

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

CITY OF OZARK, ARKANSAS, a municipal corporation)

Plaintiff,)

vs.)

UNION PACIFIC RAILROAD COMPANY,)
the ARKANSAS STATE HIGHWAY)
& TRANSPORTATION DEPARTMENT)
(an Agency of) The State of Arkansas,)
AND THE ARKANSAS STATE HIGHWAY)
COMMISSION)

Defendants,)

CIVIL ACTION NO:2:14-CV-02196-TLB

AFFIDAVIT OF ANDY DIBBLE

I, Andy Dibble, having first been duly sworn, state:

1. I am a resident of the State of Arkansas. I am more than 21 years of age. I have lived in Arkansas for approximately 31 years. I am making this affidavit with my own personal knowledge.

2. I work at Mickle Wagner Coleman, Inc., an engineering firm that represents and assists various public municipalities including the City of Ozark. I have worked for Mickle Wagner Coleman, Inc., for approximately 28 years and during this entire time of my employment, we have represented the City of Ozark as the City's civil engineering firm.

3. As part of our responsibilities to the City of Ozark, we have prepared and reviewed various maps for the City of Ozark and retain those maps in our official file for the City of Ozark.

4. We received a subpoena to attend a deposition and provide copies of any maps that we retained in our file for the downtown area of the City of Ozark. In response to this request, we provided an Ozark, Arkansas Water Distribution System Map that was dated March 1965 that showed an unnamed street crossing railroad tracks in the downtown area of the City, which the City refers to as Oliver St. A copy of this March 1965 map is attached hereto as Exhibit A.

5. We also provided an ariel photo that according to our records was taken in 1965 as part of the development of the Ozark Lock and Dam. This photo shows houses and other structures located on real property located South of the railroad tracks that run through the City of Ozark's downtown area. A copy of this ariel photo is attached hereto as Exhibit B.

6. We also provided an Ozark Lock and Dam Relocations City of Ozark, Streets, Water Lines and Sewage Facilities projection Location map that was prepared by the U.S. Army Engineer District, Little Rock, Arkansas, that was dated March 1966. This March 1966 map shows tanks, a street and other structures located on real property located South of the railroad tracks that run through the City of Ozarks' downtown area. A copy of this March 1966 map is attached hereto as Exhibit C.

7. We also provided a Map of Ozark Franklin County, Arkansas T-9,10-N, R-27-W Arkansas State Highway and Transportation Department Division of Planning and Research Map dated 1980. This map also shows a road crossing the railroad tracks in the vicinity of the location that the City refers to at the Oliver St. Crossing location. A copy of this 1980 map is attached hereto as Exhibit D.

8. Finally, we provided a copy of Bike Route Map that Mickle-Wagner Assoc, Inc., prepared for the City of Ozark in 1980. This map shows the same street with a name of Oliver on the street. A copy of this 1980 map is attached hereto as Exhibit E.

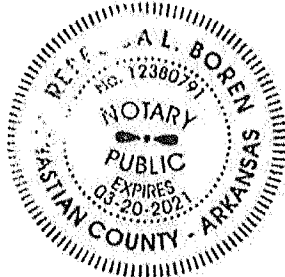
9. All of the above maps were kept in our office as part of our official duties to the City of Ozark and were all provided to the City of Ozark as part of a response to a subpoena received from Union Pacific Railroad Company.

Further Affiant sayeth not.


Andy Dibble, Mickle, Wagner, Coleman,
Inc.

STATE OF ARKANSAS)
)
COUNTY OF FRANKLIN)

SUBSCRIBED AND SWORN to before me on this 26th day of May, 2015.



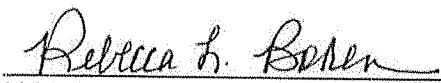
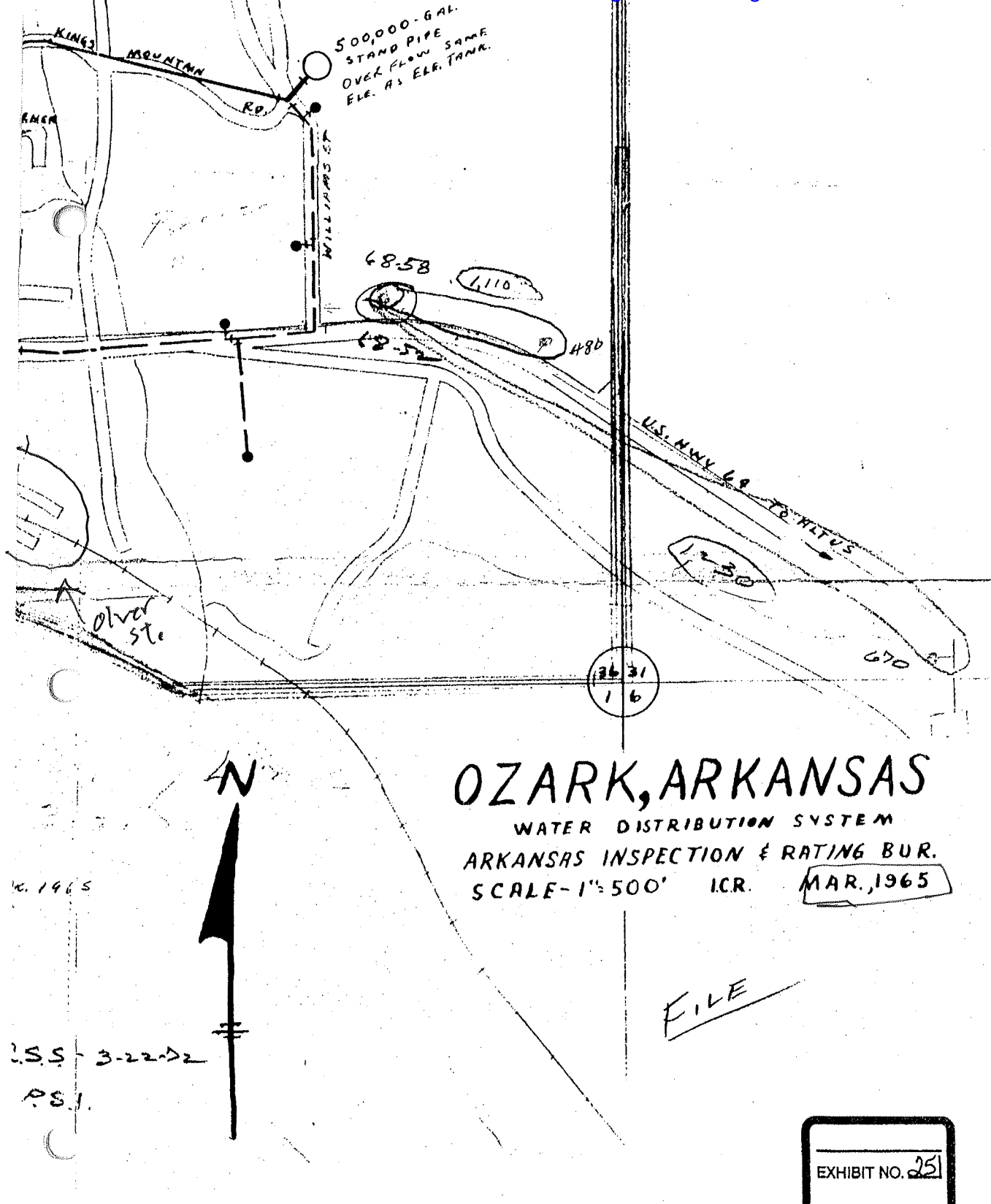
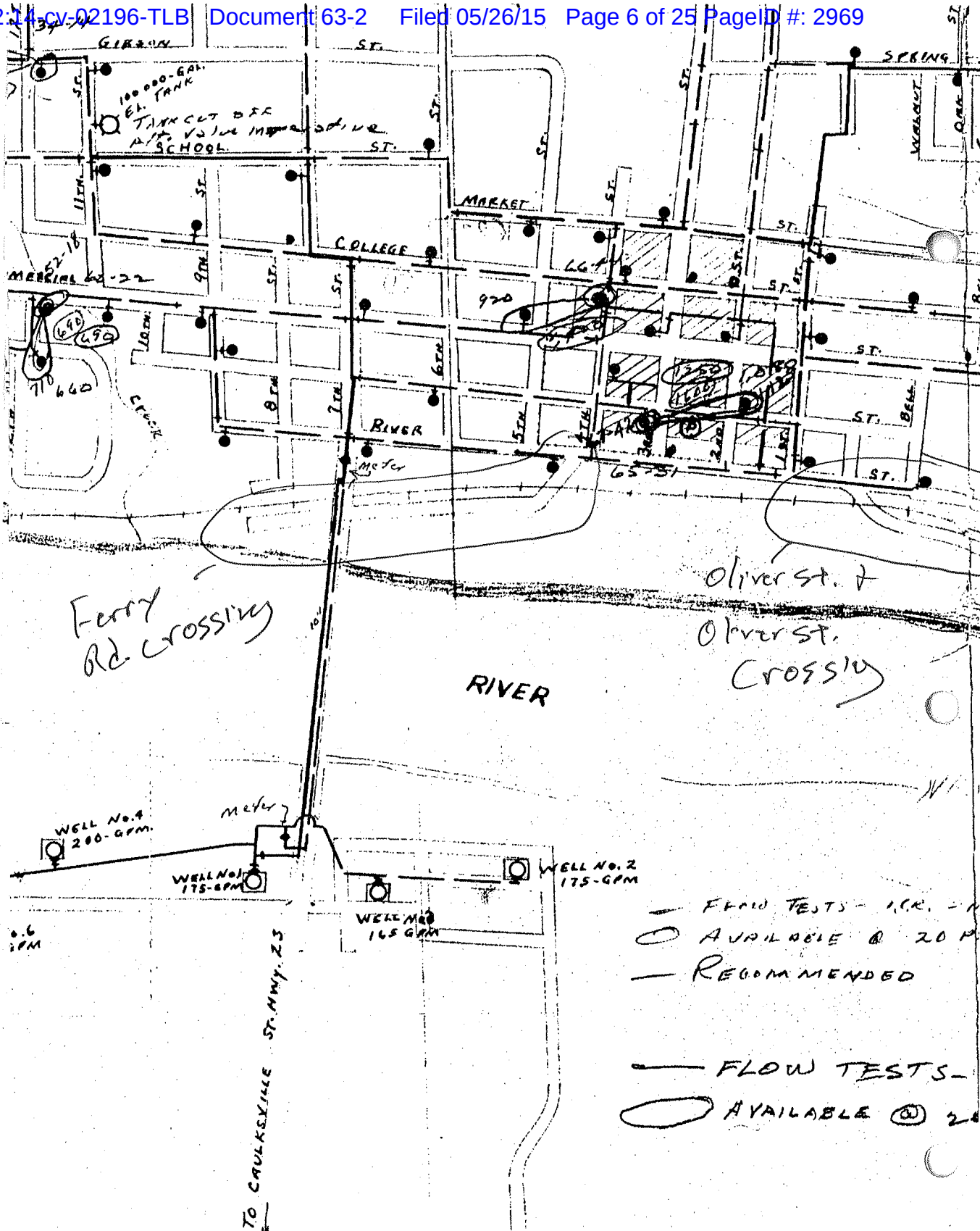
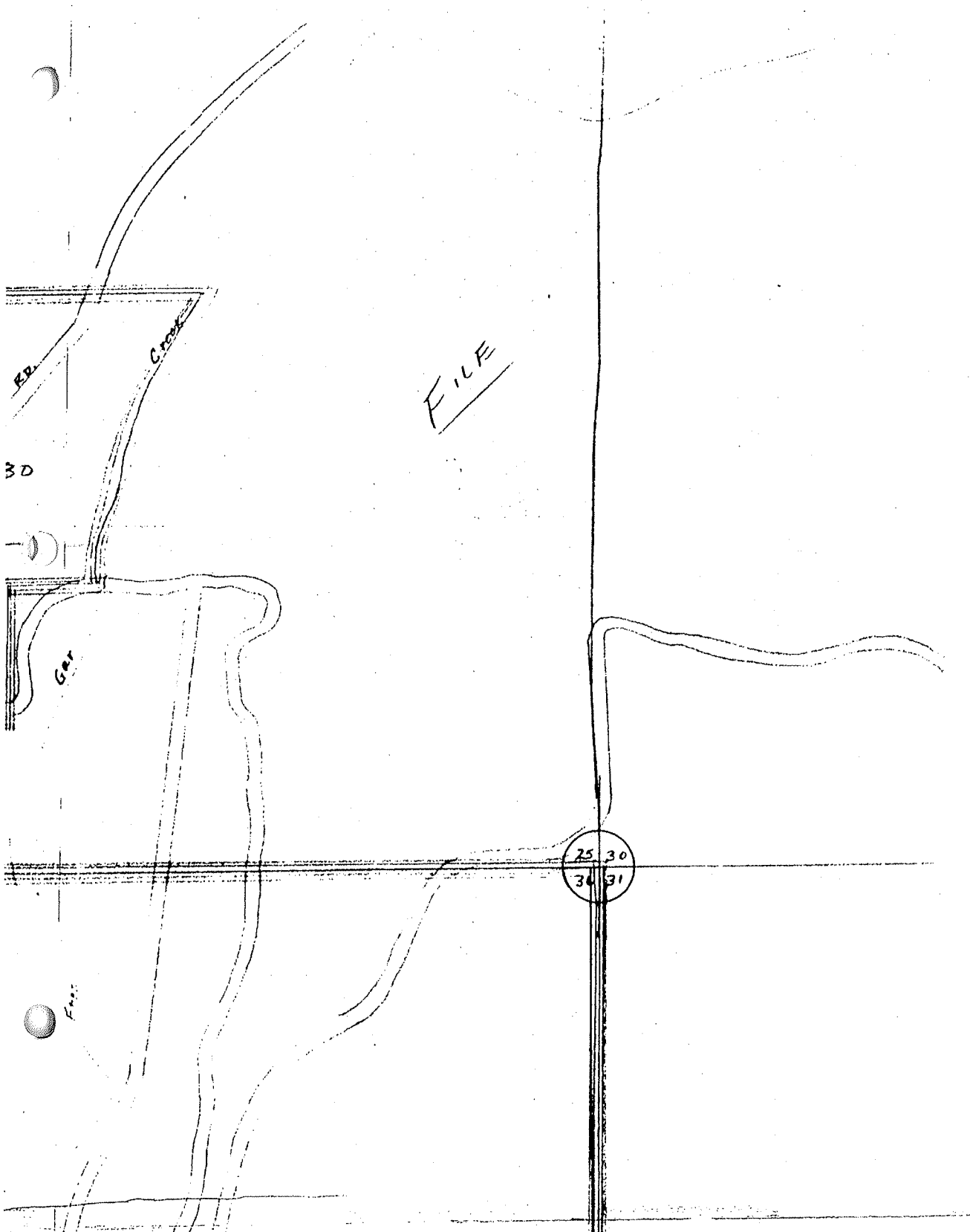

NOTARY PUBLIC

Exhibit A

March 1965 Water Distribution Map







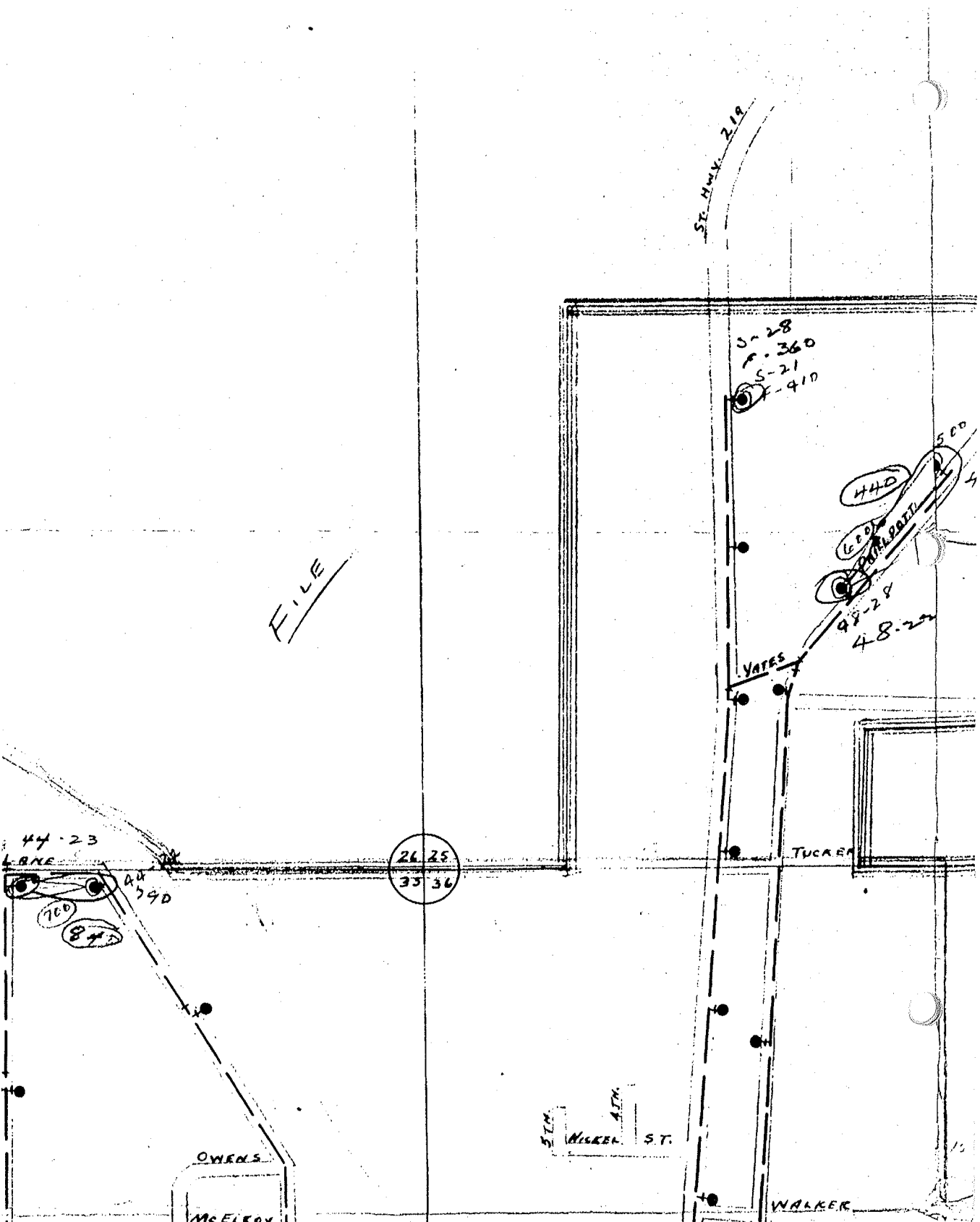


EXHIBIT B

Ariel Photo of 1965 Downtown Area and Enlargement of Area





Copyright 1965

AERO SERVICE
CORPORATION
INCORPORATED IN PENNSYLVANIA



210 EAST COURTLAND STREET • PHILADELPHIA, PA. 19102

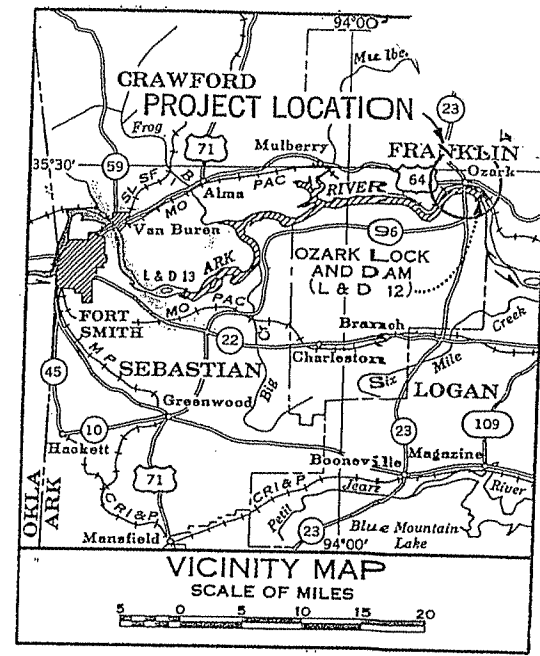
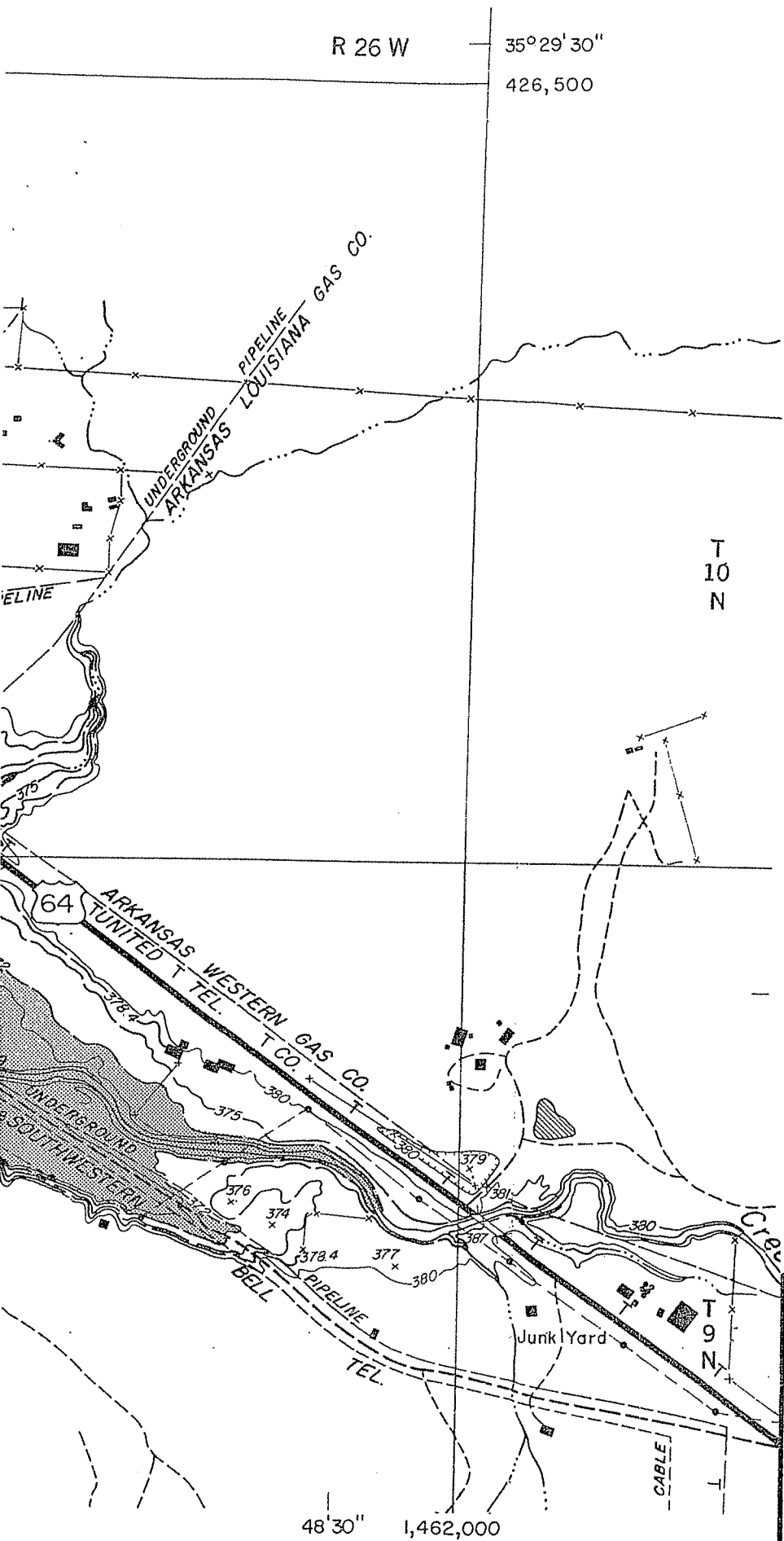
Gladstone 7-8000 • CABLE: AEROCORP

MICKLE WAGNER COLEMAN, ENGINEERS
3434 COUNTRY CLUB - P. O. BOX 1507
FORT SMITH, AR 72802



EXHIBIT C

March 1966 Relocation Map for City of Ozark Lock and Dam with Enlargement

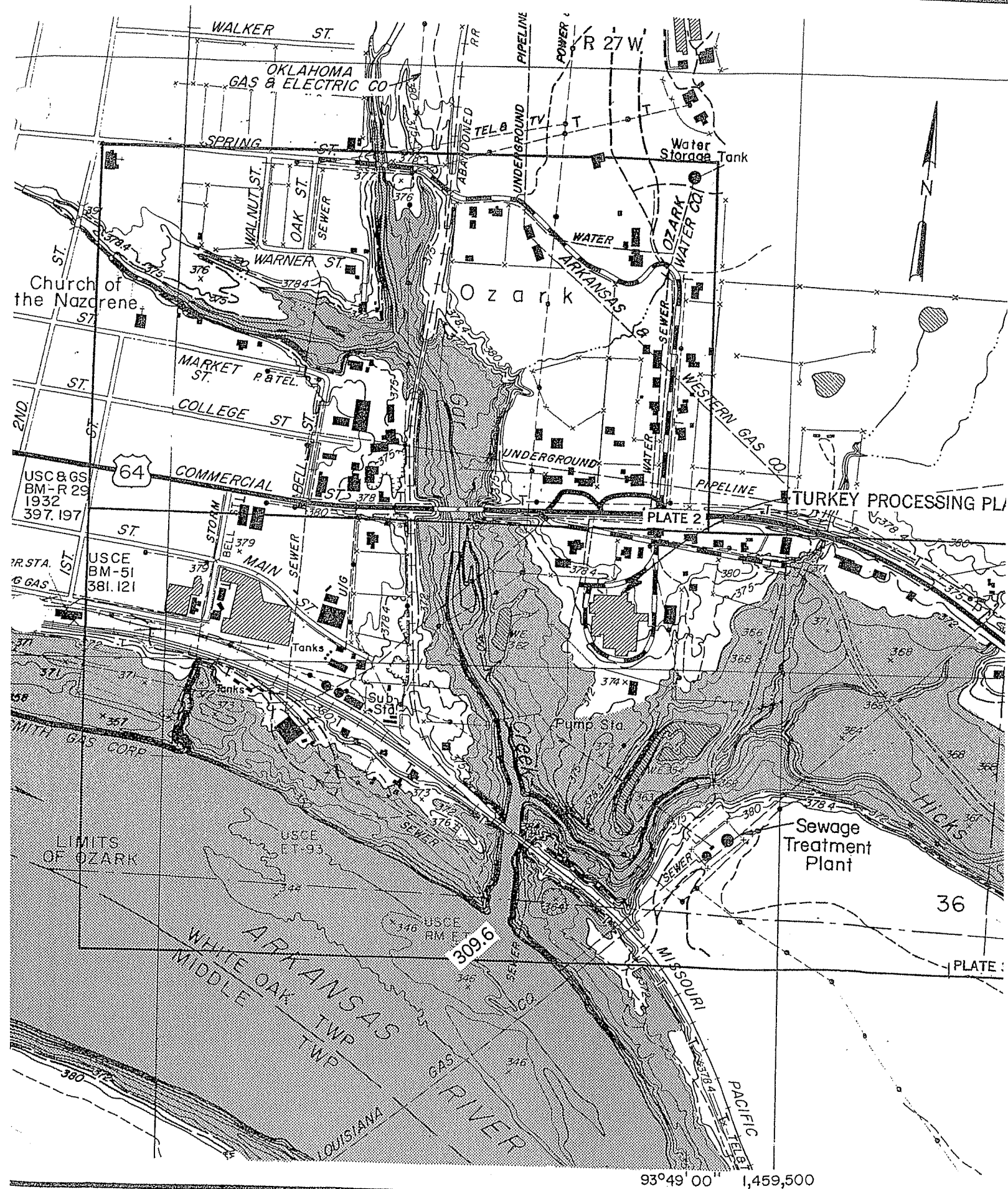


LEGEND :

OZARK RESERVOIR
EL. 372 M.S.L.



ARKANSAS RIVER & TRIBUTARIES GAR & HICKS CREEKS, ARKANSAS
**OZARK LOCK AND DAM
 RELOCATIONS**
 CITY OF OZARK - STREETS, WATER LINES
 AND SEWAGE FACILITIES
 PROJECT LOCATION
 SCALE : 1" = 500'
 U. S. ARMY ENGINEER DISTRICT, LITTLE ROCK
 LITTLE ROCK, ARKANSAS, MARCH 1966
 DESIGNED : SH
 DRAWN : DWD
 CHECKED : ACZ
 TO ACCOMPANY DESIGN MEMO
 NO. 13 - 9 DATED JANUARY 1967
 SERIAL 8688
 58/2301



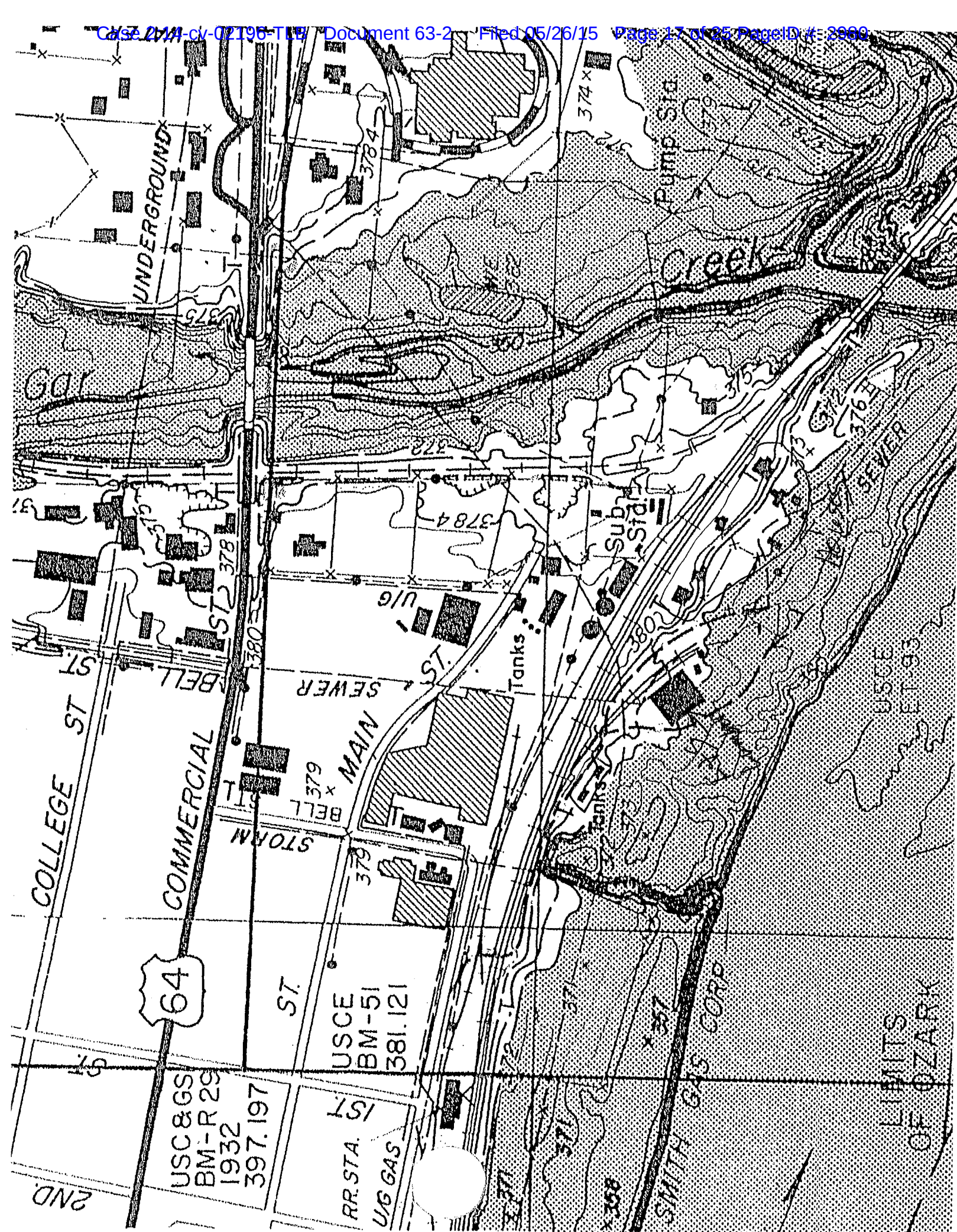
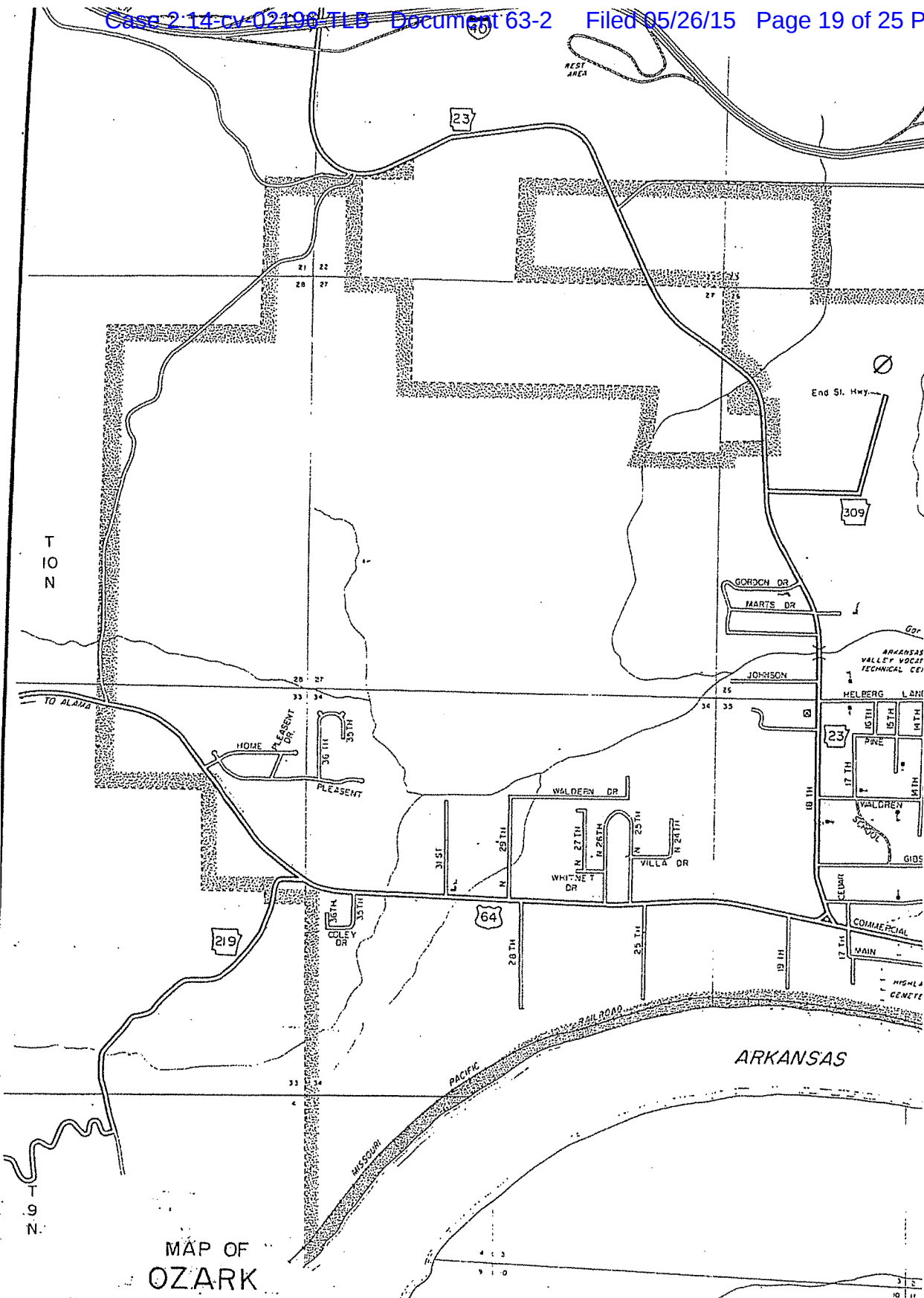


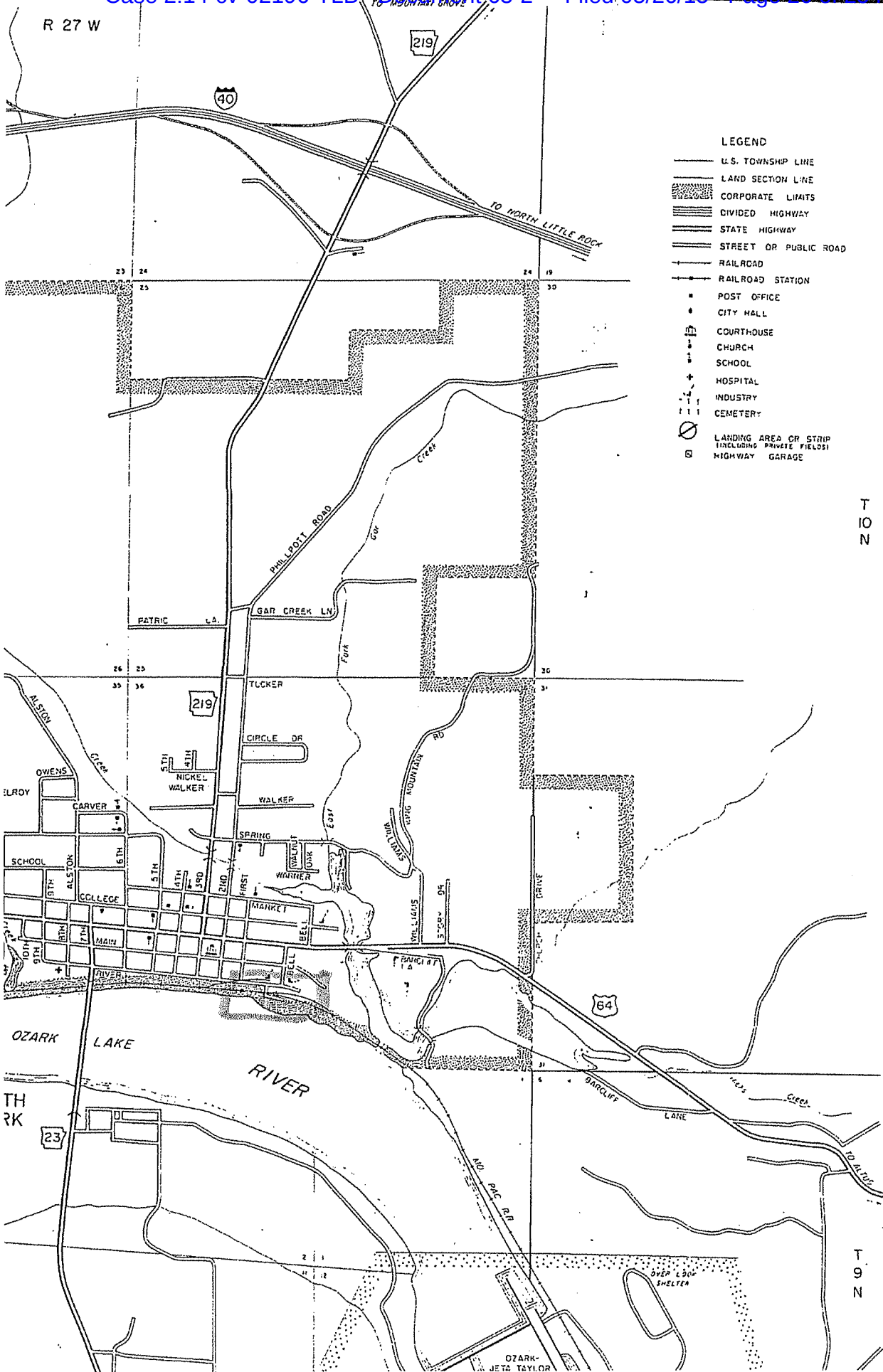
EXHIBIT D

1980 Arkansas Highway and Transportation Map



**MAP OF
OZARK**
FRANKLIN COUNTY, ARKANSAS
T-9,10-N, R-27-W
ARKANSAS STATE HIGHWAY
AND TRANSPORTATION DEPARTMENT
DIVISION OF PLANNING AND RESEARCH
IN COOPERATION WITH
U.S. DEPARTMENT OF TRANSPORTATION





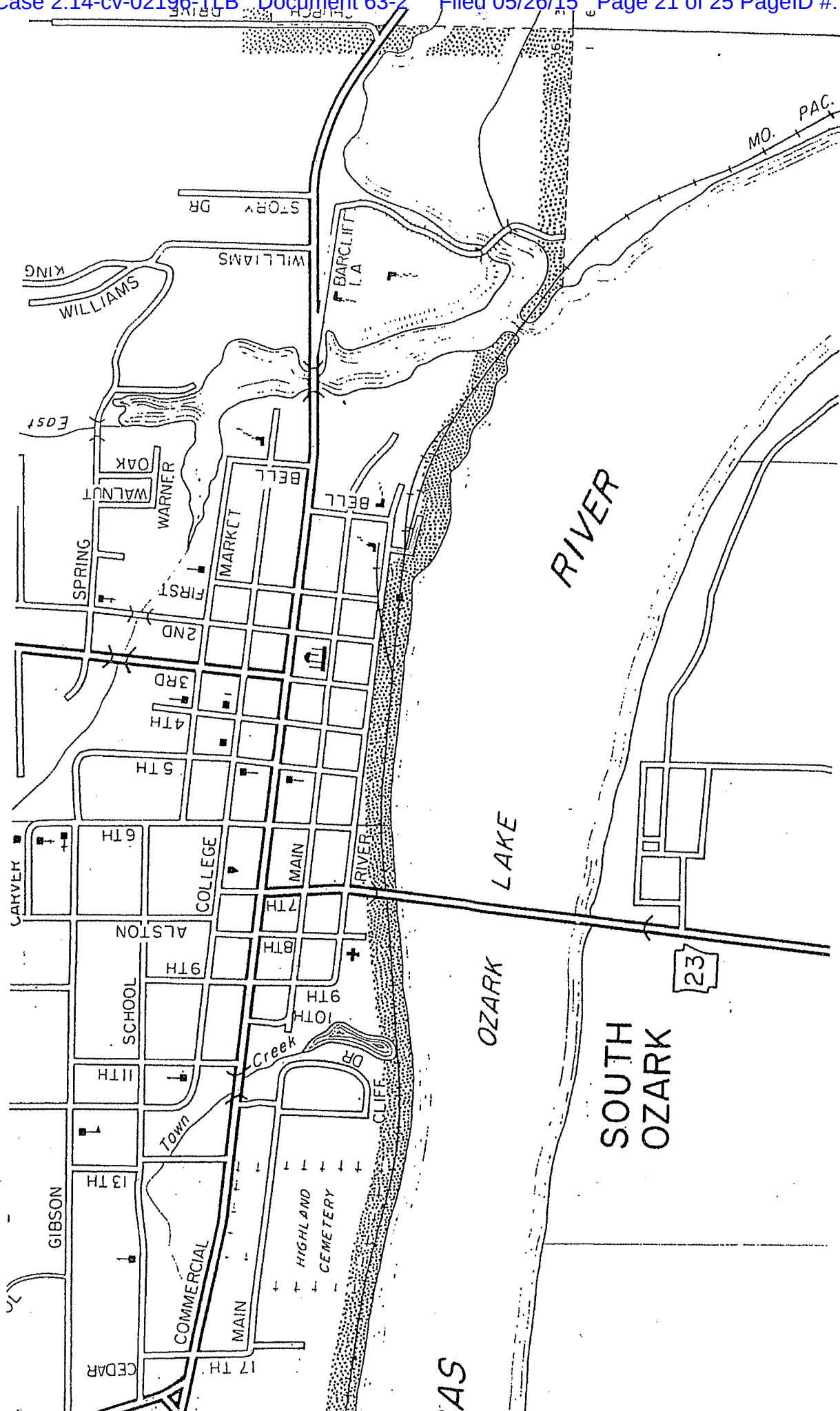
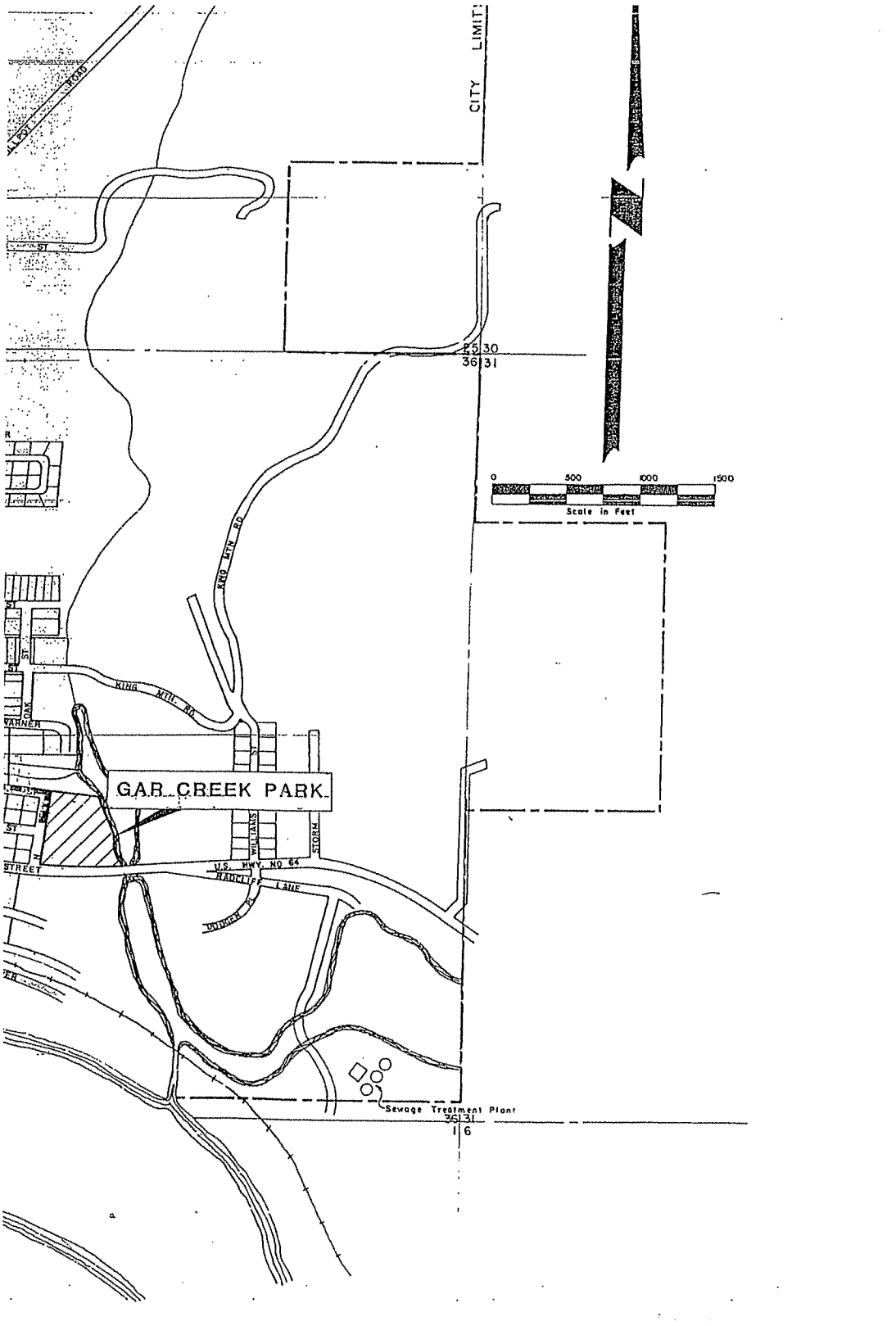


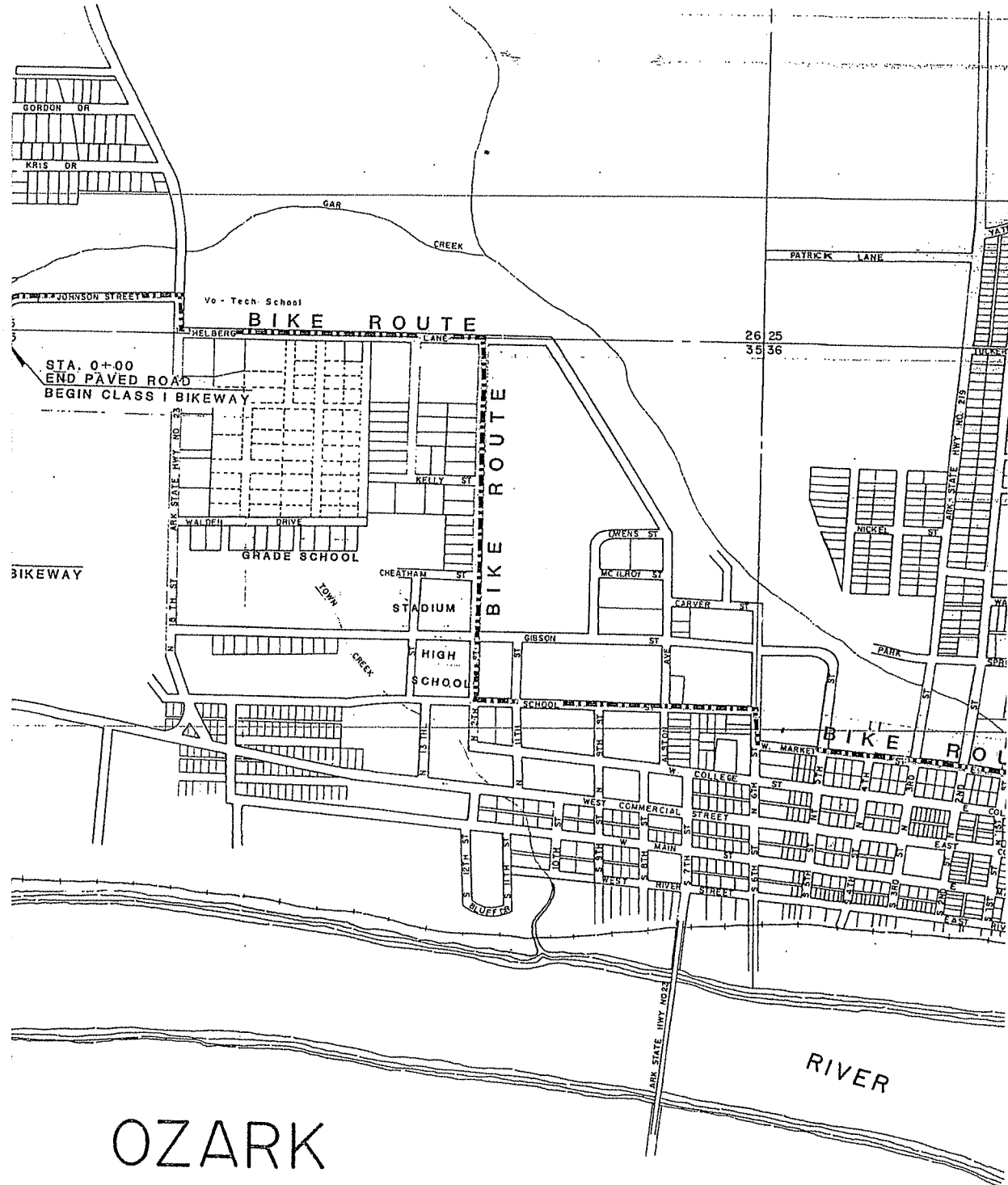
EXHIBIT E

1980 Mickle-Wagner Assoc., Inc. Bike Route Map

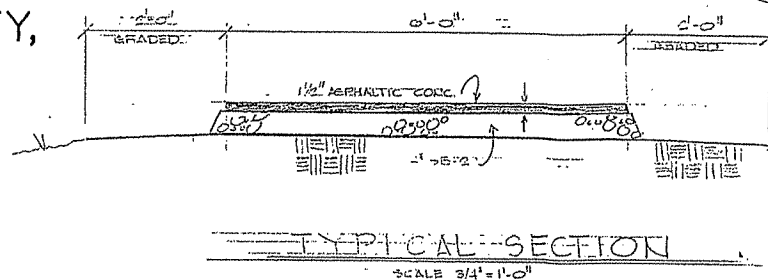


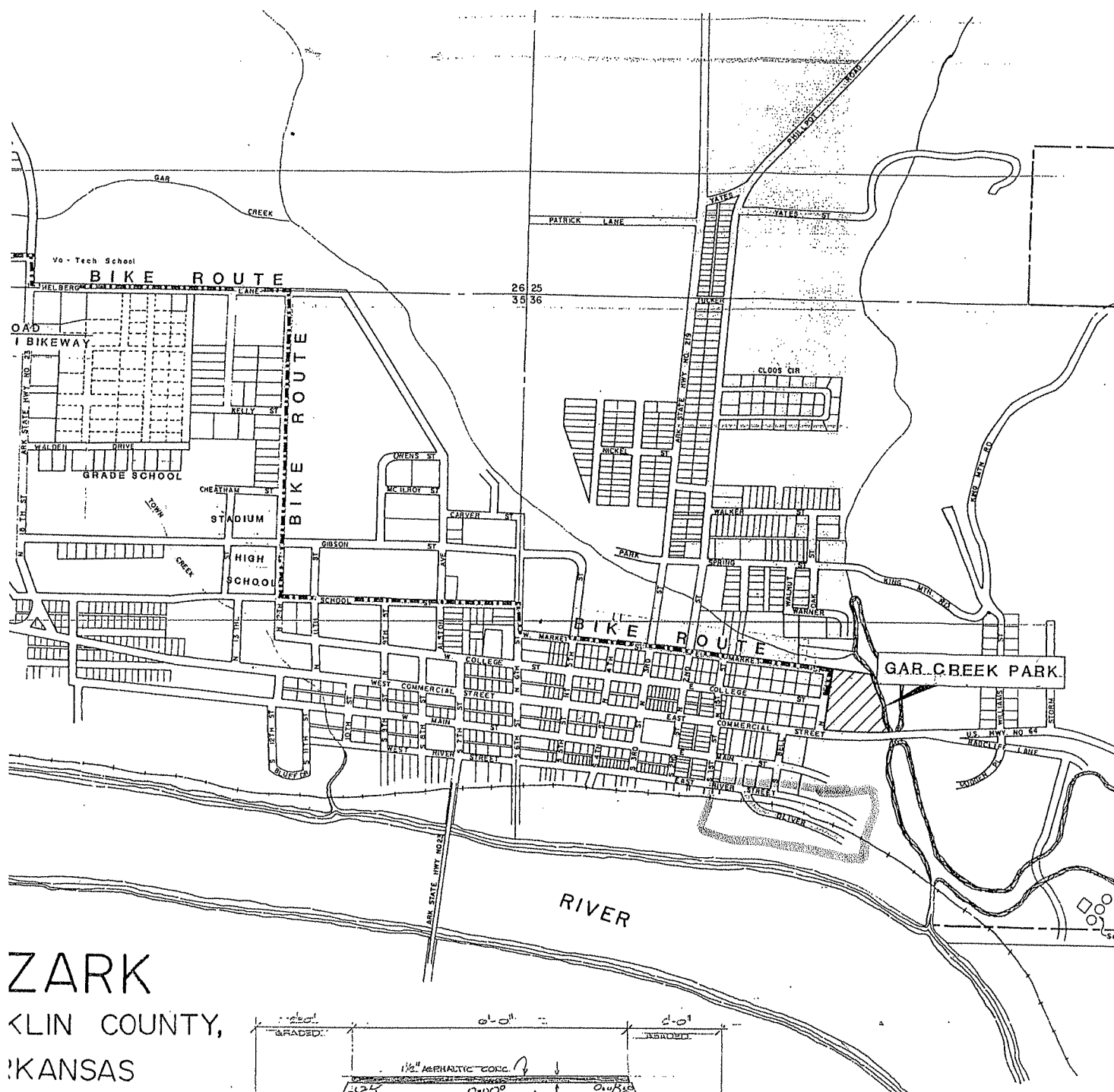
BIKEWAY									
CITY OF									
OZARK, ARKANSAS									
Mickle-Wagner Assoc, Inc. ENGINEERS CONSULTANTS FORT SMITH, ARKANSAS	<table border="1"> <tr> <td>APPROVED BY J.D.M.</td> <td>DATE SEPT, 1960</td> </tr> <tr> <td>DRAWN BY J.T.M.</td> <td>JOB NO.</td> </tr> <tr> <td>HORIZ. SCALE: 1" = 500'</td> <td>SHEET</td> </tr> <tr> <td>VERT. SCALE:</td> <td>0'</td> </tr> </table>	APPROVED BY J.D.M.	DATE SEPT, 1960	DRAWN BY J.T.M.	JOB NO.	HORIZ. SCALE: 1" = 500'	SHEET	VERT. SCALE:	0'
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DRAWN BY J.T.M.	JOB NO.								
HORIZ. SCALE: 1" = 500'	SHEET								
VERT. SCALE:	0'								

8500



OZARK
 FRANKLIN COUNTY,
 ARKANSAS
 SCALE 1"=500'





ZARK

CLIN COUNTY,

KANSAS

SCALE 1"=500'

