

EXHIBIT E-1
DEPOSITION M. CANADY

1 Q. Mules?

2 A. Yeah.

3 Q. Okay. Were those -- where were those located?

4 A. Jim had two mules that he kept down there
5 behind his house.

6 Q. Jim Kirkendall?

7 A. Yes. He hauled trash for people here around
8 Ozark. He had a wagon and a pair of mules.

9 Q. Okay. Were there any other horses -- as you
10 first crossed over the tracks to the left was there a
11 metal building there that you remember?

12 A. I don't remember that.

13 Q. Okay. Did you ever see anyone maintaining
14 Oliver Lane or Oliver Street?

15 A. A portion of it.

16 Q. Where at?

17 A. From about the propane tanks down to the dump.

18 Q. Okay. Do you know who -- I mean, do you know
19 what type of vehicle they were using to maintain?

20 A. Yes, it was an 8-~~M~~ Ford tractor with a blade on
21 the back of it, and that was Bull Southerland
22 (phonetic). He was my uncle. He worked for the City
23 of Ozark.

24 Q. Okay.

25 A. He used a blade on the back of that 8-M to

EXHIBIT E-2
DEPOSITION K. SMITH

1 A. I don't think it was a dirt road. It was a
2 gravel road.

3 Q. Gravel road, okay.

4 A. Yeah.

5 Q. And there was some kind of asphalt that may
6 have been poured or something laid on top of the
7 railroad tracks to make the crossing. Is that -- how
8 do you remember that?

9 A. It was a regular crossing with ties, crossties.

10 Q. Okay.

11 A. And probably asphalt. I don't remember really,
12 but it was a regular, regular crossing.

13 Q. Okay. So when you would have crossed over from
14 the city side over the tracks, kind of walk me
15 through what you would have, what landmarks you would
16 have hit as you were going down the road there.

17 A. I don't quite understand.

18 Q. Okay. So if I was on the city side, and I
19 crossed over the tracks heading towards kind of the
20 river or towards the dump or towards F&S Lumber, what
21 is the first thing, after I get over the crossing,
22 what is the first thing I would do? Would I go
23 straight, or would I turn?

24 A. You would turn.

25 Q. Okay. And I would turn to the east?

EXHIBIT F-1
DEPOSITION H.ALLRED

Page 18

1 brush hog it, and they would come and do it.

2 Q. Okay. And that was all of the way up to '91,
3 or do you think they --

4 A. I think they did it plum up to when I retired,
5 yes.

6 Q. Okay.

7 A. Now, this is thinking.

8 Q. That's fine.

9 A. And it's not specific.

10 Q. That's fine. When you were driving trucks.
11 What size trucks were you driving?

12 A. I don't --

13 Q. One and a half ton? Two ton?

14 A. I would suspect they would call it a one and a
15 half.

16 Q. Okay.

17 A. It held 2,400 gallons of propane.

18 Q. Okay. And did you have any trouble crossing
19 the tracks at that location?

20 A. No, no, sir.

21 Q. Okay. Did it have any signs up saying it was a
22 crossing?

23 A. I've thought about that real seriously. I
24 can't remember there ever being a railroad crossing
25 sign there, but I'm almost sure there was one there.

EXHIBIT F-2
DEPOSITION B. BROCKETT

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 G
DEPOSITION R. ANDERSON

1 Q. Do you remember when the lock and dam was
2 installed?

3 A. Uh-huh. About 19 -- oh, I'd say around '70,
4 '71, or something like that.

5 Q. Okay. So when you were a child and even up
6 through high school, the lock and dam had not been
7 installed?

8 A. That's correct.

9 Q. All right. And tell me, would you use that
10 crossing on a regular basis?

11 A. No. I mean, what is your definition of
12 "regular"?

13 Q. Well, have you ever used that crossing?

14 A. Yes.

15 Q. Okay. And during that period of time what
16 would you use that crossing for? Why would you use
17 it?

18 A. Oh, occasionally we would go down to the dump,
19 and occasionally we would go down and ride our horses
20 down there.

21 Q. Okay. Was there anything else down in that
22 area across the tracks besides the dump, that you
23 recall?

24 A. I just remember there was a barn down there at
25 one time, and when I was real, real young I can

Page 41

1 different people. It says you have personally used
2 Oliver Street rail crossing either walking or
3 driving.

4 Okay. And as I recall your testimony, you
5 remember using it before the lock and dam was
6 installed?

7 A. Right.

8 Q. Do you remember if you walked or drove?

9 A. Both.

10 Q. Okay. And one of the reasons you would have
11 used the crossing then was to go horseback riding?

12 A. Correct.

13 Q. Would y'all take horses across in a trailer?

14 A. No.

15 Q. Were the horses --

16 A. Just rode the horses.

17 Q. Oh, you rode the horses across?

18 A. Yeah.

19 Q. Okay. All right. And then it says, May or may
20 not have included fishing. Do you know if you used
21 the crossing at that time to fish?

22 A. Like I told you earlier, we played down there
23 all of the time. We fished down there. We did
24 whatever -- you know, it was part of playing around
25 before it was dammed up.

1 A. There was other areas to get to the river other
2 than that spot.

3 Q. Okay. And then did you ever launch a boat, use
4 the crossing to launch a boat?

5 A. I never myself. I don't think I ever launched
6 a boat.

7 Q. All right. But did you ever dump trash at the
8 city dump?

9 A. Probably I was with my dad.

10 Q. Okay. Do you specifically recall that or not?

11 A. Forty or fifty years ago, you know, I can
12 recall driving down there and there being a dump down
13 there, but I don't really remember if the trash came
14 out of the back of our car or not.

15 Q. Okay. And did you ever go across that crossing
16 to do hiking?

17 A. Sure.

18 Q. Okay. Shooting?

19 A. Yes.

20 Q. Sightseeing?

21 A. There wasn't much to see.

22 Q. Do you know anybody that went over there to
23 sightsee?

24 A. Well, I don't know.

25 Q. Okay.

EXHIBIT H-1
DEPOSITION H. ALLRED

1 abruptly, and it was throwed on me. I did not want
2 it particularly.

3 Q. Right.

4 A. And as quick as they got another manager in I
5 was, I was out of it. Just drove the truck. I drove
6 the truck while I was the manager, also.

7 Q. Okay. So the crossing there in that road, kind
8 of describe for me, it was from what I can tell,
9 gravel road?

10 A. It was gravel.

11 Q. Okay. Do you know who maintained it?

12 A. No, ma'am, I don't. It was graded a few times
13 with a tractor and with a little blade on behind by
14 the city.

15 Q. Okay. Did you see that done?

16 A. Yes, I did see that done some, yes.

17 Q. And did you --

18 A. They also brush hogged around their tanks down
19 there, and I also seen that done.

20 Q. Okay. And did you ever know, did you ever have
21 any knowledge of anyone at the gas company hiring,
22 privately hiring someone to grade it for them?

23 A. No.

24 Q. Okay. Do you know what street that was called
25 back then?

Harrison Allred 3/9/2015

City of Ozark v. Union Pacific Railroad Company

Page 17

1 whenever I -- I don't know who we got permission to
2 tear that down, but we tore that barn down.

3 Q. Okay.

4 A. And the sheet iron is around my barn over there
5 now.

6 Q. Oh really, okay. This time that, a few times
7 that you saw the, I guess, the city tractor paving or
8 grading the road, was that before or after the dam
9 was built; do you remember?

10 A. No, I don't.

11 Q. Okay.

12 A. No, I don't. I don't think I seen them do that
13 more than once or twice.

14 Q. Okay.

15 A. Just kind of roughly grade it down through
16 there.

17 Q. Okay.

18 A. But they brush hogged it about every year
19 around it.

20 Q. Okay.

21 A. The city did.

22 Q. The city did?

23 A. Uh-huh.

24 Q. And --

25 A. All we had to do was call them and ask them to

Harrison Allred 3/9/2015

City of Ozark v. Union Pacific Railroad Company

Page 18

1 brush hog it, and they would come and do it.

2 Q. Okay. And that was all of the way up to '91,
3 or do you think they --

4 A. I think they did it plum up to when I retired,
5 yes.

6 Q. Okay.

7 A. Now, this is thinking.

8 Q. That's fine.

9 A. And it's not specific.

10 Q. That's fine. When you were driving trucks.
11 What size trucks were you driving?

12 A. I don't --

13 Q. One and a half ton? Two ton?

14 A. I would suspect they would call it a one and a
15 half.

16 Q. Okay.

17 A. It held 2,400 gallons of propane.

18 Q. Okay. And did you have any trouble crossing
19 the tracks at that location?

20 A. No, no, sir.

21 Q. Okay. Did it have any signs up saying it was a
22 crossing?

23 A. I've thought about that real seriously. I
24 can't remember there ever being a railroad crossing
25 sign there, but I'm almost sure there was one there.

EXHIBIT H-2
DEPOSITION M. CANADY

Monty Canady 3/10/2015

City of Ozark v. Union Pacific Railroad Company

Page 19

1 Q. Mules?

2 A. Yeah.

3 Q. Okay. Were those -- where were those located?

4 A. Jim had two mules that he kept down there
5 behind his house.

6 Q. Jim Kirkendall?

7 A. Yes. He hauled trash for people here around
8 Ozark. He had a wagon and a pair of mules.

9 Q. Okay. Were there any other horses -- as you
10 first crossed over the tracks to the left was there a
11 metal building there that you remember?

12 A. I don't remember that.

13 Q. Okay. Did you ever see anyone maintaining
14 Oliver Lane or Oliver Street?

15 A. A portion of it.

16 Q. Where at?

17 A. From about the propane tanks down to the dump.

18 Q. Okay. Do you know who -- I mean, do you know
19 what type of vehicle they were using to maintain?

20 A. Yes, it was an 8-~~N~~ Ford tractor with a blade on
21 the back of it, and that was Bull Southerland
22 (phonetic). He was my uncle. He worked for the City
23 of Ozark.

24 Q. Okay.

25 A. He used a blade on the back of that 8-M to

1 blade the road.

2 Q. And he was doing it for the City of Ozark?

3 A. Yes.

4 Q. And what was his name again?

5 A. Bull.

6 Q. Bull?

7 A. Bull Southerland.

8 Q. B-u-l?

9 A. We called him Bull. Everybody known him as
10 Bull Southerland. He retired from the city.

11 Q. Do you know how often he would maintain that
12 road?

13 A. No. Really, I don't know how often, but I have
14 seen him blade it three or four times while I was in
15 that area.

16 Q. Okay.

17 MR. BROCKETT: Okay. I don't think I
18 have any more questions. Thank you.

19 EXAMINATION

20 BY MS. JONES:

21 Q. Just a few things to follow-up. You looked at
22 a map that Mr. Brockett showed you. You didn't have
23 anything to do with creating that map; right?

24 A. No.

25 Q. Okay. And you can't say that any of the street

EXHIBIT H-2
DEPOSITION M. CANADY

Monty Canady 3/10/2015

City of Ozark v. Union Pacific Railroad Company

Page 19

1 Q. Mules?

2 A. Yeah.

3 Q. Okay. Were those -- where were those located?

4 A. Jim had two mules that he kept down there
5 behind his house.

6 Q. Jim Kirkendall?

7 A. Yes. He hauled trash for people here around
8 Ozark. He had a wagon and a pair of mules.

9 Q. Okay. Were there any other horses -- as you
10 first crossed over the tracks to the left was there a
11 metal building there that you remember?

12 A. I don't remember that.

13 Q. Okay. Did you ever see anyone maintaining
14 Oliver Lane or Oliver Street?

15 A. A portion of it.

16 Q. Where at?

17 A. From about the propane tanks down to the dump.

18 Q. Okay. Do you know who -- I mean, do you know
19 what type of vehicle they were using to maintain?

20 A. Yes, it was an 8-M Ford tractor with a blade on
21 the back of it, and that was Bull Southerland
22 (phonetic). He was my uncle. He worked for the City
23 of Ozark.

24 Q. Okay.

25 A. He used a blade on the back of that 8-M to

1 blade the road.

2 Q. And he was doing it for the City of Ozark?

3 A. Yes.

4 Q. And what was his name again?

5 A. Bull.

6 Q. Bull?

7 A. Bull Southerland.

8 Q. B-u-l?

9 A. We called him Bull. Everybody known him as
10 Bull Southerland. He retired from the city.

11 Q. Do you know how often he would maintain that
12 road?

13 A. No. Really, I don't know how often, but I have
14 seen him blade it three or four times while I was in
15 that area.

16 Q. Okay.

17 MR. BROCKETT: Okay. I don't think I
18 have any more questions. Thank you.

19 EXAMINATION

20 BY MS. JONES:

21 Q. Just a few things to follow-up. You looked at
22 a map that Mr. Brockett showed you. You didn't have
23 anything to do with creating that map; right?

24 A. No.

25 Q. Okay. And you can't say that any of the street

EXHIBIT H-3
DEPOSITION K. SMITH

1 permission from anybody to use that crossing?

2 A. No.

3 Q. Did you buy land south of the river?

4 A. No.

5 Q. Okay. Did you -- who did you lease that
6 property from?

7 A. Missouri Pacific Railroad.

8 Q. Missouri Pacific Railroad Company, okay.

9 A. I believe that would be correct.

10 Q. Okay. Do you know how much land you leased
11 from them?

12 A. Probably, probably ten acres.

13 Q. Ten? Okay. Okay. Was that road already there
14 when -- well, strike that. Did F&S Lumber Company
15 build the building, or was the building already
16 there?

17 A. We built the buildings.

18 Q. Okay. Okay. And was that road already there
19 when you built the buildings?

20 A. Yes.

21 Q. Okay. Do you know if the City of Ozark ever
22 maintained the building, or the road? Did they put
23 gravel on it or grade it or anything like that?

24 A. I can't, I can't remember anyone doing the work
25 on it, but someone had to.

1 Q. Okay. It didn't just deteriorate?

2 A. Yeah, it would have deteriorated over time, but
3 I can't say for sure who done it.

4 Q. Okay. Fair enough. Did you, I guess did F&S
5 Lumber Company utilize the dump?

6 A. Not as such.

7 Q. No? Okay. And you did mention that you
8 remember a Pete Oliver living there? According to
9 Exhibit 51, Exhibit D to Exhibit 51, there was also a
10 Tom Kirkendall that lived down there.

11 A. I was trying to think of his name, yes.

12 Q. Okay. He lived in the nice house?

13 A. In the first house, yes.

14 Q. Okay. In your opinion that was a nice house?

15 A. It was a good house, yes.

16 Q. Okay. And then according to this exhibit there
17 was a vacant lot down there. Do you remember looking
18 at those houses if there was a vacant house or a
19 vacant lot?

20 A. I never was on that property, so I can't --

21 Q. Okay. You didn't drive on down in there?

22 A. No.

23 Q. Okay. There was an Alfred Oliver. Does that
24 sound familiar?

25 A. I think -- I'm sure that's the one they called

EXHIBIT I
DEPOSITION K. SMITH

Kenneth Smith 3/9/2015

City of Ozark v. Union Pacific Railroad Company

Page 16

1 marked previously as Exhibit 51 to a deposition.
2 This is Exhibit 51, and part of Exhibit 1 to Exhibit
3 C.

4 What Exhibit C is classified as is a 1962
5 telephone directory. This is a -- it shows Exhibit D
6 now, but this is Exhibit D to Exhibit 51. Have you
7 ever seen that before, Mr. Smith?

8 A. No.

9 Q. Okay. It does have an address here on the
10 second page, and the very top one shows Oliver
11 Street. And it has F&S Lumber Company listed on
12 Oliver Street as 211. Do you remember if your
13 building had an address of any sort?

14 A. No, I don't.

15 Q. Okay. Did you receive any mail at that
16 location?

17 A. Not delivered mail, no, sir.

18 Q. Okay.

19 A. We had a post office box.

20 Q. Okay. You did have a post office box. Okay.
21 Do you know if the mail came down onto that street --

22 A. No, sir.

23 Q. -- to deliver to the other houses?

24 A. I have no knowledge of that.

25 Q. Okay. Did F&S Lumber Company move to a

1 Q. Was your business open to the public?

2 A. The F&S Lumber, no.

3 Q. Okay.

4 A. M&S, yes.

5 Q. Okay. And let's just stick with F&S.

6 A. Okay.

7 Q. Okay. What did you do with your products that
8 you --

9 A. It was sold to the government.

10 Q. Okay. Was it all loaded onto train cars, or
11 did you ever ship it out on roads?

12 A. Both ways.

13 Q. Okay. So it would be produced at F&S Lumber
14 and then did you own trucks, or did you hire trucks?

15 A. We owned the trucks.

16 Q. Okay. Were those trucks -- now forgive me for
17 my age, but at that time were those trucks licensed?

18 A. Certainly.

19 Q. Okay. Through the State of Arkansas?

20 A. Yes.

21 Q. Okay. For purposes of licensing, what address
22 did you list on those titles; do you remember?

23 A. The address probably was at Fort Smith.

24 Q. Okay. Is that where your main --

25 A. Main office.

1 Q. Okay. Was in Fort Smith, okay. Is that where
2 most of the mail would have been shipped then?

3 A. Yes.

4 Q. Okay. All right. Did, did you keep a truck
5 here in Ozark?

6 A. Yes.

7 Q. Okay. And it was parked there?

8 A. Yes.

9 Q. Okay. About how often do you think a truck
10 would leave that location and cross the tracks?

11 A. Daily.

12 Q. Okay. Just once per day or --

13 A. Yes, it was long haul.

14 Q. Okay.

15 A. Long hauls, yes.

16 Q. Okay. Did -- how many employees did F&S Lumber
17 Company have?

18 A. Thirty to forty --

19 Q. Okay.

20 A. -- people.

21 Q. Wow. How big a building did you guys have?

22 A. Pardon me?

23 Q. How big a building?

24 A. Well, we had two buildings, actually. There
25 was -- I'm just estimating probably 50 by 150. It

EXHIBIT J
DEPOSITION H. ALLRED

Page 16

1 Q. Okay.

2 A. I know him well. I knew him well. That was
3 before they went -- before they quit having a depot
4 agent down there. Glenn McDaniel was the depot
5 agent, the last one I remember.

6 Q. Okay. Have you ever volunteered or worked for
7 the depot at all?

8 A. No.

9 Q. Okay.

10 MS. JONES: All right. Well, thank
11 you, sir. I appreciate your time today.

12 EXAMINATION

13 BY MR. BROCKETT:

14 Q. Mr. Allred, I have a few questions for you.

15 A. All right.

16 Q. This metal building that you referenced when
17 you first crossed over the tracks --

18 A. Uh-huh.

19 Q. -- what was it?

20 A. It was a horse barn.

21 Q. Okay.

22 A. They had a horse in there. I don't know who
23 the horse belonged to, and I tore -- me and the boy
24 that worked with me named Harley Jeffers (phonetic)
25 that drove the other truck, tore that barn down.

EXHIBIT K-1
DEPOSITION H. ALLRED

Harrison Allred 3/9/2015

City of Ozark v. Union Pacific Railroad Company

Page 12

1 A. No, ma'am, I don't.

2 Q. Okay. Did you just call it sort of the street
3 down by the propane tanks or street to the dump or
4 whatever?

5 A. There was just a road that went down through
6 there. I can give you the different places that used
7 that street.

8 Q. Right.

9 A. If you want me to.

10 Q. Well, as I understand it, when you crossed over
11 the railroad tracks there was the propane tanks
12 there?

13 A. When you crossed over the tracks directly in
14 front of the propane tanks there was a sheet iron
15 barn.

16 Q. Okay.

17 A. You turned left right down the tracks, and the
18 propane tanks were there. You go a little bit
19 further, and the pallet plant was there. You go a
20 little further, and there was a railroad spur that
21 went down to the pallet plant.

22 Q. Uh-huh.

23 A. You crossed the spur, made the right down to
24 the river, and that was the city dump, and right on
25 down past there there was a colored community.

EXHIBIT K-2

JUNE 5, 1940 CITY COUNCIL MINUTES

Mayor

Minutes of the City Council of Ozark, Arkansas June 5, 1940.

The city council of the City of Ozark, Arkansas met Mayor Nichols office on June 5th 1940 at 7:30 P M with the following members present; H C Clark, W R Loyd, Vernoit Sells and Nichols, R J Gammille sr, Claude Wakefield jr and Mayor Nichols. Also present was Harold Dodgin State Sanitarian.

The sanitation committee reported that four notices had been mailed some people in town about their unsanitary conditions. Harold Dodgin reported that the sanitary condition of Harley Williams place had been taken care of. Hudson Jones reported to one of the sanitary committee that he would do something about the unsanitary conditions back of his place business. The unsanitary condition back of the Model and Kings Cafe is to be investigated by Harold Dodgin and he is to report to the sanitation committee. A ditching project for the town was presented by Harold Dodgin and the council is highly favored of this and will take further steps on when the cost is determined as the towns part.

The following bills were allowed but the amounts of
of them was not known at the meeting;

Oil Co.	Tractor	J T Greer and Son	Paint Streets
J Gamille	Gas Station	Tractor	Ozark Hardware Streets
City Lumber Co.	Cement	Streets	Nelsie Oliver Dumping Ground
Jeff Pruett	Streets	Jeff Holt	1.00 Streets
John Burns	Streets	Ross Alston	"
Democrat Enterprise	Notices	Crockett Jeffers	Tractor

Clark Made motion to pass these and it was seconded by Garland Nichols. By vote this passed.

There being nothing further of importance H C Clark made motion to adjourn and it was seconded by R J Gammille sr. By Vote was passed.

Mayor

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,	)	CIVIL ACTION NO:2:14-CV-02196-
TLB	)	
AND THE ARKANSAS STATE HIGHWAY	)	
COMMISSION	)	
	)	
Defendants,	)	

**PLAINTIFF'S SUPPLEMENTAL FILING OF EXHIBITS TO THE PLAINTIFF'S
RESPONSE AND OPPOSITION TO THE DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT**

Comes now the Plaintiff, the City of Ozark, Arkansas, a municipal corporation by and through its undersigned counsel, Christopher D. Brockett of Sayre & Brockett, and for its Supplemental Exhibits to the Plaintiff's Response and Opposition to the Defendant's Motion for Summary Judgment filed herein on and even date herewith and does file Exhibit E-1 through K-2 as shown on the Table of Exhibits.

Respectfully submitted:

By: /s/ Christopher D. Brockett
Christopher D. Brockett
Ark. Bar No. 2005192
Sayre & Brockett
401 West Commercial Street
Ozark, Arkansas 72949
Telephone (479) 667-3000
Facsimile (479) 667-4188

Email: cbrockett@bslawarkansas.com

ATTORNEYS FOR THE PLAINTIFF

CERTIFICATE OF SERVICE

I, Christopher D. Brockett, hereby certify that a copy of the foregoing Amended Complaint has this date been served by U.S. Mail on the following:

Scott H. Tucker
Friday, Eldredge & Clark, LLP
400 W. Capitol Ave., Suite
2000
Little Rock, Arkansas 72201-
3522
Telephone: (501) 370-1430
Facsimile: (501) 244-5340
Email: tucker@fridayfirm.com

Joseph McKay
Friday, Eldredge & Clark, LLP
400 W. Capitol Ave., Suite
2000
Little Rock, Arkansas 72201-
3522
Telephone: (501) 370-1430
Facsimile: (501) 244-5340

Jamie Huffman Jones
Friday, Eldredge & Clark, LLP
400 W. Capitol Ave., Suite
2000
Little Rock, Arkansas 72201-
3522
Telephone: (501) 370-1430
Facsimile: (501) 244-5340
Email: jjones@fridayfirm.com

Done at Ozark, Arkansas, this 25th day of May 2015.

/s/ Christopher D. Brockett
Christopher D. Brockett

TABLE OF EXHIBITS

Exhibit A-1: Copy of deed from WM Hail to William Cureton

Exhibit A-2: Copy of deed transferring land from James F. Quaile and Frauk A. Quaile to Little Rock and Fort Smith Railway on March 14, 1876

Exhibit B: Copy of deed from John Hail & Sarah to William Hail

Exhibit C: Copy of deed from William Cureton to James F. Quaile

Exhibit D: Copy of deed from J.V. Boourland & Bonnie J. to Samuel Church

Exhibit E: Deed from Samuel Church to Jinnie to J.V. Bourland

Exhibit F: Deed from J.V. Bourland and Bonnie J. to Redmond R. Walting

Exhibit G: A copy of deed from Julia Walting to Martin Oliver

Exhibit H: A copy of a picture of the downtown area showing residences on the south side of the Defendant's tracks prior to the construction of the new Depot

Exhibit I: MoPac Track Right of Way Map, June 30, 1916, Pages 1-15

Exhibit J: A copy of Small Estate Affidavit of Nelsie Oliver

Exhibit K-1: June 5, 1940 Minutes from City Council

Exhibit K-2: May 8, 1951 Minutes from City Council

Exhibit K-3: December 11, 1956 Minutes from City Council

Exhibit K-4: December 22, 1957 Minutes from City Council

Exhibit L: Deposition of Monty Canady Page 19

Exhibit M-1: A copy of the Ordinance dated October 13, 1942

Exhibit M-2: A copy of the blue print

Exhibit M-3: Deposition of Harold Pickartz Page 25-26

Exhibit M-4: Deposition of Jimmy Bearden Page 19

Exhibit M-5: Picture showing 1942 Railroad spurs

Exhibit M-6: Picture showing Depot & Crossing

Exhibit M-7: Close up view of Oliver St. Crossing with vehicle at the crossing

Exhibit N-1: Station and Structures Map, August 15, 1946, Pages 1-12

Exhibit N-2: Enlarged Version of the Station and Structures Map, August 15, 1946, Pages 1-15

Exhibit O: Deposition of Dorothy Johnson Pages 10 and 16

Exhibit P-1: Deposition of Wallace Alston Pages 11, 16, 18, 20 and 21

Exhibit P-2: Deposition of Byron Rex Anderson Pages 12-13, pages 41-43

Exhibit P-3: Deposition of Jimmy Bearden Pages 9, 10, and 18

Exhibit P-4: Deposition of Bob Bonds Pages 9-15

Exhibit P-5: Deposition of Alice Brooks Pages 9 and 10

Exhibit P-6: Deposition of Monty Canady Pages 10-15

Exhibit P-7: Deposition of Ralph Johnson Pages 11-15

Exhibit P-8: Deposition of Dorothy Johnson Page 14

Exhibit P-9: Deposition of Brenda Mann Page 8

Exhibit P-10: Deposition of Harold Pickartz Pages 10 and 14

Exhibit P-11: Deposition of Andrew Post Page 8

Exhibit P-12: Deposition of Loye Randolph Pages 10-12

Exhibit P-13: Deposition of Philip Smith Pages 8, 9 and 11

Exhibit P-14: Deposition of Paul Stacy Pages 10 and 11

Exhibit P-15: Deposition of Robert Trotter Pages 11 and 12

Exhibit P-16: Deposition of Lonnie Turner Pages 6 and 7

Exhibit P-17: Deposition of Don Whitson Pages 8, 9 and 12

Exhibit P-18: Deposition of Shirley Wilson Pages 9-11

Exhibit P-19: Deposition of Harrison Allred Pages 27, 30-32

Exhibit Q-1: Deposition of Kenneth Smith Pages 10-13, 18-20, 22, 23-27

Exhibit Q-2: Copy of picture dated 1952

Exhibit Q-3: Zoomed in version of Copy of picture dated 1952

Exhibit Q-4: Copy of picture dated 1954

Exhibit Q-5: Zoomed in version showing structures on South side of railroad crossing

Exhibit Q-6: Substantially zoomed in version showing structures on South side of railroad crossing

Exhibit R: Deposition of Harrison Allred Pages 12, 13, 23 and 25

Exhibit S-1: Deposition of Jimmy Bearden Page 21

Exhibit S-2: Picture of 1955 Butane Tanks Move

Exhibit T: Deposition of Harrison Allred Pages 17, 26 and 32

Exhibit U: Deposition of Monty Canady Pages 19 and 20

Exhibit V: Deposition of Dorothy Johnson Page 17

Exhibit W-1: Deposition of Ralph Johnson Page 17

Exhibit W-2: Deposition of Truman Johnson Page 12

Exhibit W-3: Deposition of Philip Smith Page 12

Exhibit W-4: Deposition of Don Whitson Page 15

Exhibit X-1: Deposition of Truman Johnson Page 10

Exhibit X-2: Deposition of Harold Pickartz Page 17 and 18

Exhibit X-3: Deposition of Andrew Post Page 11

Exhibit X-4: Deposition of Joe Powell Page 12

Exhibit X-5: Deposition of Paul Stacy Page 11, 12 and 14

Exhibit Y-1: A copy of the February 1962 Map

Exhibit Y-2: Enlarged Version of the February 1962 Map

Exhibit Y-3: Deposition of Robert Trotter Page 18, 20 and 25

Exhibit Z: A copy of the Directory dated March 1962

Exhibit AA-1: Deposition of Robert Trotter Page 17 and 19

Exhibit AA-2: Deposition of Monty Canady Page 15

Exhibit AA-3: Deposition of Harold Pickartz Page 17-22

Exhibit BB: Deposition of Lonnie Turner Page 23 and 24

Exhibit CC: Deposition of Robert Trotter Page 13, 23, 24 and 27

Exhibit DD: Deposition of Steve Outlaw Pages 8 and 9

Exhibit EE: A copy of the 1965 Water Distribution Map

Exhibit FF: A copy of the ariel photo from 1965 with enlargement behind

Exhibit GG-1: Relocation Maps from Ozark Lock and Dam, March 1966

Exhibit GG-2: Copy of the Lis Pendens from June 1, 1968

Exhibit HH-1: A copy of John Burns deed

Exhibit HH-2: A copy of MOPAC's deed

Exhibit HH-3: A copy of Tom Kirkendoll's deed

Exhibit II: Google Maps showing the crossing

Exhibit JJ-1: FRA Crossing Inventory Reports 1970-2001

Exhibit JJ-2: FRA Crossing Inventory Reports Digital Map from Website

Exhibit KK-1: Deposition of Philip Smith Page 16

Exhibit KK-2: Deposition of Bill Brockett Page 9 and 11

Exhibit LL: A copy of the 1975 Map, Pages 1-6

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

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

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

Exhibit PP-1: Union Pacific's 2000 Map

Exhibit PP-2: Deposition of Vernon McDaniel, Pages 29 and 30