

Exhibit KK-1

Deposition of Philip Smith Page 16

1 these things.

2 Q. Okay. When you were a young kid utilizing the
3 crossing to access the dump, do you remember an
4 occasion of any horses being stored down there?

5 A. Horses?

6 Q. Yes, sir.

7 A. No.

8 Q. Okay.

9 A. I do not.

10 Q. So you didn't ride any horses while you were
11 down there?

12 A. No.

13 Q. All right. From 1970 until, let's say 2000,
14 2001, somewhere in that area, do you remember that
15 crossing being there?

16 A. The crossing going across?

17 Q. Yes, sir.

18 A. There was a -- I can't say for sure about the
19 propane tanks, when Floyd quit using the propane
20 tanks, but however long he was -- that's the only way
21 he had to get across the track was to get those
22 propane tanks.

23 So how long that lasted, to answer your
24 question, I would say it would be seventy-ish when he
25 quit using that, but I'm not -- I can't say for sure,

Exhibit KK-2

Deposition of Bill Brockett Page 9 and 11

1 witness for somebody to talk about the public use of
2 the crossing. Is that your understanding, as well,
3 as why you're here today?

4 A. Yes.

5 Q. Okay. Do you understand what crossing is at
6 issue in this lawsuit?

7 A. Yes.

8 Q. Okay. Tell me first off, what did you -- when
9 was the last time you used that crossing?

10 A. I am not sure, the eighties probably.

11 Q. Okay. Can you tell me what was the occasion
12 that brought you to use it?

13 A. Sun Gas was a propane company, and they used my
14 repair shop to repair their vehicles, and I have been
15 down there several times to pick up their trucks or
16 work on their trucks.

17 Q. Okay. Now, the street that the crossing was
18 on, did it have a name?

19 A. Do not recall.

20 Q. Okay.

21 A. I don't -- I just knew where it was at when
22 they told me they needed something done.

23 Q. Right. And when we sometimes think about
24 streets we think about asphalt streets and curbs and
25 blacktop. Is that what kind of street this road was?

1 crossing; do you remember?

2 A. I don't recall.

3 Q. Okay. All right.

4 A. I was 14 or so.

5 Q. Right.

6 A. I didn't have my mind on school or the
7 crossing.

8 Q. And I'm sure not, and I'm sure that this
9 crossing wasn't necessarily something you were
10 focused on that point. Is there anything else about
11 the use of the crossing that you believe would be
12 relevant that you have experienced?

13 A. I have towed trucks out of there with small
14 wreckers and big wreckers.

15 Q. Okay.

16 A. So, I mean, I don't know if that's relevant or
17 not, but it certainly was a crossing.

18 Q. So sometimes -- the last time you would have
19 used it, you believe, is sometime in the 1980s when
20 you --

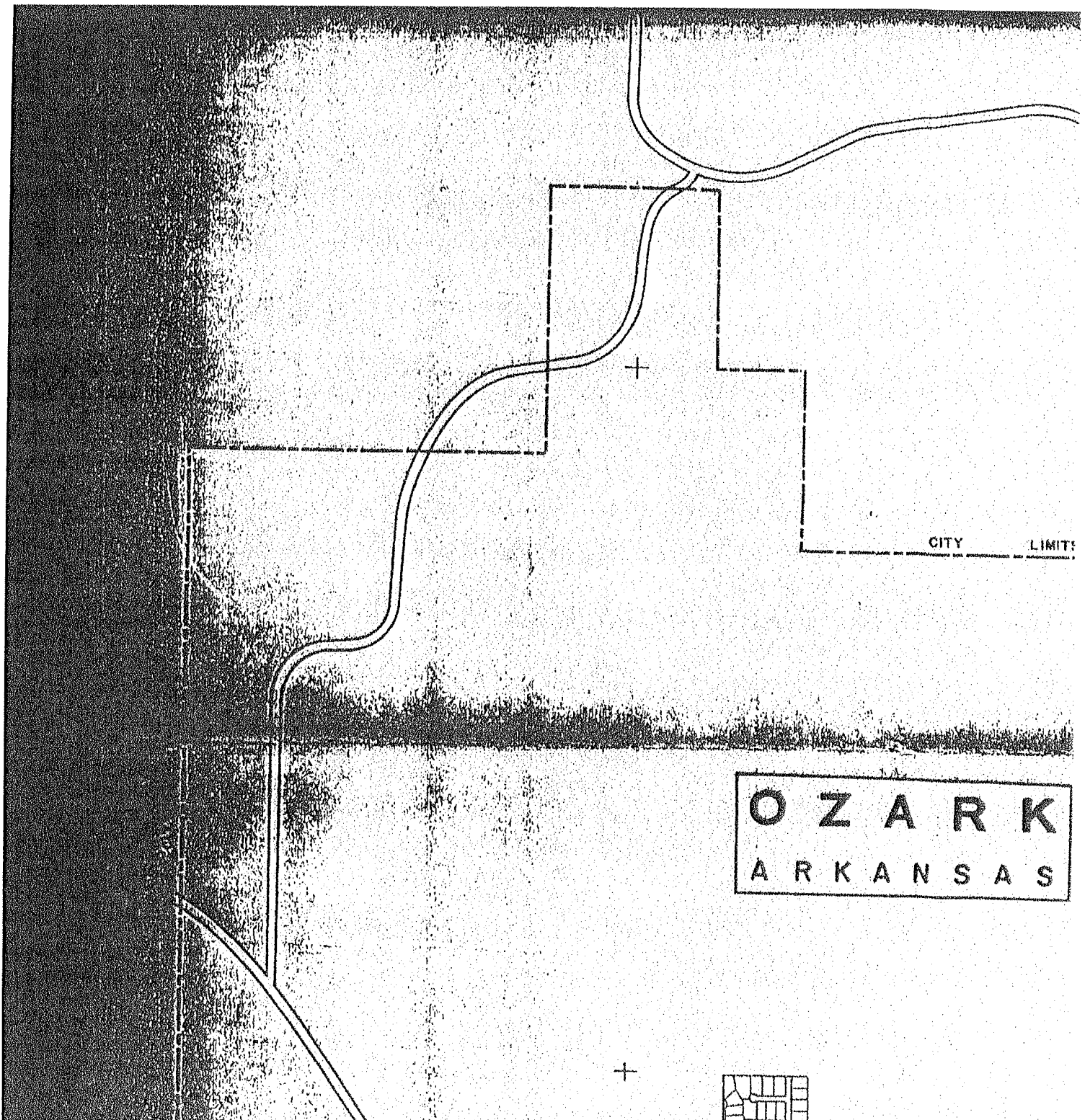
21 A. And I'm not positive about that. I don't know.
22 It's been -- I was in the garage business from '75
23 maybe -- no, that couldn't be correct, '78 probably.

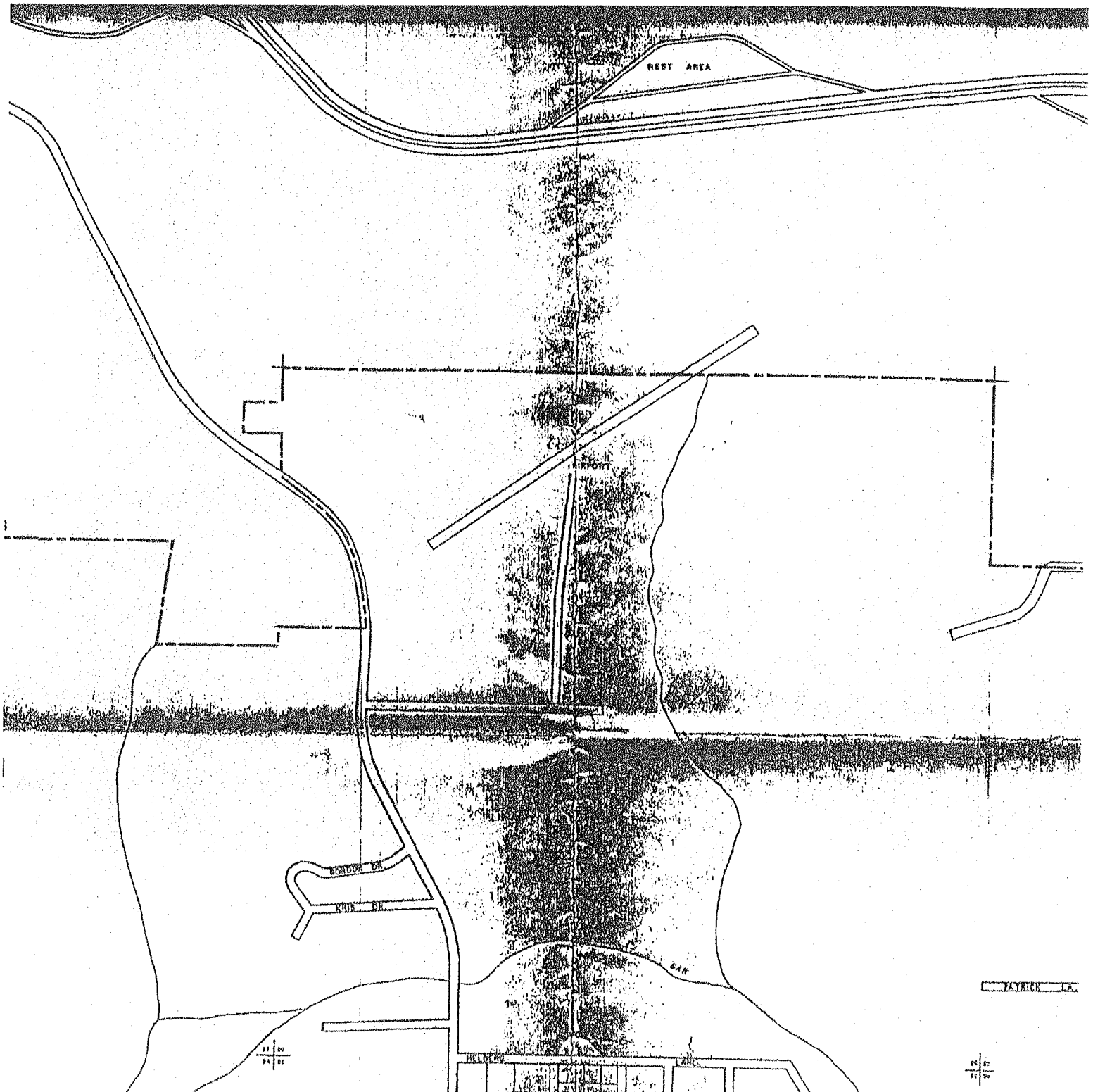
24 Q. Okay.

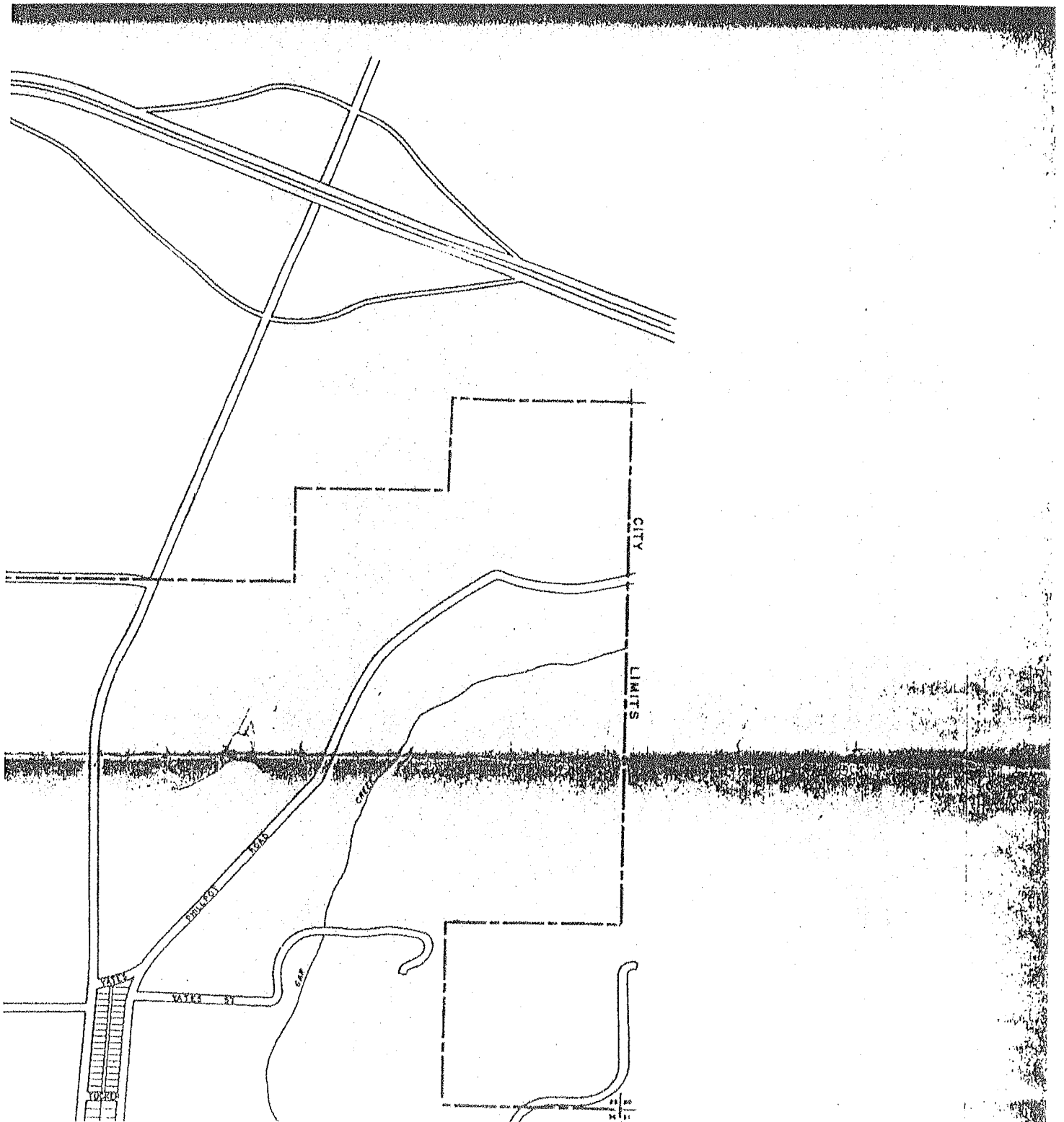
25 A. So somewhere between '78 and '94.

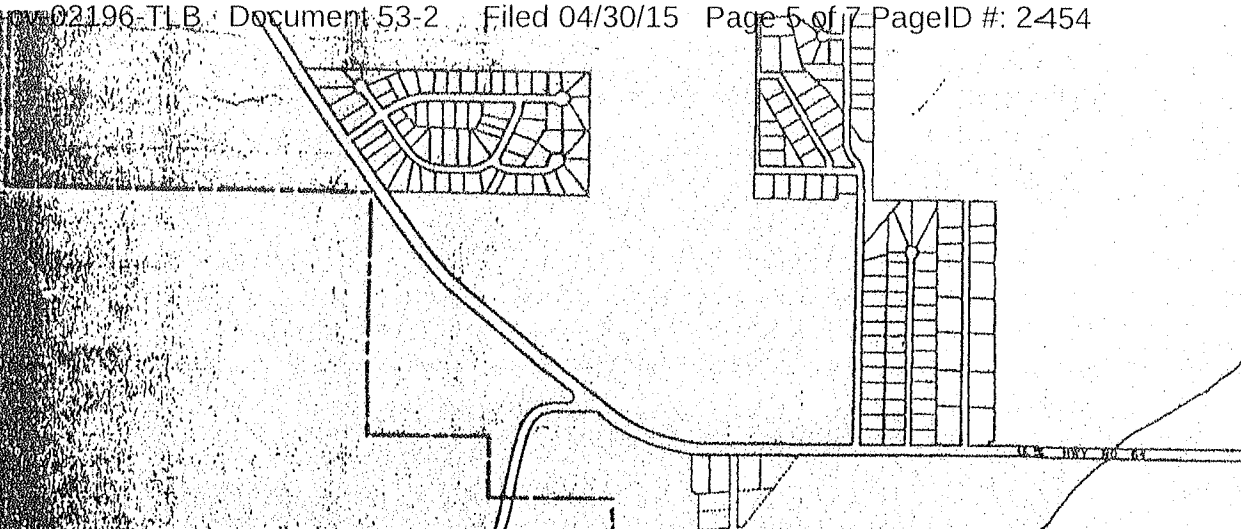
Exhibit LL

A copy of the 1975 Map, Pages 1-6





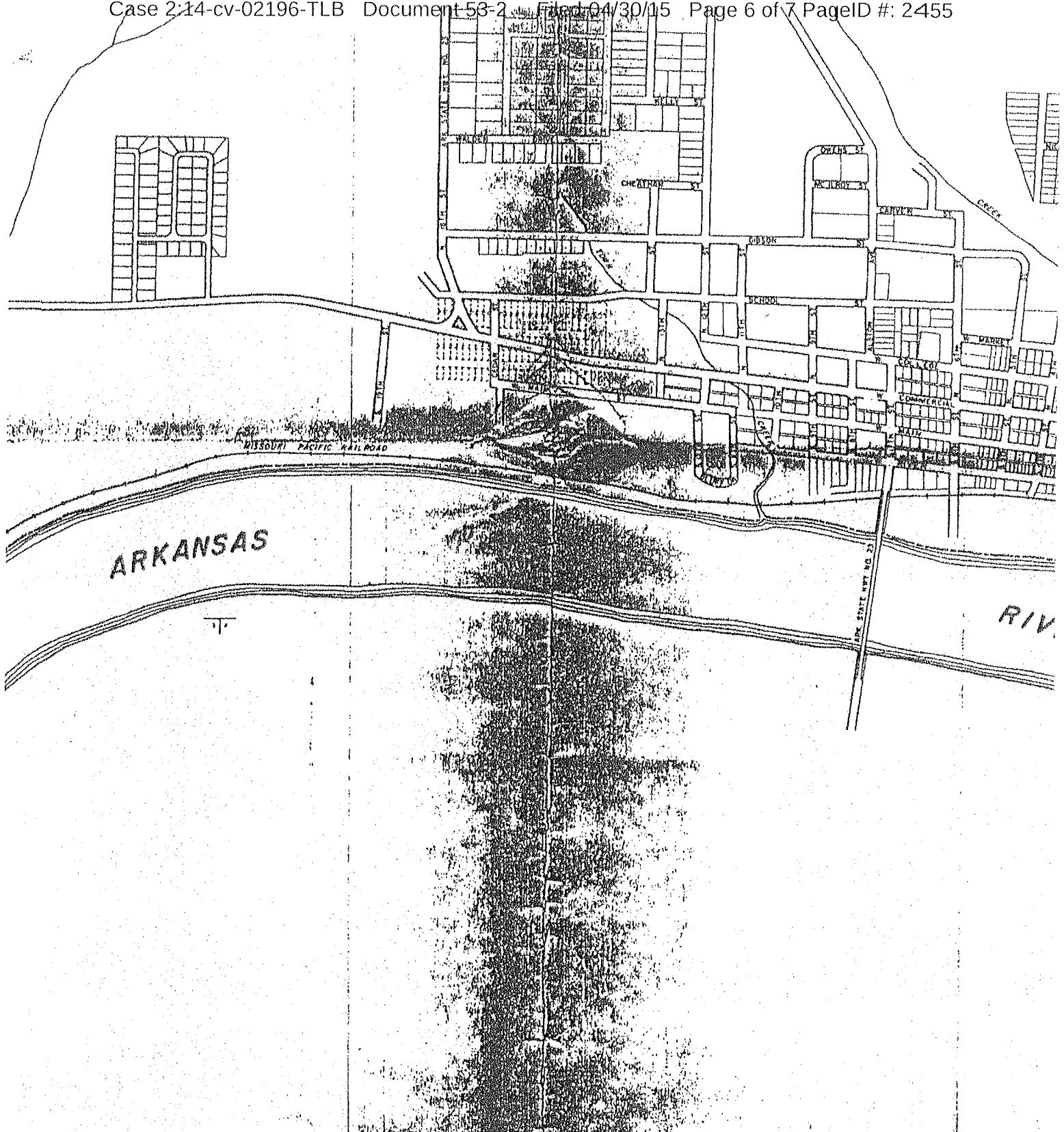




MAP PREPARED BY
WESTERN ARKANSAS
PLANNING AND DEVELOPMENT DISTRICT, INC.
FORT SMITH, ARKANSAS

PROJECT NO. - HCPA 1036 7620
THE PREPARATION OF THIS MAP WAS FINANCED
PARTLY THROUGH AN URBAN PLANNING GRANT FROM
THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
UNDER THE PROVISIONS OF SECTION 701 OF
THE HOUSING ACT OF 1954, AS AMENDED

MAP PREPARED, MAY 1975
SCALE: 1" = 500'



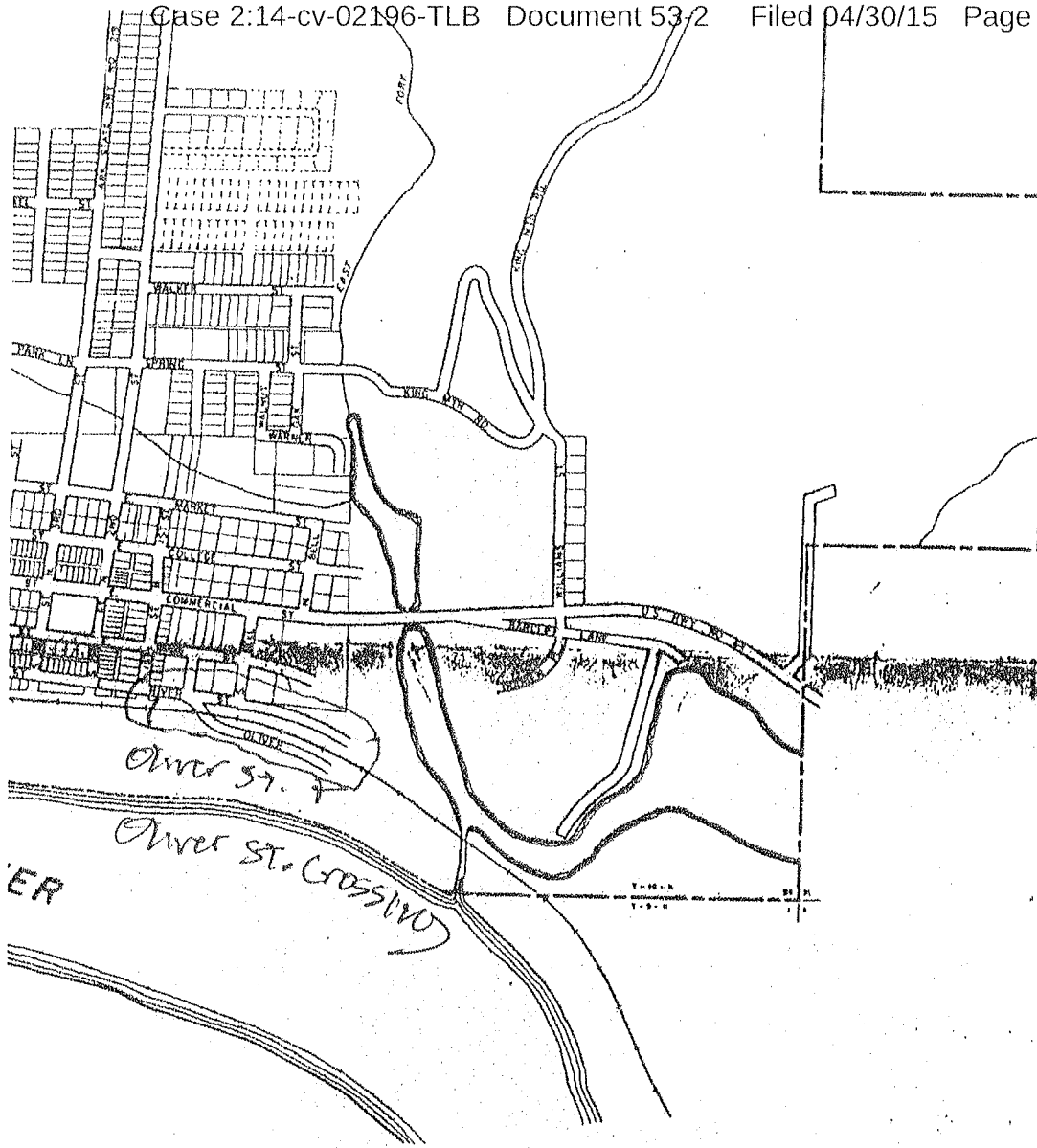


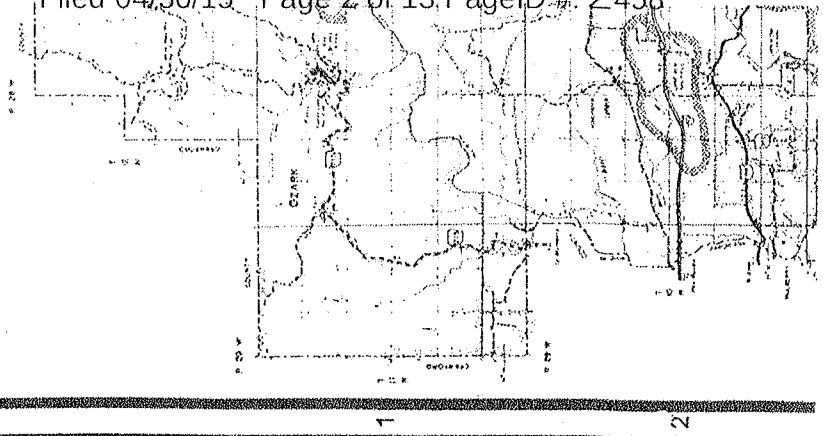
Exhibit MM

1976 Arkansas Map with a street index, Pages 1-12

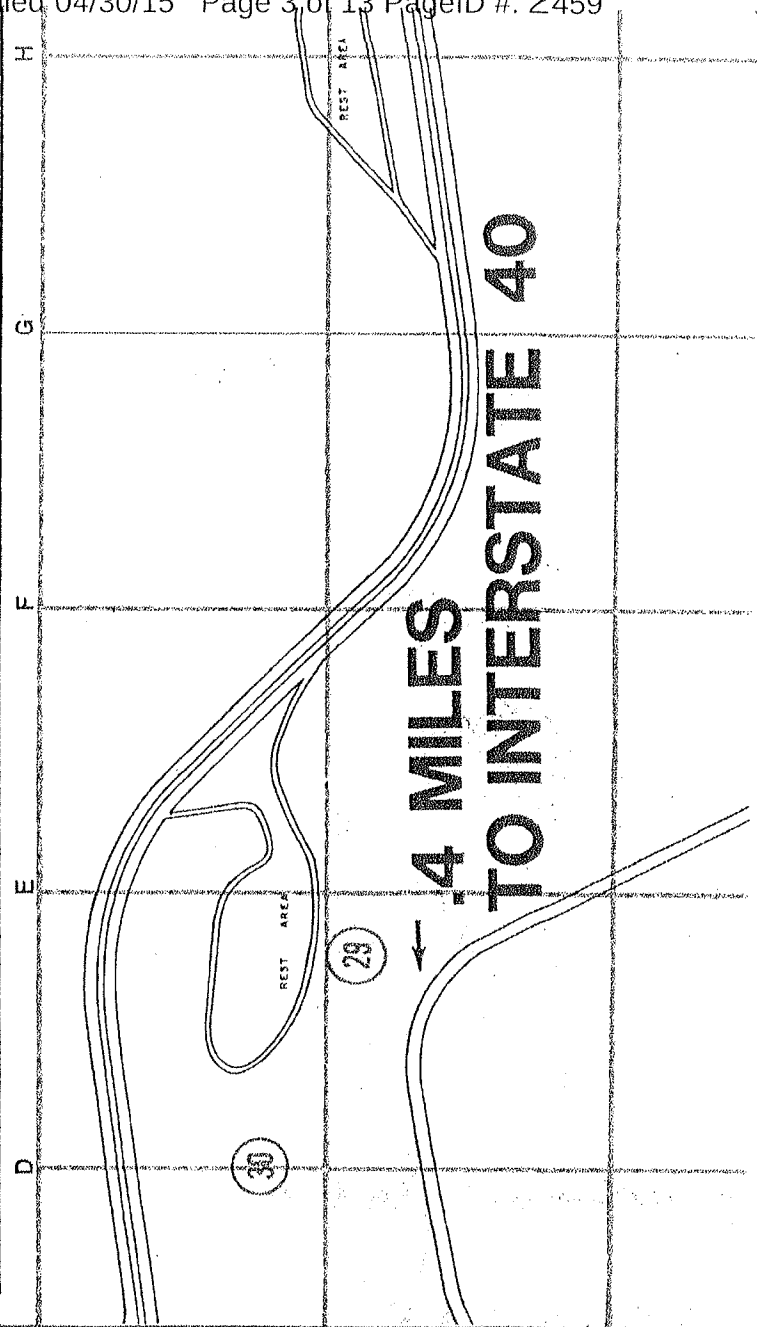
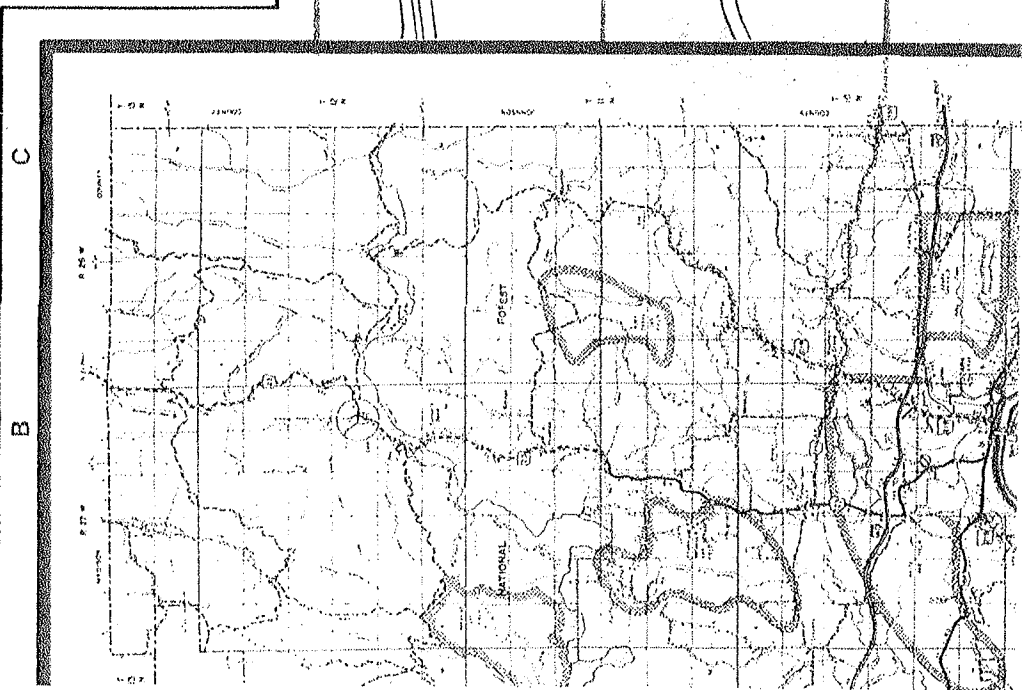
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FRANKLIN
COUNTY



Ozark,

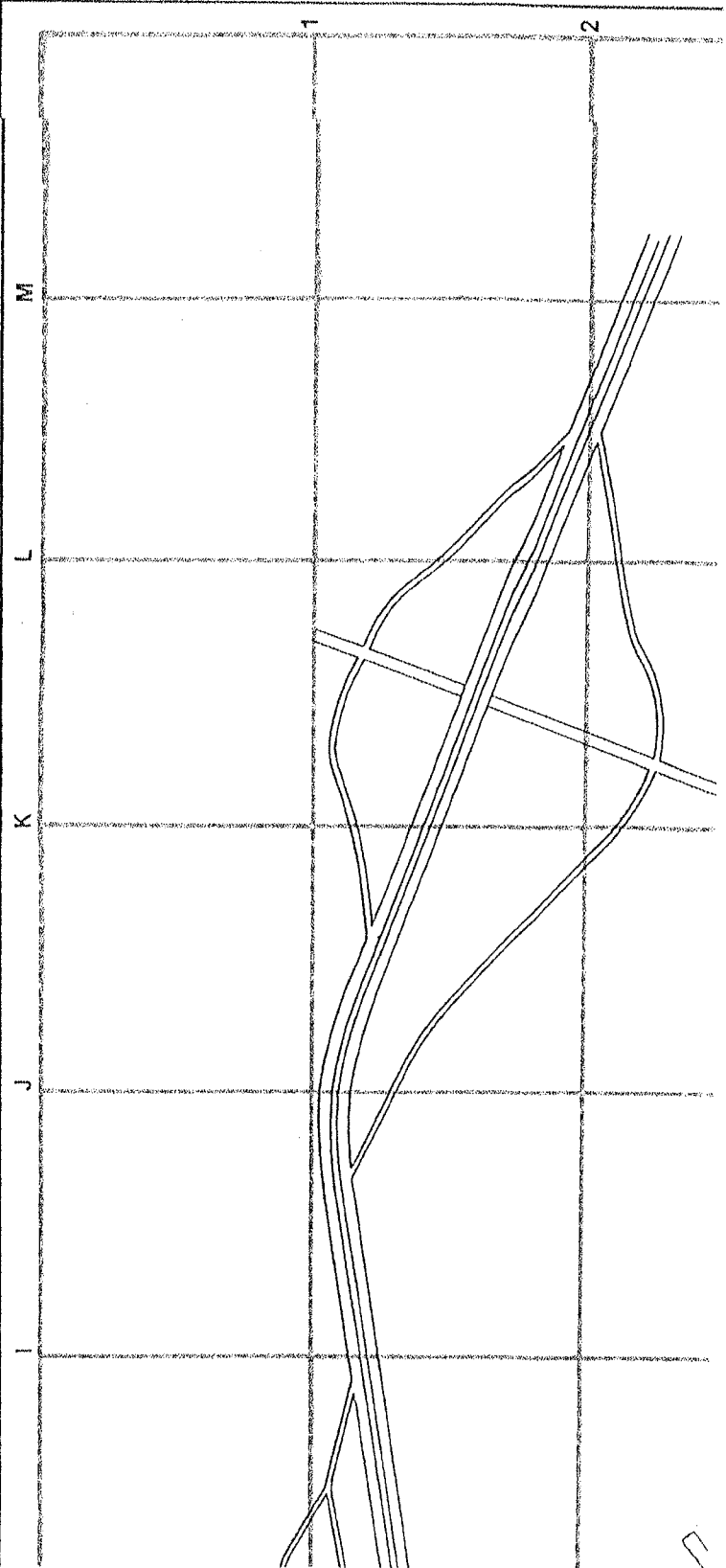


Arkansas

Welcome To The City of Ozark

As Mayor of Ozark, I am pleased to invite you to visit our city and our people and to enjoy the hospitality of our city. Tour the city, see and enjoy its beauty; visit our homes, schools, churches, parks, lakes and recreational facilities. If you have come to stay or just for a visit, I join with the people of Ozark in extending to you a cordial welcome.

Don Smith, Mayor



POINT
INTER

- 1 CHAMBER OF COMMERCE
- 2 COURT HOUSE
- 3 CITY HALL
- 4 FIRE DEPT.
- 5 CITY CLERK
- 6 WATER DEPT.
- 7 POLICE STATION
- 8 LIBRARY
- 9 BUS STATION
- 10 POST OFFICE
- 11 CITY PARK — TENNIS
- 12 LAUNCHING RAMP
- 13 OZARK-FRANKLIN

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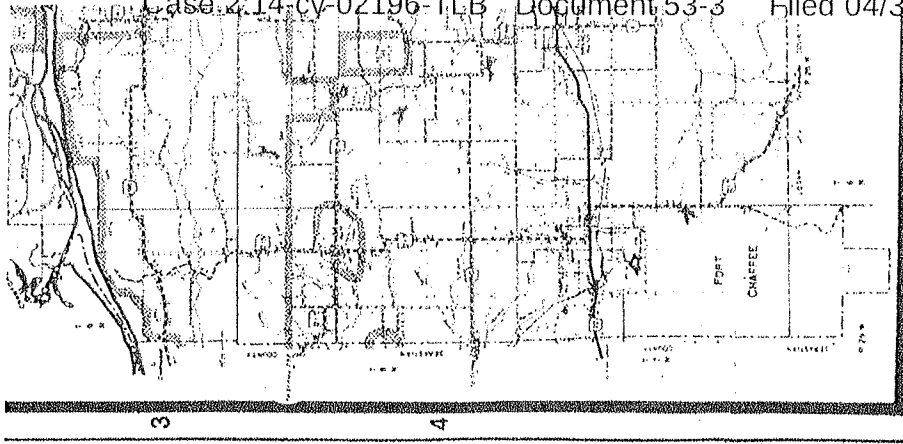
IMMERCE

ON

NNIS COURT —

AP

N COUNTY AIRPORT



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4TH STREET	J-8
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7TH STREET	I-8
8TH STREET	I-8
9TH STREET	H-8
10TH STREET	H-8
11TH STREET	H-8
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CIVIC CLUBS

AMERICAN LEGION AUXILIARY No. 63

AMERICAN LEGION Post No. 63

BASS CLUB

BOY SCOUT TROOP No. 74

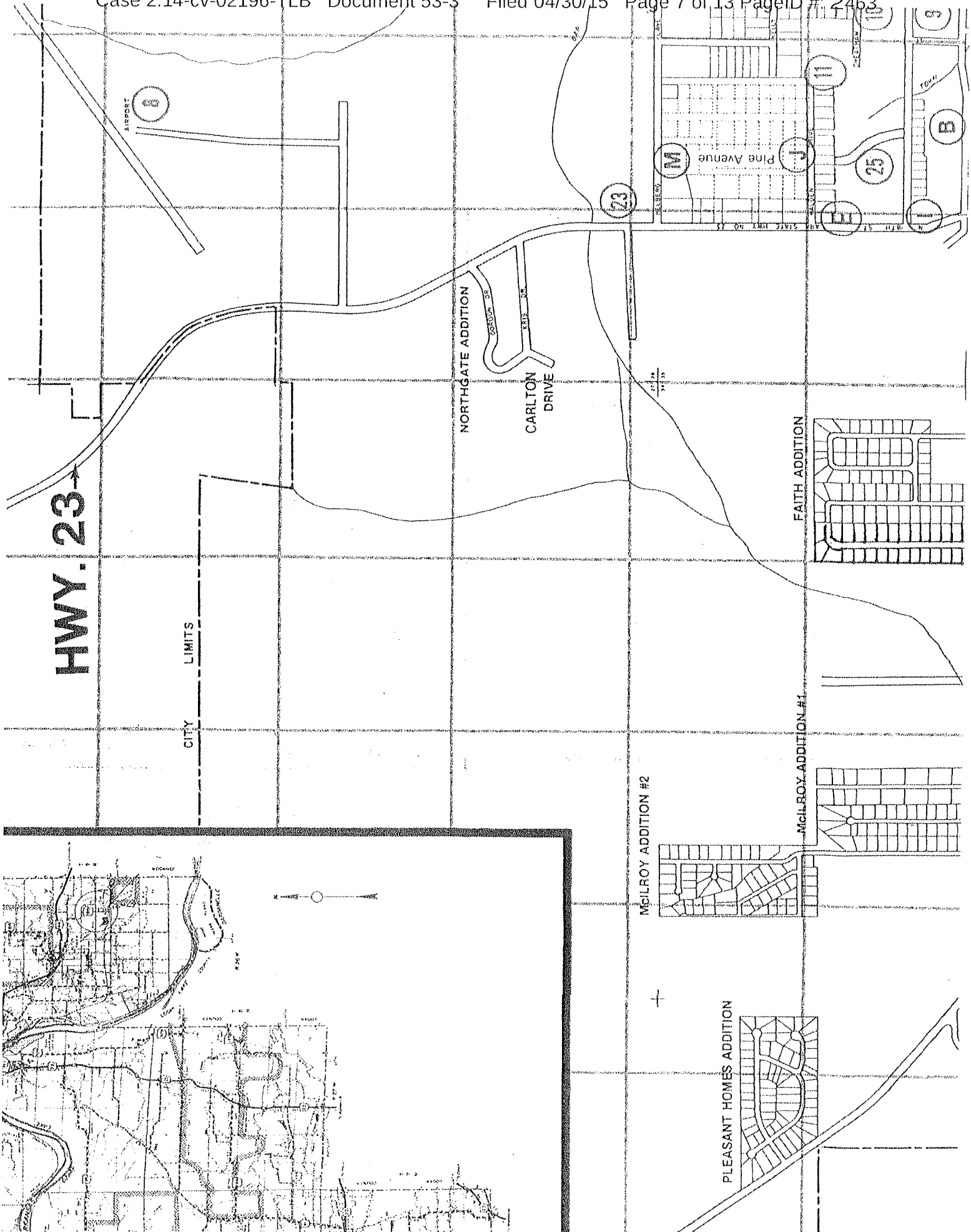
BUSY HOMEMAKERS

BROWNIE TROOP No. 34

BROWNIE TROOP No. 55

CHAMBER OF COMMERCE

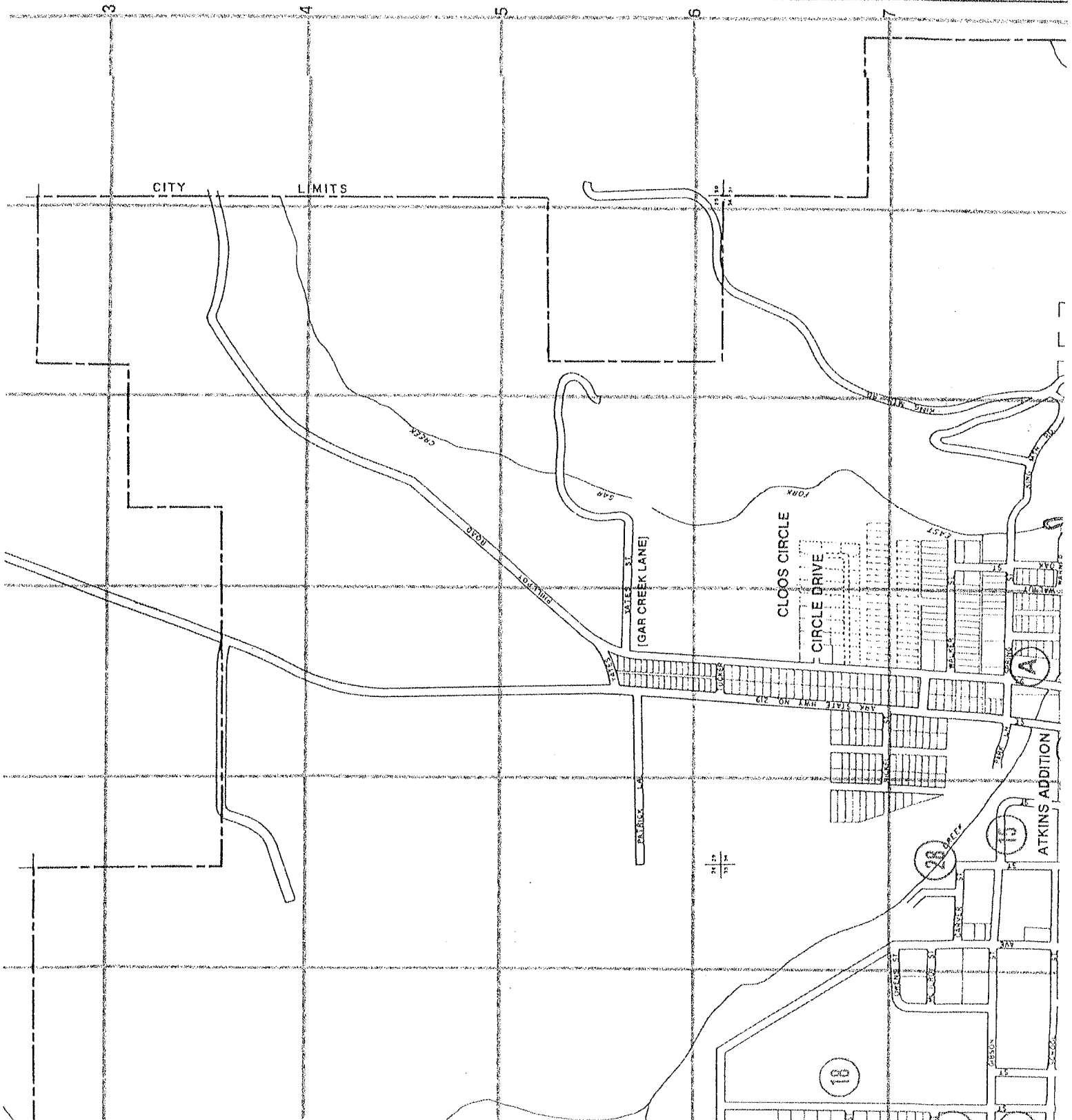
DAR Aux Arc Chapter



- 9 OZARK HIGH SCHOOL
- 10 FOOTBALL FIELD
- 11 OZARK ELEMENTARY
- 12 LITTLE LEAGUE
- 13 CITY BALL PARK
- 14 TURNER MEMORIAL
- 15 OZARK HOUSING
- 16 OVERLOOK OF CREEK
- 17 OZARK LOCK AND DAM
- 18 OZARK NURSING HOME
- 19 HIGHWAY 23 BRIDGE
- 20 ARK. RIVER
- 21 OZARK BIBLE INSTITUTE
- 22 FITZHUGH STEAMBOAT
- 23 OZARK RECREATION CENTER
- 24 ARKANSAS VALLEY TECHNICAL CENTER
- 25 LAUNCHING RAMP
- 26 FRANKLIN COUNTY CENTER
- 27 MASONIC LODGE
- 28 NATIONAL GUARDIAN
- 29 HILL & DALE DAY CAMP
- 30 OZARK WATER RODEO ARENA

CHURCH

- A ASSEMBLY OF GOD
107 W. Spring
- B CALVARY MISSISSIPPIAN CHURCH
1504 W. School S



HOOL

ARY SCHOOL
BALL PARK

IAL HOSPITAL
AUTHORITY

ZARK LOCK AND DAM
DAM NO. 12

HOME

DGE ACROSS

STITUTE

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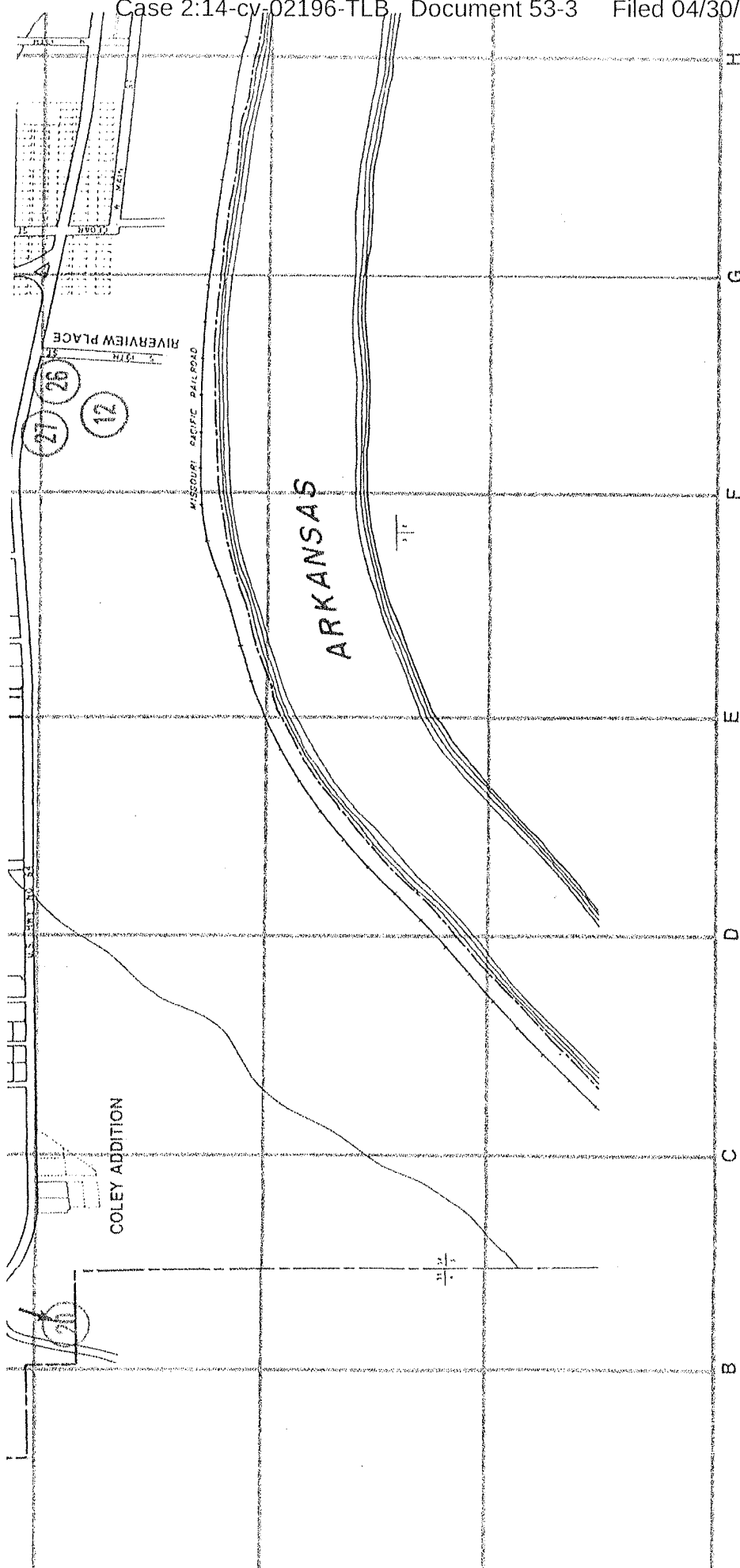
EAGLES LADIES AUXILIARY Post No. 3455
 EAGLES, OZARK AERIE Post No. 3455
 EPSILON UPSILON CHAPTER OF
 BETA SIGMA PHI
 EXTENSION HOMEMAKER CLUB
 FRANKLIN REBECCA LODGE #100
 GAMMA SIGMA CHAPTER OF BETA
 SIGMA PHI
 GARDEN CLUB
 GARDEN CLUB COUNCIL
 GARDEN GATE GARDEN CLUB
 HOME AND GARDEN CLUB
 JAYCEES
 JAYCETTES
 JR. BASE BALL LEAGUE
 LIONS CLUB
 MILTON GRADE SCHOOL PTA
 NEW HOPE EXTENSION HOMEMAKERS
 CLUB
 ORDER OF EASTERN STAR
 OZARK LODGE NO. 79
 OZARK RECREATION ASSOCIATION
 RAINBOW GIRLS
 RODEO ROUND-UP CLUB
 ROTARY CLUB
 ROYAL ARCH MASONS
 TOPS A.R. #69
 T.T.T. SOCIETY
 VETERANS OF FOREIGN WARS POST #7514
 XI ALPHA PHI CHAPTER

HISTORICAL INFORMATION

Nestled on the banks of the lovely Arkansas River, the town of Ozark dates from 1835, when David Walker and Archibald Yell bought the land, had it laid out in lots, and offered them for sale. Advertising in such cities as Louisville, Little Rock, and New Orleans, 40 lots were sold, raising \$3,400.

When Arkansas became a state in 1836, Ozark became the first county seat of Franklin County. The post office relayed mail by river and land.

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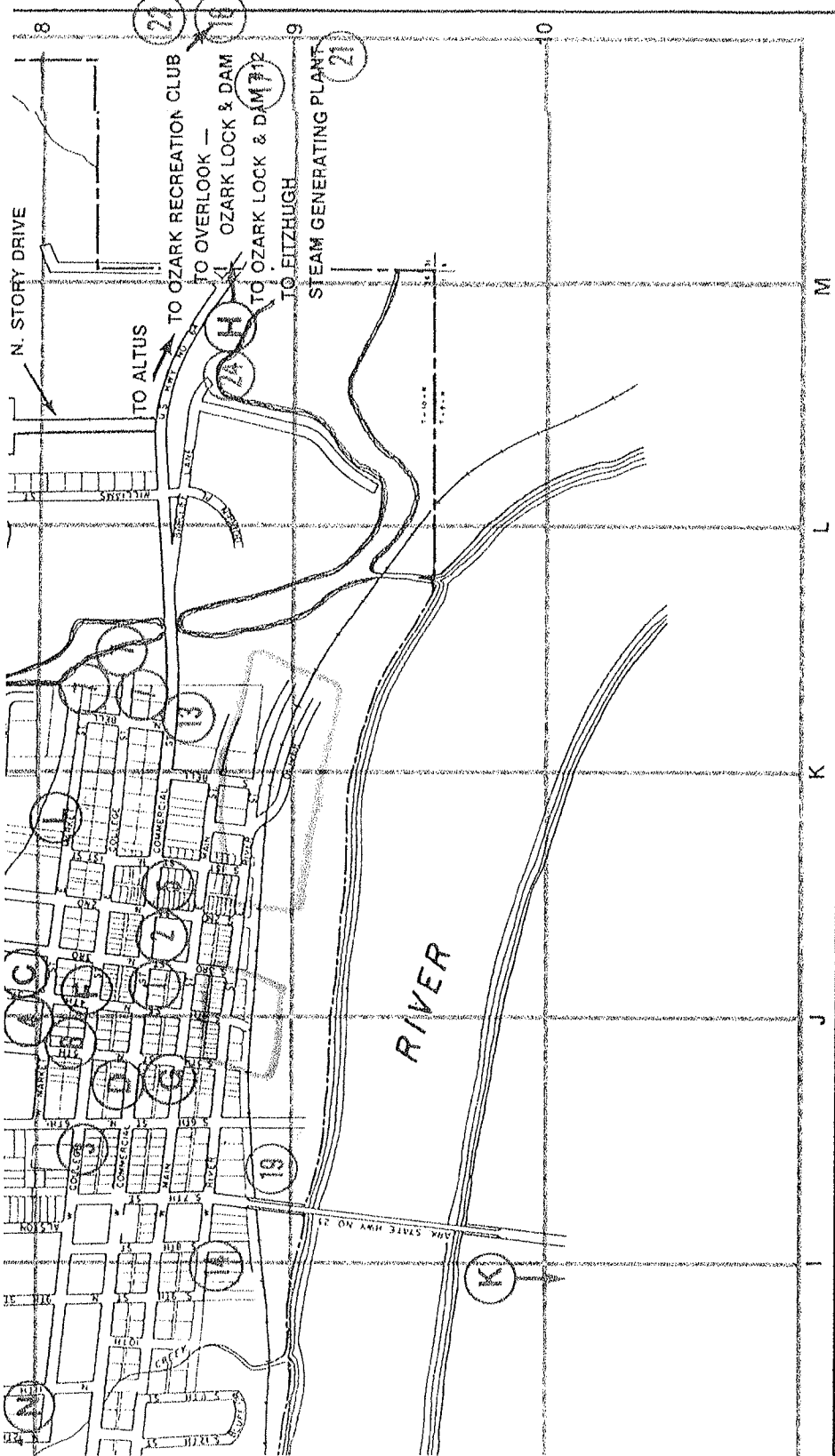
Social attitudes are illustrated by the establishment of Manitou Springs health resort and recreation area in the 1880's and 1890's. The telephone system began in 1895, electric lights in 1905, movies and the first automobile in 1912. In 1912, a macadam road from Mulberry Creek to near Coal Hill was the first hard surface road to cross a county in Arkansas. By 1912, Ozark had 24-hour electric power and light service. Further advances in highways, water, sewer, natural gas, and street improvements began in 1928 through 1940. The Arkansas Valley Electric Co-op was organized in 1936. The poultry industry, commercial turkey and broiler growing, began in the 40's and 50's. The 60's produced river development and industries.

The Civil War left Ozark devastated, but in 1872, rebuilding had begun. A two-room public school building of this period still stands on the corner of College and Sixth streets.

A new era of development began in 1876, when the Fort Smith-Little Rock railroad was completed through Ozark. A large canning plant built in 1877 drew on local capital an amount between \$10,000 and \$25,000, but it was ahead of its time and folded. The town's first bank was formed during this period.

The postmaster maintained a warehouse for receiving and attaching river freight. From its first year, Ozark could boast a store, a sawmill, brick kiln, school, and saloon. As time came into the town from the shipment of cotton, sugar, and skins; in addition, Ozark had a lively business serving emigrants to various points.

In 1859, the Walker family sponsored an interdenominational school under the leadership of the Cumberland Presbyterian Church. They also gave land and financial aid for a private boys' school.



to the grape industry, there are many acres of peach and apple orchards in the county.

The new city lake covers approximately 700 acres, and its new water system is able to supply Ozark and nearby communities with 3 million gallons of water per day. Engineers estimate this water supply is sufficient to serve the needs of a city of 30,000.

Today, Ozark enjoys the happy position of being a progressive, growing community which offers its citizens a good livelihood, while at the same time preserving its friendly, small-town atmosphere which makes its large number of tourists feel as if they have come home.

Ozark today is the home of the Arkansas Valley Vocational School and boasts of a \$110,000 public library.

A new 3,300' airport has just been completed for the Ozark area. With the completion of the fifty million dollar Ozark Lock and Dam, navigation on the Arkansas River has already surpassed the estimated predictions. Five generators are in operation and are capable of producing 100,000 kilowatts annually.

Rich in natural resources, Ozark is recognized as the Natural Gas Capital of the state. It is also famous for being the Wine Capital of the state and the southwest. There are approximately 700 acres of vineyards located in Franklin County. In addition

- C FIRST BAPTIST C
304 W. Market
- D FIRST CHRISTIAN
105 N. 5th St.
- E CHURCH OF CHRIST
Highway 23 North
- F FIRST PRESBYTERIAN
208 N. 4th St.
- G FIRST METHODIST
503 W. Commercial
- H SAINT MARY'S OF
Altus
- I OZARK BIBLE CH
Highway 23 North
- J UNITED PENTECOSTAL
Pine Ave. at Waldo
- K WEBB CITY BAPTIST
Route 3
- L NAZARENE CHURCH
East Market Street
- M FREEWILL BAPTIST
Helberg Lane
- N FREE METHODIST
College at N. 11th

SCHO

1971
Enrollment

- P KINDERGARTEN
- ELGIN G. MILTON ELEMENTARY
- OZARK MIDDLE SCHOOL
- OZARK JUNIOR HIGH
- OZARK HIGH SCHOOL
- FRANKLIN COUNTY DAY SCHOOL
- HILL AND DALE HEADSTART
- OZARK BIBLE COLLEGE AND
- ARKANSAS VALLEY VOCATIONAL
- SCHOOL — FULL TIME
- OTHER INSTITUTES OF
- WITHIN 1 HOUR

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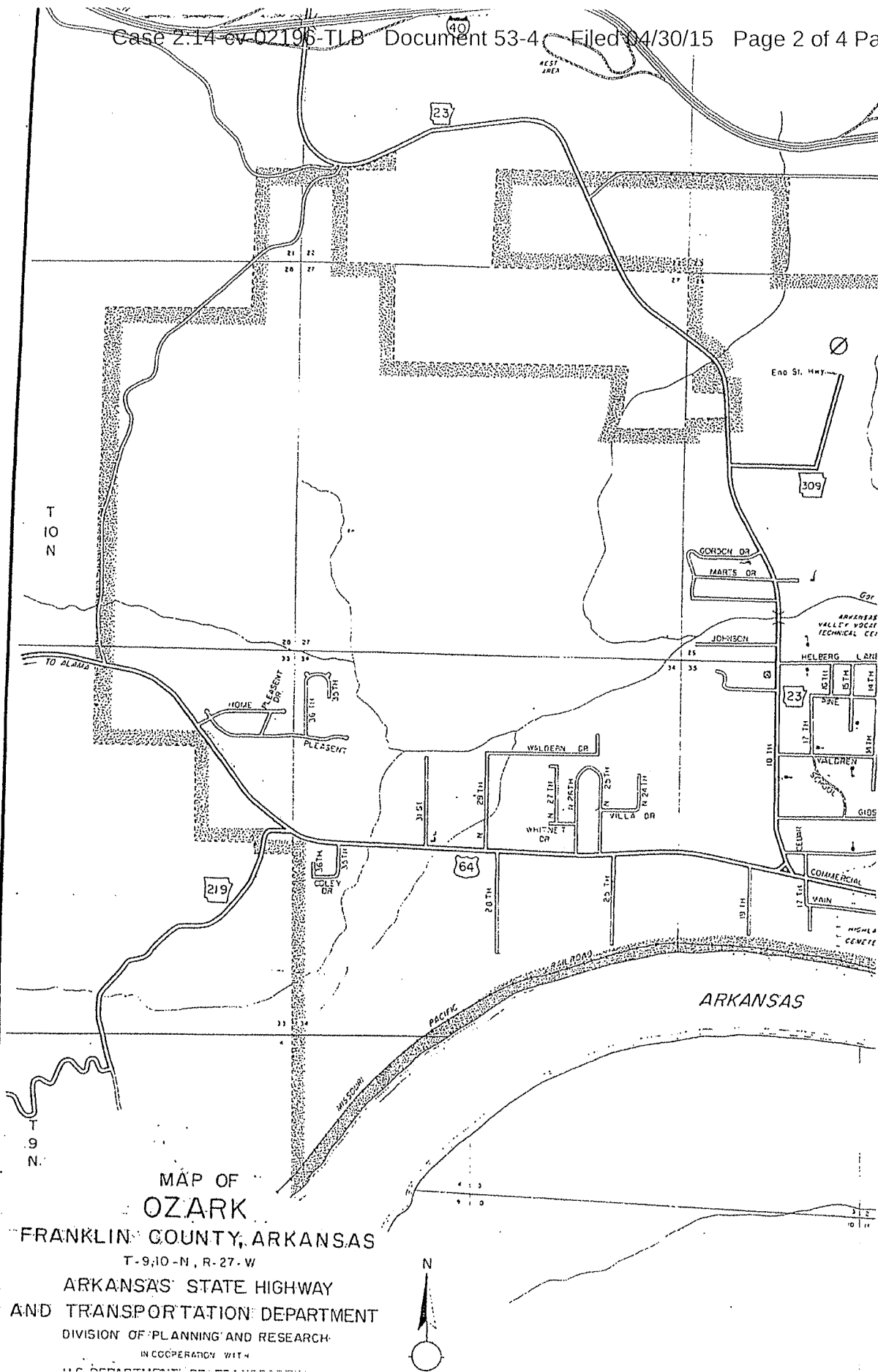
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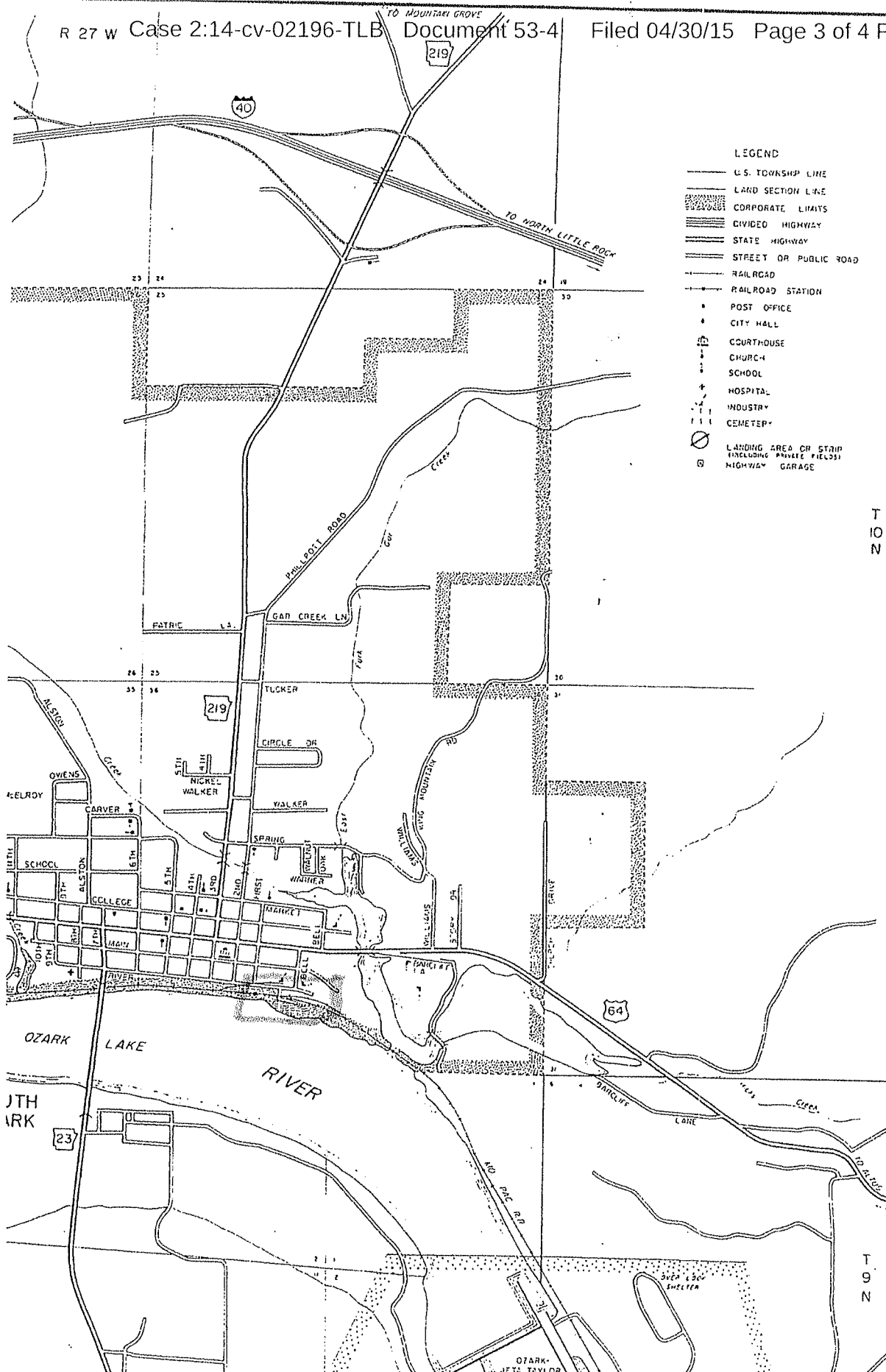
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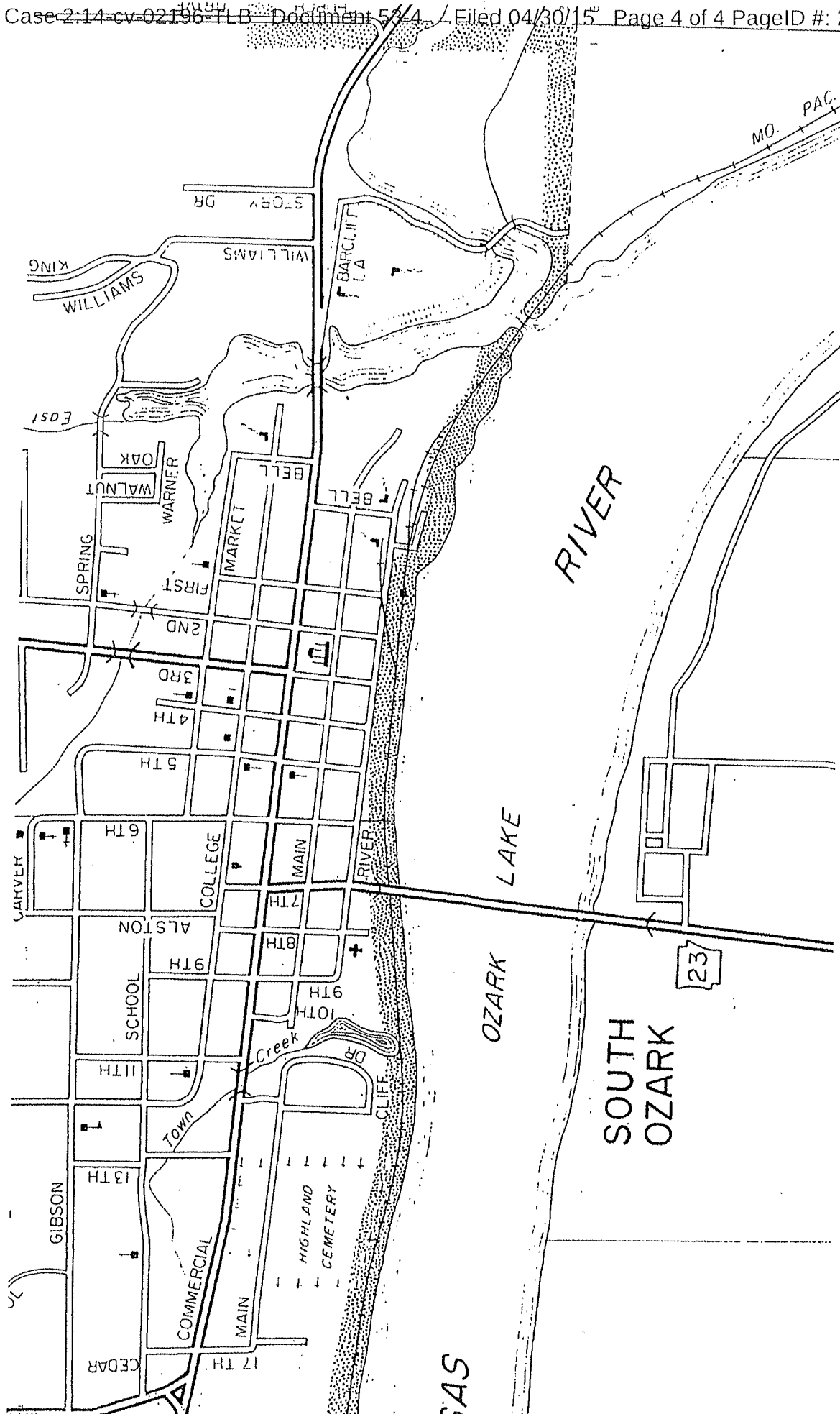
RY SCHOOL	100
-PLANNING STAGE]	647
	261
	403
VICE CENTER	15
CENTER	28
INSTITUTE	75
ONAL-TECHNICAL	
ND EXTENSION	3000
HIGHER LEARNING	
URS DRIVE	

Exhibit NN

A copy of the 1980 AH&TD Map, Pages 1-3



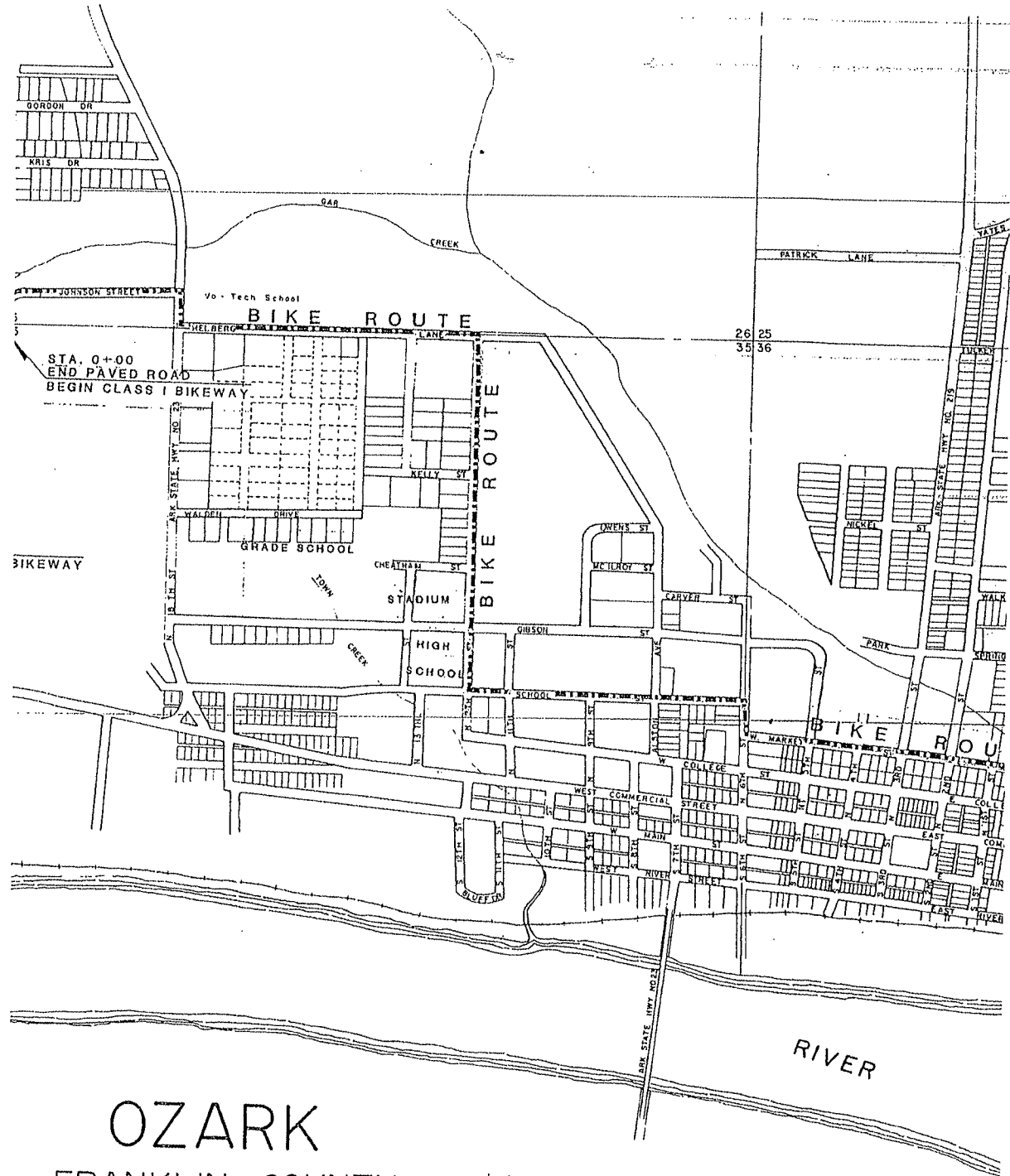




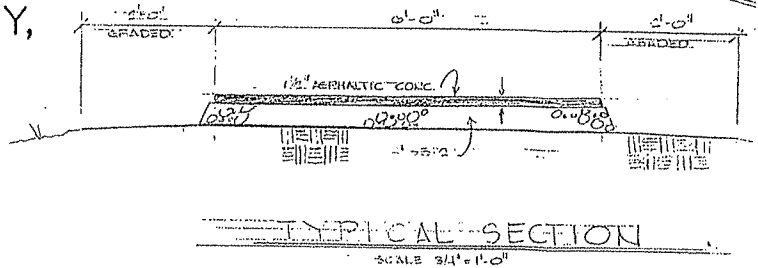
2012

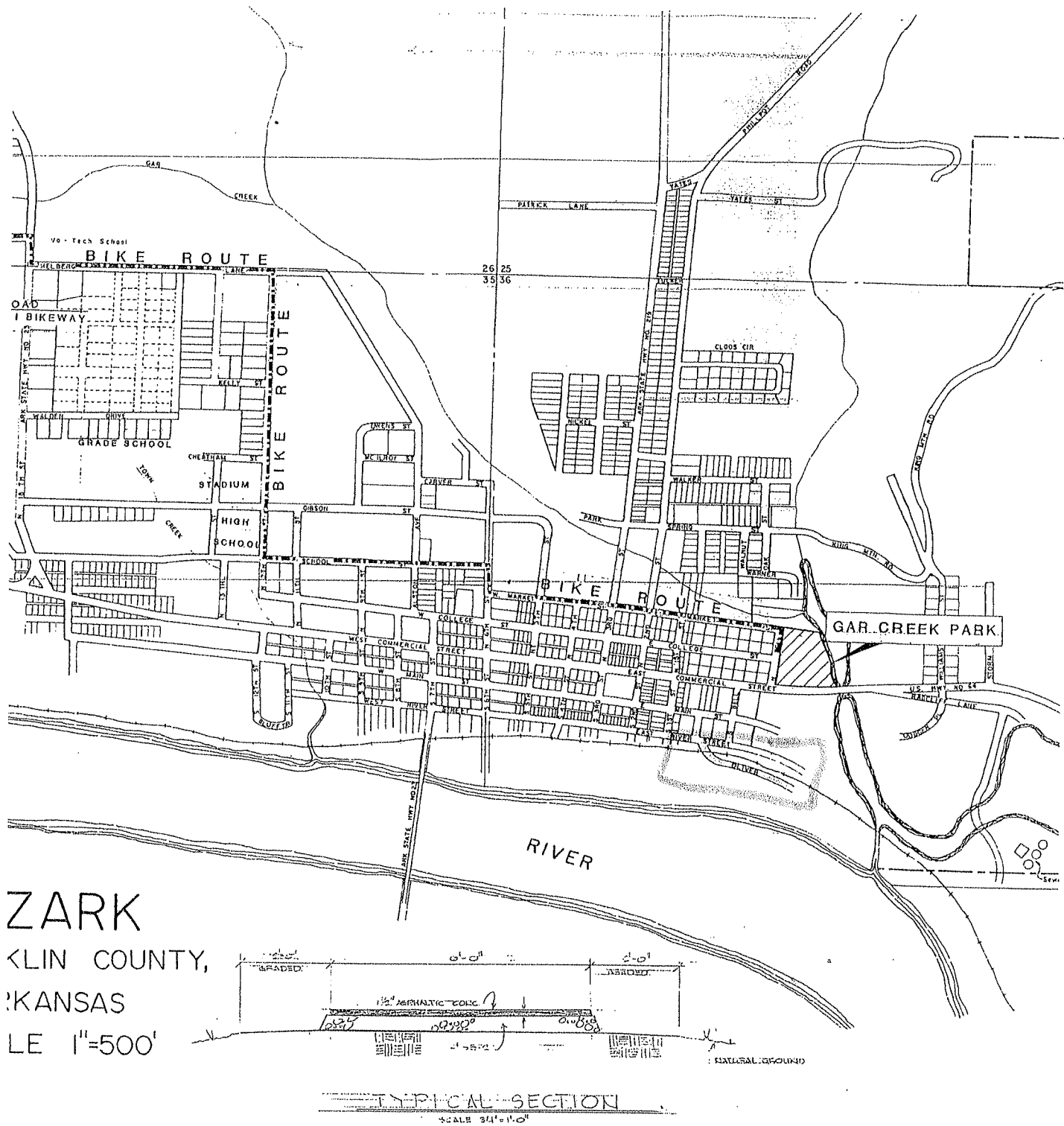
Exhibit OO

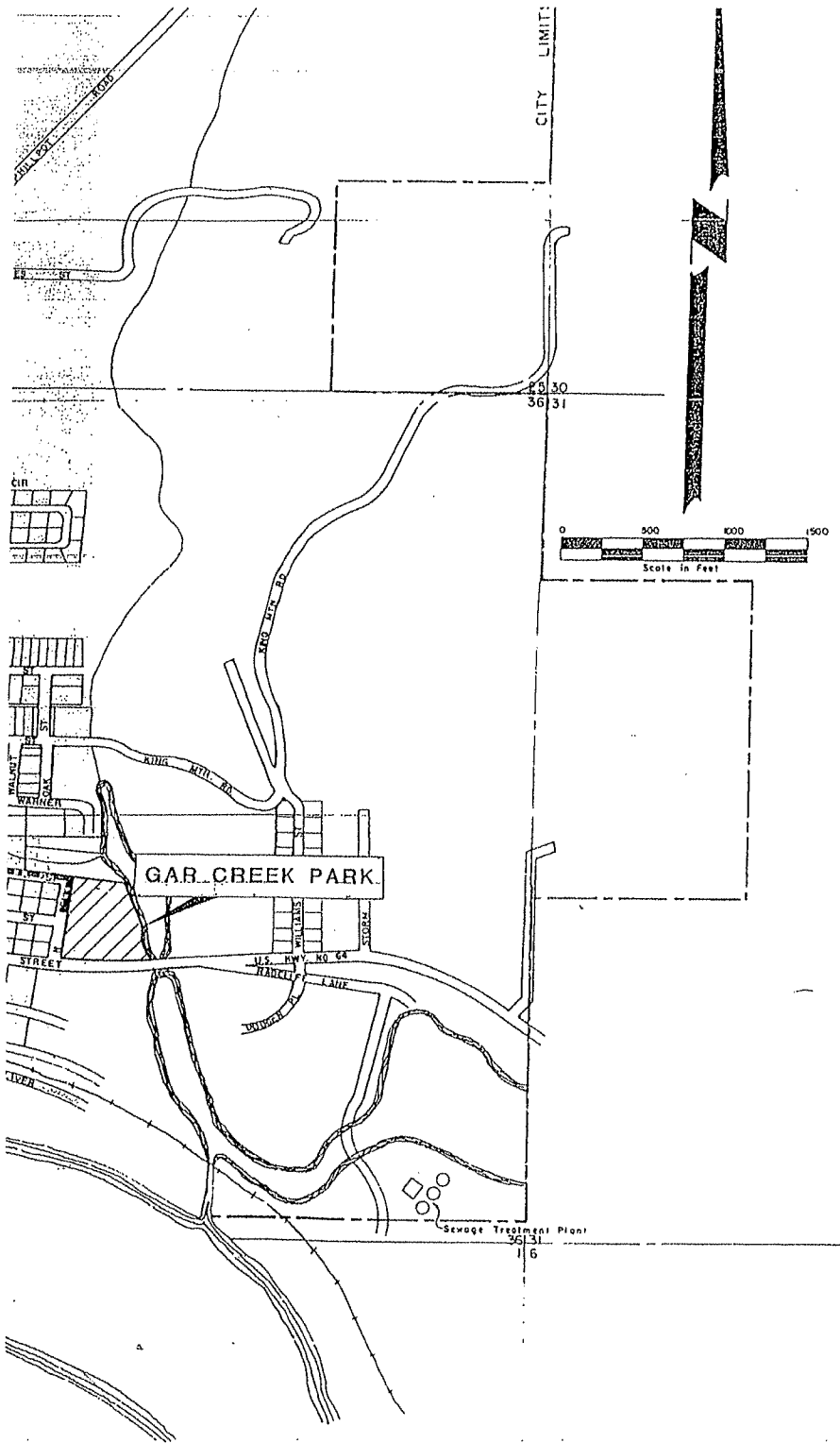
A copy of the 1980 Mickle-Wagner Assoc., Inc. Bike Route Map, Pages 1-3



OZARK
FRANKLIN COUNTY,
ARKANSAS
SCALE 1"=500'







BIKEWAY									
CITY OF									
OZARK, ARKANSAS									
Mickla-Wagner Assoc, Inc. ENGINEERS CONSULTANTS FORT SMITH, ARKANSAS	<table border="1"> <tr> <td>APPROVED BY: J.D.M.</td> <td>DATE: SEPT. 11, 1980</td> </tr> <tr> <td>DRAWN BY: J.T.M.</td> <td>JOB NO.</td> </tr> <tr> <td>HORIZ. SCALE: 1" = 500'</td> <td>SHEET</td> </tr> <tr> <td>VERT. SCALE:</td> <td>OF</td> </tr> </table>	APPROVED BY: J.D.M.	DATE: SEPT. 11, 1980	DRAWN BY: J.T.M.	JOB NO.	HORIZ. SCALE: 1" = 500'	SHEET	VERT. SCALE:	OF
APPROVED BY: J.D.M.	DATE: SEPT. 11, 1980								
DRAWN BY: J.T.M.	JOB NO.								
HORIZ. SCALE: 1" = 500'	SHEET								
VERT. SCALE:	OF								

B500

Exhibit PP-1

Union Pacific's 2000 Map

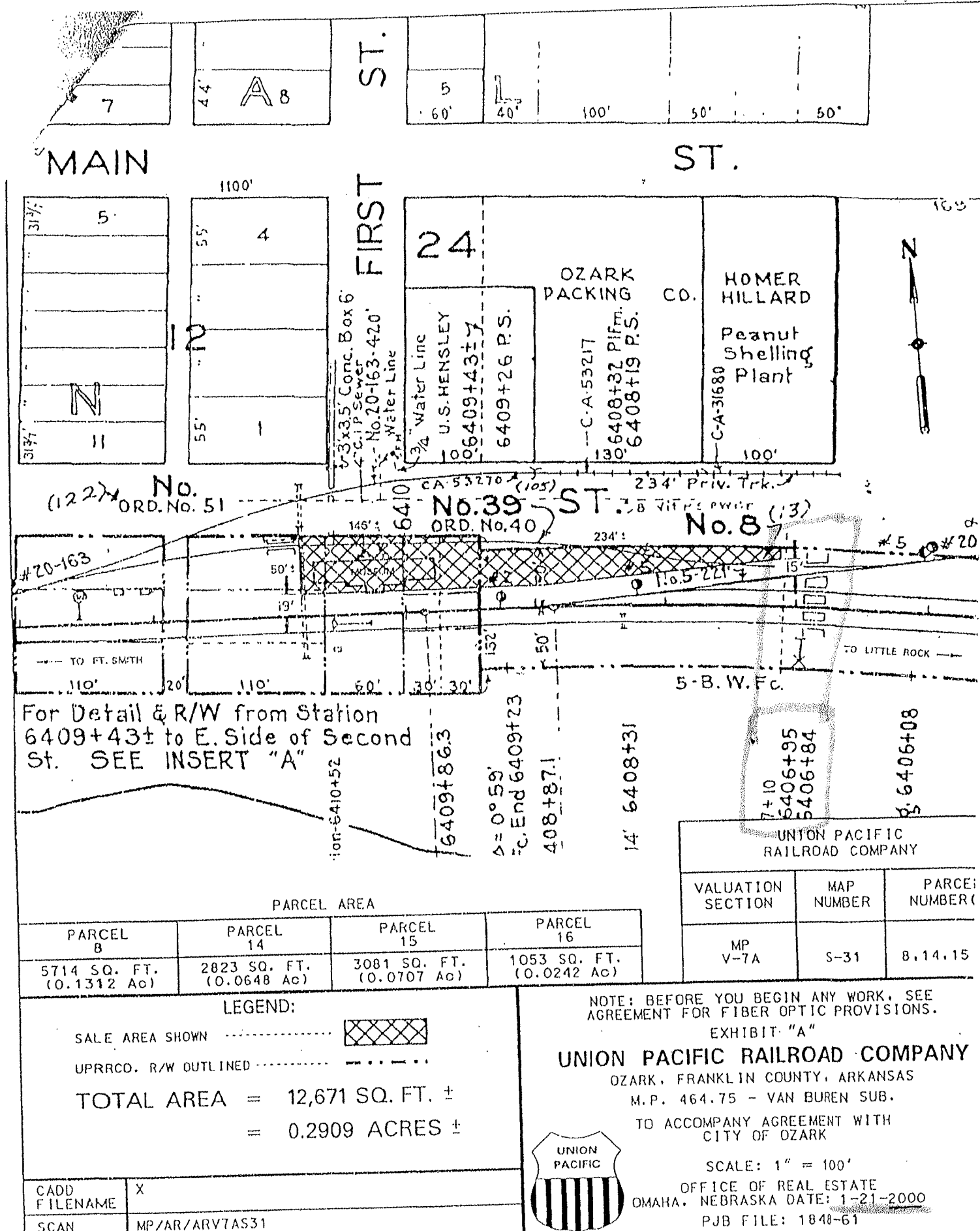


Exhibit PP-2

Deposition of Vernon McDaniel, Pages 29 and 30

1 Q. And you said you have not talked with anybody
2 about getting the crossing reinstalled or anything
3 like that?

4 A. No. I have been in meetings where it came up,
5 but, no, I have not directly talked to them. I mean,
6 I have heard it discussed in meetings certainly.

7 Q. And you were not on the city council when Mayor
8 Timmerman asked --

9 A. No.

10 Q. -- that the crossing be removed?

11 A. No.

12 Q. Were you involved in the railroad's sale or
13 donation of the train depot to the city?

14 A. I was mayor at the time, yes.

15 Q. Which time? Would that have been the 2007 to
16 2010?

17 A. It -- do you have the year that the museum was
18 donated?

19 Q. No, sir. That's what I am trying to get at.

20 A. I am trying to think myself. No, no, no,
21 because it would -- no, no, it was donated in the
22 nineties.

23 I think I was mayor at the time, but it was
24 in the nineties because I remember James Hugh Gilmer,
25 the former Main Street director, helped get that.

1 So, yes, I was mayor, but Main Street
2 promoted that much more so than the city directly. I
3 did -- I'm sure I attended meetings on it, might even
4 have written a letter or so, but it was in the late
5 nineties, and, yes, I was mayor.

6 Q. Did the railroad donate the depot, or did it
7 sell it to Ozark?

8 A. Donated it.

9 Q. And then the land under it?

10 A. To the best of my knowledge, yes, I think the
11 usual one dollar legal consideration, but yes.

12 Q. And then I guess shortly thereafter it was
13 turned into a museum?

14 A. It was, yes.

15 Q. And that museum still exists today?

16 A. It does, yes. And it's -- I was on the city's
17 advertising promotion commission.

18 Q. Do you know anything about a letter that Todd
19 Timmerman supposedly had from the railroad saying,
20 okay, we are going to take the grade crossing out?

21 A. No. I don't. The reason I hesitated -- I
22 don't know anything about the letter. I can't say
23 that I haven't been in a meeting where it might have
24 been mentioned, but I didn't mention it because I
25 didn't know about it.