

IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS  
STATE OF MISSOURI

FILED

SEP 07 2017

JOAN M. GILMER  
CIRCUIT CLERK, ST. LOUIS COUNTY

ALLIED SERVICES, LLC d/b/a )  
REPUBLIC SERVICES OF BRIDGETON )  
AND BRIDGETON TRANSFER )  
STATION, LLC, )

Plaintiffs, )

Cause No. 17SL-CC01354

v. )

Division No. 12

ALEXANDER FRANK COHEN, )  
NOLA ANNE BRUNER, )  
CANDICE LYNN KRENNING, )  
JEFFERY BRUNDIGE, )  
GABRIELLE HEINLEIN, )  
ANDREW DANIEL SHUTE, )  
EMMA HOWELL a/k/a ASH HOWELL, )  
DEIDRE ELYSE GINLEY, )  
LEE GREGORY BROWN, )  
AMBER MAE DUVALL, )

Defendants. )

**FINAL JUDGMENT AND PERMANENT INJUNCTION**

This cause came on for hearing on August 30, 2017 on Plaintiffs' request for permanent injunctive relief. Matthew Jacober and Patricia Silva appeared on behalf of Plaintiffs. Joseph Ott appeared on behalf of Defendants Alexander Frank Cohen, Nola Anne Bruner, Candice Lynn Krenning, Jeffery Brundige, Gabrielle Heinlein, Andrew Daniel Shute, Emma Howell a/k/a Ash Howell, Deidre Elyse Ginley, and Amber Mae Duvall. Defendants Alexander Frank Cohen and Amber Mae Duvall appeared in person. Defendant Lee Gregory Brown failed to appear.

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SEP 10 1964

JOHN M. GILMER  
CLERK ST. LOUIS COUNTY

The Court heard argument and received evidence. The matter was taken under submission for ruling. The Court, having taken judicial notice of its file, having heard argument and received evidence, having reviewed the pleadings submitted by the parties and the authorities cited therein, is fully advised. The Court makes the following findings and conclusions and issues its permanent injunction against the Defendants.

### **FINDINGS OF FACT**

1. The Defendants are affiliated with the Earth Defense Coalition (“EDC”). Defendants Alex Cohen and Amber Mae Duvall are the co-founders of the EDC. They employ dramatic tactics to gain media and political attention to environmental causes. These methods include the use of social media to spread the word about a cause, “sit-ins” at government office buildings, “die-ins” at public parks, and the incident that gave rise to this action – the blockading of entrances to the Plaintiffs’ business property. The EDC’s motto is “Know Us. Fear Us. Join Us.” Duvall is responsible for the EDC Facebook page. Cohen has editing and posting rights for that page.

2. Plaintiff Bridgeton Transfer Station operates a trash transfer station with an entrance at 13570 St. Charles Rock Road in Bridgeton, Missouri (the “Property”). Allied Services operates a fleet of trucks that collect and haul waste from customers throughout the St. Louis Metropolitan region. Allied has an entrance at the Property, addressed as 12976 St. Charles Rock Road, to provide trucks with ingress and egress to and from its trucking facility on the Property. The general manager of Plaintiff Republic Services testified that approximately 200 trucks a day go in and out from the trucking facility and about 280 loads of trash go in and out daily from the transfer station. Approximately 350 people work at Plaintiffs’ businesses on the Property.

3. Before dawn on March 31, 2017, the Defendants engaged in a protest at Plaintiffs' Property. According to the EDC Facebook page, excerpts from which were admitted into evidence, the purpose of the protest was "to shut down business as usual at Republic Services transfer facility on site and bring attention to the toxic waste that has been poisoning our community for over 44 years." The reference was to toxic waste in the West Lake Landfill adjoining the Property.

4. The Defendants blockaded the entrances to the Property. They did so by placing barrels filled with cement on Plaintiffs' two driveways for trucks – the one driveway being the sole access to the trash transfer station and the other driveway being the sole truck access to the trucking facility. PVC pipes ran through the barrels. The protesters put their arms into the PVC pipes and locked their arms onto rebar inside the concrete. Only they could unlock themselves. Defendant Duvall did not lock herself to a barrel, but rather moved around the area to support the people locked in the barrels. All of the other Defendants locked themselves to barrels. The placement of the barrels, with the Defendants locked into them, completely blocked the driveways and prevented Plaintiffs from using the driveways for truck traffic.

5. Police were summoned and ordered the Defendants to unlock themselves so that the driveways could be cleared. The Defendants refused. It took twelve hours for the police to jackhammer the Defendants out of the barrels and arrest them.

6. The blockading of the driveways interfered with Plaintiffs' ability to operate their businesses. They had to make arrangements with a neighboring property owner to use that neighbor's property to get trucks in and out. The neighbor granted permission, so long as Plaintiffs agreed to repair any damage. Plaintiffs' heavy trucks did damage the neighbor's asphalt, and Plaintiffs had to pay approximately \$20,000 to repair it.

7. Plaintiffs' General Manager, Casey Powers, testified that Plaintiffs' staff was extremely upset by the Defendants' actions. One of his drivers called him at approximately 5:15 a.m. after one of the Defendants had jumped on his truck and started hitting the truck. Other staff members were also upset. Mr. Powers testified that disruptions in service can affect customer relations in ways difficult to ascertain or quantify in money damages. He has followed the Defendants and EDC on social media, and has concerns that they will block Plaintiffs' accesses again.

8. Plaintiffs called a land surveyor, Michael Graminski. Based on his testimony and the boundary surveys prepared by him and his firm, the Court finds that Defendants were on the private property of Plaintiffs during the protest, blocking the use of those private driveways for access to the public road system.

9. Defendant Duvall testified that she believed the protesters were not on private property because she believes the driveway is a public roadway. She testified that she wants to maintain her right to go back on Plaintiffs' property whenever she wants. When asked why anyone should believe she was not going to do it again, Duvall invoked her Fifth Amendment right against self-incrimination. In light of the invocation, Plaintiffs' counsel asked the Court to make the inference that Duvall does plan to trespass again in protest.

10. Duvall testified that, because the protest was "successful," there was no need to target the landfill anymore. When asked why she would not agree to stay off the Property if she had no intention of going back, Duvall had no satisfactory response.

11. Defendant Cohen testified that he locked himself to the inside of one of the barrels on Plaintiffs' driveway and refused to disconnect himself when police arrived. He admitted he blocked the entrance to the Property, and that it was his intention to block access and interrupt

Plaintiffs' business. He maintained that he did not believe he was ever on Plaintiffs' property. He believed because he was in front of the fence with the "no trespassing" sign, he was off the Property. Despite this, Cohen admitted his intention was to block access to the Property. As stated above, the Court finds, based on the testimony of Mr. Graminski, that Cohen was on the private property of Plaintiffs. Cohen testified that he has no future plans to protest at the Property again.

12. There was evidence that Defendants have protested in public places, such as a die-in on Earth Day in Forest Park, and sit-ins at the government offices of members of Congress.

13. The Court received excerpts from Defendants' social media posts. Cohen admitted the language used was incendiary and very aggressive, but on cross examination claimed the language was mere hyperbole. Excerpts of the postings (with emphasis added) include:

- A posting the morning of the August 30, 2017 injunction hearing, re-publishing a piece from the St. Louis Post-Dispatch that read, in part, "Cohen said that he and others faced with the company's petition **won't be deterred from taking future action** on the issue."
- A posting the day of the protest by Duvall, reading, in part, "Hard blockade deployed at Republic Services in Bridgeton, Missouri, **stoping [sic] business as usual for today...and everyday**, until we are heard!"
- A posting from EDC that the purpose of the protest was "to shut down business as usual at Republic Landfill...Know Us. **Fear Us**. Join Us."
- A post from Cohen, after he was released from jail the evening of the protest, that **"WE DONE SHUT REPUBLIC DOWN."**

- An April 1, 2017 Cohen post that “**the time for talk and playing by the rules are over.** Our nonviolent civil disobedience campaign has just launched and **we will not stop** until the rightful demands of our community are met.”
- An April 11, 2017 EDC post that “we’re kicking Republic Services [sic] ass....Keep up the good work comrades. **They haven’t seen nothing yet.** Republic and the Coalition to Save Republic Money are both on our corporate hit list for their crimes in this community.” An identical post was made by Duvall later that day. Duvall’s post had a graphic stamped at the bottom that read “**SHUT IT DOWN.**”

14. The Court finds that Plaintiffs’ apprehension of future trespass by Defendants is reasonable. The testimony of Plaintiffs’ General Manager, Mr. Powers, was credible. The social media postings of Defendants show a threat of future action against Plaintiffs’ property rights. Defendants have threatened to continue to disrupt Plaintiffs’ business every day, and to continue to refuse to play by the rules until their demands are met. The fact that Defendants apparently make no distinction between protesting in public spaces, such as a park or government office, and protesting on someone’s private driveway, leads the Court to conclude there will in all probability be future trespass on Plaintiffs’ Property by Defendants.

15. The Court finds the testimony by Duvall and Cohen about potential future trespass to be contradictory and self-serving. Duvall invoked the Fifth Amendment when asked whether she intended to go on the Property again, giving rise to the inference that she does intend to do so. Cohen waxed philosophical about how no one can predict the future. He testified that his plans to refrain from protesting at the Property “are not going to change that I can tell right now.” The equivocation of Defendants as to their future intentions, their threats on social media, and their

passion for a cause that is ongoing, further support the Court's finding of a probability of future trespass.

16. The Court finds that Plaintiffs have no adequate remedy at law. The testimony established that Defendants are judgment proof, so that an action at law would at best result in a judgment money damages that could not be collected. The Court finds credible the testimony of Mr. Powers that harm to customer relationships caused by disruption of Plaintiffs' business are difficult to quantify, and that Plaintiffs are reasonably concerned for the upset suffered by company personnel during the protest and that would be suffered in any future protest.

### CONCLUSIONS OF LAW

1. Injunctive relief is appropriate to enjoin future trespass, if "the threatened action is based on a real apprehension, and acts for which an injunction is sought must be such as are not only threatened, but will in all probability be committed." *Kugler v. Ryan*, 682 S.W.2d 47, 50 (Mo.Ct.App. 1984), quoting *May Dept. Stores Co. v. County of St. Louis*, 607 S.W.2d 857, 870 (Mo.Ct.App. 1980). In *Kugler*, the court of appeals affirmed the trial court's issuance of an injunction even though there was "no direct evidence of a threat of future trespasses...." *Kugler*, 682 S.W.2d at 50. *Kugler* cited with approval a case that held that "even where the injury from each trespass is or would be trifling, the plaintiff can proceed by way of an injunction in the first instance." *Id.*, citing *Cacioppo v. Southwestern Bell Telephone Co.*, 550 S.W.2d 919, 925 (Mo.Ct.App. 1977).

2. In light of the fact that Plaintiffs will suffer irreparable harm in the absence of injunctive relieve, that they have no adequate remedy at law, and that the Court has found that future trespasses will in all probability be committed by Defendants, the Court concludes that injunctive relief to prevent future trespasses is the proper remedy in this action.



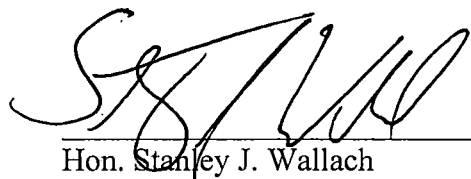
IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendants Cohen, Bruner, Krenning, Brundige, Heinlein, Shute, Howell, Ginley, and Duvall, and all other persons in active concert and participation with them, are hereby permanently restrained and enjoined from:

- a. Entering Plaintiffs' property at 13570 St. Charles Rock Road, Bridgeton, Missouri 63044 and 12979 St. Charles Rock Road, Bridgeton, Missouri 63044, as more fully detailed in the maps attached as Exhibit A hereto and incorporated herein by reference; and
- b. Blocking any entrance of Plaintiffs' businesses.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that this Judgment shall be effective from and after 9:00 a.m. on September 7, 2017.

IT IS FURTHER ORDERED THAT Plaintiffs be released from their bond.

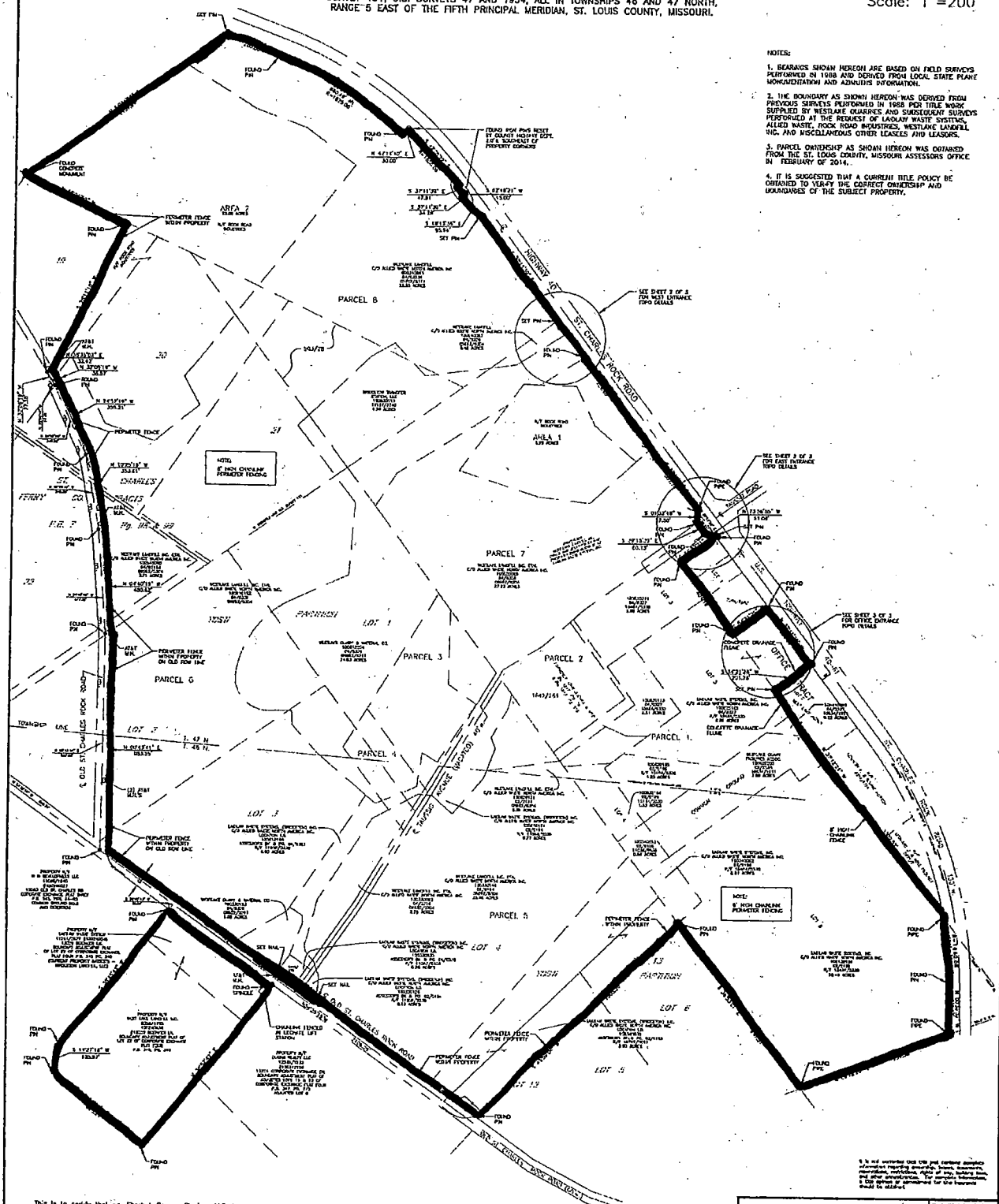
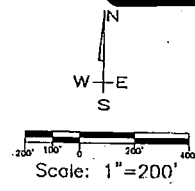
SO ORDERED

 9/7/2017  
\_\_\_\_\_  
Hon. Stanley J. Wallach  
Circuit Judge, Div. 12

Filed - St Louis County - August 22, 2017 - 12:41 PM

BOUNDARY SURVEY  
OF WESTLAKE LANDFILL INC./  
LAIDLAW WASTE SYSTEMS (BRIDGETON) INC.  
BRIDGETON, MISSOURI LANDFILL

A TRACT OF LAND IN PART OF LOTS 1, 2, 3, 4, 5, AND 6 OF THE YOSTI PARTITION IN U.S. SURVEY 131, PART OF LOTS 20, 21, AND 22, OF THE ST. CHARLES FERRY COMPANY TRACT IN THE U.S. SURVEY 47 AND 1934, PART OF "WESTLAKE ACRES PLAT II" IN PART OF U.S. SURVEY 131 AND PART OF U.S. SURVEY 131, U.S. SURVEYS 47 AND 1934, ALL IN TOWNSHIPS 48 AND 47 NORTH, RANGE 5 EAST OF THE FIFTH PRINCIPAL MERIDIAN, ST. LOUIS COUNTY, MISSOURI.



- NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON FIELD SURVEYS PERFORMED IN 1988 AND DERIVED FROM LOCAL STATE PLANE MONUMENTATION AND ADJUSTED INFORMATION.
  2. THE BOUNDARY AS SHOWN HEREON WAS DERIVED FROM PREVIOUS SURVEYS PERFORMED IN 1988 FOR TITLE WORK SUPPLIED BY WESTLAKE GUARDERS AND SUGGESTED SURVEYS PERFORMED AT THE REQUEST OF LAIDLAW WASTE SYSTEMS, ALLED WASTE, ROCK ROAD MONUMENT, WESTLAKE LANDFILL, INC. AND MISCELLANEOUS OTHER LEASES AND LEASORS.
  3. PARCEL OWNERSHIP AS SHOWN HEREON WAS OBTAINED FROM THE ST. LOUIS COUNTY, MISSOURI ASSESSORS OFFICE IN FEBRUARY OF 2014.
  4. IT IS SUGGESTED THAT A CURRENT TITLE POLICY BE OBTAINED TO VERIFY THE CORRECT OWNERSHIP AND UNDEVELOPED OF THE SUBJECT PROPERTY.

This is to certify that we, Sherbut-Carlson-Claxton, LLC, have prepared this plat for Republic Services, Westlake Landfill Inc./Laidlaw Waste Systems (Bridgeton) Inc. for their use and purposes as set forth herein and that the surveys from which this plat was prepared were done in accordance with the Missouri Uniform Standard of Property Boundary Survey, RPL Stat. 30-2.010.

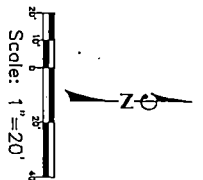
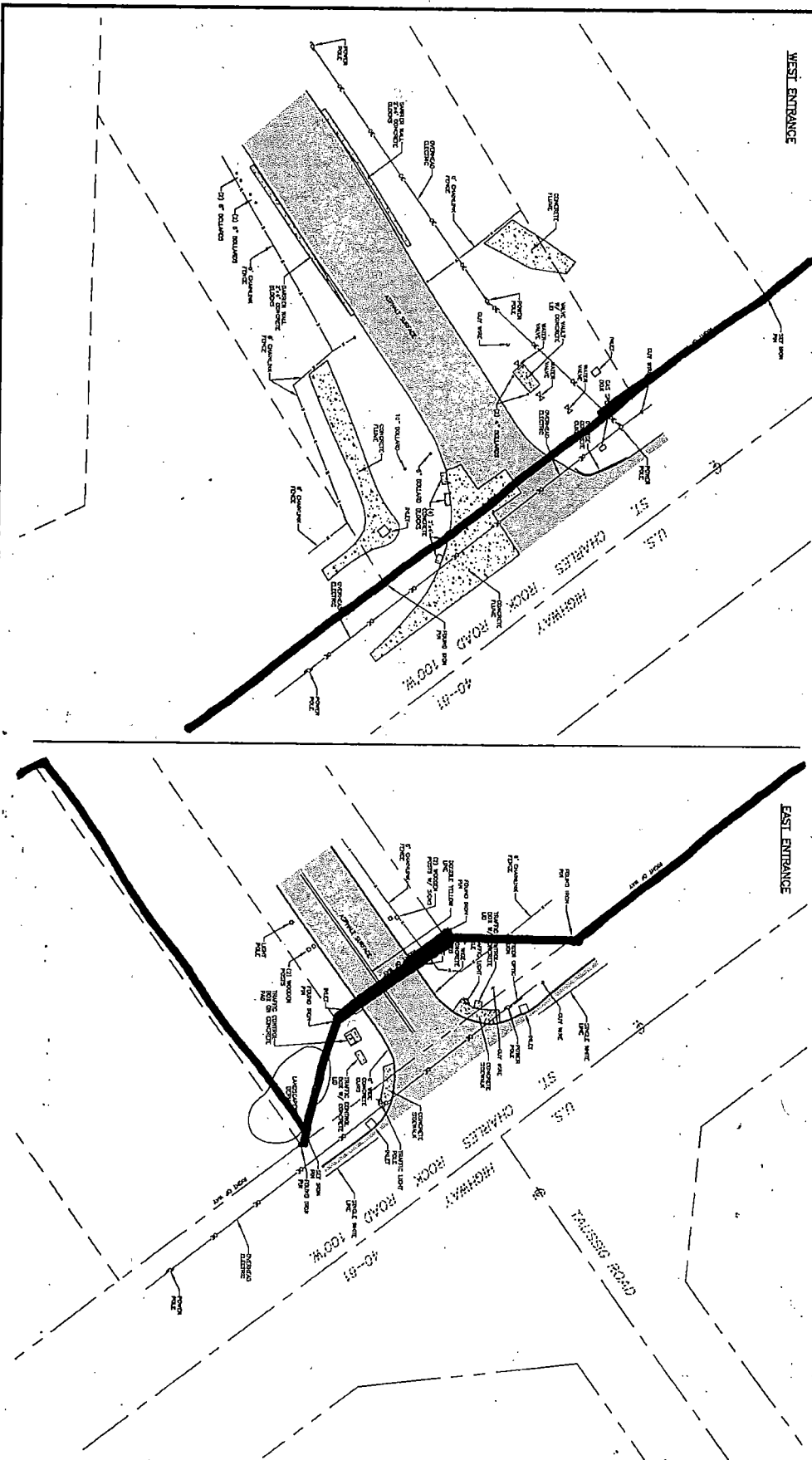
Sherbut-Carlson-Claxton, LLC  
Michael J. Graminski, [Signature]  
Michael J. Graminski, [2006010420 Exp. 12-31-18]  
Date: 5/23/2017



BRIDGETON & WESTLAKE LANDFILLS		PROJECT NO. 1111
BOUNDARY SURVEY		SCALE: 1" = 200'
SHERBUT-CARLSON-CLAXTON LLC		DRAWN BY: M.J.G.
11 MEADOW HEIGHTS PROFESSIONAL PARK		CHECKED BY:
COLLINSVILLE, ILLINOIS 62234		DATE: 5/23/17
PH. (618) 345-5454		REVIEWED: 5/23/17
© 2017 Sherbut-Carlson-Claxton LLC		SHEET 1 OF 3

BOUNDARY SURVEY  
OF WESTLAKE LANDFILL INC./  
LAIDLAW WASTE SYSTEMS (BRIDGETON) INC.  
BRIDGETON, MISSOURI LANDFILL

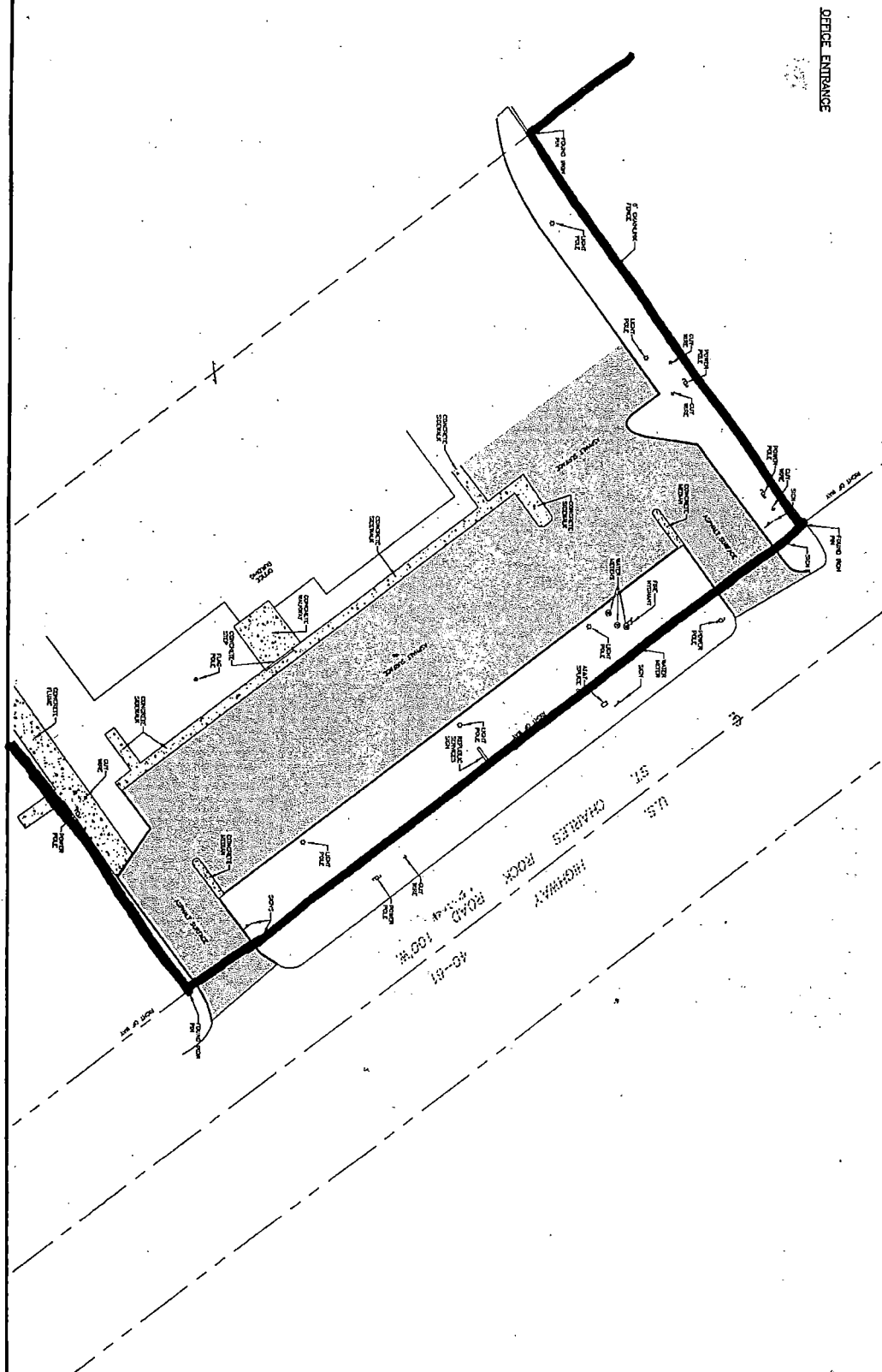
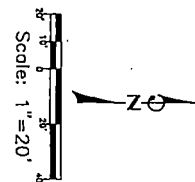
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PRINCIPAL MERIDIAN, ST. LOUIS COUNTY, MISSOURI, AND 22 OF THE ST.  
CHARLES FERRY COMPANY TRACT IN THE U.S. SURVEY 47 AND 134 OF THE  
WESTLAKE ACRES PLAT 8" IN PART OF U.S. SURVEY 131 AND PART OF U.S.  
SURVEY 131, U.S. SURVEYS 47 AND 134, ALL IN TOWNSHIPS 46 AND 47 NORTH,  
RANGE 8 EAST OF THE FIFTH PRINCIPAL MERIDIAN, ST. LOUIS COUNTY, MISSOURI.



DRAWING: ENTRANCE TOPOGRAPHY		DATE: MAY 16, 2017		REVISIONS		Sherbut-Carson-Claxton, LLC	
PROJECT NO. 1111		DRAWN: RAC		DATE: 5/22/17		#4 Meadow Heights Professional Park Collinsville, Illinois 62234	
SHEET NUMBER: 2 of 3		CHECK:				Phone: 618-345-5454 Fax: 618-345-3017	
BRIDGETON & WESTLAKE LANDFILLS							

BOUNDARY SURVEY  
OF WESTLAKE LANDFILL INC./  
LANDLAW WASTE SYSTEMS (BRIDGETON) INC.  
BRIDGETON, MISSOURI LANDFILL

A TRACT OF LAND IN PART OF LOTS 1, 2, 3, 4, 5, AND 6 OF THE YOST  
PARTITION IN U.S. SURVEY 131, PART OF LOTS 20, 21, AND 22 OF THE ST.  
CHARLES FERRY COMPANY TRACT IN THE U.S. SURVEY 47 AND 1934, PART OF  
WESTLAKE ACRES PLAT "A" IN PART OF U.S. SURVEY 131 AND PART OF  
SURVEY 131, U.S. SURVEYS 47 AND 1934, ALL IN TOWNSHIP 46 AND 47 NORTH,  
RANGE 5 EAST OF THE FIFTH PRINCIPAL MERIDIAN, ST. LOUIS COUNTY, MISSOURI.



DRAWING: ENTRANCE TOPOGRAPHY		DATE: MAY 23, 2017		REVISIONS		Sherbut-Carson-Claxton, LLC	
PROJECT NO. 1111		DRAWN: KMC		DATE		#4 Meadow Heights Professional Park Collinsville, Illinois 62234	
SHEET NUMBER: 3 of 3		CHECK		REMARKS		Phone: 618-345-5454 Fax: 618-345-3017	
BRIDGETON & WESTLAKE LANDFILLS							