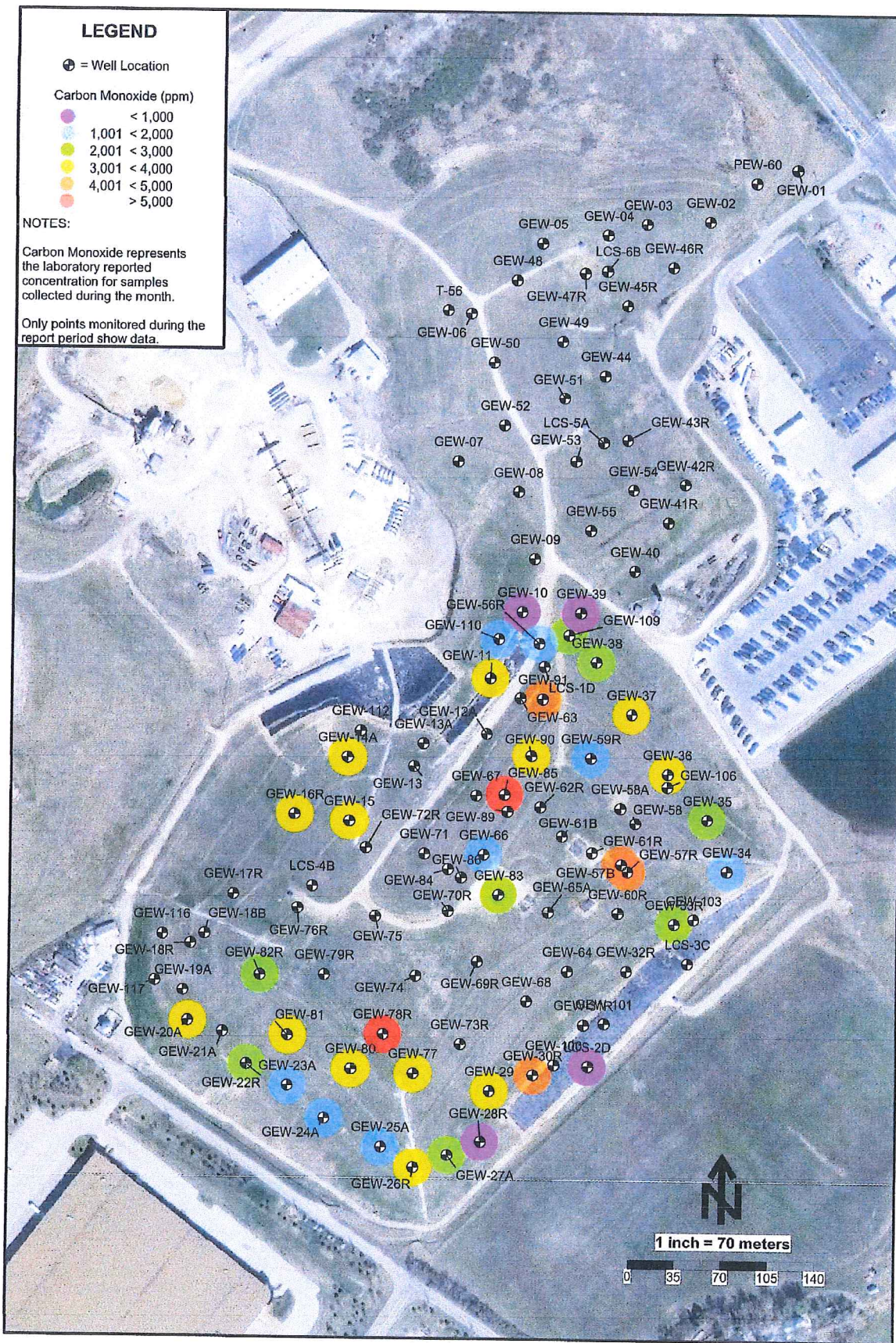
CARBON MONOXIDE MAPS



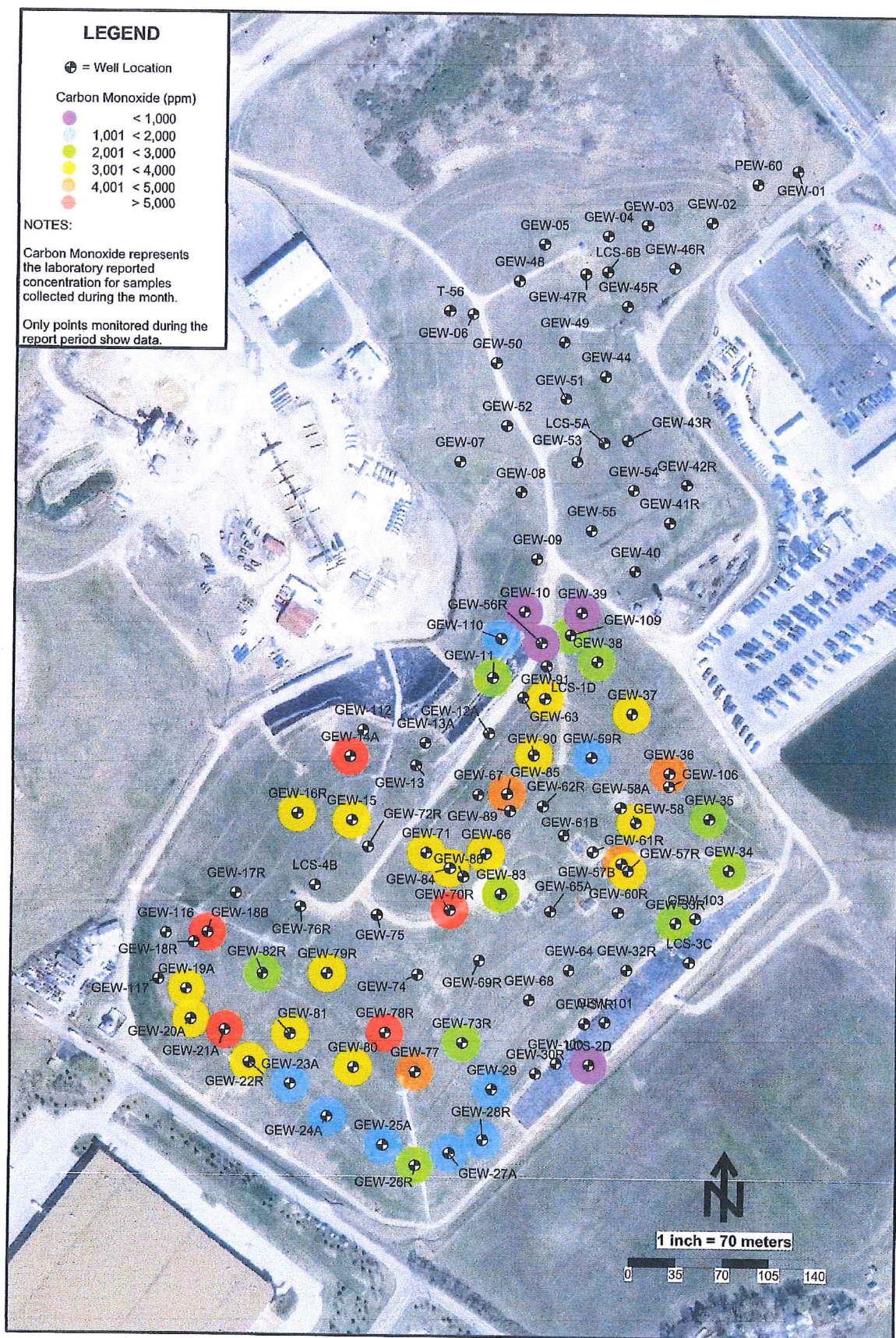
Carbon Monoxide Data Map - August 2013 - Bridgeton Landfill



Carbon Monoxide Data Map - September 2013 - Bridgeton Landfill



Carbon Monoxide Data Map - October 2013 - Bridgeton Landfill



Carbon Monoxide Data Map - November 2013 - Bridgeton Landfill