

ENCROACHMENT AGREEMENT

STATE OF OKLAHOMA §
 §
COUNTY OF PAYNE §

This instrument (“Agreement”) made and entered into this ___ day of _____, 2019, by and between **Sunoco Pipeline L.P.**, a Texas Limited Partnership (“Company”), with principal offices at 1300 Main Street, Attn: Right-of-Way Dept., Houston, Texas 77002-5600, and the **City of Stillwater, Oklahoma** (“City”), whose mailing address is 723 S. Lewis St., Stillwater, OK 74076-1449.

WITNESSETH:

WHEREAS, Company is the holder of an Easement (“Easement”) granted by Otto Rist and Esther H. Rist on March 24, 1976 and recorded at Book 279, Page 409, covering the following described premises in Payne County, Oklahoma:

Southwest Quarter (SW/4), West Half of the Southwest Quarter of the Southeast Quarter (W/2 SW/4 SE/4) all in Section 27, Township 19 North, Range 2 East, Payne County, Oklahoma (hereinafter referred to as the “Easement Area”).

WHEREAS, pursuant to the authority contained in said Easement, Company has constructed and currently owns a two inch (2”) petroleum pipeline, (“Company Facilities”), across and through the above described Easement Area; and

WHEREAS, City has acquired a water line easement and a Fiber and Electric Easement within Company’s Easement area after and subordinate to the Company’s Easement referred to above, upon which the Company Facilities are situated, in Payne County, Oklahoma ; and

WHEREAS, City intends to install and construct a water line which would have come within five (5) feet from Company’s Facilities and therefore City requested Company to remove about 900 feet of Company’s pipeline , (“Encroachment”) within the Easement Area, and such Encroachment and its plans and specifications are depicted on Exhibit "A", attached hereto and made a part hereof; and

WHEREAS, City has requested permission from Company to maintain, use, and enjoy the Encroachment as described and depicted in Exhibit “A”, upon a portion of the Easement Area; and

WHEREAS, Company is willing to grant such permission upon the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. Company hereby grants permission to City to construct, install, maintain, operate and use the Encroachment, subject to the following conditions:
 - A. City assumes all risks for damages, injuries, or loss to either property or persons, which may be incurred by City or its agents, invitees, or licensees present on or in the vicinity of the Easement Area and in any way associated with said Encroachment. Any maintenance

or improvements to or repairs of the Encroachment shall be the sole responsibility and performed at the sole cost and expense of the City.

- B. The permission granted herein is limited exclusively to the Encroachment within the Easement Area. City shall not alter, or permit the alteration of the grade of the Easement Area without the prior express written consent of Company. City shall be solely responsible for, and shall bear the expense of repairs attributable to any loss of subjacent or lateral support for Company's Easement Area and/or the Company Facilities caused by the Encroachment.
- C. City shall at all times conduct all of their activities within the Easement Area in such a manner as not to interfere with or impede the operation, safety, or maintenance of the Company Facilities and activities in any manner whatsoever.
- D. City shall not plant any trees within the Easement Area where the Company's Facilities remain in place.
- E. City shall construct and maintain the Encroachment strictly in accordance with the plans and specifications described and depicted on Exhibit "A".
- F. Except as hereinafter provided, City shall not construct nor permit others to construct any buildings, engineering works or other improvements, nor change the grade, within the Easement Area where the Company's Facilities remain in place.
- G. Company hereby consents and agrees, insofar as it has the lawful right to do so, to the construction of said Encroachment as limited and described above and in accordance with Company's Engineering and Construction Standards, incorporated herein by reference. Any deviation, change, or revision to the proposed Encroachment is strictly prohibited without the express written consent and approval of Company.
- H. In accordance with State approved Notification Centers, Company shall be notified at least 48 hours in advance of any construction activity. Company currently utilizes the Oklahoma Excavation Safety System (OESS) as its notification center. You must contact the OESS notification center at 811 or 1-800-753-5531, in addition to contacting Company's field representative Darren Cloud at 918-352-5089 before commencing any crossing at or near Company's Facilities. Notice of Maintenance activity will be given as soon after the activity as practicable; and
- I. City agrees that a Company representative may be on site to monitor the excavation activities. The presence or non-presence of a Company representative will not relieve City of any liability under this Agreement.

2. **TO THE EXTENT PERMITTED BY OKLAHOMA LAW, CITY AGREES TO RELEASE, WAIVE ALL RIGHTS AND HOLD COMPANY, ITS PARENT, AFFILIATES, SUBSIDIARIES, AND THEIR DIRECTORS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS HARMLESS FROM AND AGAINST ANY AND ALL ACTIONS OR CAUSES OF ACTION, CLAIMS, DEMANDS, LIABILITIES, LOSS, DAMAGE, INJURY, SUIT, PROCEEDING, JUDGMENT, COST (INCLUDING THE COST OR EXPENSE OF ENVIRONMENTAL RESPONSE, REMOVAL OR REMEDIATION ACTIVITIES) OR EXPENSE OF WHATEVER KIND OR NATURE, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES, ARISING FROM:**

- A. **CITY'S NON-COMPLIANCE WITH ANY LAWS, REGULATIONS AND ORDERS APPLICABLE TO THE CITYSHIP OR THE OPERATION AND**

MAINTENANCE OF THE ENCROACHMENT WITHIN THE EASEMENT AREA DESCRIBED HEREIN;

B. ANY INCIDENTS, ACTS, RELEASES, NEGLIGENCE, TRANSACTIONS OR OMISSIONS, OR CONDITIONS ON OR AFFECTING THE EASEMENT AREA THAT WOULD:

I. CONTRIBUTE TO OR CONSTITUTE A VIOLATION OF ANY LOCAL, STATE OR FEDERAL ENVIRONMENTAL RULE, REGULATION, LAW OR JUDICIAL ORDER;

II. RESULT, IN WHOLE OR IN PART, IN ANY REQUIREMENT TO CLEAN UP OR OTHERWISE REMEDY OR REMEDIATE A CONDITION;

III. GIVE RISE TO ANY LIEN, LIABILITY, INJUNCTION, ORDER, RESTRICTION, CLAIM, EXPENSE, DAMAGE, FINE OR PENALTY; OR

IV. ADVERSELY AFFECT HUMAN HEALTH OR THE ENVIRONMENT AT OR NEAR THE EASEMENT AREA; AND

C. ANY INCIDENT, ACT, ACTION, CAUSE OF ACTION, NEGLIGENCE, TRANSACTION, OR OMISSION OR IN CONNECTION WITH, OR INCIDENTAL TO THE CONSTRUCTION, OPERATION, MAINTENANCE, PRESENCE, OR USE OF THE ENCROACHMENT, EXCEPT WHERE SUCH LOSS, COST, LIABILITY, OR EXPENSE WAS PROXIMATELY CAUSED SOLELY BY THE GROSS NEGLIGENCE OF COMPANY, ITS EMPLOYEES OR AGENTS.

3. City agrees that protection of the Company Facilities will be maintained at all times.
4. City is given notice that Company may at any time temporarily remove a portion of its Company Facilities from the Easement Area. City acknowledges and agrees that such removal will not constitute abandonment of the Easement and City agrees that it will not file any claim, cause of action or lawsuit petitioning a court of competent jurisdiction to modify, vacate or extinguish Company's Easement.
5. The parties hereto understand that this Agreement in no way constitutes a waiver by Company of its rights to enjoy the Easement Area unencumbered by the construction and operation of the Encroachment.
6. City acknowledges the enforceability and continuing existence of the Easement and agrees that it will not at any time in the future file any claim, cause of action or suit seeking a declaratory judgment to find or cause the Easement to be extinguished or vacated.
7. Company gives notice that it may temporarily remove its pipeline from the Easement Area, but City agrees that when Company's pipeline is placed back in service, including the potential placement or replacement of particular pipeline segments, the City will acknowledge the enforceability of the terms of Company's Easement and this encroachment agreement.
8. The provisions of the Easement, and all rights, powers, privileges, and duties, obligations, and liabilities created thereby, remain in full force and effect and are not affected hereby except to the extent and in the manner set forth above.
9. This Agreement may not be assigned by City, in whole or in part, without the prior express written consent of Company, which consent shall not be unreasonably withheld so long as any such permitted assignee agrees to be bound by and to comply with all the terms and conditions of this

Agreement. Any assignment made in contravention of this provision shall be deemed null and void and of no force and effect whatsoever.

10. City agrees, that should Company need to utilize any portion of the Encroachment area, to perform any pipeline operations in the future, City shall allow Company to utilize same without any compensation or payment due to any interference caused to City's business..
11. City agrees to immediately contact Company's offices in the event of any incident involving, or potentially involving, the Company's Facilities.
12. This encroachment agreement is subject and subordinate to the existing easement rights of Company and the permission herein granted by Company is limited to its interest and authority in the subject land and City acknowledges the possible obligation to obtain the required permission from other parties of interest or local, state or federal agencies.
13. City agrees to clean up and repair all damages to the Easement Area resulting from its work on or across the Easement Area in a manner reasonably acceptable to Company.

This instrument and the covenants and agreements herein contained shall extend to and be binding upon the heirs, executors, administrators, successors, and permitted assigns of the parties and the benefits of this Agreement shall run with the land.

[Signature Page(s) Follow]

IN WITNESS WHEREOF, the parties have executed this instrument the day and year first above written.

COMPANY

CITY

SUNOCO PIPELINE L.P.

CITY OF STILLWATER

**BY: Sunoco Logistics Partners
Operations GP LLC, its general
partner**

By: _____
Print Name: Kevin Taliaferro

Sign: _____
Print Name: _____

Title: Sr. Director, Right of Way

Title : _____

ACKNOWLEDGEMENT

STATE OF TEXAS

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COUNTY OF

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The foregoing instrument was acknowledged before me on this _____ day of _____, 2019 by Kevin Taliaferro, Sr. Director, Right of Way, on behalf of Sunoco Logistics Partners Operations GP LLC, a Delaware limited liability company, general partner of Sunoco Pipeline L.P.

(SEAL)

Notary Public
My Commission Expires: _____

ACKNOWLEDGEMENT

STATE OF OKLAHOMA

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COUNTY OF

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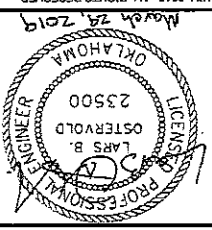
The foregoing instrument was acknowledged before me on this _____ day of _____, 20____ by _____, as the _____ of the City of Stillwater.

(SEAL)

Notary Public
My Commission Expires: _____

THIS INSTRUMENT TO BE RETURNED TO:

Mona Harvey – Right of Way Dept.
Energy Transfer Partners
1300 Main Street
Houston, Texas 77002-5600



NO.	DATE	REVISION	BY	APVD

32nd Ave Booster Pump Station
and Highway 51 to 32nd Ave Water Transmission Main
Stillwater, Oklahoma
Sillwater Utility Authority

CH2MHILL
CIVIL
LINE "1"
PLAN AND PROFILE
STA 2+54.00 TO 5+00

DATE: MAR 2019
PROJ: 681371
DWG: C-11
SHEET: 26 of 133
PLOT TIME: 7:38:44 AM

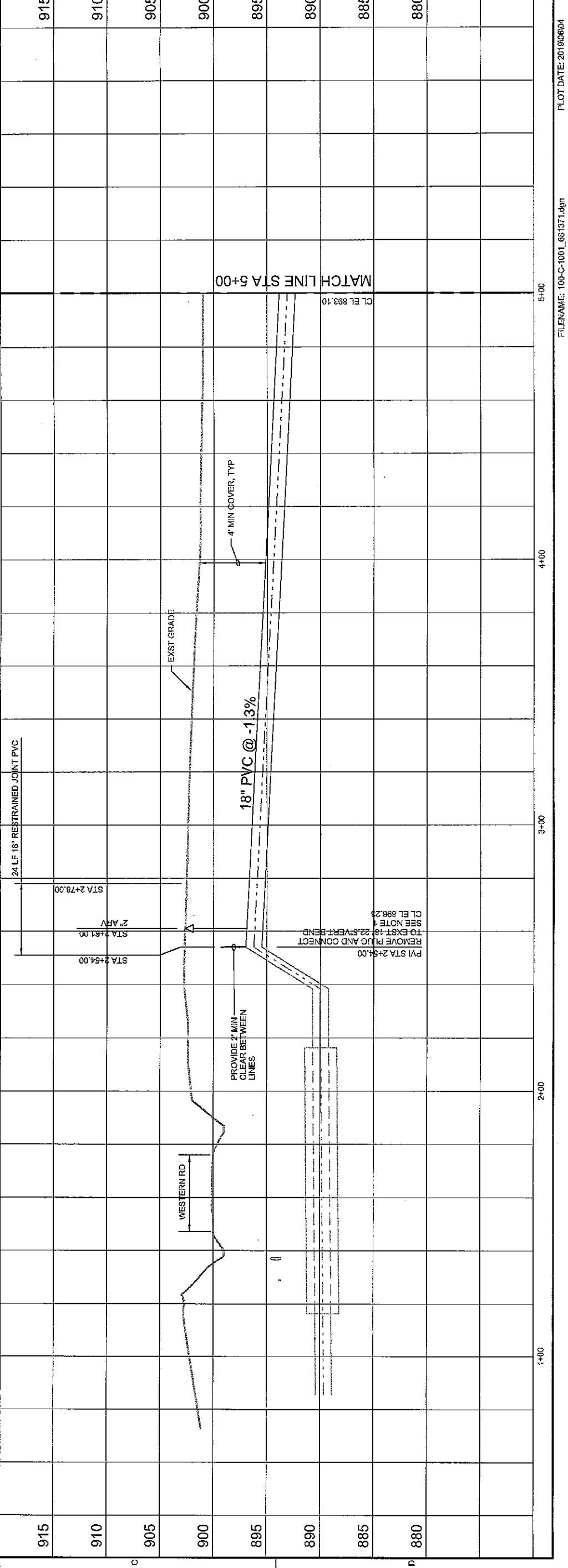
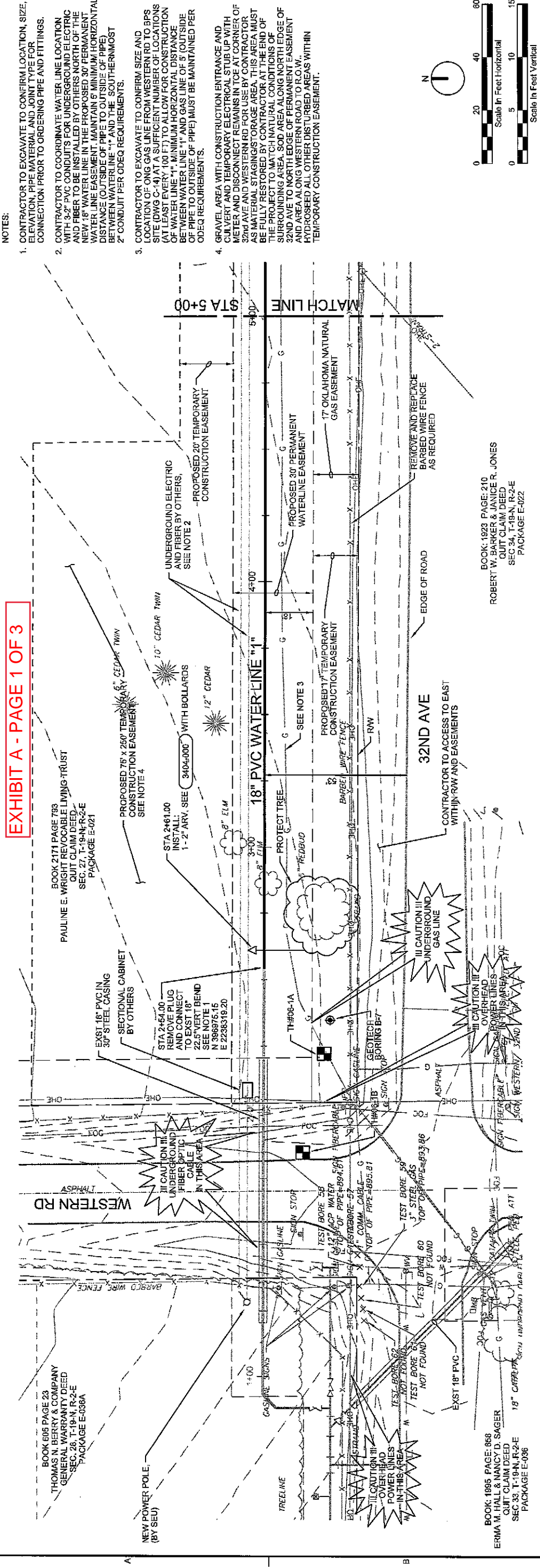


EXHIBIT A - PAGE 1 OF 3

NOTES:
 1. CONTRACTOR TO EXCAVATE TO CONFIRM LOCATION, SIZE, ELEVATION, PIPE MATERIAL AND JOINT TYPE FOR CONNECTION PRIOR TO ORDERING PIPE AND FITTINGS.
 2. CONTRACTOR TO COORDINATE WATER LINE LOCATION WITH 3.2" PVC CONDUITS FOR UNDERGROUND ELECTRIC AND FIBER TO BE INSTALLED BY OTHERS NORTH OF THE NEW 18" WATER LINE IN THE PROPOSED 30' PERMANENT WATER LINE EASEMENT. MAINTAIN 5' MINIMUM HORIZONTAL DISTANCE (OUTSIDE OF PIPE TO OUTSIDE OF PIPE) BETWEEN WATERLINE "1" AND THE SOUTHERNMOST 2" CONDUIT PER ODEQ REQUIREMENTS.
 3. CONTRACTOR TO EXCAVATE TO CONFIRM SIZE AND LOCATION OF ONG GAS LINE FROM WESTERN RD TO BPS SITE (DWG C-14) AT A SUFFICIENT NUMBER OF LOCATIONS AT EAST END OF LOT TO ALLOW FOR CONNECTION TO EXIST 18" WATER LINE "1" AND GAS LINE OF 8" OUTSIDE OF PIPE TO OUTSIDE OF PIPE) MUST BE MAINTAINED PER ODEQ REQUIREMENTS.
 4. GRAVEL AREA WITH CONSTRUCTION ENTRANCE AND CURVEVET AND TEMPORARY REMAINS IN TCE AT CORNER OF 32ND AVE AND WESTERN RD FOR USE BY CONTRACTOR AS MATERIAL STAGING/STORAGE AREA. THIS AREA MUST BE FULLY RESTORED BY CONTRACTOR AT THE END OF THE PROJECT TO MATCH NATURAL CONDITIONS OF SURROUNDING AREA. SOB AREA ALONG NORTH EDGE OF 32ND AVE TO NORTH EDGE OF PERMANENT EASEMENT AND AREA ALONG WESTERN ROAD TO R.O.W., HYDROSEED ALL OTHER DISTURBED AREAS WITHIN TEMPORARY CONSTRUCTION EASEMENT.

BOOK 1923 PAGE: 210
ROBERT W. BARKER & JANICE R. JONES
QUIT CLAIM DEED
SEC 34, T-19-N, R-2-E
PACKAGE E-022

BOOK 605 PAGE 23
THOMAS N. BERRY & COMPANY
GENERAL WARRANTY DEED
SEC. 28, T-19-N, R-2-E
PACKAGE E-036A

BOOK 1995 PAGE: 868
ERMA M. HALL & NANCY D. SAGER
QUIT CLAIM DEED
SEC 33, T-19-N, R-2-E
PACKAGE E-036

32nd Ave Booster Pump Station
 and Highway 51 to 32nd Ave Water Transmission Main
 Stillwater, Oklahoma
 Stillwater Utility Authority

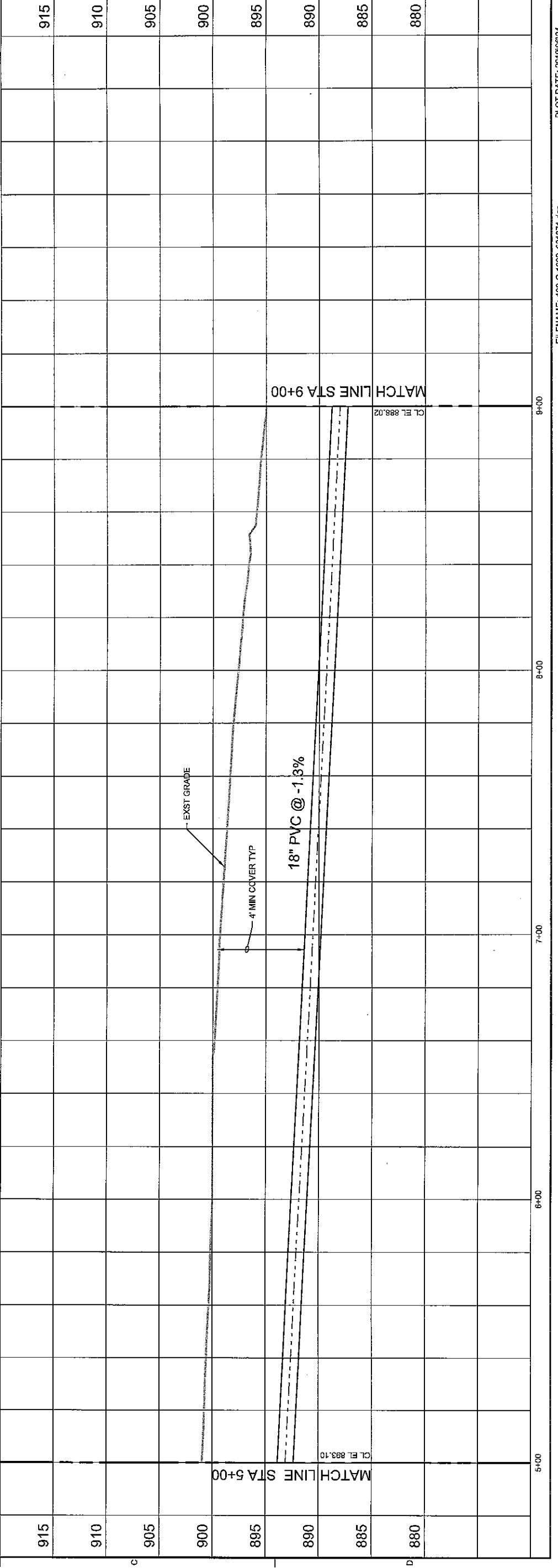
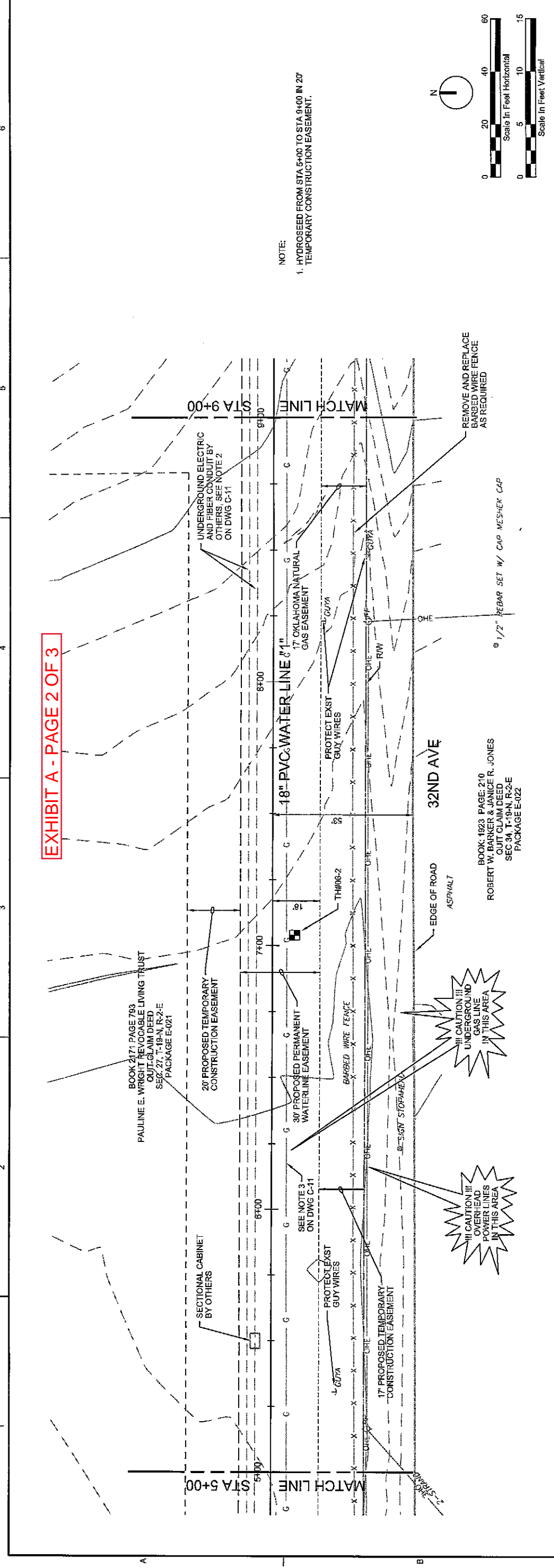
CIVIL
LINE "1"
PLAN AND PROFILE
STA 5+00 TO 9+00

DATE	MAR 2019
PROJ	681371
DWG	C-12
SHEET	27 of 133

AS NOTED
 VERIFY SCALE
 BAR IS ONE INCH ON ORIGINAL DRAWING

NO.	DATE	REVISION	BY	APVD

PROFESSIONAL ENGINEER
 LARS B. OSTERWALD
 OKLAHOMA LICENSE
 23500
 March 24, 2019



6

5

4

3

2

1

A

B

C

D

CIVIL
**LINE "1" AND LINE "2"
 PLAN & PROFILE STA 5+00 TO 10+45**

32nd Ave Booster Pump Station
 and Highway 51 to 32nd Ave Water Transmission Main
 Stillwater Utility Authority
 Stillwater, Oklahoma

NO.	DATE	BY	APPROVED

DATE	MAR 2019
PROJ	681371
DWG	C-13
SHEET	28 of 133

CH2MHILL

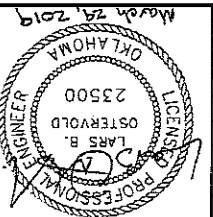


EXHIBIT A - PAGE 3 OF 3

NOTES:

- ALL YARD PIPING (DRAWING C-46) IS RESTRAINED JOINT PIPING.
- RESTRAINED LENGTH IS BASED ON VALVE LOCATED ON YARD PIPING (SEE DWG C-46). REQUIRED LENGTH IS 118 FT FROM THE VALVE TO THE END OF THE RESTRAINED SECTION. CONTRACTOR SHALL CONFIRM THIS RESTRAINED LENGTH FROM THE VALVE IS PROVIDED.
- CONTRACTOR TO EXCAVATE TO CONFIRM LOCATION OF ONG GAS LINE TO DETERMINE DEPTH REQUIRED FOR 6" PVC FIRE HYDRANT LEG. COORDINATE EXACT HYDRANT LOCATION WITH CITY. MAINTAIN A MINIMUM HORIZONTAL DISTANCE BETWEEN 6" PVC WATER LINE TO EAST AND GAS LINE OF 6' (OUTSIDE OF PIPE TO OUTSIDE OF PIPE) PER ODEQ REQUIREMENTS.
- HYDROSEED TEMPORARY CONSTRUCTION EASEMENT FROM STA 9+00 TO STA 10+45 (WATER LINE 1), WITH CE NORTH OF BPS SITE AND FROM STA 1+39.05 TO STA 2+25 (WATER LINE 2).

