

AGENDA MEETING

MALVERN CITY COUNCIL
Tuesday, July 5, 2016
CITY HALL COURTROOM, 6:30 P.M.

I. CALL THE MEETING TO ORDER

II. OLD BUSINESS

- A. *Discussion - Renovation of building across the street*
- B. *2nd Reading - Ordinance updating permit fees*
- C. *2nd Reading - Ordinance Prohibiting Jake Brakes*

III. NEW BUSINESS

- A. *Discussion - Sink hole on Page Street*
- B. *Discussion - Ouachita River erosion on Tanner Street*
 - C. *Franchise Tax - informational only*
- D. *Discussion - ADEQ Permit for Storm Sewer System*
- E. *Update - Perla Water (\$97,366) no payment in June*
 - F. *Ordinance - Grease Traps for Sewer*

IV. CITIZENS WISHING TO APPEAR

V. MAYOR REPORTS

VI. ADJOURNMENT

FILED
SANDY BOYETTE
COUNTY CLERK

2016 JUN 15 AM 10:59

HOT SPRING COUNTY, AR

BY SB

Committee Do Pass
Introduced By Harold Thomas
Assigned To BUDGET & FINANCE
County Judge BILL SCRIMSHIRE
Date 05-17-16

Bill # ~~16-18~~
Appropriation Ordinance # 16-17

A Bill for an Ordinance to read as follows:

Be it enacted by the Quorum Court of Hot Spring County, Arkansas, an Ordinance to be entitled:

"An Ordinance to Appropriate Funds from Unappropriated General Fund #1000 to General Fund #1000 Department #0409 District Court."

Section 1. An Ordinance to Appropriate Eight Thousand Three Hundred Forty Two Dollars and Twenty Two Cents (\$8,342.22) from Unappropriated General Fund #1000 to General Fund #1000 Department #0409 Line Item #3500 (for Building and Improvements).

Section 2. One- time payment for office space renovation for District Court personnel.

Section 3. It is determined that it is in the best interest of Hot Spring County to approve this Ordinance and it shall be fully effective after passage and in accordance with state law.

Passed and adopted this 14 day of JUNE, 2016.

Bill Scrimshire
Bill Scrimshire, County Judge

Attest: Sandy Boyette
Sandy Boyette, County Clerk

City of Rockport

1472 Military Road, Rockport, AR. 72104

P.O. Box 442, Malvern, AR. 72104

Phone: 501-332-8700 - Fax: 501-332-7116

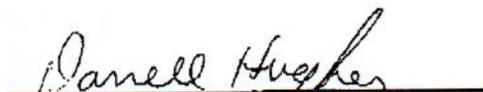
June 23rd, 2016

This letter is a formal commitment from the City of Rockport in the amount of \$ 3,675.56 , for the purpose to remodel or renovate the building associated with the Hot Spring Co. District Court.

This commitment was approved during the regular meeting of the Rockport City Council on June 14th, 2016.

Thank you for your consideration with this matter.

Sincerely,



Darrell Hughes, Mayor

Room 1

X
Outlet

X
Outlet

Double Door
Cased Opening

X
Outlet

X
Outlet

Paint wall
with accent color

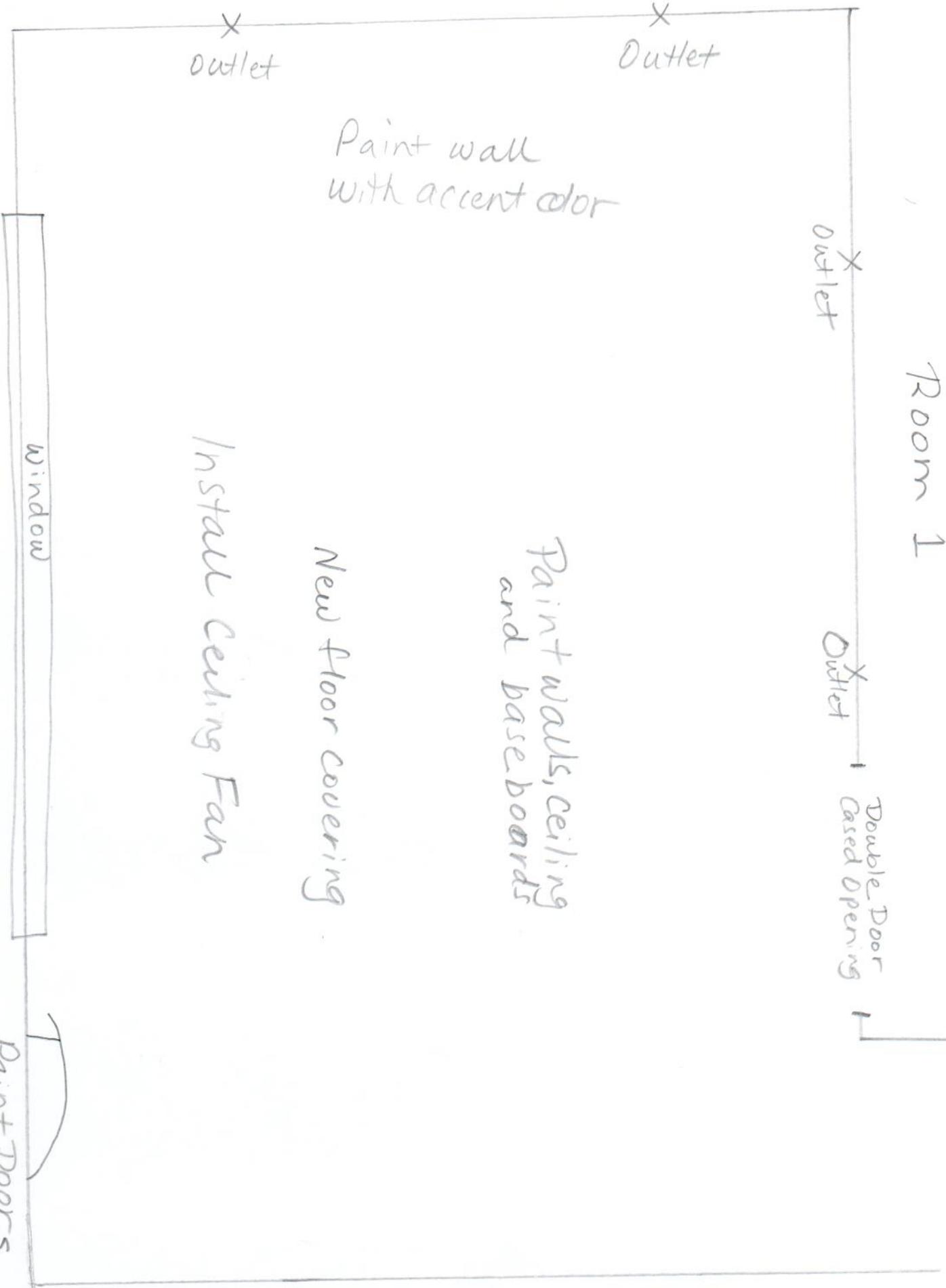
Paint walls, ceiling
and baseboards

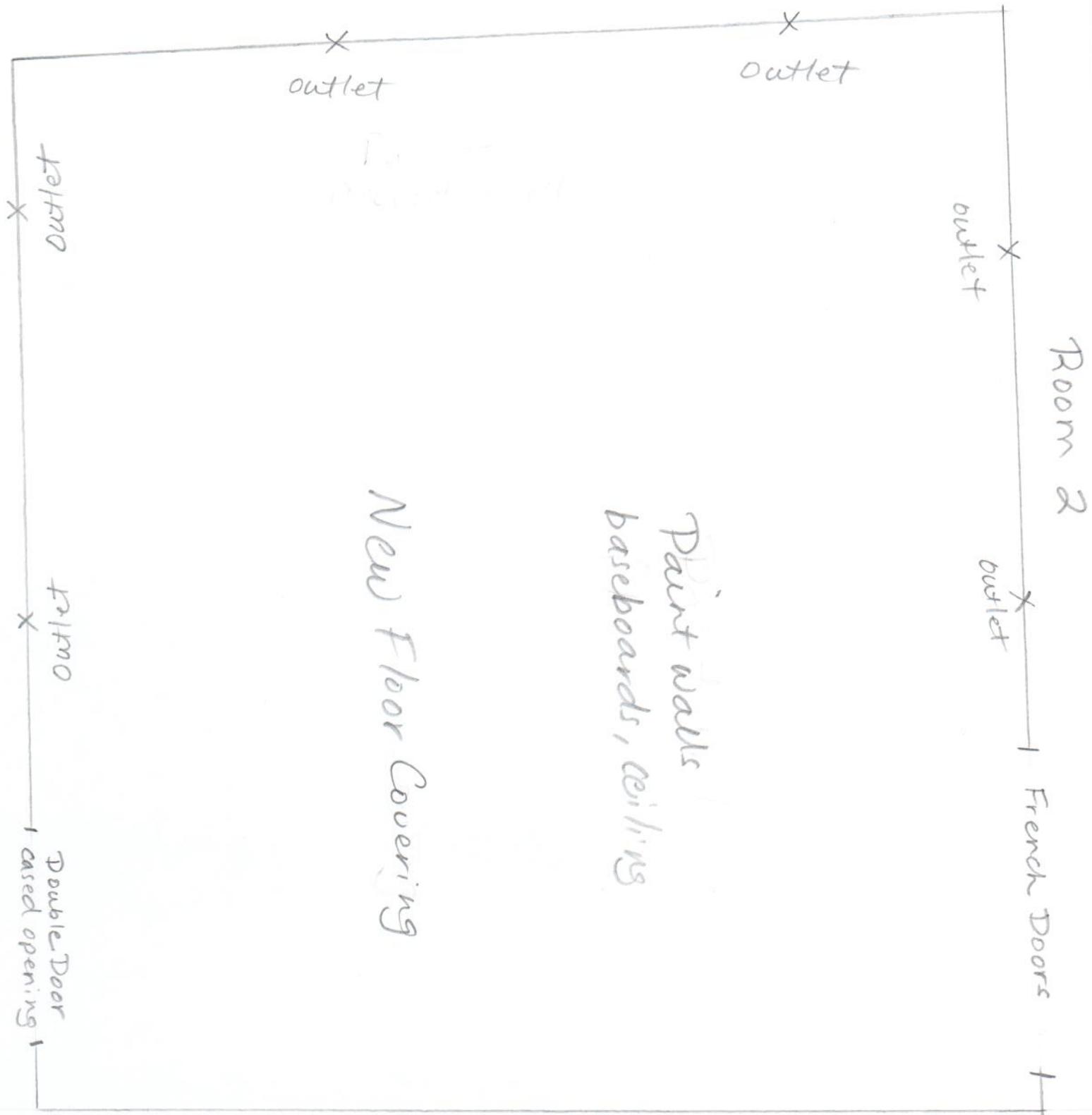
New floor covering

Install Ceiling Fan

Window

Paint Doors
to Match





Wall, baseboards, ceiling
Paint Hallway
New floor covering

Room 3

closet

Paint accent
wall

Paint walls, ceiling,
and baseboards

New Floor Covering

French doors

closet

Drop Ceiling

Paint

New Floor Covering



Room 4

X
outlet

X
outlet



Light Fixture - need additional

Paint wall, ceiling, baseboards

New Floor Covering

X
outlet

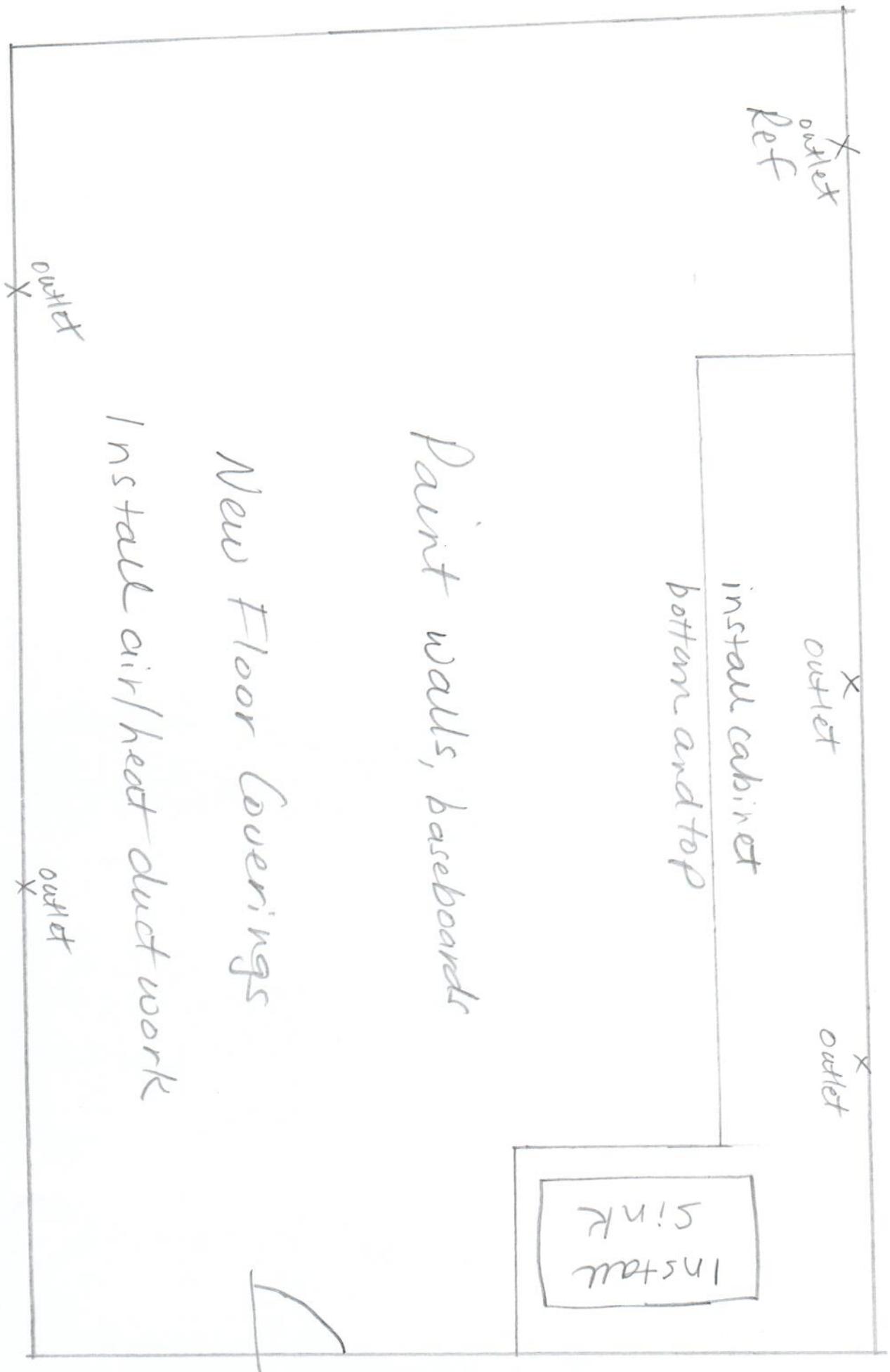
X
outlet

X
outlet

X
outlet



Kitchen



X
outlet
Ref

X
outlet

X
outlet

install cabinet
bottom and top

Install
SINK

Paint walls, baseboards

New Floor Coverings

Install air/heat duct work

X
outlet

X
outlet

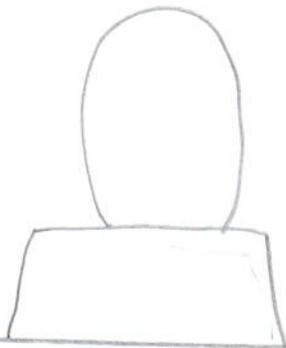
Bathroom

Remove
sink

Paint wall,
base boards

New floor
covering

Install duct
work



Install sink +
vanity



Outlet

Board off
wall

Install mirror

Replace door knob

Coat closet

close opening

Paint walls,
baseboards
Lower ceiling

Heat/Air Unit

Back door - build ramp







2 Natural Resources Drive

Little Rock, Arkansas 72205

Phone: 501-223-6428 • Fax: 501-223-6461

**ARKANSAS STREAM TEAM
STREAM HABITAT IMPROVEMENT/REHABILITATION
PROJECT**

LANDOWNER: City of Malvern (Tanner St.) **DATE:** April 26, 2016

RIVER/STREAM: Ouachita River

WATERSHED: Upper Ouachita

COUNTY: Hot Spring

EVALUATOR: Matthew Irvin

LOCATION: Section 16 – Township 4 South – Range 17 West

UTM 15 S 514726 Easting
3804929 Northing

Latitude N 34° 23.139'
Longitude W 92° 50.388'

CONTENTS:

Narrative Statement
Cost Estimate
State Vicinity Map
County Vicinity Map
Aerial Photograph
Topographic Map
Watershed Map
Soils Map and Description
Project Design/Diagram
Native Vegetation List
Photographs
Contacts for Permits
Potential Funding Sources

POTENTIAL FUNDING PARTNERS:

Landowner – Cash and in-kind services

See also the list of Potential Funding Sources at the end of this document.

DEVELOPED BY:

Matthew Irvin, Region IV Stream Team Coordinator | Arkansas Game & Fish

Commission | 1266 Lock and Dam Road | Russellville, AR 72802 | (877) 967-7577

**Narrative Statement for a Streambank Stabilization/Aquatic Habitat
Improvement Project
For Clean Water Act Section 404 Permit and
401 Water Quality Certification**

**City of Malvern (Tanner Street)
Ouachita River
Hot Spring County, Arkansas**

This property is owned by the City of Malvern and is located on the Ouachita River in the northwest corner of town below the Tanner Street Bridge in Hot Spring County. The project site is an actively eroding streambank on the right descending bank downstream of the bridge. At the time of the site visit, the area of concern was 115 linear feet long with a 4 foot high vertical bank. At the present time the only vegetation is perennial turf grasses and annual weeds that are cut short. The primary cause for this bank sloughing is the fact that the trees, shrubs/bushes, and vines have been cut and removed from streambank. Without the deep root systems from these plants it is difficult for the *Ouachita silt loam* soil to stay in place during high water events. If the lateral migration continues, it is going to eventually threaten the integrity of the Tanner Street Bridge. Each time we get a major flood event, literally tons of soil/sediment is sent down the Upper Ouachita watershed.

The recommended methods for stabilizing this eroding streambank are sloping the streambank on a 2:1 ratio, installing stone toe protection up to the ordinary high water mark, and replanting the riparian area in native vegetation. The combination of stone toe protection and native re-vegetation will create friction to slow flood waters down, reducing velocity on the streambank and increasing deposition. This ultimately will stop lateral migration due to streambank erosion.

Locally obtained boulder sized rock, with a "B" axis of ≥ 24 inches, will be used to stabilize this streambank. The toe armor (a.k.a. stone toe protection) will be keyed 10 feet into the streambank at a 30 degree angle on the upstream and downstream portion of the project to prevent the structure from being flanked during a flood. Non-woven filter fabric will be placed underneath the rock to prevent soil from getting into the river from between the spaces between the rocks. The toe armor will come up approximately 4 feet from the stream bed to the ordinary high water mark. The largest rocks that are delivered will be used at the base to build the foundation layer that is toed-in approximately 2 feet and the smaller rocks will be stacked up the slope. Construction will start downstream and work upstream so that the rocks will be placed in compression with the flow of water to prevent them from shifting during high flows. See project design diagram for more detail.

Construction for this project will be conducted during low flow conditions.

Any and all bare soil above the rocked portion of the streambank will be seeded with grasses appropriate for the time of year and ecoregion and covered with geotextile coconut matting. During the dormant time of year, native trees and shrubs will be

planted on a 9' x 9' spacing on the high bank and extend up the sloped bank at least 27 feet to re-establish a healthy riparian corridor. Locally obtained willow stakes may also be used instead of purchasing containerized plants or in addition to the purchased plants, but should be placed on 2' x 2' spacing.

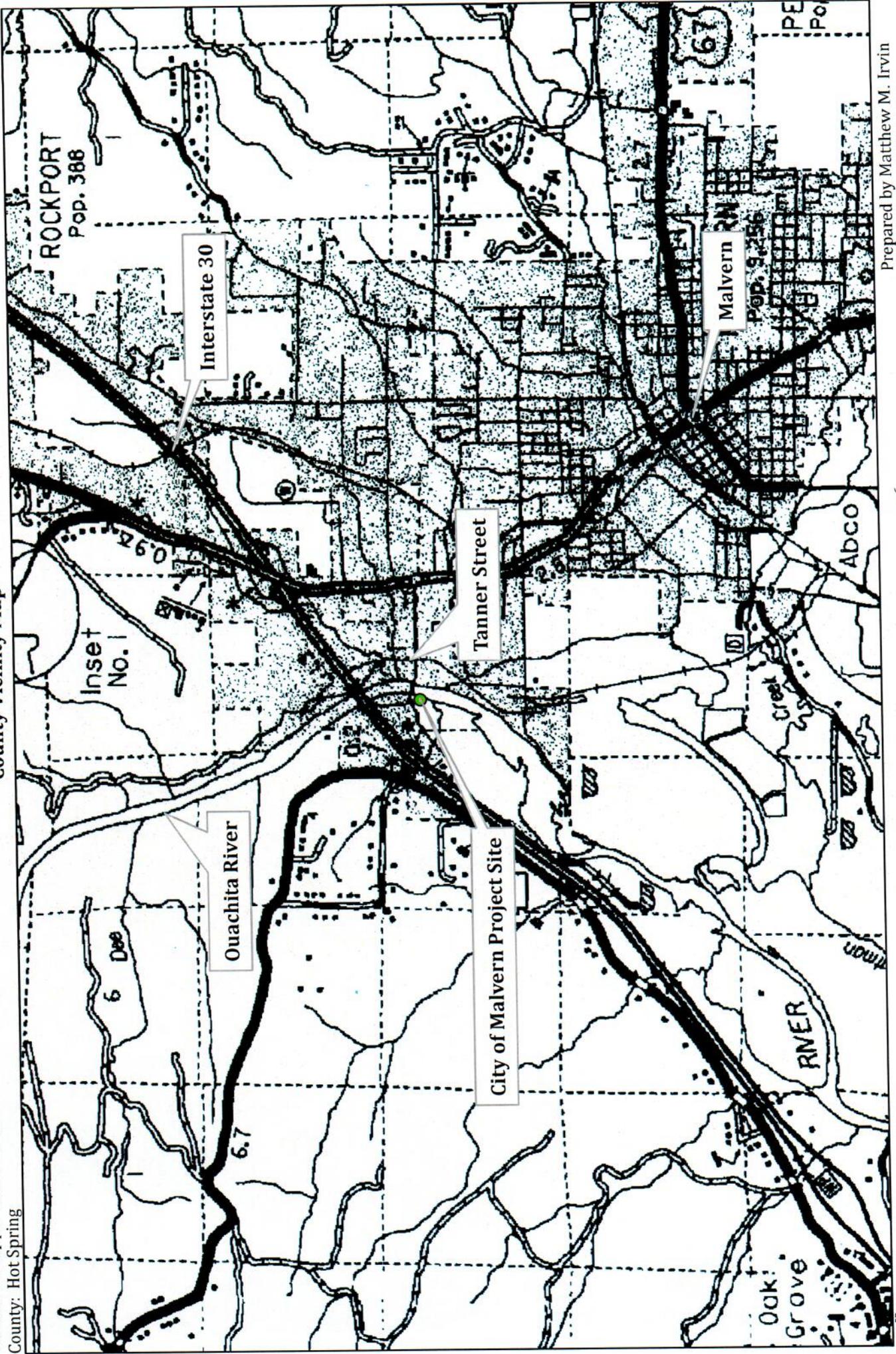
Properly sloping the streambanks along with stone toe protection up to the ordinary high water mark and native re-vegetation has worked very well on other similar projects throughout the state.



Keeping the Natural State natural.

Landowner Name: City of Malvern
Location: Sec 16 - T4S - R17W
River/Stream: Ouachita River
Watershed: Upper Ouachita (HUC #08040102)
County: Hot Spring

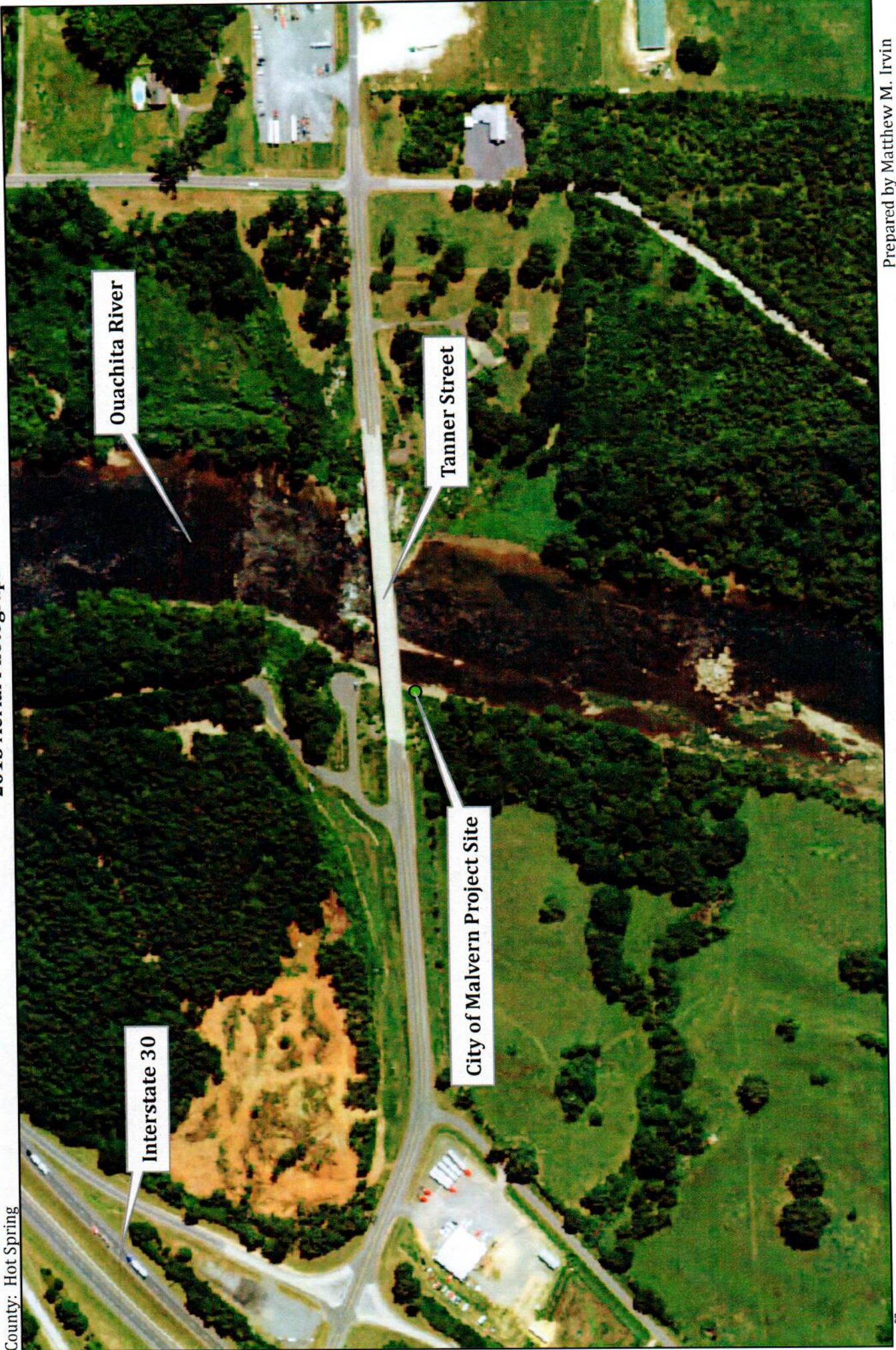
County Vicinity Map



Prepared by Matthew M. Irvin
Arkansas Game & Fish Commission
Region IV Stream Team Coordinator

Landowner Name: City of Malvern
Location: Sec 16 - T4S - R17W
River/Stream: Ouachita River
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County: Hot Spring

2015 Aerial Photograph



Ouachita River

Tanner Street

City of Malvern Project Site

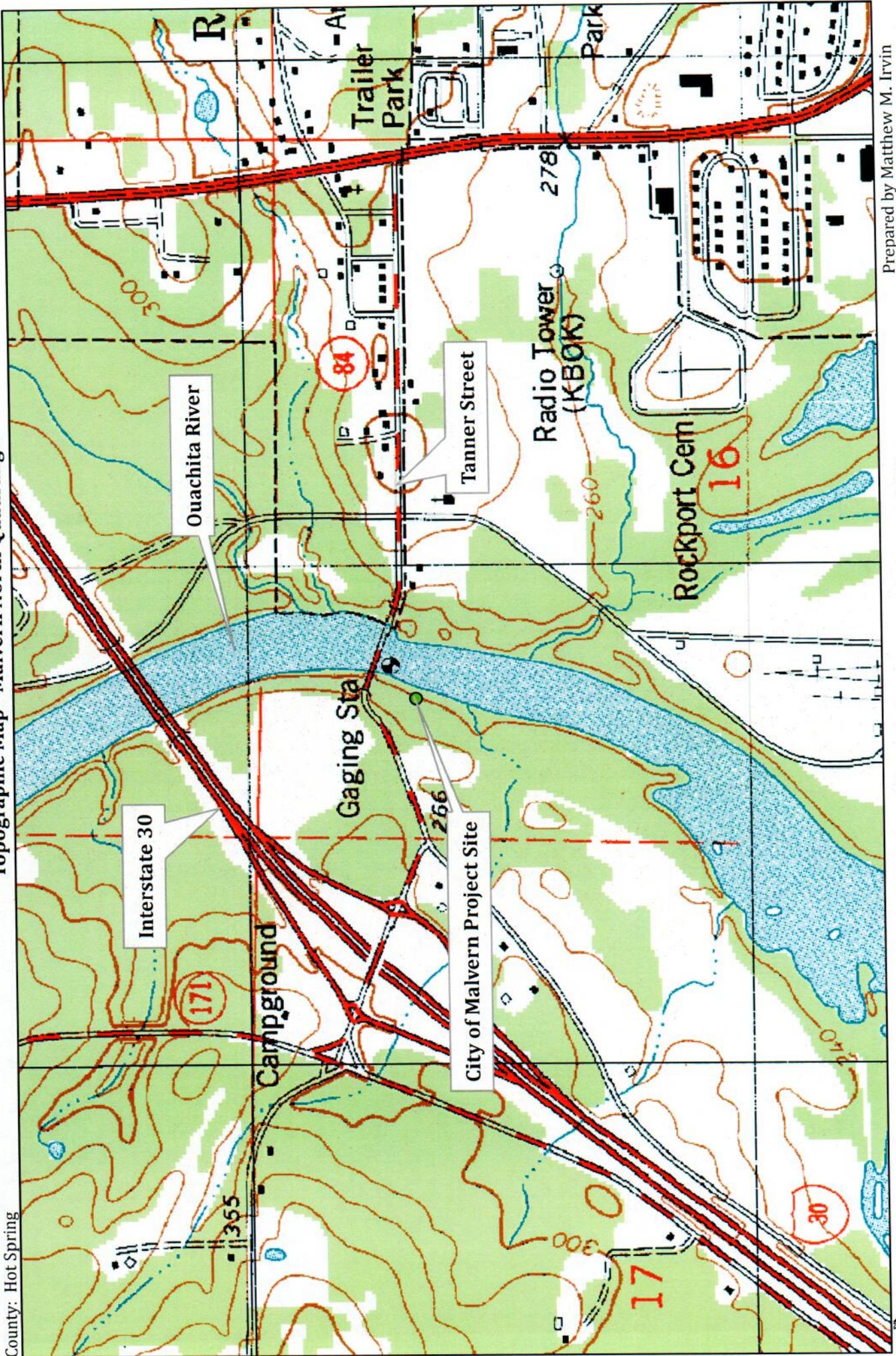
Interstate 30



Prepared by Matthew M. Irvin
Arkansas Game & Fish Commission
Region IV Stream Team Coordinator

Landowner Name: City of Malvern
Location: Sec 16 - T4S - R17W
River/Stream: Ouachita River
Watershed: Upper Ouachita (HUC #08040102)
County: Hot Spring

Topographic Map - Malvern North Quadrangle



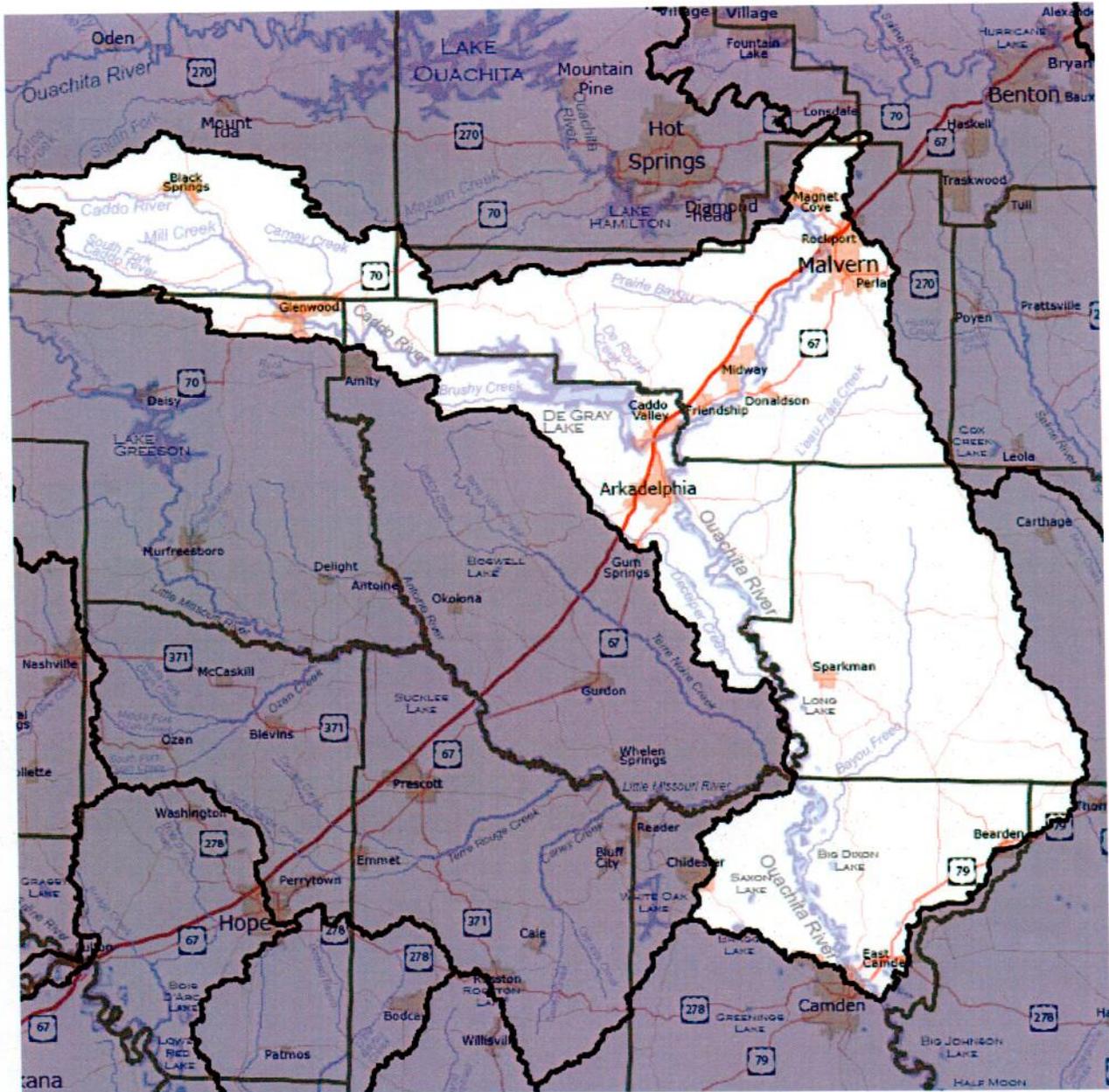
Keeping the Natural State natural.



Prepared by Matthew M. Irvin
Arkansas Game & Fish Commission
Region IV Stream Team Coordinator



Upper Ouachita Watershed Map - Hydrologic Unit Code (08040102)



Land Use (1,738 Square miles)

Forest 73.4%
Transitional 13.3%
Grassland 10.3%
Water 1.9%
Suburban 1.7%
Urban 0.1%
Cropland 0.0%

Soil Map—Clark and Hot Spring Counties, Arkansas
(City of Malvern)



Map Scale: 1:6,790 if printed on A landscape (11" x 8.5") sheet.

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 15N WGS84

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Clark and Hot Spring Counties, Arkansas
Survey Area Data: Version 14, Sep 28, 2015

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Mar 5, 2010—Jun 5, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

MAP LEGEND

- | | |
|--|---|
|  Area of Interest (AOI) |  Spoil Area |
|  Soils |  Stony Spot |
|  Soil Map Unit Polygons |  Very Stony Spot |
|  Soil Map Unit Lines |  Wet Spot |
|  Soil Map Unit Points |  Other |
| Special Point Features |  Special Line Features |
|  Blowout | Water Features |
|  Borrow Pit |  Streams and Canals |
|  Clay Spot | Transportation |
|  Closed Depression |  Rails |
|  Gravel Pit |  Interstate Highways |
|  Gravelly Spot |  US Routes |
|  Landfill |  Major Roads |
|  Lava Flow |  Local Roads |
|  Marsh or swamp | Background |
|  Mine or Quarry |  Aerial Photography |
|  Miscellaneous Water | |
|  Perennial Water | |
|  Rock Outcrop | |
|  Saline Spot | |
|  Sandy Spot | |
|  Severely Eroded Spot | |
|  Sinkhole | |
|  Slide or Slip | |
|  Sodic Spot | |

Map Unit Legend

Clark and Hot Spring Counties, Arkansas (AR630)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
9	Bowie fine sandy loam, 1 to 3 percent slopes	0.6	0.4%
11	Cahaba fine sandy loam, 1 to 3 percent slopes	31.1	19.0%
14	Carnasaw-Bismarck-Zafra complex, 8 to 20 percent slopes	5.0	3.1%
49	Ouachita silt loam, occasionally flooded	51.4	31.5%
52	Pikeville fine sandy loam, 3 to 8 percent slopes	23.0	14.1%
56	Pits-Fluvaquents complex, occasionally flooded	1.3	0.8%
64	Saffell gravelly fine sandy loam, 3 to 8 percent slopes	3.6	2.2%
65	Saffell gravelly fine sandy loam, 8 to 12 percent slopes	11.2	6.9%
67	Sardis silt loam, 0 to 3 percent slopes	14.9	9.2%
98	Water	21.1	13.0%
Totals for Area of Interest		163.2	100.0%

Clark and Hot Spring Counties, Arkansas

49—Ouachita silt loam, occasionally flooded

Map Unit Setting

National map unit symbol: lynd
Elevation: 120 to 250 feet
Mean annual precipitation: 48 to 61 inches
Mean annual air temperature: 50 to 74 degrees F
Frost-free period: 190 to 220 days
Farmland classification: All areas are prime farmland

Map Unit Composition

Ouachita and similar soils: 95 percent
Minor components: 5 percent
Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Ouachita

Setting

Landform: Flood plains
Down-slope shape: Linear
Across-slope shape: Linear
Parent material: Loamy alluvium

Typical profile

A - 0 to 6 inches: silt loam
Bw - 6 to 72 inches: silty clay loam

Properties and qualities

Slope: 0 to 3 percent
Depth to restrictive feature: More than 80 inches
Natural drainage class: Well drained
Runoff class: Low
Capacity of the most limiting layer to transmit water (Ksat):
Moderately high (0.20 to 0.57 in/hr)
Depth to water table: More than 80 inches
Frequency of flooding: Occasional
Frequency of ponding: None
Available water storage in profile: High (about 11.4 inches)

Interpretive groups

Land capability classification (irrigated): None specified
Land capability classification (nonirrigated): 2w
Hydrologic Soil Group: C

Minor Components

Aquents

Percent of map unit: 5 percent
Landform: Depressions
Down-slope shape: Concave

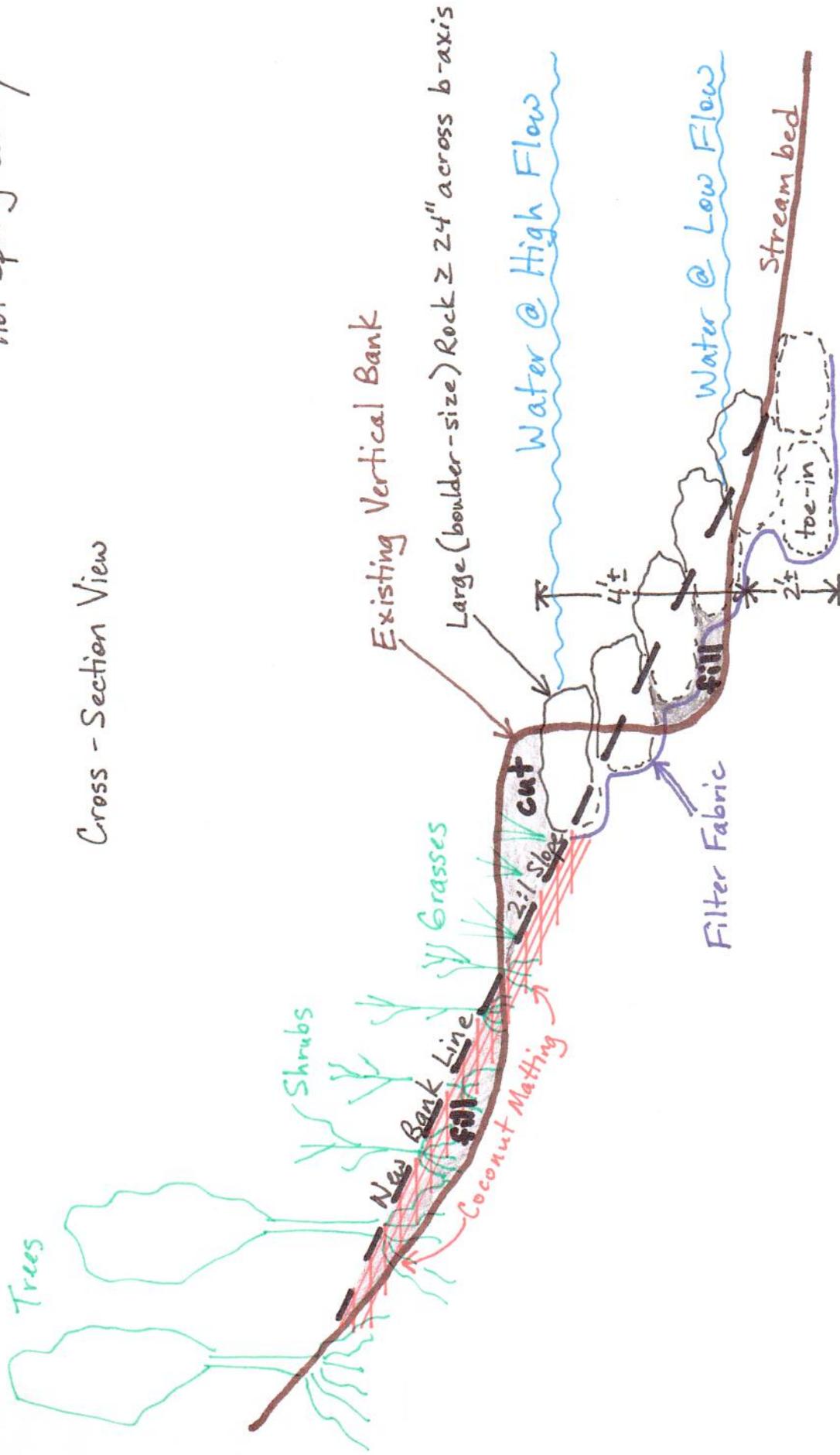
Across-slope shape: Convex

Data Source Information

Soil Survey Area: Clark and Hot Spring Counties, Arkansas
Survey Area Data: Version 14, Sep 28, 2015

City of Malvern
Ouachita River
Hot Spring County

Cross - Section View



Drawing by Matthew Irvin
Region 4 Stream Team Coordinator, AGFC

Native Vegetation List for Hot Spring County

Trees:

Bald-Cypress (*Taxodium distichum* (L.) Rich.)
Box Elder (*Acer negundo* L.)
Chinquapin Oak (*Quercus muehlenbergii* Engelm.)
Ironwood, American Hornbeam (*Carpinus caroliniana* Walter)
Pecan (*Carya illinoensis* (Wangenh.) K.Koch)
Persimmon (*Diospyros virginiana* L.)
Pin Oak (*Quercus palustris* Münchh.)
Red Mulberry (*Morus rubra* L.)
River Birch (*Betula nigra* L.)
Shumard's Oak (*Quercus shumardii* Buckley)
Southern Red Oak (*Quercus falcata* Michx.)
Sycamore (*Platanus occidentalis* L.)
Water Oak (*Quercus nigra* L.)
White Oak (*Quercus alba* L.)

Shrubs:

Alder, Smooth Alder (*Alnus serrulata* (Aiton) Willd.)
American Beauty-Berry, French-Mulberry (*Callicarpa americana* L.)
American Holly (*Ilex opaca* Aiton var. *opaca*)
Arrow-Wood (*Viburnum dentatum* L. var. *dentatum*)
Deciduous Holly, Possumhaw (*Ilex decidua* Walter)
Elderberry (*Sambucus Canadensis* L.)
Flowering Dogwood (*Cornus florida* L.)
Green Hawthorn (*Crataegus viridis* L.)
Hop-hornbeam (*Ostrya virginiana* (Mill.) K.Koch)
Indigo-Bush, False Indigo (*Amorpha fruticosa* L.)
Ninebark (*Physocarpus opulifolius* (L.) Maxim.)
Spicebush (*Lindera benzoin* (L.) Blume)
Strawberry-Bush (*Euonymus americanus* L.)

Perennial Grasses:

Virginia Wild Rye (*Elymus virginicus* L.)
River-Oats, Inland Sea-Oats (*Chasmanthium latifolium* (Michx.) H.O. Yates)

Annual Grasses:

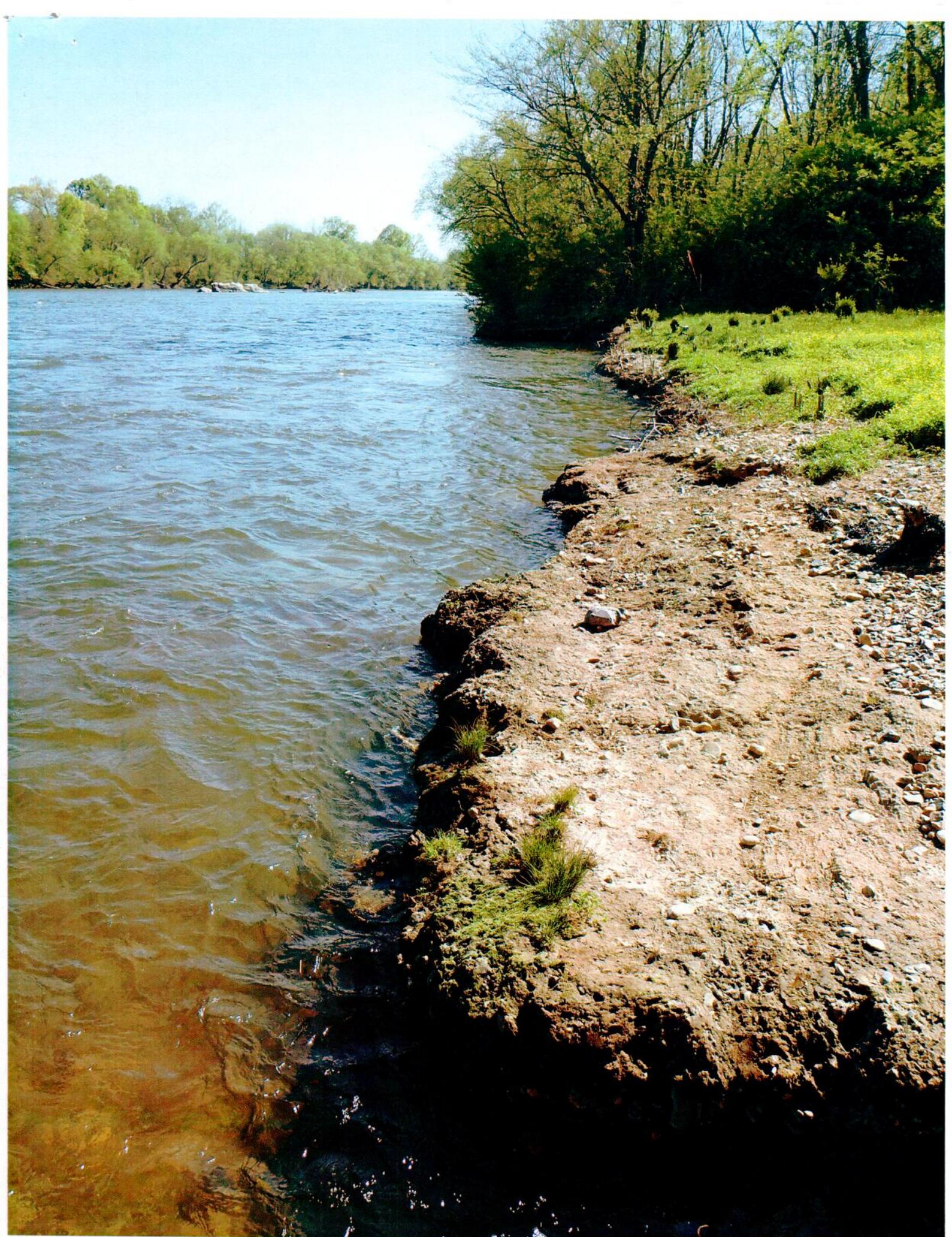
Wheat (*Triticum aestivum* L.)
Oats (*Avena sativa* L.)
Brown-top Millet (*Urochloa ramosa* (L.) T.Q.Nguyen)

Cane:

River Cane, Switch Cane (*Arundinaria gigantea* (Walter) Muhl.)

Vines:

Muscadine (*Vitis rotundifolia* Michx.)



Contacts for Required Permits

Clean Water Act Section 404 Permit and 401 Water Quality Certification

U.S. Army Corps of Engineers

Vicksburg District, Regulatory Branch

CEMVK-OD-F

4155 E Clay Street

Vicksburg, MS 39183-3455

Robert Stewart, Sr. Environmental Specialist

Office: (601) 631-5998

E-mail: Robert.M.Stewart@usace.army.mil

Jennifer Brown, Environmental Specialist

Office: (601) 631-5147

E-mail: Jennifer.G.Brown@usace.army.mil

Arkansas Department of Environmental Quality

5301 North Shore Drive

North Little Rock, AR 72118

Lazendra Hairston, Biologist

Office: (501) 682-0946

Fax: (501) 682-0910

E-mail: HAIRSTONL@adeq.state.ar.us

POTENTIAL FUNDING SOURCES:

Landowner – Cash, in-kind services, providing equipment, and/or providing labor (such as operating equipment, planting trees, etc.).

Entergy – **Ouachita River Environmental Enhancement Fund.** This funding is set aside for riparian landowners below Remmel Dam for river bank stabilization projects that enhance fisheries and water quality. Potential projects are reviewed by and require the consensus of AGFC, ADEQ, and Entergy for fund disbursement and use. This is a cost-share agreement and requires a minimum of 25% of the funds to come from the landowner.

Submit a complete application to:

Brett Hobbs

350 Fish Hatchery Rd.

Hot Springs, AR 71913

(501) 525-8606

E-mail: Brett.Hobbs@agfc.ar.gov

ORDINANCE NO. 637

AN ORDINANCE GRANTING TO THE ARKANSAS POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, THE EXCLUSIVE RIGHT, PRIVILEGE AND AUTHORITY TO SELL, FURNISH AND DISTRIBUTE ELECTRIC POWER AND ENERGY AND ERECT, MAINTAIN, EXTEND AND OPERATE A SYSTEM FOR THE DISTRIBUTION, TRANSMISSION, FURNISHING OR SALE OF ELECTRIC POWER AND ENERGY TO THE ~~CITY~~ OF MALVERN, ARKANSAS, AND THE INHABITANTS AND ALL OTHER CONSUMERS THEREOF, AND TO USE THE STREETS, ALLEYS, BRIDGES AND OTHER PUBLIC GROUNDS OF THE TOWN IN CONNECTION THEREWITH; FIXING THE TERMS THEREOF, AND FOR OTHER PURPOSES.

WHEREAS, the ~~Town~~ ^{CITY} must have an adequate and dependable supply of electric power and energy to perform its governmental functions and to promote the peace, health and safety of its inhabitants; and

WHEREAS, electricity has become a household necessity, and an adequate and dependable supply of electric power and energy is essential for carrying on the business and industrial activity of this community; and

WHEREAS, it is in the public interest that there be no duplication of electric facilities on the streets; and

WHEREAS, the Arkansas Power & Light Company, by the acceptance of the rights and privileges granted hereunder, is willing to, and does, obligate itself, its successors and assigns, to meet the reasonable requirements of this Town and its inhabitants for electric power and energy;

NOW, THEREFORE, BE IT ORDAINED by the ~~Town~~ ^{CITY} Council of the ~~Town~~ ^{CITY} of

MALVERN, Arkansas, as follows:

Section 1. The ~~Town~~ ^{CITY} of MALVERN, Arkansas (hereinafter called Grantor) hereby grants to the Arkansas Power & Light Company, its successors and assigns (hereinafter called Grantee), the exclusive right, privilege and authority within the present and all future expansion of the corporate limits of the ~~Town~~ ^{CITY} of MALVERN, Arkansas, (1) to sell, furnish, transmit and distribute electric power and energy to Grantor and to all inhabitants and consumers within said limits, and (2) to construct, maintain, operate and extend a system for such purposes and to enter on, under and upon and use any and all of the streets, alleys, avenues, bridges and other public grounds and ways belonging to, or under the control of Grantor, for the purpose of erecting, maintaining, repairing, replacing

Town

and operating poles, wires, anchors, stubs, transformers, substations, cables, conduits, and other related facilities, appliances and apparatus which are necessary for, or useful in, the furnishing, sale, transmission or distribution of said electric service (hereinafter called facilities).

Section 2. Grantee shall, and does by acceptance hereof, agree to provide to the Town and its inhabitants adequate and reasonable electric service as a public utility and the facilities necessary to provide such service. Grantor, in recognition of the large and continuing investment necessary for Grantee to perform its obligations hereunder, and the need and duty to promptly construct its facilities, as defined above, required to serve customers, in all areas and zones of the ^{City} ~~Town~~, consents to the construction of such facilities as defined in Section 1 in all such areas and zones, and Grantor agrees to protect by ordinance, regulation and otherwise, to the fullest extent permitted by law, and except as otherwise limited herein, the grants of rights and privileges to Grantee set forth in Section 1 from interference with, or duplication by, other persons, firms or corporations seeking to engage in the sale or distribution of electric energy.

Section 3. All facilities of Grantee which may be located on public ways, places and public property, as authorized herein, shall be located so as to not unreasonably obstruct public use and travel. All of Grantee's facilities shall be constructed, operated and maintained in accordance with standards at least equivalent to the standards prescribed by the National Electrical Safety Code. Grantee, its successors and assigns, shall replace and repair, at its own expense, all excavations, holes or other damage caused or done by it to public streets, ways, places and public property in the construction, operation and maintenance of its facilities.

Section 4. The Grantee, its successors and assigns, is hereby given the right to trim, cut or remove trees, shrubbery or growth on or in public ways, places and public property which interfere or offer hazards to the operation of Grantee's facilities used or useful for the rendition of electric service, and, further, Grantee is hereby given the right, authority and permission to trim, cut and remove portions of trees, shrubbery or

Town

growth growing on private property but overhanging or encroaching on public ways, places and public property which interfere or offer hazards to the construction, operation and maintenance of Grantee's facilities.

Section 5. The rights, privileges and authority hereby granted shall exist and continue from the date of passage of this ordinance, and thereafter, until terminated in accordance with provisions of Section 44 of Act 324 of the 1935 Acts of the State of Arkansas, as presently enacted or hereafter amended.

Section 6. The rates which are to be charged by Grantee for electric service hereunder shall be those which are now lawfully approved or prescribed, and as said rates may, from time to time, be amended by Grantee in accordance with law or by any regulatory authority having jurisdiction thereof.

Section 7. In the construction, operation, and maintenance of its facilities, said Grantee shall use reasonable and proper precaution to avoid damage or injury to persons or property and shall hold and save harmless the said Grantor from damage, injury, loss or expense caused by the negligence of the Grantee, or its agents, servants or employees, in constructing, operating and maintaining said facilities or in repaving or repairing any streets, avenues, alleys, bridges or other public grounds.

Section 8. The Grantee shall endeavor at all times to keep its facilities in a reasonable state of repair, and to conform to such practices and install such appliances and equipment as may be in keeping with the customary usage and practice in towns of similar size in this State during the time this franchise shall remain in force.

Section 9. Beginning in 1966, and thereafter during the life of this franchise, the Grantee shall pay to Grantor each year, a franchise tax in an amount equal to: Four and twenty-five hundredths percent (4.25%) of the preceding calendar year's gross residential and commercial electric revenues as paid to the Grantee by residential and commercial customers located within the corporate limits of the ^{City} ~~Town~~ of MALVER. Payments shall be made by the Grantee to the Grantor in approximately equal quarterly installments beginning in JAN., 1966. Residential

Town

and commercial electric revenues are those revenues so classified pursuant to Grantee's uniform classification standards. Grantor shall have the right to examine and verify, from the records of the Grantee, any data relating to the gross revenues of Grantee from customers on which said franchise tax is due. In the event of a controversy between the Grantor and Grantee as to the amount of gross revenues received by Grantee in the ~~town~~^{CITY} of MALVERN upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Grantee, for final determination, and the decision of said Commission shall be binding upon both parties hereto.

It is expressly agreed and understood by the Grantor and Grantee that the aforesaid payment shall constitute and be considered as complete payment and discharge by the Grantee, its successors and assigns, of all licenses, fees, charges, impositions or taxes of any kind (Other than automobile license fees, special millage taxes, general ad valorem taxes and other general taxes applicable to all citizens and tax payers) which are now or might in the future be imposed by the Grantor under authority conferred upon the Grantor by law. In the event such other tax or taxes are imposed by Grantor, the obligation of the Grantee set forth in Section 9 hereof, to pay the ~~sum~~^{CITY} the sum of four and twenty-five hundredths percent (4.25%) annually of the gross residential and commercial electric revenues shall immediately terminate.

Section 10. Electric service furnished the Grantor for street lighting and other purposes shall be paid for by the Grantor in accordance with the applicable rate schedules of the Grantee now on file and/or as they may in the future be filed by the Grantee and approved by the Arkansas Public Service Commission or other regulatory authority having jurisdiction. The Grantee shall have the privilege of crediting any amount due Grantor with any unpaid balance due said Grantee for electric service rendered to said Grantor.

Section 11. Nothing herein shall be construed to prohibit any person, firm or corporation from owning and operating facilities for generating, distributing, or furnishing electric energy for his or its own use or the use of his or its tenants, all of which facilities and use are wholly on the same premises owned by such person, firm or corporation.

Section 12. Upon written acceptance by Grantee, this Ordinance shall constitute a contract between Grantor and the Grantee, and its successors and assigns.

Town

Section 13. If any provision, clause, word, section or grant of this Ordinance, or the application thereof to any person or circumstance be held invalid, such invalidity shall not affect any other provision, clause, word, section or grant of this Ordinance which can be given effect without the invalid provision or application, and to this end said provisions, clauses, words, sections and grants are hereby declared to be severable.

Section 14. All ordinances and parts of ordinances in conflict herewith, including, but not limited to Ordinance No. 480 dated SEPT. 2, 1952, are hereby repealed.

Section 15. It has been found, and is hereby declared by the ~~Town~~ ^{CITY} Council of the ~~Town~~ ^{CITY} of MALVERN that the present franchise contract for electric service is obsolete and that there is an urgent need to clarify and bring up to date the terms and provisions of the franchise under which electric service is provided to the ~~Town~~ ^{CITY} and other consumers therein, to agree upon adequate franchise tax by the utility furnishing such service to the ~~Town~~ ^{CITY} and to fix terms and conditions for the use of ~~Town~~ ^{CITY} streets, alleys and other public grounds for electric facilities; that it is in the public interest, convenience and necessity that there be no unnecessary duplication of such facilities; and that enactment of this Ordinance will provide these benefits to the ~~Town~~ ^{CITY} and its citizens. Therefore, an emergency is declared to exist, and this Ordinance being necessary for the preservation and advancement of the public peace, health and safety, shall take effect and be in full force from and after the date of its approval.

APPROVED this 12 day of Dec, 19 65.

Howard Wright
Title _____

ATTEST:

Town Clerk - Recorder

ACCEPTANCE

WHEREAS, the City Council of the City of Malvern of Hot Spring County, Arkansas, did on the 21st day of January A.D. 19 80, enact an ordinance entitled:

AN ORDINANCE WHEREBY THE CITY OF Malvern OF THE STATE OF ARKANSAS AND THE SOUTHWESTERN BELL TELEPHONE COMPANY, A MISSOURI CORPORATION, AGREE THAT THE TELEPHONE COMPANY SHALL CONTINUE TO OPERATE ITS TELEPHONE SYSTEM AND ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH THE CONDUCTING OF A TELEPHONE BUSINESS AND SYSTEM IN SAID CITY, AND ERECT AND MAINTAIN ITS PLANT CONSTRUCTION AND APPURTENANCES ALONG, ACROSS, ON, OVER, THROUGH, ABOVE, AND UNDER ALL PUBLIC STREETS, AVENUES, ALLEYS, PUBLIC GROUNDS AND PLACES IN SAID CITY, THAT THE CITY SHALL RECEIVE AN ANNUAL PAYMENT FROM THE TELEPHONE COMPANY, AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HERewith:

and

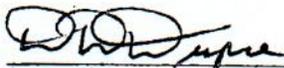
WHEREAS, said ordinance was on the 21st day of January A.D. 19 80, duly approved and signed by the Mayor of said City and the seal of said City thereto affixed and attested by the City Clerk:

NOW, THEREFORE, in compliance with the terms of said ordinance so enacted, approved and attested, the Southwestern Bell Telephone Company hereby accepts said ordinance and files this its written acceptance with the City Clerk of said City in his said office.

Dated this 11th day of February, 19 80

Approved:

SOUTHWESTERN BELL TELEPHONE COMPANY


General Attorney

By 
Vice President-Arkansas

Acceptance filed in the office of the City Clerk of Malvern, Ar.

This 11th day of March A.D. 19 80


City Clerk

ORDINANCE NO. _____

AN ORDINANCE WHEREBY THE CITY OF Malvern OF THE STATE OF ARKANSAS AND THE SOUTHWESTERN BELL TELEPHONE COMPANY; A MISSOURI CORPORATION; AGREE THAT THE TELEPHONE COMPANY SHALL CONTINUE TO OPERATE ITS TELEPHONE SYSTEM AND ALL BUSINESS INCIDENTAL TO OR CONNECTED WITH THE CONDUCTING OF A TELEPHONE BUSINESS AND SYSTEM IN SAID CITY; AND ERECT AND MAINTAIN ITS PLANT CONSTRUCTION AND APPURTENANCES ALONG; ACROSS; ON; OVER; THROUGH; ABOVE AND UNDER ALL PUBLIC STREETS; AVENUES; ALLEYS; PUBLIC GROUNDS AND PLACES IN SAID CITY; THAT THE CITY SHALL RECEIVE AN ANNUAL PAYMENT FROM THE TELEPHONE COMPANY; AND REPEALING ALL ORDINANCES AND AGREEMENTS IN CONFLICT HEREWITH:

WHEREAS; the City desires to enact and impose upon the Telephone Company a tax which shall be in lieu of all other licenses, charges, fees or special taxes other than the usual general or special ad valorem taxes, and

WHEREAS; the City recognizes and concurs in the purpose and intent of an order of the Arkansas Public Service Commission entered on February 7, 1980, in Docket U-3013 relating to the treatment by the Telephone Company of all City special taxes;

NOW; THEREFORE; BE IT ORDAINED by the City Council of the City of Malvern, State of Arkansas that:

SECTION 1. The Southwestern Bell Telephone Company, its successors and assigns (herein referred to as "Telephone Company") shall continue to operate its telephone system and all business incidental to or connected with the conducting of a telephone business and system in the City of Malvern, State of Arkansas, (herein referred to as "City"). The plant construction and appurtenances used in or incident to the giving of telephone service and to the maintenance of a telephone business and system by the Telephone Company in said City shall remain as now constructed, subject to such changes as may be considered necessary by the City in the exercise of its inherent powers and by the Telephone Company in the conduct of its business and said Telephone Company shall continue to exercise its right to place, remove, construct and reconstruct, extend and maintain its said plant and appurtenances as the business and purpose for which it is or may be incorporated may from time to time require, along, across, on, over, through, above and under all the public streets, avenues, alleys, and the public grounds and places within the limits of said City as the same from time to time may be established.

SECTION 2. The Telephone Company shall pay to the City an annual sum of \$ 31,619 in 1981 and each year thereafter to be paid in four quarterly payments on or before March 31, June 30, September 30, and December 31 each year.

SECTION 3. The annual payment herein required shall be in lieu of all other licenses, charges, fees or impositions (other than the usual general or special ad valorem taxes) which may be imposed by the City under authority conferred by law. The Telephone Company shall have the privilege of crediting such sums with any unpaid balance due said Company for telephone services rendered or facilities furnished to said City.

SECTION 4. The Telephone Company on the request of any person shall remove or raise or lower its wires temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting the same, and the Telephone Company may require such payment in advance. The Telephone Company shall be given not less than forty-eight hours advance notice to arrange for such temporary wire changes.

SECTION 5. Permission is hereby granted to the Telephone Company to trim trees upon and overhanging streets, alleys, sidewalks and public places of said City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Telephone Company, all the said trimming to be done under the supervision and direction of any City official to whom said duties have been or may be delegated.

SECTION 6. Nothing in this Ordinance contained shall be construed to require or permit any electric light or power wire attachments by the City or for the City. If light or power attachments are desired by the City or for the City, then a separate non-contingent agreement shall be a prerequisite to such attachments.

SECTION 7. Nothing herein contained shall be construed as giving to the Telephone Company any exclusive privileges, nor shall it affect any prior or existing rights of the Telephone Company to maintain a telephone system within the City.

SECTION 8. All other ordinances and agreements and parts of ordinances and agreements relating to the operating of or right to operate a telephone system within said City are hereby repealed.

SECTION 9. The said Telephone Company shall have ninety (90) days from and after its passage and approval to file its written acceptance of this ordinance with the City Clerk, and upon such acceptance being filed, this Ordinance shall be considered as taking effect and being in force from and after the date of its passage and approval by the Mayor. The Ordinance shall continue in effect and be in force until terminated by the City or the Telephone Company as of the end of any year after giving one (1) year's written notice of intention to terminate.

Approved this _____ day of _____, 19____.

Mayor

City Clerk

ARKANSAS POWER & LIGHT COMPANY

Little Rock, Arkansas
December 22, 1965

REGISTERED MAIL
RETURN RECEIPT REQUESTED

City of Malvern
City Hall
Malvern, Arkansas

Attention: Honorable Howard Wright, Mayor

Gentlemen:

Arkansas Power & Light Company hereby acknowledges receipt of a copy of Ordinance No. 637 of the City of Malvern, adopted by the City Council on December 7, 1965, granting to the Company, its successors and assigns, a franchise which is subject to written acceptance by the Company.

This will constitute formal notice to the City of Malvern that Arkansas Power & Light Company does hereby accept, as provided in Section 12 thereof, Ordinance No. 637 of the City of Malvern and all of the privileges, rights and terms thereof, as a franchise contract.

Very truly yours,

ARKANSAS POWER & LIGHT COMPANY

By *A. H. Galloway*
Vice President

cc; Mr. Edwin A. Galloway, Recorder

First Reading November 15, 1976
Second Reading December 6, 1976
Third + PASSED Dec. 20, 1976
Repealed March 21, 1978

ORDINANCE NO. 796

AN ORDINANCE AMENDING SECTION 2 OF ORDINANCE NO. 718 OF THE CITY OF MALVERN, ARKANSAS, COMPUTING ANNUAL FRANCHISE TAX ON PERCENTAGE OF GROSS REVENUES IN LIEU OF PAYMENT OF SET AMOUNT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Malvern is entitled to receive such just and reasonable taxes from the Southwestern Bell Telephone Company, hereinafter referred to as "Telephone Company", which the City may lawfully impose and the Telephone Company is entitled to pay; and

WHEREAS, the City is desirous of changing the basis of its computation of annual franchise tax from a set fee as stated in Ordinance No. 718 to a fee based on a percentage of gross revenues collected by the Telephone Company;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF MALVERN, ARKANSAS:

SECTION 1: That Section 2 of Ordinance No. 718 be amended in its entirety to read as follows:

"SECTION 2: Beginning in 1977 and thereafter during the existence of this ordinance, the Telephone Company shall pay to the City a franchise tax in an amount equal to: FOUR AND TWENTY-FIVE HUNDREDTHS per cent (4.25%) of the preceding calendar year's gross residential and commercial telephone revenues as paid to the Telephone Company by residential and commercial customers located within the corporate limits of the City of Malvern. Payments shall be made by the Telephone Company to the City in approximately equal quarterly installments beginning in January, 1977. The City shall have the right to examine and verify, from the records of the Telephone Company, any data relating to the gross revenues of the Telephone Company from customers on which said franchise tax is due. In the event of a controversy between the City and the Telephone Company as to the amount of gross revenues received by the Telephone Company in the City of Malvern upon which said tax is due, such controversy shall be referred to the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Telephone Company, for final determination and the decision of said Commission shall be binding upon both parties hereto."

SECTION 2: It is hereby found by the Board of Directors of the City of Malvern that there is an urgent need for additional revenues for the City. Therefore, an emergency is hereby declared to exist, and this ordinance being necessary for the preservation and advancement of the public peace, health and safety shall be in full force and effect from and after its

Ordinance No. 196

Page Two

passage.

APPROVED this 20th day of December, 1976.

APPROVED:

Wayne Selph
WAYNE SELPH, MAYOR

ATTEST:

Dorothy M Keith
DOROTHY KEITH, CITY CLERK

12/22

City Manager's Office
City of Malvern

BOARD OF DIRECTORS

Fred Lederer
Wayne Reynolds
Arlin Jones
Sam Sampson
Charles Carroll
Jim Bray
James Cranford

305 Locust Street
Malvern, Arkansas 72104
(501) 332-3638



Malvern - Arkansas' Industrial City

December 10, 1979

Bob Mathis
District Manager
P.O. Box 5058
Hot Springs, AR 71901

Dear Bob:

As you know, Southwestern Bell contributes an annual flat rate franchise fee of \$23,814.00 to the City of Malvern. I believe this fee and the method of payment were decided upon two years ago. (Ordinance #806)

The City of Malvern collects franchise fees from two other sources, but these are computed on the basis of a percentage of gross revenues.

I have not been able to locate any correspondence or documentation concerning the negotiations between the telephone company and the City. Therefore, it is not clear why a flat rate was preferred to a gross revenues percentage, and how the annual figure was decided upon.

I would appreciate the opportunity to meet with you informally to discuss these matters. Any time or place which would be convenient for you would be fine.

By the way, I'd like to take this opportunity to thank you for lunch last week. I think everyone enjoyed it with the possible exception of Pete Paladino.

Sincerely,

David Meriwether
Acting City Manager

DM/cp

cc: Arlin Jones
Mac Glover

THE CITY OF MALVERN
Arkansas' Industrial City

February 3, 1977

Mr. Wayne Reynolds
City Director
2134 Taylor
Malvern, Arkansas 72104

Mr. Larry Wilson ✓
Interim City Manager
City Hall
Malvern, Arkansas 72104

Dear Wayne and Larry:

Enclosed for your individual review is copy of memorandum from Ron Lemay, General Attorney for Southwestern Bell, regarding our telephone franchise tax ordinance. I have also enclosed copies of the Statutes cited by Mr. Lemay in his memorandum.

Frankly, I question our authority to even levy a franchise tax on them in the first place. Aside from that, the Bell people continue to tell me they don't mind paying us a franchise or license fee--whether computed by 4.25% of their gross earnings or otherwise--so long as it is stated in terms of a flat fee. All that I have been able to glean out of one of their staff attorneys, whom I know personally and with whom I spoke earlier this week, is that: (1) They question whether we can legally do this, and (2) It causes an internal accounting problem for them. (Wayne, you will have to explain to me the latter explanation.)

After each of you has read the memorandum and the supportative Statutes, let's discuss the matter, perhaps after the Board meeting Monday evening. The "Bell System" has not guaranteed me free phoning privileges for my opinion; notwithstanding, I'm inclined to suggest that we redraft the ordinance, expressing the flat fee amount.

Awaiting your comments, I remain

Sincerely,


~~DAVID M. GLOVER~~
City Attorney

DMG/sj
Enclosures
CITY ATTORNEY

CITY HALL

MALVERN, ARKANSAS 72104



Southwestern Bell

January 24, 1977

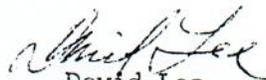
D. M. "Mac" Glover
Attorney at Law
130 West Second
Malvern, Arkansas 72104

Dear Mac:

Attached is the correspondence from our General Attorney,
Mr. Lemay, regarding the Ordinance which was recently passed in Malvern.

I will be back in touch with you in a few days to discuss this
matter.

Yours very truly,


David Lee
Manager

DL:1
(Attachment 1)

Memorandum Re: Malvern Ordinance No. 796

An analysis of Ordinance No. 796 must begin with the Constitution of the State of Arkansas. Article 12, Section 3 provides as follows:

"Cities and towns--Organization under general laws.-- The General Assembly shall provide, by general laws, for the organization of cities (which may be classified) and incorporated towns, and restrict their power of taxation, assessment, borrowing money and contracting debts, so as to prevent the abuse of such power."

Because of the foregoing constitutional provision, cities derive the power to tax only by virtue of specific statutory authority. Although neither Ordinance No. 718 nor 796 recite the statutory basis upon which the tax is based, such a tax can only be levied pursuant to Ark. Stats. Ann. Section 19-4601. Cities may not "franchise" Southwestern Bell to occupy public streets for the reason that the legislature has granted to it a statewide franchise by Ark. Stats. Ann. 73-1801. It should be noted in this context that telephone companies are granted an unconditional franchise whereas light and power companies are granted a statewide franchise made dependent upon the securing of permission of the proper municipality. Ark. Stats. Ann. 35-301.

Consequently, 19-4601 is the city's authority to tax and a review of 19-4601 shows the following. The tax is limited to businesses who do not pay a tax to the city, town or State on gross incomes. Southwestern Bell pays tax to the State pursuant to 73-249 which is computed using gross incomes. The question immediately arises as to whether any tax may be levied by the city because of 73-249. Moreover, 19-4601, specifically prohibits a tax classification based upon earnings or income which is precisely what is done in Ordinance No. 796.

For the foregoing reasons, it is my opinion that Ordinance No. 796 is in excess of the city's statutory authority to tax and the city should revert back to a flat rate basis.

Ronald P. J. May

General Attorney

First Reading, December 6, 1976
Second Reading, December 6, 1976
Third Reading, Dec. 20, 1976

ORDINANCE NO. 795

AN ORDINANCE PROVIDING FOR THE COMPUTATION OF ANNUAL FRANCHISE TAX OF ARKANSAS LOUISIANA GAS COMPANY ON PERCENTAGE OF GROSS REVENUES; AND DECLARING AN EMERGENCY.

WHEREAS, the Arkansas Louisiana Gas Company, hereinafter referred to as "Gas Company", is or will be duly authorized by franchise ordinance to operate a gas distribution system and appurtenances thereto used in or incident to the rendition of gas service to the City of Malvern, Arkansas (hereinafter referred to as "City", and the citizens residing within the corporate limits of the City: and

WHEREAS, the Gas Company is now or will be occupying the streets and alleys of City for the purposes of operating, maintaining, extending and supplying its gas service to the said City and its citizens: and

WHEREAS, the City is entitled to receive such just and reasonable taxes from the Gas Company which the City may lawfully impose and the Gas Company is entitled to pay; and

WHEREAS, the City is desirous of changing the basis of its computation of annual franchise tax from a set fee as stated in existing ordinance to a fee based on a percentage of gross revenues collected by the Gas Company;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF MALVERN, ARKANSAS:

SECTION 1: Beginning in 1977 and thereafter during the existence of this ordinance, the Gas Company shall pay to the City a franchise tax in an amount equal to: FOUR AND TWENTY-FIVE HUNDREDTHS per cent (4.25%) of the preceding calendar year's gross residential and commercial gas revenues as paid to the Gas Company by residential and commercial customers located within the corporate limits of the City of Malvern. Payments shall be made by the Gas Company to the City in approximately equal quarterly installments beginning in January, 1977. The City shall have the right to examine and verify, from the records of the Gas Company, any data relating to the gross revenues of the Gas Company from customers on which said franchise tax is due. In the event of a controversy between the City and the Gas Company as to the amount of gross revenues received by the Gas Company in the City of Malvern upon which said tax is due, such controversy shall be referred to

Ordinance No. 795

Page Two

the Arkansas Public Service Commission, or such successor regulatory agency which may have jurisdiction over the Gas Company, for final determination and the decision of said Commission shall be binding upon both parties hereto.

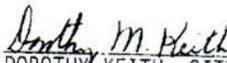
SECTION 2: It is hereby found by the Board of Directors of the City of Malvern that there is an urgent need for additional revenues for the City. Therefore, an emergency is hereby declared to exist, and this ordinance being necessary for the preservation and advancement of the public peace, health and safety shall be in full force and effect from and after its passage.

APPROVED this 20th day of December, 1976.

APPROVED:


WAYNE SELPH, MAYOR

ATTEST:


DOROTHY KEITH, CITY CLERK

12/22

ADEQ

ARKANSAS
Department of Environmental Quality

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (91 7199 9991 7036 5030 1007)

JUN 21 2016

The Honorable Brenda J. Weldon
Mayor, City of Malvern
305 Locust Street
Malvern, AR 72104

RE: Small Municipal Separate Storm Sewer System (MS4) General Permit ARR040000

Dear Mayor Weldon,

The Census Bureau has completed the update of urbanized areas in the US from the 2010 Census data. According to this latest census, Malvern has a population of greater than 10,000 and a population density of greater than 1,000 people per square mile, which meets the minimum requirements for your community to obtain coverage for stormwater discharges under the Small Municipal Separate Storm Sewer System (MS4) General Permit, ARR040000, in accordance with 40 CFR 123.35(b)(2).

Part 2.1.2 of ARR040000 requires that you submit an application for coverage within 180 days of this notification from the Department. The application includes a Notice of Intent (NOI), a Stormwater Management Program (SWMP) outline, and a \$200.00 permit application fee. The NOI is attached to this correspondence. The SWMP requirements can be found in Part 3 of ARR040000, which is also attached to this correspondence. The completed application should be received by the Department, no later than 180 days after the date of this letter, at the following address or email address:

Arkansas Department of Environmental Quality
Permits Branch, Office of Water Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

via email: water-permit-application@adeq.state.ar.us

Digital copies of the permit and NOI, as well as additional information regarding the permit can be found on the Department's website at the address below:

<https://www.adeq.state.ar.us/water/permits/npdes/stormwater/>

If you have any questions concerning this matter or need additional information, please feel free to contact Blake Ahrendsen, of my staff, at (501) 682-0626 or by email at ahrendsen@adeq.state.ar.us.

Sincerely,



Robert E. Blanz, PhD, PE
Acting Senior Operations Manager
Office of Water Quality

RB:ba

Attachments: Notice of Intent
ARR040000
cc: Electronic Files (ARR040000)
Richard Healey, Branch Manager, Enforcement Branch

SEWER ORDINANCE UPDATE

Ordinance No. 14.12.300 (1966)

AN ORDINANCE TO REGULATE SOIL, SAND, ANIMAL AND VEGETABLE FATS, OILS, AND GREASE, AS WELL AS LINT TRAPS AND INTERCEPTORS. BE IT ENACTED BY THE CITY OF MALVERN, ARKANSAS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MALVERN AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to limit the discharge of fats, oil, and grease (FOG), flammable substances, soil, sand, and other harmful waste into the collection system and wastewater treatment facility of the City of Malvern Municipal Utilities by requiring certain owners or operators to provide a device to intercept and eliminate these waste from the sewer collection system and to enable the City of Malvern to comply with it's National Pollutant Discharge Elimination System (NPDES) permit, and to comply with all other state and federal laws on sludge disposal, sludge use, and other requirements.

Section 2. Definitions. In the interpretation and application of this chapter the following words and phrases shall have the indicated meanings:

1. "Administrative Authority." Malvern City Code Enforcement Officer and the Superintendent of the Sewer Department
2. "FOG" Fats, oils, and grease
3. "Grease Interceptor." An interceptor whose rate flow is 50 g.p.m. or less and is typically located inside the building.
4. "Grease Recovery Device (GRD)." A receptacle designed to collect and retain fats, oil, and grease normally found in kitchen and similar waste. A device installed in the drainage system between the kitchen or other point of production of the waste and building sewer.
5. "Grease Trap." An interceptor whose rate flow exceeds 50g.p.m. and is located outside the building.
6. "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal waste, while permitting normal sewage or waste to discharge into the drainage system by gravity.
7. "Black water" Septic and human waste water's
8. "Separator." A receptacle designed to remove oil and grease from wastewater by separation, usually by simple flotation or by chemical addition where the oils or grease are soluble or emulsified.
9. "Superintendent." Wastewater Superintendent of the City Utility

Section 3. Fats, Oil, and Grease (FOG), waste food, soil, and sand interceptors. FOG, waste food and sand interceptors shall be installed by owner or operator when, in the opinion of the Administrative Authority, they are necessary for the proper handling of liquid waste containing fats, oils, and grease, ground food waste, sand, soil, and solids, or other harmful ingredients in excessive amounts which impact the wastewater collection system. Such interceptors are not required for single-family residences, but may be required on multiple family residences. All interceptors shall be of the type and capacity approved by the Malvern City Code Enforcement Officer and/or the Superintendent of the Sewer Department, and shall be located as to be readily and easily accessible for cleaning and inspection.

Section 4. General Criteria of Fats, Oil, Grease, and Food Waste.

1. The Superintendent may periodically inspect each facility on an as-needed basis to assure that each facility is complying with this ordinance.
2. Through preventive maintenance records or emergency calls related to FOG, the Superintendent may identify and target "grease problem areas" in the wastewater collection system. Food service and other similar facilities located upstream of these problem areas and discharge their waste water into the "problem" lines will be identified as potential contributors to the grease buildup. The Superintendent may inspect the grease interceptors of all food service and similar facilities in the vicinity of the "problem area", making note of maintenance records, sizing, and condition.
3. The facility's grease control practices and the adequacy of their grease control interceptor/equipment may be assessed. Maintenance records may also be reviewed.
4. Following the inspections, the Superintendent may send written notice to the inspected food service or other similar facility the results of the inspection. An inspection will result in one of the following actions:
 - a. Facilities equipped with an appropriate and adequately sized grease interceptor will be notified of their compliance.
 - b. Facilities that are not in compliance shall be required to develop, and submit to the Superintendent, and implement a proposed plan design to achieve compliance through, including but not limited to improved housekeeping, increased maintenance, or pumping on the existing grease interceptor and equipment.
 - c. Facilities that fail to achieve compliance through the additional required plan shall be required to install the necessary interceptor and equipment to bring the facility into compliance. The Administrative Authority may provide the Customer a reasonable period of time to achieve compliance.
5. Floor drains which discharge or have the potential to discharge grease shall be connected to a grease interceptor.
6. Black water shall not be discharged to the interceptor.
7. Upon new construction, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, daycare facilities, grocery stores, strip malls, community facilities, prisons, jails, camps, caterers, manufacturing plants, entities with a group of users that have multiple sewer facilities that have common ownership and the sewer facilities are part of a unified collection system that interconnects with the public collection system, and churches that prepare food for profit or donation, multiple family residences, and any other sewer owner or operator who discharge applicable waste shall install and maintain a certified grease trap, grease interceptor, separator or grease recovery devise for the efficient removal of FOG and other identified improper waste from the waste stream.
8. The owner or operator for all new installations or renovations that affect plumbing shall purchase a plumbing permit. Based on the Arkansas State Plumbing Code, the Malvern City Code Enforcement Officer and/or the Superintendent of the Sewer Department shall approve the design, size, type, installation, and location of each interceptor, or separator. No waste other than those requiring treatment, or separation, shall be discharged into any interceptor.
9. Required interceptors and grease traps shall be operated properly and cleaned regularly by the owner or operator to prevent the escape of grease solids into the collection system. The owner or operator shall maintain the interceptor at less than 25% of the grease retention capacity is filled with accumulated grease. The owner

or operator shall tightly cover the grease interceptor to prevent odor and to exclude insects and vermin.

Section 5. Non-Exemption of ordinance.

All existing and new constructed restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, daycare facilities, grocery stores, strip malls, community facilities, prisons, jails, camps, caterers, manufacturing plants, entities with a group of users that have multiple sewer facilities that have common ownership and the sewer facilities are part of a unified collection system that interconnects with the public collection system, and churches that prepare food for profit or donation, multiple family residences, and any other sewer user who discharge applicable waste shall be required to follow the requirements of this ordinance and install and maintain a certified grease trap, grease interceptor, separator or grease recovery device for the efficient removal of FOG and other identified improper waste from the waste stream.

Section 6. Exemption of ordinance.

With the exception of Section 9, churches that do not prepare food for profit or donation, private-single family living quarters, snow cone and shaved ice stands, where no other type of food is prepared; grocery stores without food preparation, delicatessens, bakeries, meat packing, butchering process, and related activities, daycare centers primarily using micro waved dishes or single service items, confectionery stores which sell exclusively unpackaged sweets, confection, nuts, ice cream, yogurt, and variety food items; produce markets, mobile food establishments in a vehicle or trailer designed to be easily movable and not discharging to the collection system are exempt from the requirements of this ordinance.

Any customer exempt from any provision of this ordinance shall notify the Superintendent upon a change of ownership of the customer, of such change.

Section 7. Sand, soil, and oil interceptors. All car washes, garages, service stations, and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors.

1. There shall be no exemptions granted for Section 6. Sand, soil, and oil interceptors.
2. "New construction, renovation, and existing structures." All car washes, truck washes, garages, service stations, and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors.
3. These interceptors shall be sized to effectively remove sand, oil, and soil at the expected flow rates. An oil separator shall be installed in the drainage system or section of the system where, in the opinion of the Malvern City Code Enforcement Officer and/or the Superintendent of the Sewer Department, a hazard exists, or where oils or other flammables can be introduced or admitted to the sewer system by accident or otherwise. Sand and similar interceptors for heavy solids shall be of an approved design and so located as to be readily accessible for cleaning. The device shall have a water seal of not less than 6 inches and shall be installed when and where directed by the Malvern City Code Enforcement Officer and/or the Superintendent of the Sewer Department. Each interceptor shall be vented properly by the owner or operator.
4. The owner or operator shall keep these interceptors cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners or operators with interceptors deemed to be ineffective by the Superintendent shall

- take action to correct the problem by increasing the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities shall prevent the inflow of rainwater into the sanitary sewers.
5. The owner or operator for all new installations or renovations that affect plumbing shall purchase a plumbing permit. Based on the Arkansas State Plumbing Code, the Malvern City Code Enforcement and/or the Superintendent of the Sewer Department shall approve the design, size, type, installation, and location of each sand, soil, and oil interceptor.

Section 8. Laundries. Commercial laundries shall be equipped with an interceptor with wire basket or similar device, removable for cleaning, that prevent passage into the sewer system of solids ½ inch or larger in size such as, strings, rags, buttons, lint, or other solids detrimental to the system. The owner or operator for all new installations or renovations that affect plumbing shall purchase a plumbing permit. Based on the Arkansas State Plumbing Code, the Malvern City Code Enforcement shall approve the design, size, type, and location of each interceptor.

Section 9. Solvents Prohibited.

The owners and operators are prohibited from use of degreasing or line cleaning products containing petroleum-based solvents is prohibited.

Section 10. Control Equipment Efficiency.

The owner or operator shall maintain equipment at the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations, and treatment plant. If the City of Malvern is required to clean out the public sewer lines as a result of a stoppage caused by the owner or operator's violation of this ordinance, then the owner's or operator's shall be required to refund the labor, equipment, materials, and overhead costs to the City to correct any problem caused by the violation. Nothing in this section shall be construed to prohibit or restrict any other remedy the City has under this ordinance, or state or federal law.

Section 11. Enforcement.

City of Malvern shall enforce this ordinance through the Administrative Authority. Whenever City of Malvern finds that any owner or operator has violated or is violating this ordinance, or any prohibition, limitation, or requirements contained herein, City of Malvern shall initiate corrective action, which may include but not be limited to the following:

- A. The Superintendent may issue the owner or operator a written notice stating the nature of violation. Within fifteen (15) days of the date of notice, the owner or operator thereof shall submit a plan for the satisfactory correction to the Superintendent.
- B. The Administrative Authority may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the owner or operator responsible for noncompliance. Such orders shall include specific action to be taken by the owner or operator to correct the noncompliance with a time period specific by the order.
- C. When the Administrative Authority finds that an owner or operator has violated or continues to violate the provisions set forth in this ordinance, or the order issued hereunder, the Administrative Authority may issue an order for compliance to the owner or operator responsible for the discharge. Orders may contain any requirements as might be reasonable, necessary, and appropriate to address the noncompliance, including but not be limited to the installation of pretreatment technology, additional self-monitoring, and modified management practices.

- D. The Administrative Authority, under the authority of City of Malvern, may suspend water service, with or without notice, when such suspension is necessary, in the opinion of the Superintendent, in order to stop an actual or threatened discharge which:
1. Presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment;
 2. Causes stoppages, sanitary sewer overflows, or excessive maintenance to be performed to prevent stoppages in the sanitary sewer collection system;
 3. Causes interference to the sewer system; or
 4. Causes or increases the likelihood that the City of Malvern will violate any condition of its NPDES permit, other law, or regulation. Any person notified of a violation shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, City of Malvern shall take such steps as deemed necessary, including immediate termination of water service, to prevent or minimize damage to the sewer system or endangerment to any individuals. City of Malvern shall reinstate the water service when such conditions causing the suspension have been eliminated and the reconnection fee paid. A detailed written statement submitted by the owner or operator describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Superintendent within fifteen (15) days of the date of occurrence.
- E. Notwithstanding any other remedies or procedures available to City of Malvern, any owner or operator who is found to have violated any provision of this ordinance, or any order issued hereunder, may be assessed an administrative fee, not to exceed five hundred dollars (\$500) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessment may be added to the owner or operator's next scheduled sewer service charge and City of Malvern shall have such other collection remedies as are available by law.
- F. Any owner or operator affected by a fee, order, or directive of City of Malvern issued pursuant to this ordinance may, within ten (10) days of the issuance of such fee, order, or directive, request a hearing in writing before City of Malvern to show cause why such should be modified or made to not apply to such owner or operator. The requested hearing shall be held as soon as practical after receiving the request, at which time the owner or operator affected shall have an opportunity to be heard. At the conclusion of the hearing, City of Malvern shall issue a written response to the person requesting the hearing affirming, modifying, the fee, or rescinding the penalty, order, or directive at issue.

Section 12. Each of the sections of this ordinance is declared to be separable and severable, and if any section shall be declared invalid, the remaining sections shall not be affected but shall remain in full force and effect.

Section 13. It is necessary that this ordinance shall become effective immediately in order to provide of the immediate protection of the public peace, health, and safety, and shall take effect upon its passage and approval.

Passed this _____ day of _____, 2015

APPROVED:

Brenda Weldon, Mayor

ATTEST:

Phyllis Dial, City Clerk