

2402

T. EDWARD SMITH,  
COMPLAINANT,  
VS.  
CLARICE FARRIS, ET ALS,  
RESPONDENTS.

IN THE CIRCUIT COURT OF  
SHELBY COUNTY, ALABAMA  
EQUITY CASE NO. 4773

FINAL DECREE

This cause coming on for Final Decree on the Complainant's original Bill of Complaint, Answer of the Respondent Clarice Farris, individually, and as Executrix of the Last Will and Testament of O. C. Farris, deceased, and of the Respondent Fay Farris, Answer of the Respondent City Federal Savings and Loan Association, a corporation, Answer of the Respondent Exchange Security Bank, a corporation, Answer of the Respondent Bernice Hightower, Answer of the Guardian ad Litem for the minor Respondents Mary Lynn Farris and Deborah Farris, upon the testimony of witnesses taken ore tenus in open court, upon the several documentary exhibits offered into evidence in connection therewith, and upon the other pleadings and proof as noted by the Register, and the court, having considered and understood the same, is of the opinion that the allegations of fact as made in said Bill of Complaint are true and correct and that the Complainant is entitled to the relief prayed for in said Bill of Complaint, the court in this cause making the following findings of fact:

1. That as between the Complainant and the Respondents, the Complainant, T. Edward Smith, is the owner of the following described real estate situated in Shelby County, Alabama, viz.:

A parcel of land situated in the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 22, Township 22 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows: Commence at the NE corner of said quarter-quarter section; thence run Southerly along the East line of said quarter-quarter section for 706.60 feet to a concrete monument on the Northerly right of way line of Alabama Highway No. 25; thence 00 deg. 12 min. 04 sec. right and run Southerly for 392.13 feet to a concrete monument on the Southerly right of way line of said Highway #25; thence





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89 deg. 30 min. 34 sec. right and run Westerly along said Southerly right of way line of said Alabama Highway No. 25 for 225.15 feet to the point of beginning; thence continue Westerly along said Southerly right of way line for 63.19 feet to a concrete monument on said Southerly right of way line; thence an angle of deflection of 16 deg. 04 min. to the right and continue Westerly along said Southern right of way for 143.15 feet to a concrete marker on said Southerly right of way line said point being on the Easterly right of way line of Interstate Highway No. 65; thence to the left with an interior angle of 74 deg. 34 min. 30 sec. and run Southerly along said Easterly right of way line for 381.64 feet; thence to the left with an interior angle of 92 deg. 11 min. 48 sec. and run Easterly for 143.15 feet; thence to the left with an interior angle of 86 deg. 33 min. 42 sec. and run Northerly for 184.20 feet; thence at an angle of deflection which is 21 deg. 47 min. to right and run Northeasterly for 176.85 feet; to the point of beginning, said parcel contains 1.29 acres,

subject to the first mortgage encumbering said property held by the Respondent, City Federal Savings and Loan Association, and subject to a second mortgage encumbering said property held by Exchange Security Bank, and subject to a third mortgage encumbering said property held by Bernice Hightower, and subject to a sewer line easement heretofore granted to O. C. Farris on August 22, 1964, as shown by document recorded in Deed Book 231 at page 868, Office of Judge of Probate of Shelby County, Alabama;

2. That said document granting said sewer line easement, a copy of which is recorded in Deed Book 231 at page 868 in said Probate Office which is referred to above in paragraph No. 1 of this Decree, is ambiguous and should be construed in this cause by this court, there having existed at the time of the filing of the Bill of Complaint in this cause an actual controversy between the Complainant and all or some of the Respondents to this cause on which substantial property rights are dependent as to the reasonable interpretation and construction of said document granting said sewer line easement, and that the Complainant is entitled to have determined in this cause his rights and authority in and to his said real property more particularly described above in paragraph No. 1 of this Decree, as limited by said sewer line easement.



IT IS, THEREFORE, CONSIDERED, ORDERED, ADJUDGED AND DECREED by the court as follows:

A. That the pipeline or sewer line shown on the survey of Joseph A. Miller, Jr., Registered Land Surveyor, dated May 15, 1969, a copy of said survey being attached hereto as Exhibit "A", and by reference hereto being made a part hereof, was heretofore laid and constructed over and across the real property more particularly described above in paragraph No. 1 of this Decree by virtue of the rights granted by Cecil E. Pardue, et als, to O. C. Farris by document dated August 22, 1964, and recorded in Deed Book 231 at pages 868 and 869, Office of Judge of Probate of Shelby County, Alabama, and that said document did not grant the right to construct any other pipeline or sewer line nor to impose any other servitude on said real property, and that said pipeline or sewer line may not be relocated within the boundaries of said real property without the express consent of the Complainant, T. Edward Smith, as owner of said real property, heirs, personal representatives, or his successors and assigns in title;

B. That the right of ingress and egress for the purpose of maintaining said sewer line is and shall be limited to a strip of land extending no more than five (5) feet on either side of the present location of said sewer line; That the Complainant, T. Edward Smith, as owner of said real property, and his heirs, personal representatives, successors and assigns, shall have the right to utilize the area over said sewer line and to fill, grade, pave, and place signs, and landscape, but not to construct buildings or gasoline pumping stations, or the base portion of any sign, over the area covered by said easement as herein limited. In the event it shall be necessary to disturb such pavings, fillings, grading, signs, or landscaping in order to maintain said sewer, the Respondents or their heirs, personal representatives, successors and assigns as owners of said easement, may do so, provided that such paving, filling, grading, signs and landscaping are fully restored and replaced at sole expense of said Respondents and heirs, personal representatives, successors and assigns, who or which may require such



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alterations, and providing further that the maintenance work and restoration work shall be diligently pursued, so as to minimize the inconvenience to the Complainant T. Edward Smith, and his heirs, personal representatives, successors and assigns, as owners of said real property more particularly described above in paragraph No. 1 of this Decree.

C. That the Complainant and the Respondents, separately heirs, personal representatives, and severally, and their successors and assigns, separately and severally, be, and they are hereby, each bound by the terms and provisions of this decree and the construction of said sewer line easement as determined herein.

D. That a copy of this decree certified by the Register as being correct be recorded by the Register in the Office of the Judge of Probate, Shelby County, Alabama, and that it be indexed in the names of the Respondents to this cause, and also in the name of the Complainant, on both the direct index and the indirect index, and that the recording fee therefor be taxed as part of the costs in this cause.

IT IS FURTHER CONSIDERED, ORDERED, ADJUDGED AND DECREED by the court that the costs the court accrued in this cause, including a fee of \$100.00 to be paid to Honorable Karl C. Harrison for his services as Guardian ad Litem in this cause, be, and the same are hereby, taxed against the Complainant, T. Edward Smith, for which let execution issue.

DONE AND ORDERED this 25th day of March, 1971.

S/ James H. Sharbutt  
Judge

FILED IN OFFICE, This the 25 day  
of March 1971  
*Kyle Langford*  
Register Circuit Court of  
Shelby County, Alabama

22  
BOOK 257 PAGE

STATE OF ALABAMA

SHELBY COUNTY

I, Kyle Lansford, Register of the Law and Equity Court of Shelby County, Alabama, do hereby certify that the foregoing is a true and correct copy of the original decree entered and rendered by the Judge of the Law and Equity Court of Shelby County, Alabama, in the above styled cause, which said decree is on file and enrolled in my office.

Witness my hand and seal this the 25<sup>th</sup> day of March, 1971.

*Kyle Lansford*  
Register of the Law and Equity Court  
of Shelby County, Alabama



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FILED IN OFFICE, This the 25 day  
of March 1971  
*Kyle Lansford*  
Register Circuit Court of  
Shelby County, Alabama

STATE OF ALABAMA  
SHELBY COUNTY  
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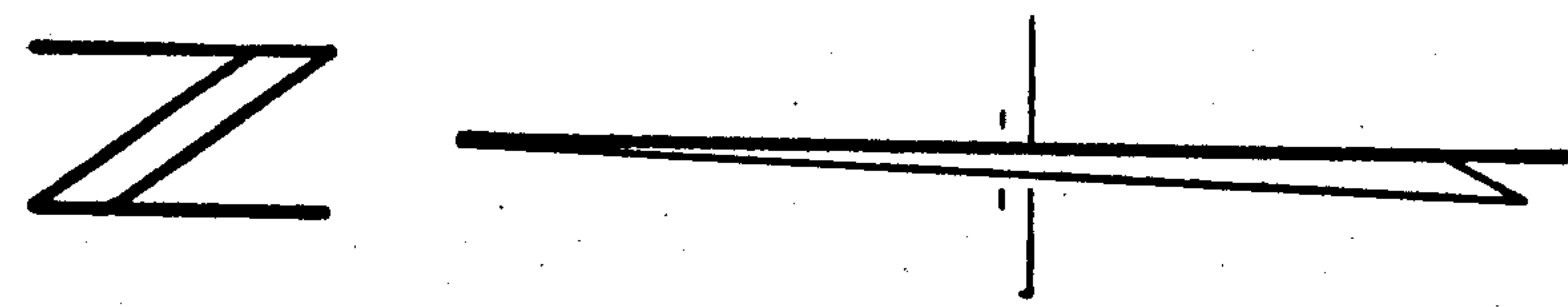
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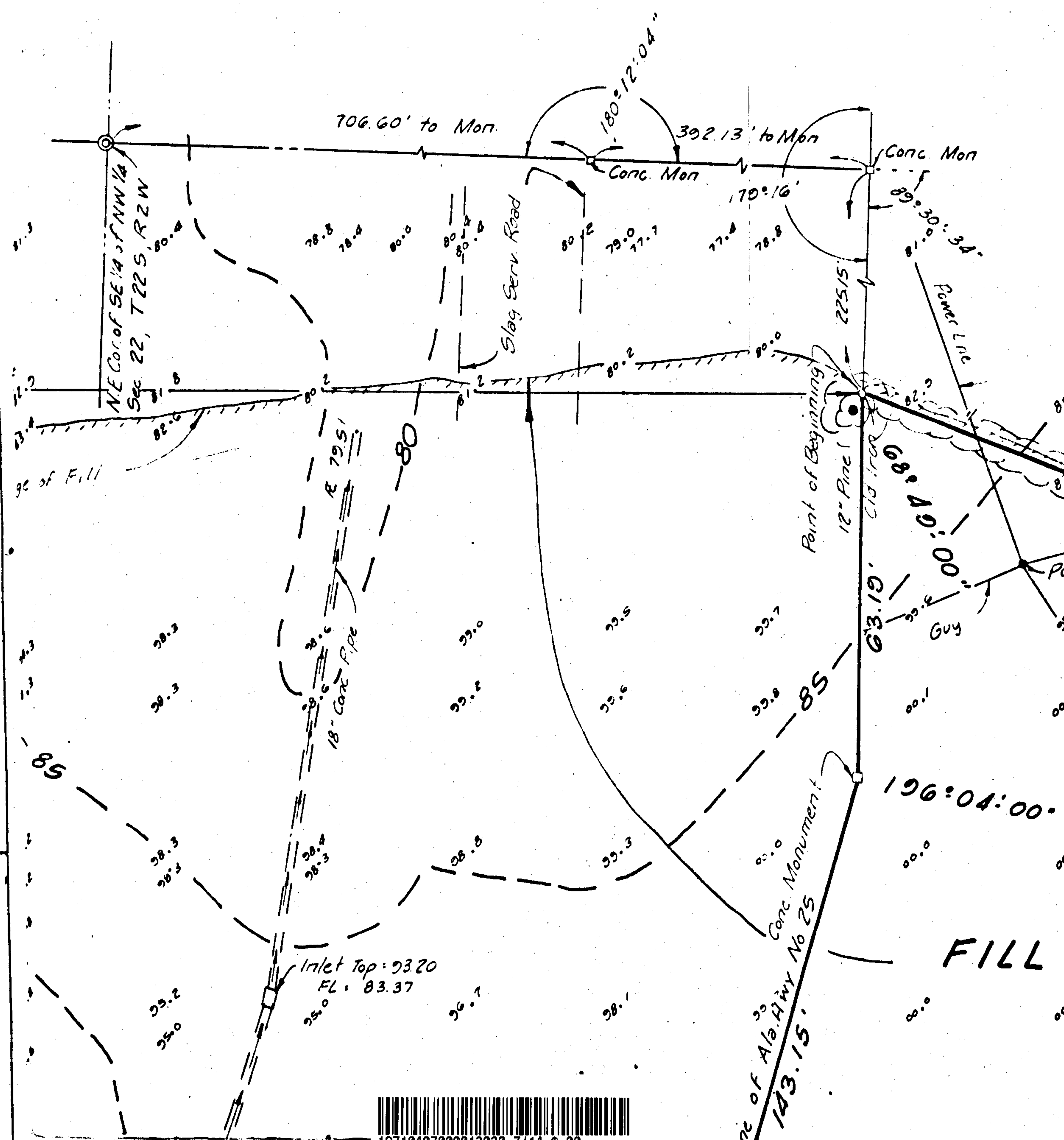


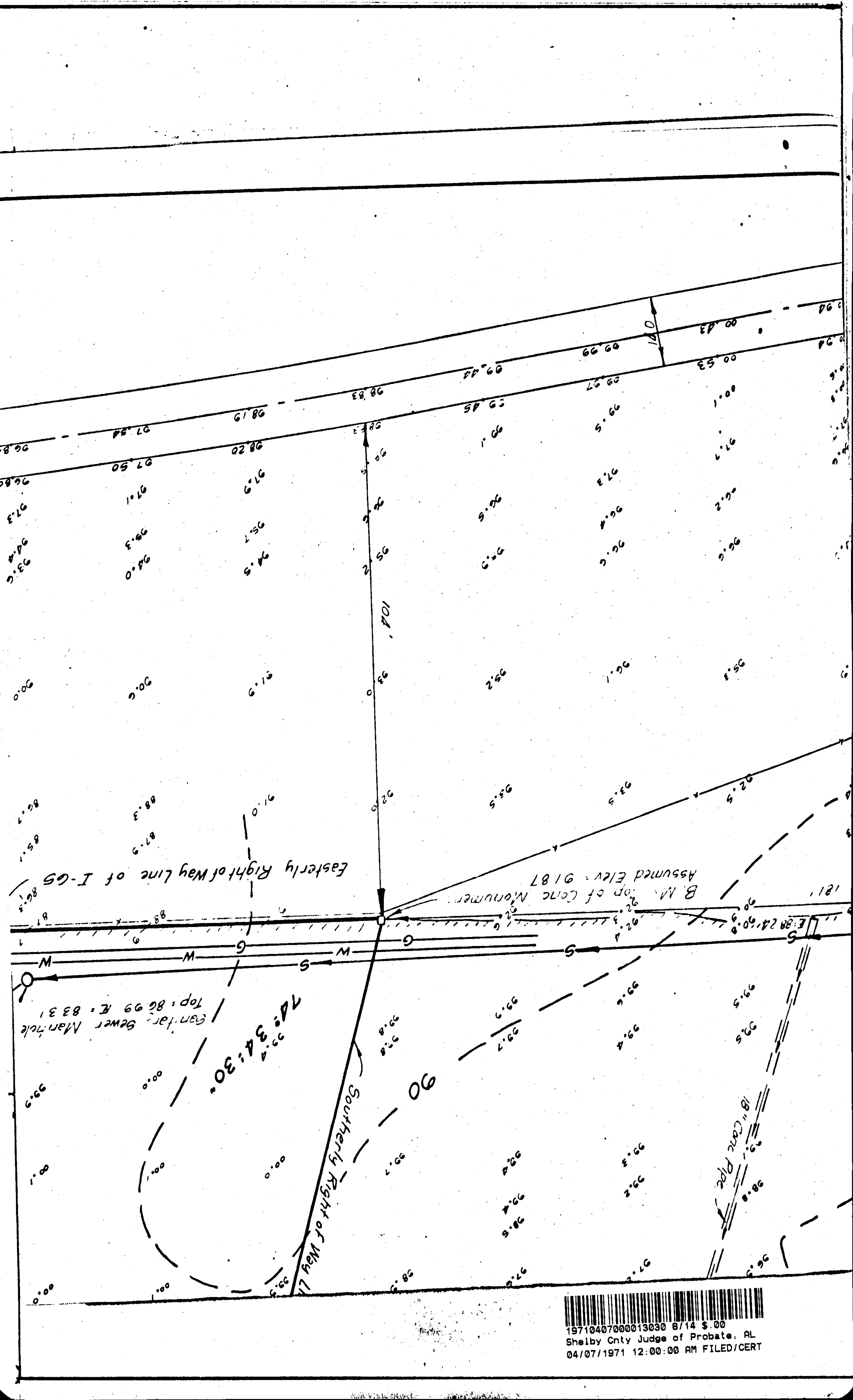
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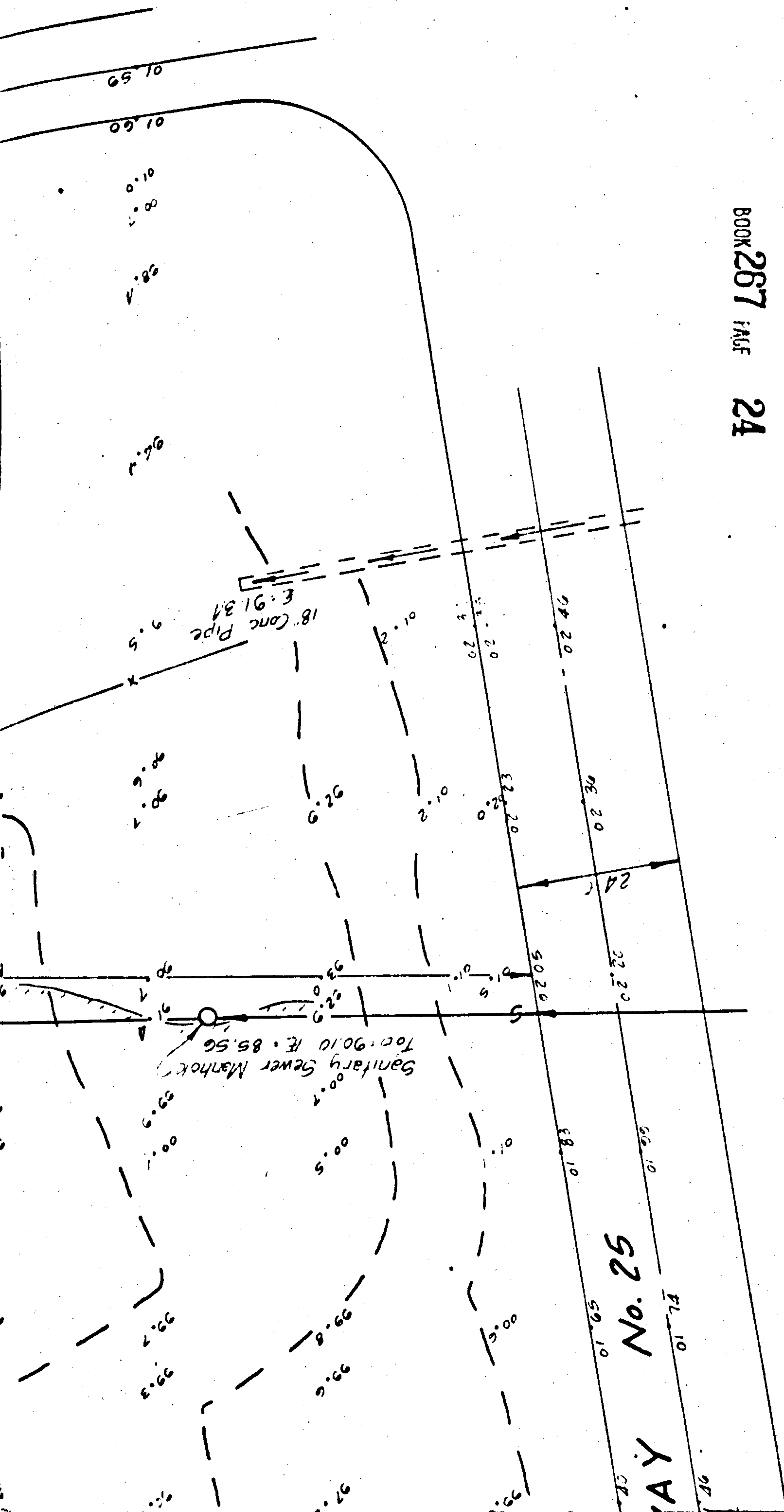


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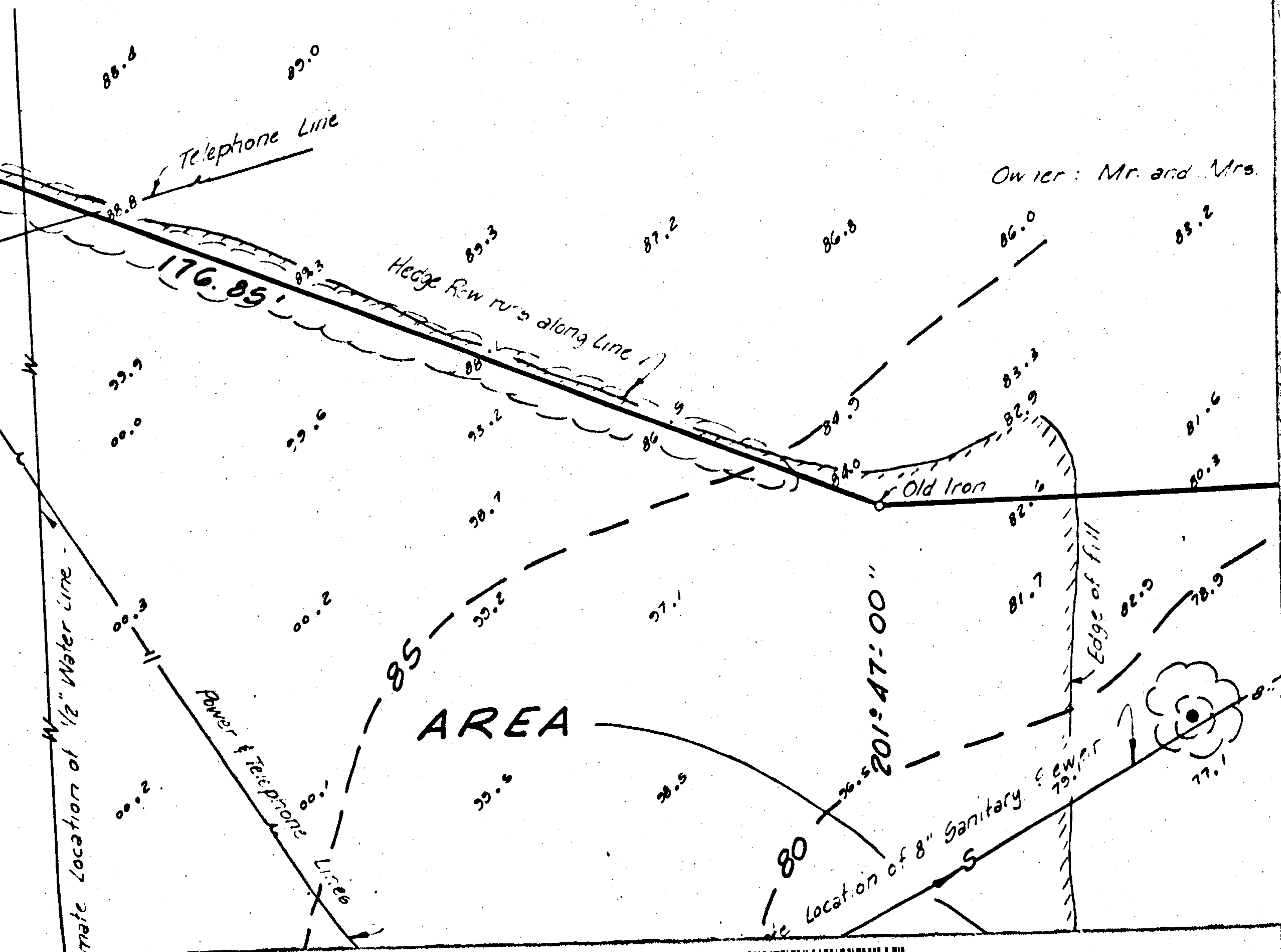
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## NOTES

I, Joseph A. Miller, Jr., a Registered Civil Engineer and Land Surveyor of Birmingham, Alabama do hereby certify that I have surveyed the property shown on this map and described to the right, that this map is true and correct; that there are no buildings erected on said property; that there are no encroachments on said property by buildings, fences, or improvements and that there are no visible rights of way, joint driveways, or easements on or across said property other than those shown or set forth in said map.  
This the 16th day of May, 1969.

Joseph A. Miller, Jr.  
Ala. Reg. No. 2875

- B-n-h Mark : Top of Concrete Property Corner Assumed Elevation
- Datum is assumed
- Private Sanitary Sewer cross availability of connecting to
- Water and Gas Lines cross property from both these lines.
- Access not allowed from rear of Property.
- Easements for Utility Lines have been found.
- North  $\frac{1}{2}$  of property has been surveyed for best information on surface.
- Tract is not in a recorded
- Original Contours based on survey in February, 1966.



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## DESCRIPTION

& Monument in Northwest  
ation: 91.87

ses property as shown,  
same is not clear

roperty, service is available

mp to I-65 on west side

rossing property have not

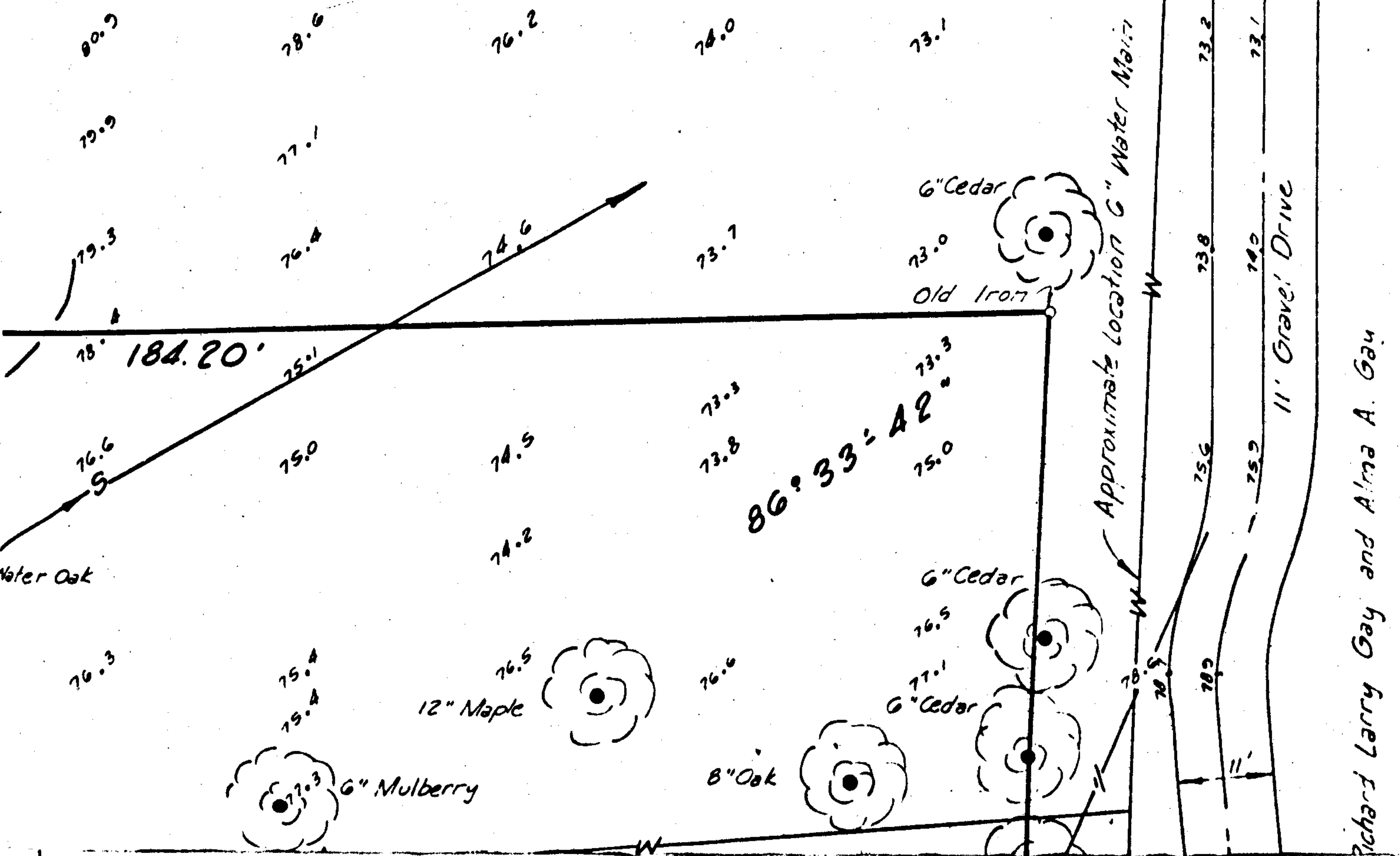
on filled. See topographic  
available on original

subdivision.

urvey made by J.M. Keel

A parcel of land situated in the Southeast 1/4 of the Northwest 1/4 of Section 22, Township 22 South, Range 2 West, Shelby County Alabama, being more particularly described as follows: Commence at the Northeast Corner of said 1/4 1/4 Section; thence run Southerly along the East Line of said 1/4 1/4 Section for 706.60 ft. to a concrete monument on the Northerly Right of Way Line of Ala. Hwy. No. 25; thence 00° 12' 04" right and run Southerly for 352.13 ft. to a concrete monument on the Southerly Right of Way Line of said Ala. Hwy. No. 25; thence 89° 30' 3.1" right and run Westerly along said Southerly Right of Way Line of said Ala. Hwy. No. 25 for 225.15 ft. to the point of beginning; thence continue Westerly along said Southerly Right of Way Line for 63.10 ft. to a Concrete monument on said Southerly Right of Way Line; thence to the right with an interior angle of 196° 04' 00" and continue Westerly along said Southerly Right of Way Line for 143.15 ft. to a concrete marker on said Southerly Right of Way Line, said point also being on the Easterly Right of Way Line of Interstate Hwy. No. 65; thence to the left with an interior angle of 74° 34' 30" and run Southerly along said Easterly Right of Way Line for 381.64 ft.; thence to the left with an interior angle of 92° 11' 48" and run Easterly for 143.15 ft.; thence to the left with an interior angle of 86° 33' 42" and run Northerly for 184.20 ft.; thence to the right with an interior angle of 201° 47' 60" and run Northeasterly for 176.85 ft. to the point of beginning. Said parcel contains 1.29 Acres.

James Ford



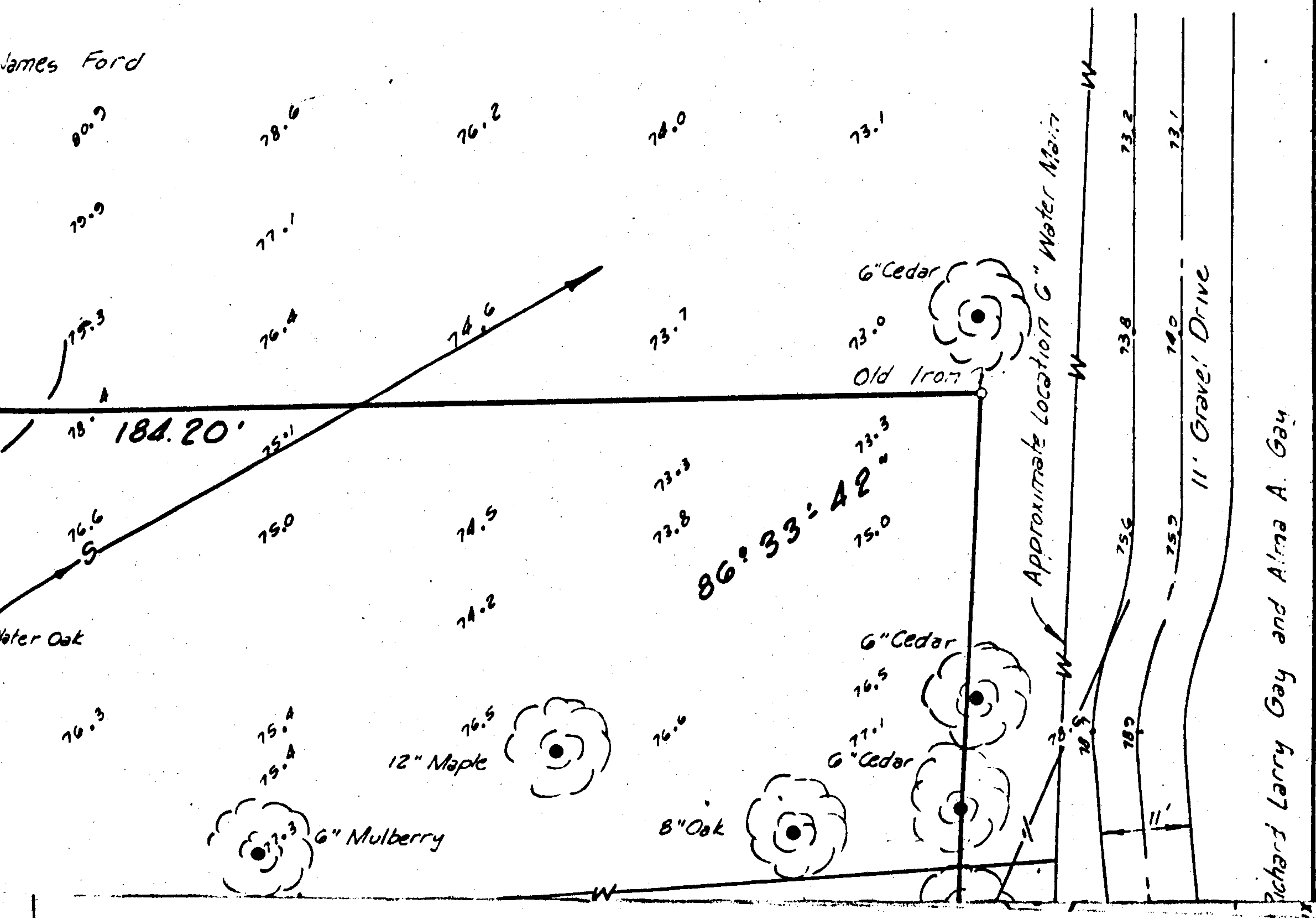
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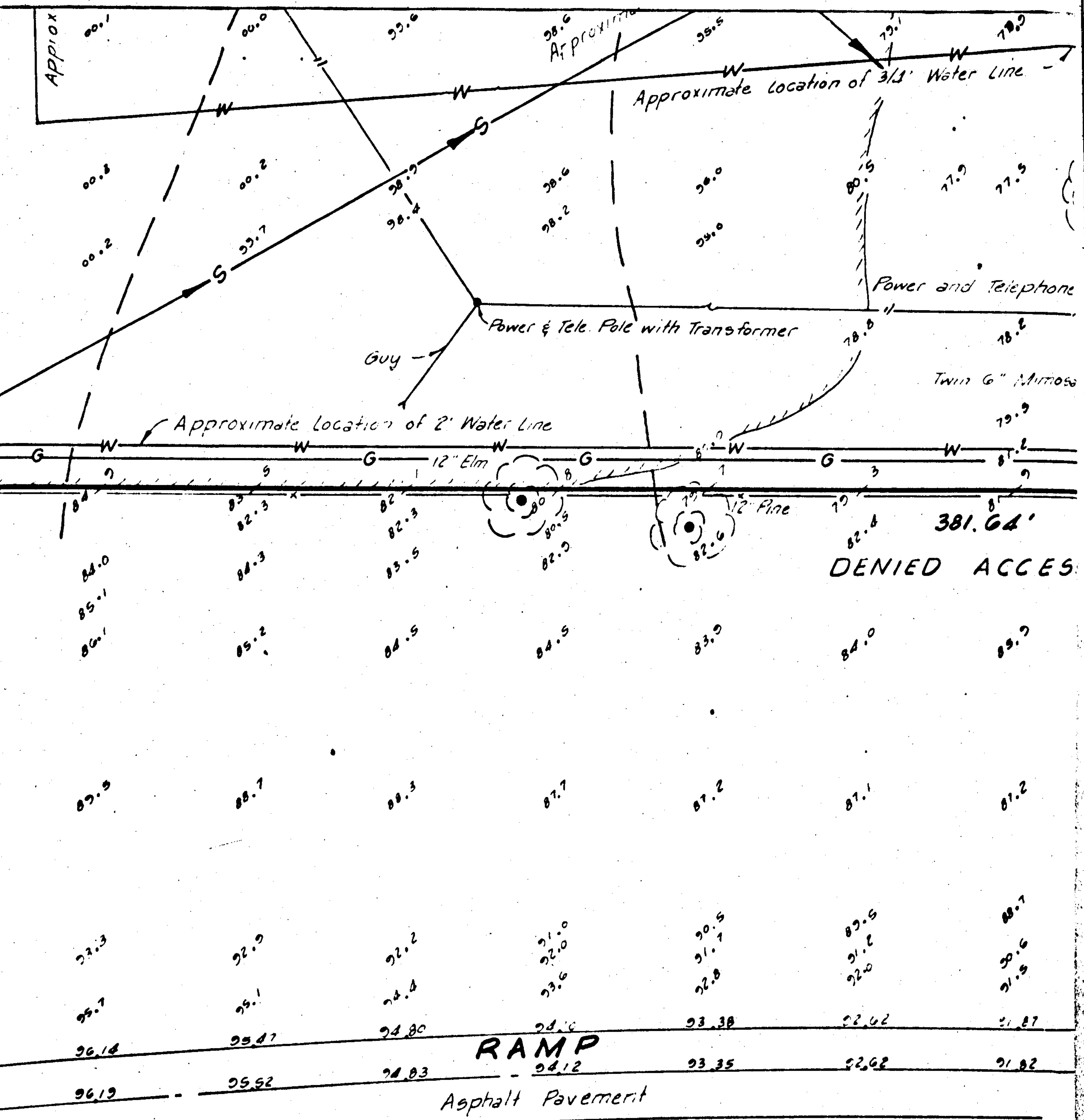
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 CERTIFY THIS  
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 U.C.C. FILE NUMBER OR  
 REC. BK. & PAGE AS SHOWN ABOVE  
 James Ford  
 Survey made by J.M. Keel

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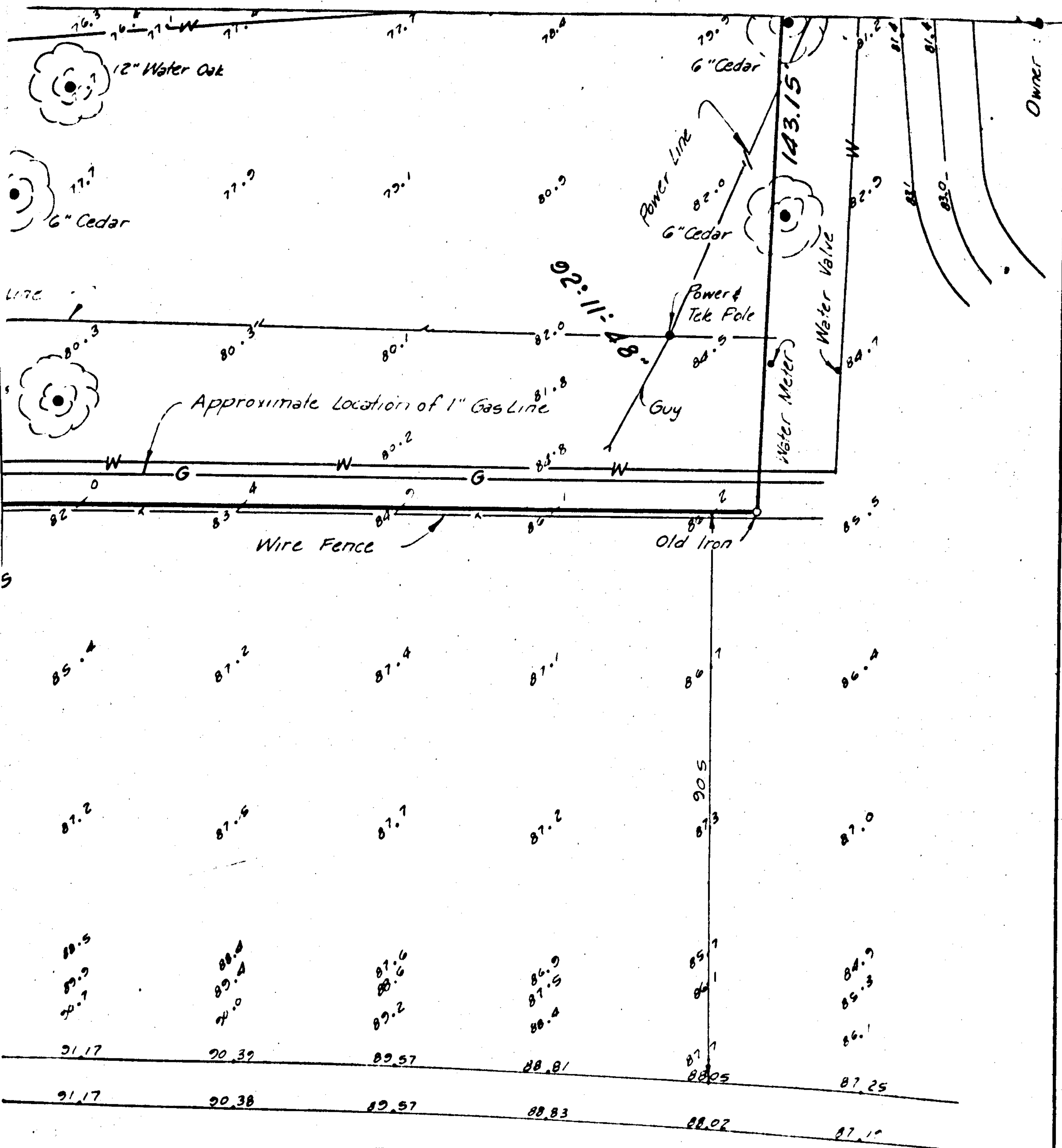


Exhibit "A" to  
 Final Decree, Circuit  
 Court of Shelby County,  
 Alabama, Equity Case  
 No. 4773, said Final  
 Decree dated March 25,  
 1971

Prepared for <b>HUMBLE OIL COMPANY</b>		
A TOPOGRAPHIC SURVEY OF PROPOSED SITE AT INTERSECTION OF I-65 & ALA. HWY. No. 25, CALERA, ALA.		
ENGINEERS <b>MILLER AND NORRELL</b> SURVEYORS BIRMINGHAM, ALABAMA		
Scale: 1" = 20'	Date: May 15, 1969	File No. 6506



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