Arapahoe County Clerk & Recorder, Nancy A. Doty
Reception #: B9008034
Receipt #: 5449510 Recording Fee: $71.00
Pages Recorded: 14
Date Recorded: 1/29/2009 12:38:36 PM

71

This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.

1-14

ENVIRONMENTAL COVENANT

Life Time Fitness, Inc. ("LTF") grants an Environmental Covenant ("Covenant") this 10 th day of October, 2008 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to § 25-15-321 of the Colorado Hazardous Waste Act, § 25-15-101, *et seq.* The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, LTF is the owner of certain property commonly referred to as Dry Creek Road Facility, located at 4800 Dry Creek Road, Centennial, Colorado, more particularly described in Attachment A, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "the Property"); and

WHEREAS, pursuant to the Final RCRA Corrective Action Plan (URS, April 2003), the Property is the subject of enforcement and remedial action pursuant to the Colorado Hazardous Waste Act, § 25-15-301, et. seq. ("CHWA"), the Resource Conservation and Recovery Act, 42 U.S.C. § § 6926, et. seq. ("RCRA"); and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by creating certain restrictions on the use of the Property. Groundwater at the Property has been impacted by volatile organic compounds (VOCs) as a result of past manufacturing activities. Figures 1 and 2 illustrate VOC, specifically trichloroethene, impacts to groundwater based on November 2007 analytical data. A remedial action has been implemented at the Property in accordance with the Corrective Measures Design Report (URS, December 2005); however, residual groundwater VOC concentrations at the Property remain above the Colorado Basic Standards for Groundwater (CBSGs, CDPHE 2005).

WHEREAS, based on the Department's review of available information and the Final RCRA Corrective Action Plan and subject to the limitations imposed by this Covenant, the Department has determined that active remediation has been completed and that contamination on the Property has been adequately controlled and will not present an unacceptable risk to human health and environment, based on existing and potential future land use.

WHEREAS, the presence of VOCs in the groundwater or soil is not the result of any activities by LTF at the property, but LTF as the owner, agrees to subject the Property to this Covenant.

FAEGRE & BENSON
3200 WELLS FARGO CNT
1700 LINCOLN ST
DENVER CO 80203-4532

WHEREAS, LTF agrees to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind LTF and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein, for the benefit of the Department and Alliant Techsystems Inc. (ATK).

NOW, THEREFORE, LTF hereby grants this Environmental Covenant to the Department with ATK as a third party beneficiary, and declares that the Property as described in Attachment A shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 9, below, which shall run with the Property in perpetuity, unless modified or terminated as set forth below, and be binding on LTF and all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, and any persons using the land, as described herein. As used in this Environmental Covenant, the term OWNER means the record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

1) Use restrictions The Property shall be subject to the following restrictions unless this Environmental Covenant is modified through the procedures described in Paragraph 2 below:

   a) Groundwater on the Property shall not be removed by well or other means for domestic, agricultural, commercial or other use. For the purpose of this restriction, "groundwater" means subsurface water in a zone of saturation that is or can be brought to the surface of the ground or to surface waters through wells, springs, seeps or other discharged areas. This limitation shall not apply to the use of existing monitoring wells located on the Property and to the potential installation of any monitoring wells in the future used solely to obtain samples for analysis;

   b) Any newly constructed, habitable, permanent structure constructed over VOC impacted groundwater shall be required to have appropriate vapor intrusion controls, except if waived by CDPHE pursuant to applicable environmental laws, regulations, and agency guidance. The area of the Property that overlies VOC-impacted groundwater is depicted in Figures 1 and 2. For purposes of this restriction, "appropriate vapor intrusion controls" means a vapor barrier, a sub-slab depressurization system, a passive venting system, or other steps, as may be appropriate and determined by standard engineering practices,which reasonably reduce the potential escape, if any, of hazardous levels of VOCs from the soil or groundwater into the structure. This restriction does not apply to structures currently located on the property;

   c) The construction of unlined stormwater detention ponds or man made lakes or ponds shall be restricted to areas of the Property with no VOC impacts to groundwater as

shown on Figures 1 and 2. In areas of the Property with VOC impacts to groundwater, as depicted in Figures 1 and 2, any newly constructed or modified stormwater detention ponds or man made lakes shall be appropriately lined to prevent infiltration to underlying VOC impacted groundwater. For the purposes of this restriction, a liner may be composed of clay or synthetic materials, as may be appropriate and determined by standard engineering practices; and

d) Existing groundwater monitoring wells necessary for on-going monitoring of the remedy, as shown on Figure 3, shall not be abandoned, relocated or replaced without prior approval from the Department.

2) Modifications This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. At any time, OWNER may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:

a) a proposal to perform additional remedial work;
b) new information regarding the risks posed by the residual contamination;
c) information demonstrating that residual contamination has diminished;
d) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
e) other appropriate supporting information.

3) Conveyances OWNER shall notify the Department at least fifteen (15) days in advance of any proposed grant, transfer or conveyance of any interest in any or all of the Property.

4) Notice to Lessees OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property.

5) Notification for proposed construction and land use OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or less restrictive change in land use.

6) Inspections The Department shall have the right of entry to the Property at reasonable times with adequate prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.

7) No Liability The Department does not acquire any liability under State law by virtue of accepting this Covenant, nor does any other named beneficiary of this Covenant acquire any liability under State law by virtue of being such a beneficiary.

8) No Admission of Liablity. Neither this Covenant nor any of its terms, recitals, provisions or statements contained herein shall be construed as an admission of liabilty by OWNER in any proceeding, action or dispute uner any federal, state or local law or regulation or under any common law theory.

9) Enforcement The Department may enforce the terms of this Covenant pursuant to §25-15-322. C.R.S. LTF and any named beneficiaries of this Covenant may file suit in district court to enjoin actual or threatened violations of this Covenant, and does not waive and expressly reserves all of its rights and claims against any and all persons.

10) Notices Any document or communication required under this Covenant shall be sent or directed to:

Colleen T. Brisnehan, Project Manager
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and the Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530

Alliant Techsystems Inc.
Office of General Counsel/Environmental Department
7480 Flying Cloud Drive
Minneapolis, MN 55344

Vice President of Real Estate and Development
Real Estate Department
Life Time Fitness, Inc.
2902 Corporate Place
Chanhassen, MN 55317

LTF, has caused this instrument to be executed this 13th day of October, 2008.

LIFE TIME FITNESS, INC.

By: _____
Mark Zaebst

Title: Executive Vice President of Real Estate

STATE OF MINNESOTA)
) ss:
COUNTY OF Ramsey (Notary commissioned)
Notarized in Carver County.

The foregoing instrument was acknowledged before me this 13th day of October, 2008 by Mark Zaebst on behalf of LTF

JENNIFER MARIE JEFFREY
Notary Public
Minnesota
My Commission Expires Jan. 31, 2011

_____
Notary Public

2902 CORPORATE PLACE
Address

CHANHASSEN, MN 55317

My commission expires: January 31st, 2011

Accepted by the Colorado Department of Public Health and Environment this 22nd day of December, 2008.

By: Gary W. Baughman

Title: Director, HMWMD

STATE OF Colorado)
) ss:
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 22nd day of December 2008 by Gary W. Baughman on behalf of the Colorado Department of Public Health and Environment.

Diana L. Huber
Notary Public

4300 Cherry Creek Drive South
Address

Denver Co 80246

My commission expires: 2-29-2012

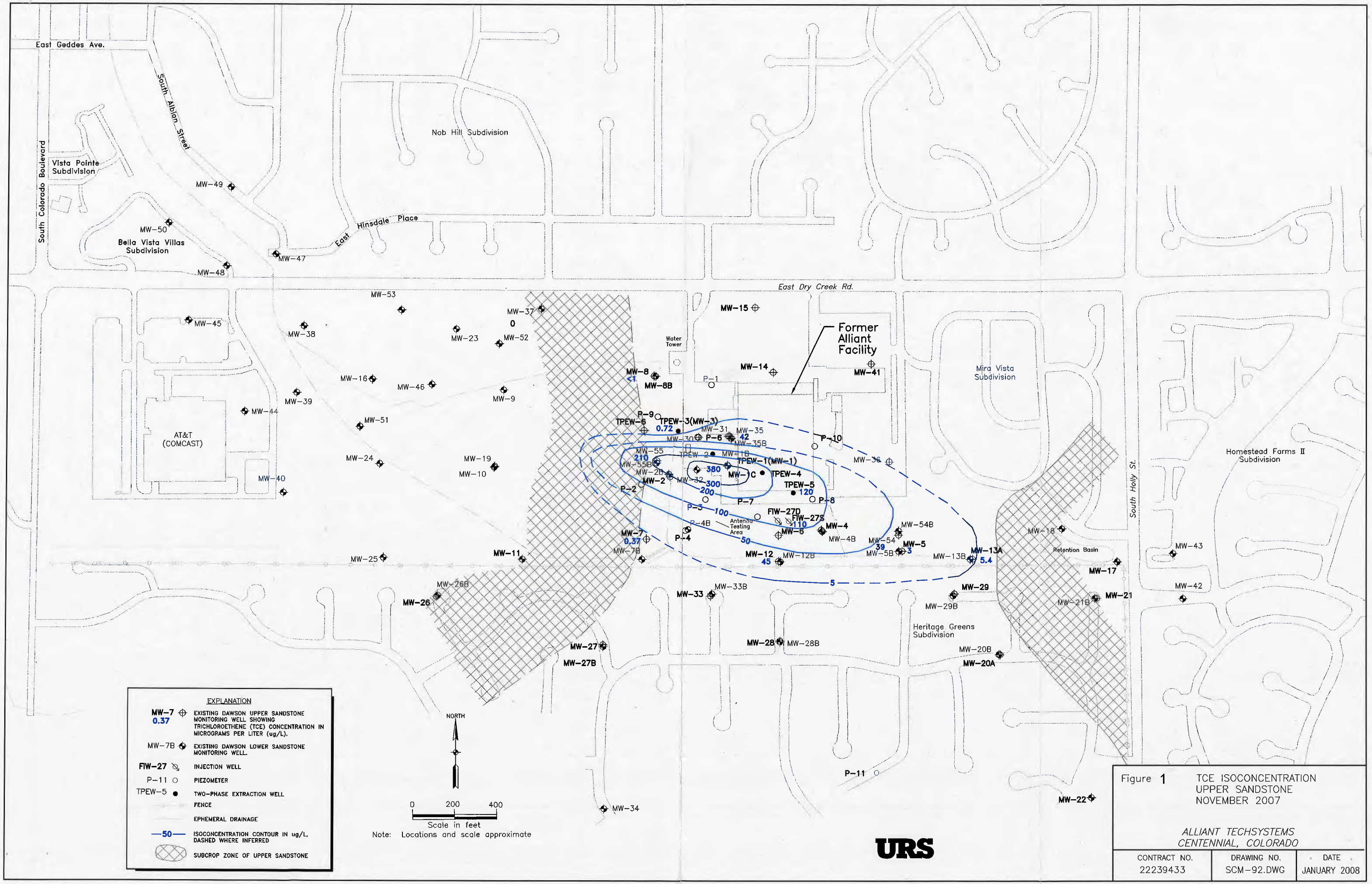

Figure 1 TCE ISOCONCENTRATION UPPER SANDSTONE NOVEMBER 2007

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

CONTRACT NO.	DRAWING NO.	DATE
22239433	SCM-92.DWG	JANUARY 2008

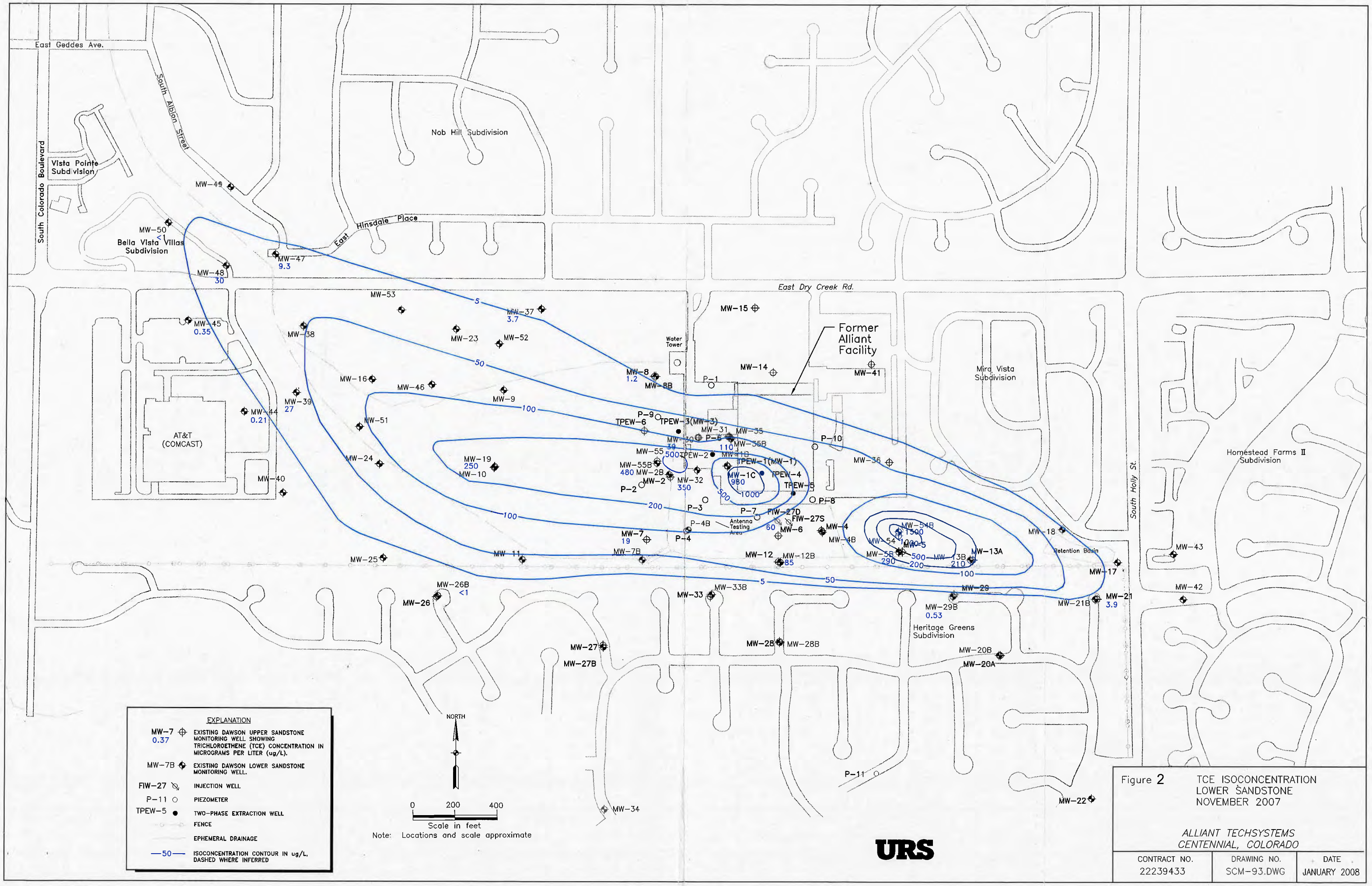

Figure 2 TCE ISOCONCENTRATION LOWER SANDSTONE NOVEMBER 2007

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

CONTRACT NO.	DRAWING NO.	DATE
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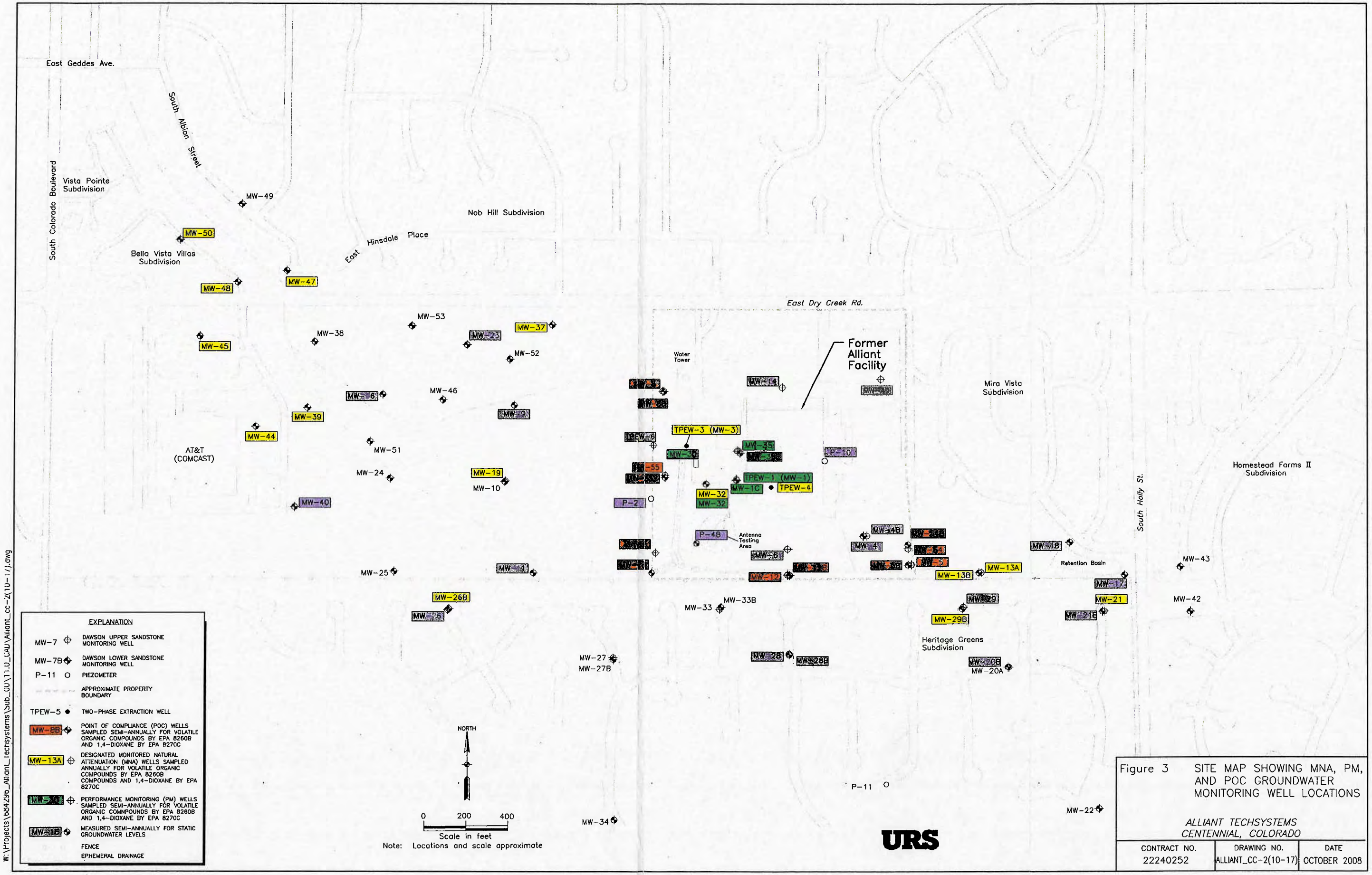
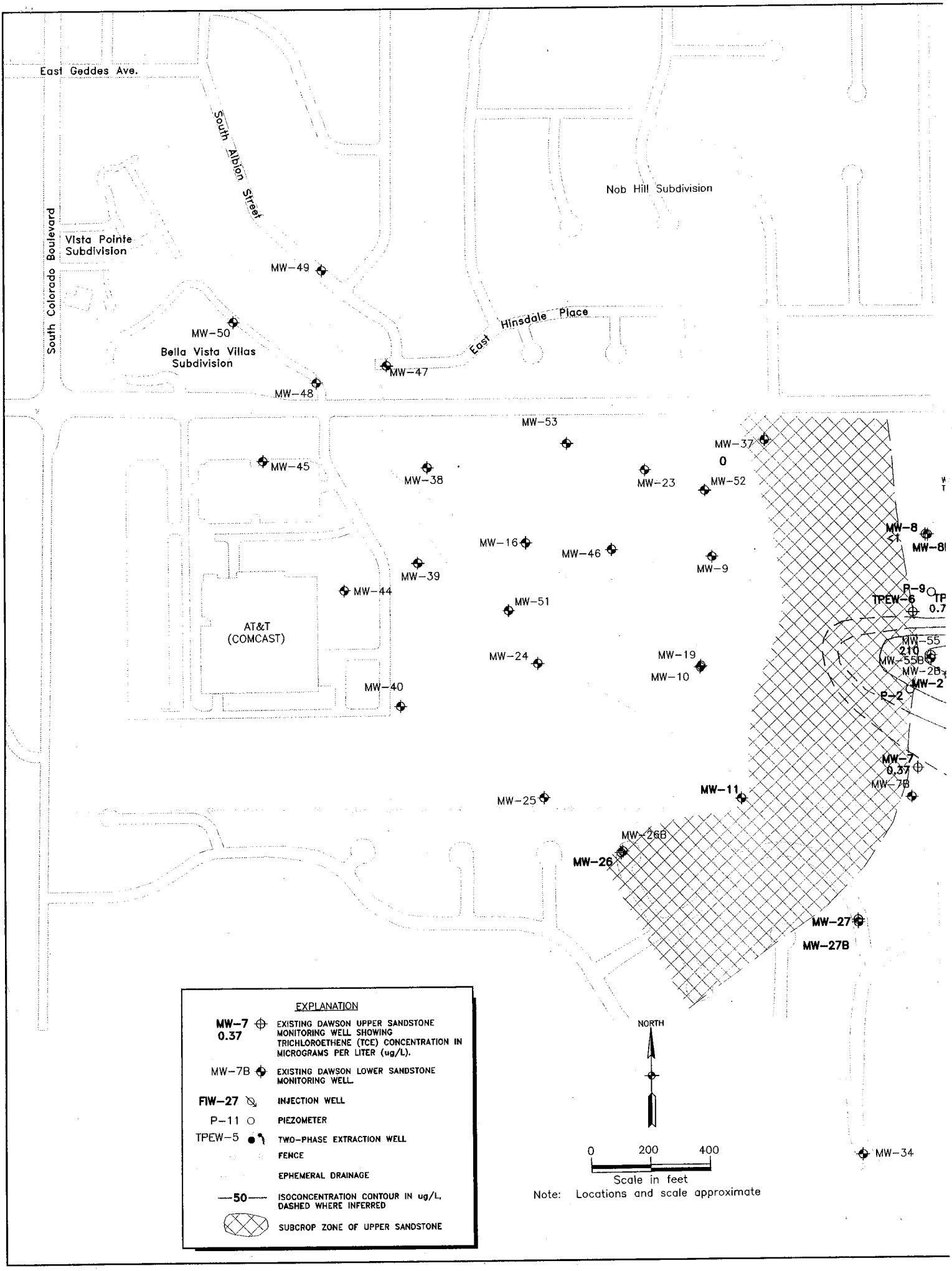


Figure 3 SITE MAP SHOWING MNA, PM, AND POC GROUNDWATER MONITORING WELL LOCATIONS

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

CONTRACT NO.	DRAWING NO.	DATE
22240252	ALLIANT_CC-2(10-17)	OCTOBER 2008

W:\Projects\b84296_Alliant_Techsystems\Sub_OU\11.0_CAU\Alliant_cc-2(10-17).dwg


East Geddes Ave.
South Albion Street
Nob Hill Subdivision
South Colorado Boulevard
Vista Pointe Subdivision
MW-49
MW-50
Bella Vista Villas Subdivision
East Hinsdale Place
MW-47
MW-48
MW-53
MW-37
0
MW-45
MW-38
MW-23
MW-52
MW-8
<1
MW-8I
MW-16
MW-46
MW-9
MW-39
MW-44
MW-51
P-9
TPEW-6
TP
0.7
AT&T (COMCAST)
MW-55
210
MW-55B
MW-2B
MW-2
MW-24
MW-19
MW-10
P-2
MW-40
MW-7
0.37
MW-7B
MW-11
MW-25
MW-26B
MW-26
MW-27
MW-27B
MW-34
EXPLANATION
MW-7 0.37 EXISTING DAWSON UPPER SANDSTONE MONITORING WELL SHOWING TRICHLOROETHENE (TCE) CONCENTRATION IN MICROGRAMS PER LITER (ug/L).
MW-7B EXISTING DAWSON LOWER SANDSTONE MONITORING WELL.
FIW-27 INJECTION WELL
P-11 PIEZOMETER
TPEW-5 TWO-PHASE EXTRACTION WELL
FENCE
EPHEMERAL DRAINAGE
50 ISOCONCENTRATION CONTOUR IN ug/L, DASHED WHERE INFERRED
SUBCROP ZONE OF UPPER SANDSTONE
NORTH
0 200 400
Scale in feet
Note: Locations and scale approximate

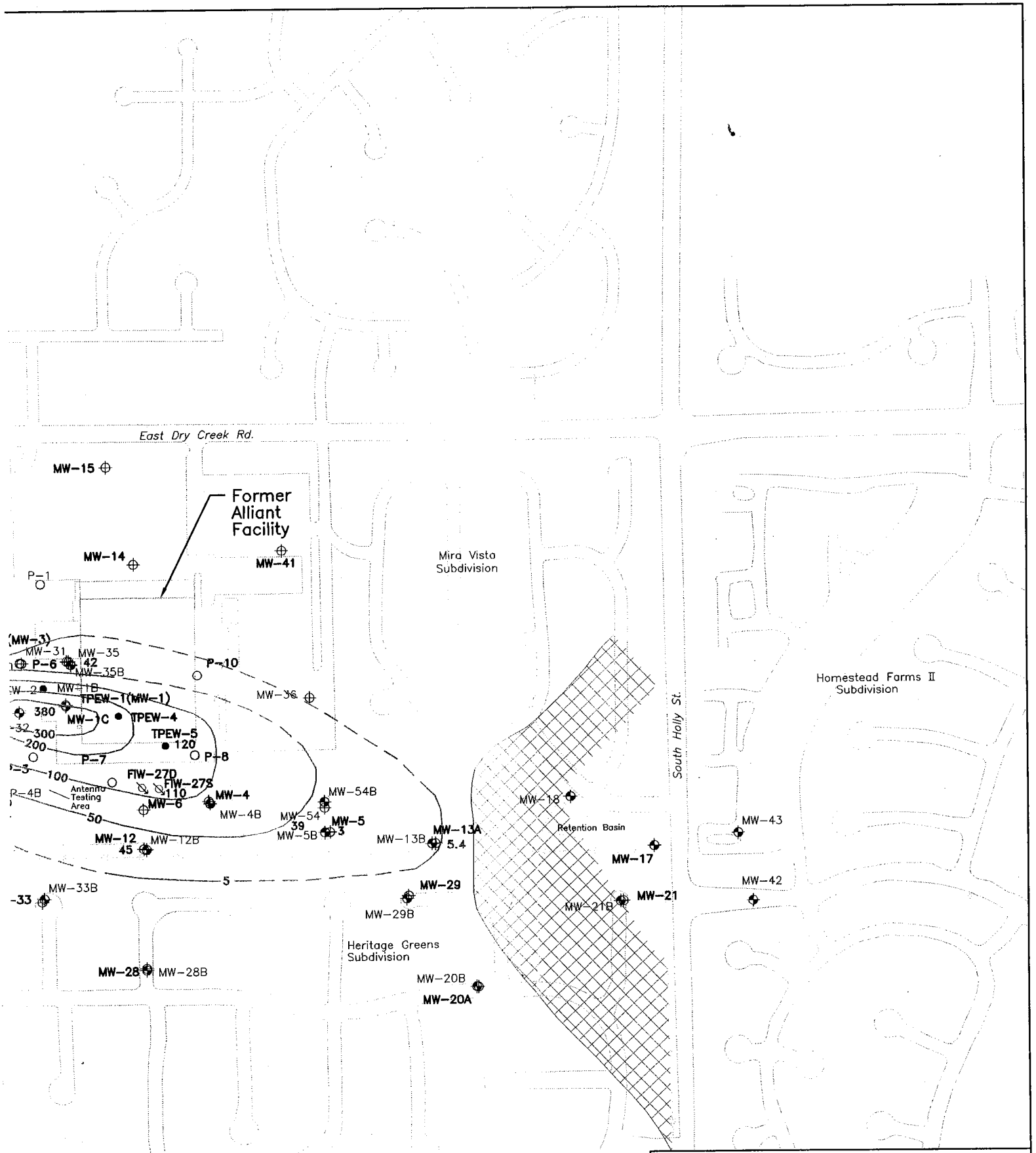
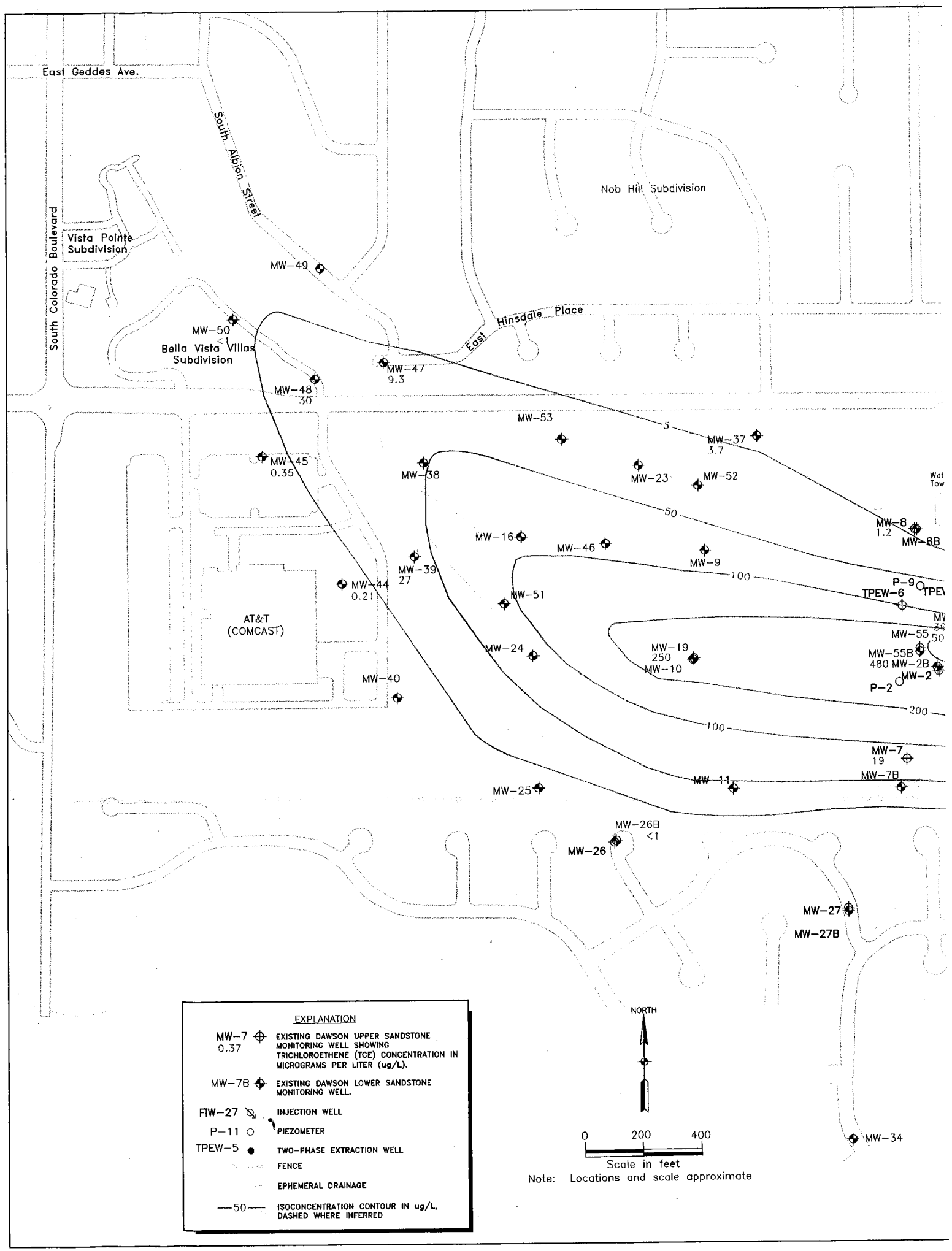


Figure 1 TCE ISOCONCENTRATION UPPER SANDSTONE NOVEMBER 2007

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

URS

CONTRACT NO.	DRAWING NO.	DATE
22239433	SCM-92.DWG	JANUARY 2008


East Geddes Ave.
South Albion Street
South Colorado Boulevard
Nob Hill Subdivision
Vista Pointe Subdivision
Bella Vista Villas Subdivision
East Hinsdale Place
MW-49
MW-50
<1
MW-47
9.3
MW-48
30
MW-53
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MW-37
3.7
MW-45
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MW-38
MW-23
MW-52
50
MW-8
1.2
MW-8B
MW-16
MW-46
MW-9
MW-39
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100
MW-44
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MW-51
P-9
TPEW-6
AT&T
(COMCAST)
MW-55
50
MW-24
MW-19
250
MW-10
MW-55B
480
MW-2B
MW-2
P-2
MW-40
200
100
MW-7
19
MW-7B
MW-11
MW-25
MW-26B
<1
MW-26
MW-27
MW-27B
MW-34
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NORTH
0
200
400
Scale in feet
Note: Locations and scale approximate

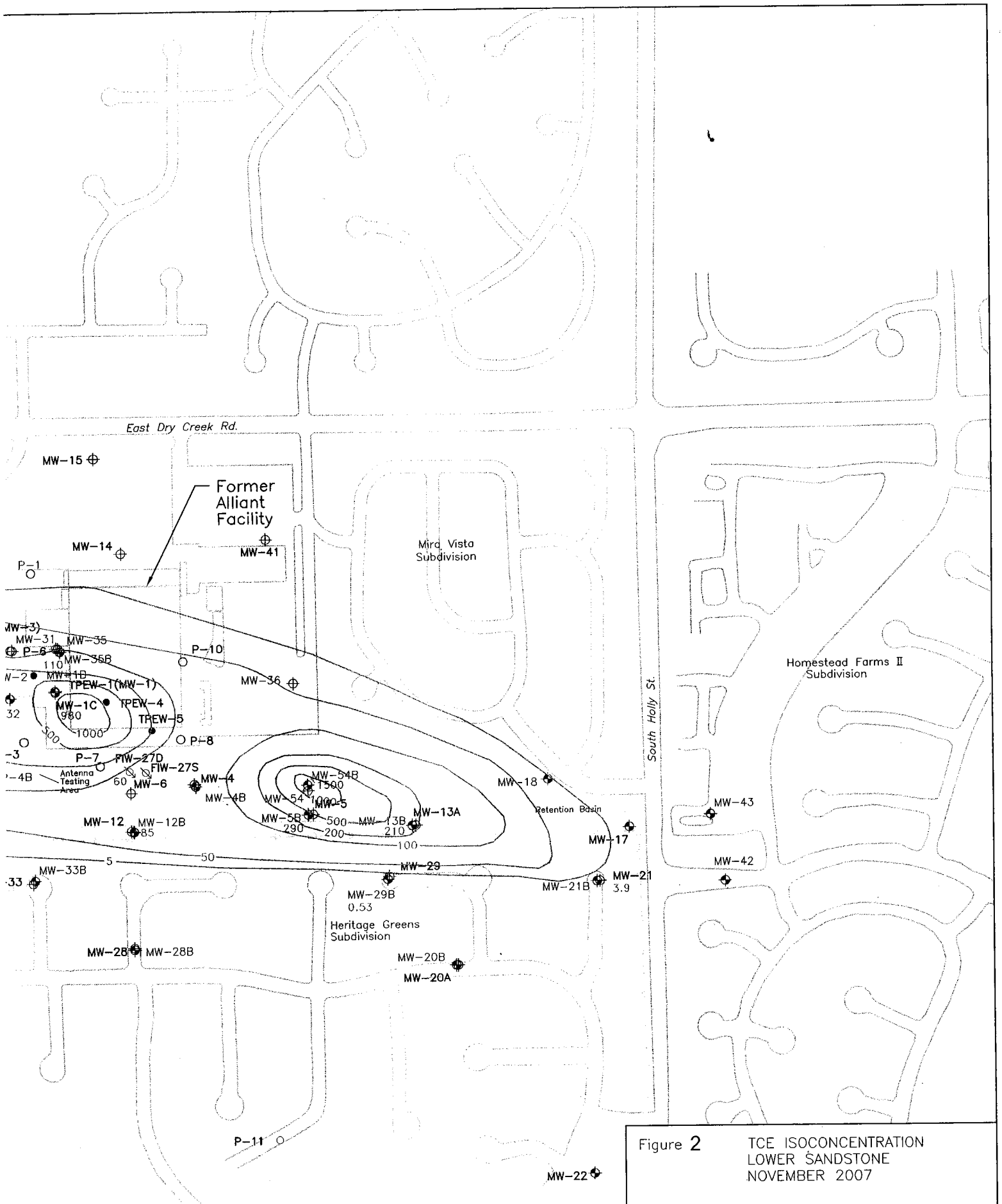
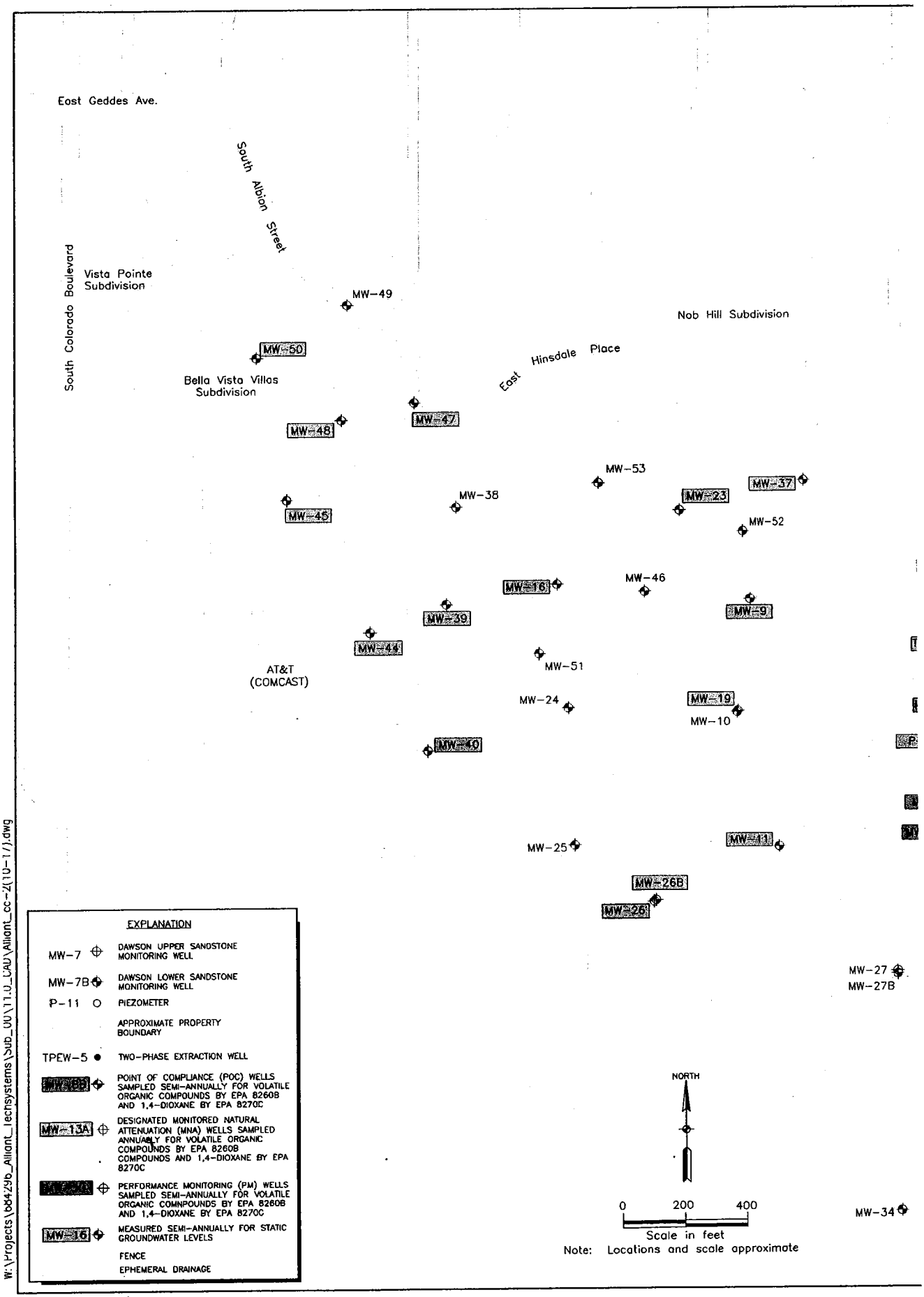


Figure 2 TCE ISOCONCENTRATION LOWER SANDSTONE NOVEMBER 2007

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

URS

CONTRACT NO.	DRAWING NO.	DATE
22239433	SCM-93.DWG	JANUARY 2008



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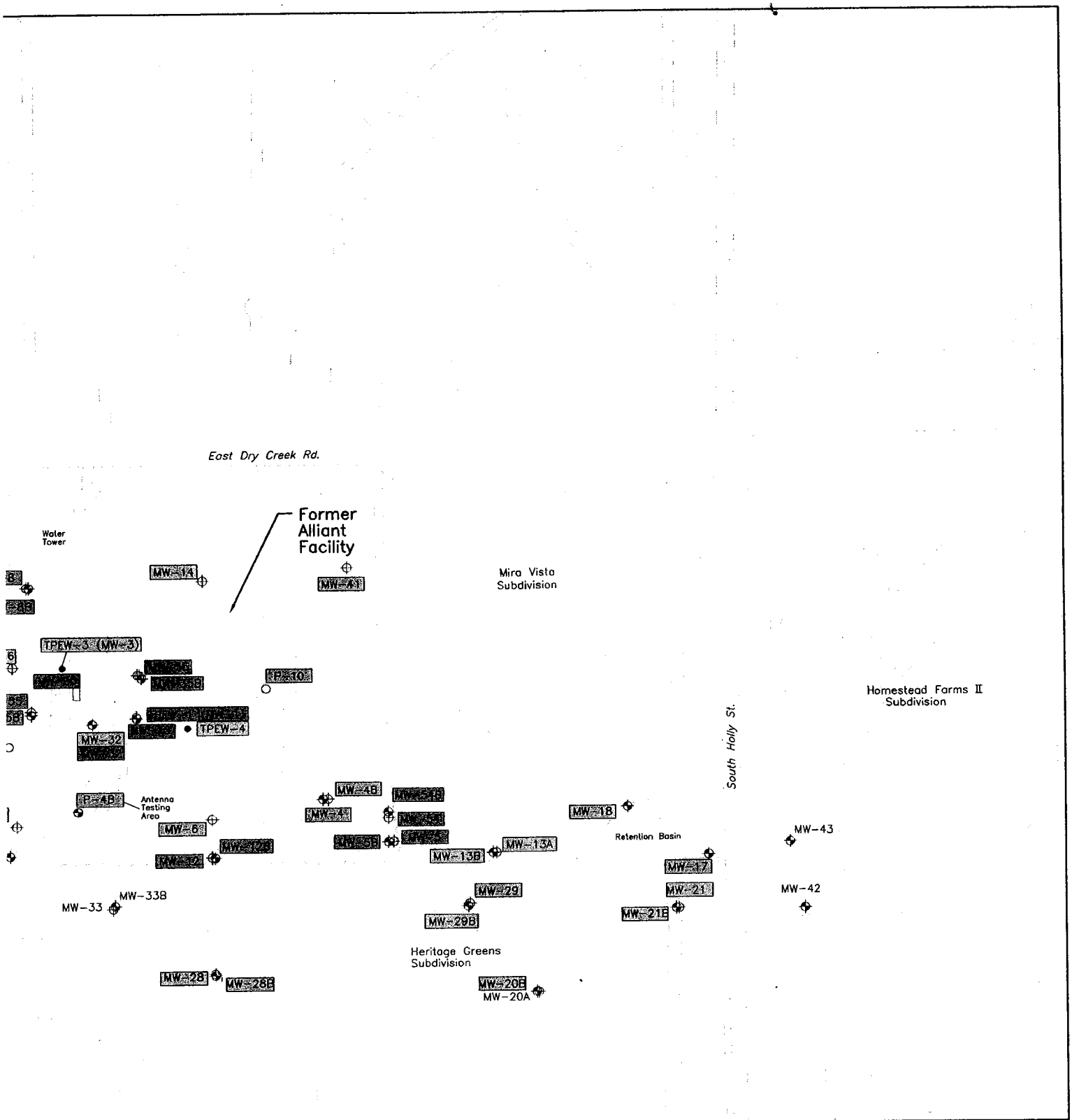


Figure 3 SITE MAP SHOWING MNA, PM, AND POC GROUNDWATER MONITORING WELL LOCATIONS

ALLIANT TECHSYSTEMS
CENTENNIAL, COLORADO

CONTRACT NO.	DRAWING NO.	DATE
22240252	ALLIANT_CC-2(10-17)	OCTOBER 2008

URS

EXHIBIT A
SHEET 1 OF 2

LEGAL DESCRIPTION:

OVER AND ACROSS LOTS 1-6, BLOCK 1 & TRACT B, LIFE TIME FITNESS SUBDIVISION FILING NO. 1 LOCATED IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF CENTENNIAL, COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS:
BEARINGS ARE BASED ON THE FINAL PLAT, LIFETIME FITNESS SUBDIVISION FILING NO. 1 LOCATED IN THE NORTHEAST QUARTER OF SECTION 31, TOWNSHIP 5 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF CENTENNIAL, COUNTY OF ARAPAHOE, STATE OF COLORADO.

CONTAINING 35.589 ACRES, MORE OR LESS.

EXHIBIT ATTACHED.

EXHIBIT ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF.
PREPARED FOR AND ON THE BEHALF OF OLSSON ASSOCIATES BY:

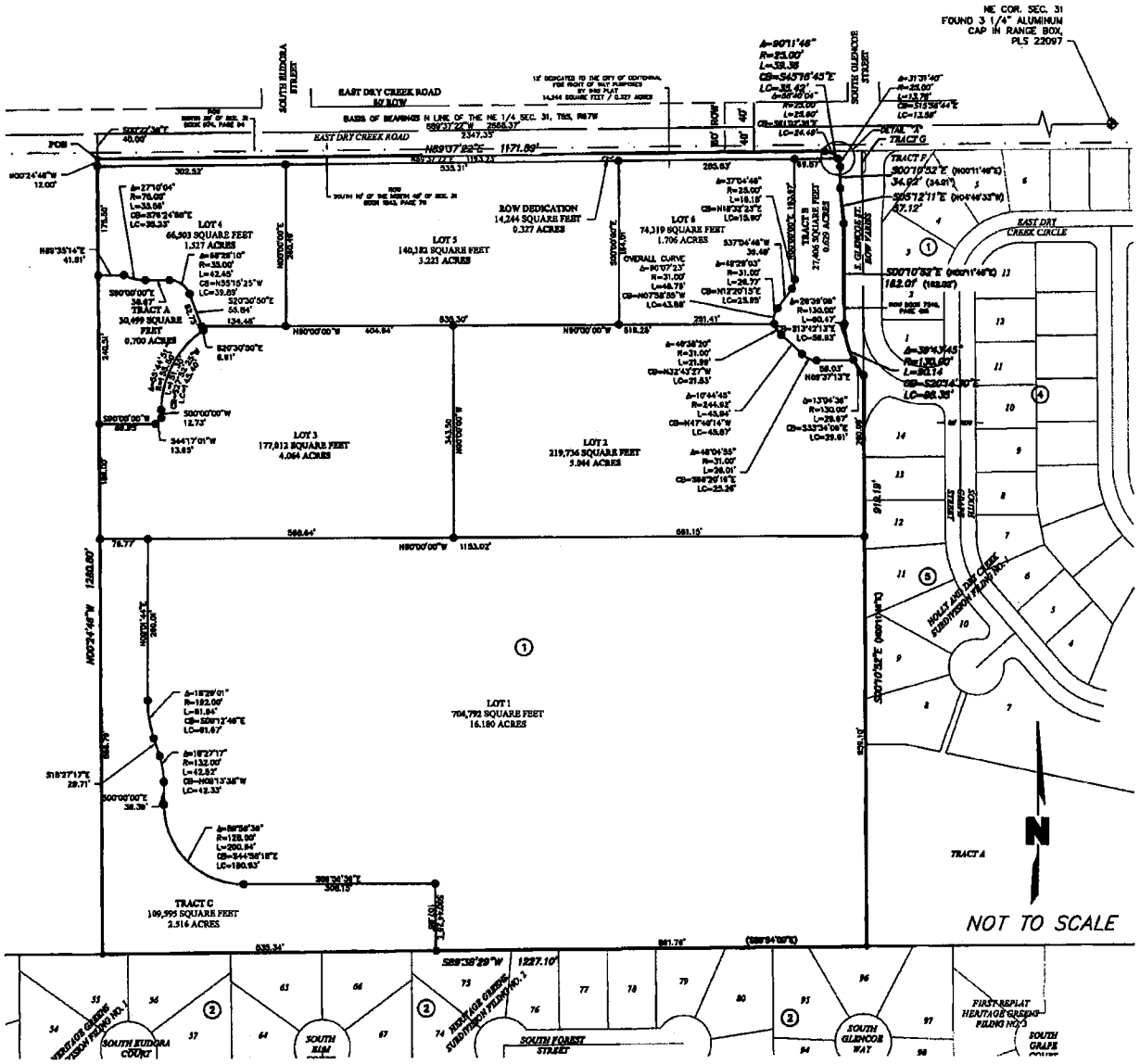
COLORADO LICENSED
DANA L. SPERLING
38012
10/1/08
PROFESSIONAL LAND

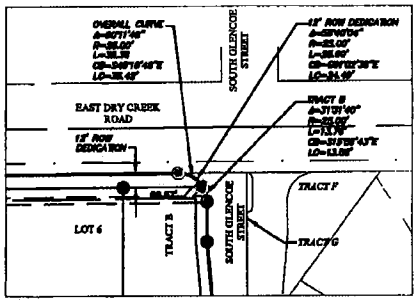
DANA L. SPERLING
PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 38012

SHEET 1 OF 2	EXHIBIT A LOTS 1–6, BLOCK 1 & TRACT B, LIFE TIME FITNESS SUBDIVISION FILING NO. 1 LEGAL DESCRIPTION CITY OF CENTENNIAL, ARAPAHOE COUNTY, STATE OF COLORADO	OLSSON ASSOCIATES 143 Union Boulevard, Suite 700 Lakewood, CO 80228-1825 TEL 720.962.6072 FAX 720.962.6196 www.oaconsulting.com
DATE: 09–25–08		
DRAWN BY: BLM		
CHECKED BY: DLS		
PATH: ...\20070858\LTF Centennial\dwg\Xcel Easements\		
DRAWING NAME: 70858_Xcel_ESMNT B.dwg		

ILLUSTRATION FOR EXHIBIT A

SHEET 2 OF 2





DETAIL "A"

NOTE: THIS DOES NOT REPRESENT A MONUMENTED LAND SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

SHEET 2 OF 2	EXHIBIT A LOTS 1–6, BLOCK 1 & TRACT B, LIFE TIME FITNESS SUBDIVISION FILING NO. 1 EXHIBIT CITY OF CENTENNIAL, ARAPAHOE COUNTY, STATE OF COLORADO	OLSSON ASSOCIATES 143 Union Boulevard, Suite 700 Lakewood, CO 80228-1825 TEL 720.982.6072 FAX 720.962.6195 www.oaconsulting.com
DATE: 09–25–08		
DRAWN BY: BLM		
CHECKED BY: DLS		
PATH: ...\20070858\LTF Centennial\dwg\Xcel Easements\		
DRAWING NAME: 70858_Xcel_ESMNT B.dwg		