

IN THE CIRCUIT COURT OF FRANKLIN COUNTY  
STATE OF MISSOURI

KELLY BROTHERS )  
 2748 Old Gray Summit Road )  
 Pacific, MO 63069, )  
 and )  
 CONCERNED CITIZENS AGAINST )  
 LANDVATTER READY MIX, LLC., )  
 2748 Old Gray Summit Road )  
 Pacific, MO 63069, )  
 )  
 Relators, )  
 )  
 v. )  
 )  
 BOARD OF ZONING ADJUSTMENT )  
 OF FRANKLIN COUNTY, )  
 400 E. Locust, )  
 Union, MO 63084, )  
 )  
 Respondent. )

Cause No. \_\_\_\_\_  
 Div. No. \_\_\_\_\_

**PETITION FOR WRIT OF CERTIORARI**

Come now relators and for their claim for relief state as follows:

1. This action challenges the July 22, 2014 decision of the Franklin County Board of Zoning Adjustment (“Board”), affirming the Franklin County Planning and Zoning Commission’s (“P & Z”) decision and determination that a conditional use permit (“CUP”) should be approved allowing Landvatter Ready Mix (“Landvatter”) to build a concrete plant at the corner of Old Route 66 West Osage Street and Old Gray Summit Road in Franklin County, Missouri.
  
2. Relator Kelly Brothers (“Brothers”) is a resident and taxpayer of Franklin County, whose home is located on 2748 Old Gray Summit Road, Pacific, MO 63069, approximately 600 feet from the proposed concrete plant. Brothers’ backyard abuts the property on which the developer will build the proposed concrete plant. Currently, she enjoys views of rolling tree-

covered hills. Her backyard is frequented by deer, turkey, hummingbirds, bluebirds and other wildlife and birds. She believes the plant, if built, will make her unable to enjoy her property because the loud noises from the plant will make it too unpleasant to enjoy, and the dust from the plant will blow onto her property. She believes her property value will drop substantially when the quiet views of rolling hills she enjoys are replaced by views of and noise and dust from the proposed concrete plant, its 70-foot silos, its conveyer belt, and trucks.

3. Brothers is also concerned with the impact the proposed plant will have on the health and safety of her and her neighbors, the impact on the Shaw Nature Reserve, the birds, the fish and wildlife in the area, and the decrease in property values of her neighborhood. Landvatter's lengthy record of past violations of environmental laws makes her especially concerned about health and environmental impacts of the proposed plant.

4. Relator Concerned Citizens against Landvatter Ready Mix, LLC, ("Concerned Citizens") is a limited liability corporation made up of taxpayers whose homes and property are located on Old Gray Summit Road, between approximately 380 and 650 feet from the property on which the proposed plant is to be built. The Concerned Citizens formed their group to oppose the Landvatter Ready Mix Concrete Plant from being built in this proposed location. Currently, members of the Concerned Citizens enjoy views of tree-covered, rolling hills, and their backyards are frequented by many species of birds and wildlife. They believe the proposed plant and its silos, trucks, noise and dust will make them unable to enjoy their property and cause a substantial decrease in their property values.

5. They are also concerned about the detrimental impact the proposed plant will have on the Shaw Nature Reserve and on the birds, the fish and wildlife in the Shaw Nature Reserve and in Brush Creek, which runs through the property the plant is to be located on, and

Landvatter's long list of past violations of environmental laws. In addition, the Concerned Citizens lost faith in their government after seeing Fred Thatcher participate in the Planning & Zoning Commission hearing.

6. Respondent Franklin County Board of Zoning Adjustment is the duly constituted county board of zoning adjustment created and existing under the laws of the State of Missouri and the Unified Land Use Regulations of Franklin County.

7. On February 18, 2014, the P & Z held a hearing on Landvatter's application to build and operate a concrete plant on property previously zoned as Community Development, requiring a conditional use permit to change the zoning to Industrial (File No. 140007).

8. Before the P & Z hearing, citizens opposed to the plant filed a petition stating their opposition. The petition was signed by 25 people who own 16 of 21 homes and properties within 380 to 650 feet of the proposed plant. (Exhibit 1 to this Petition).

9. At the P & Z hearing, nine people spoke against the plant, seven of whom are affected homeowners.

10. The only people to speak in favor of the plant were the developer (Mr. Landvatter), an employee of a surveying company (Mr. Cameron Lueken of Wunderlich Survey and Engineering) that appears to be acting as an agent of Mr. Landvatter, and the developer's real estate agent (Mr. Fred Thatcher).

11. At the P & Z hearing, Mr. Fred Thatcher, a member of the Board of Zoning Adjustment, spoke two times in favor of the permit, both before and after the citizens. Mr. Thatcher is a real estate agent and represents both the buyer and seller of the property on which the proposed plant will be built.

12. At the meeting on March 18, 2014, the P & Z Commission voted 6-4 to grant the permit.

13. Kelly Brothers and the Concerned Citizens appealed the P & Z decision to the Board of Zoning Adjustment on June 13, 2014.

14. The Board held a hearing on the appeal on July 22, 2014. At that hearing, neighboring home and property owners filed a new petition signed by 31 people, representing all 21 adjacent property owners stating their opposition; four adjacent homeowners spoke out against the plant; a law student presented documents from the Department of Natural Resources showing Landvatter's two other concrete plants are frequent violators of the state environmental laws; and an expert witness testified about the detrimental effects a concrete plant will have on Brush Creek and its ability to provide habitat to many species of fishes, and on the potential impact the stormwater runoff from the plant may have on the Meramec River.

15. At the Board hearing, Ms. Brothers also presented exhibits stating opposition from the Shaw Nature Reserve, the Route 66 Association, and two adjacent homeowners who could not be present that night.

16. At that hearing, the only people to testify in favor of the plant were the developer and Mr. Lueken.

17. The Board voted 3-2 to *deny* the permit.

18. This court has jurisdiction over this action pursuant to § 64.870.2, RSMo.

19. Relators timely file this action within 30 days of the date of the Board's decision at issue.

20. Venue is proper in Franklin County, where the affected property is located, pursuant to §64.870.2, RSMo.

**Count I**  
**Violation of RSMo Section 64.870**

21. Relators incorporate by reference §§ 1-20 above.
22. The Board's decision is illegal because the Board followed the Franklin County Planning and Zoning Land Use Regulations Article III, Section 32, which states that "All actions of the Board shall be taken by a concurring vote of four-fifths of the board membership shall be necessary to reverse any order...." (sic).
23. This ordinance violates RSMo § 64.870.2, which states that, "the board may reverse or affirm wholly or partly...the order."
24. RSMo § 64.870.2 does not require a vote of four.
25. RSMo § 1.050 states that "Words importing joint authority to three or more persons shall be construed as authority to a majority of persons, unless otherwise declared in the law giving the authority."
26. A municipal ordinance must be consistent with the general law of the state, and the ordinance is void if the two are in conflict. To determine whether an ordinance conflicts with a state statute, the test is whether the ordinance prohibits what the statute permits or permits what the statute prohibits.
27. Since RSMo § 64.870.2 is the law giving the Board authority to act, and it does not require a vote of four, the Franklin County ordinance making stricter requirements than those imposed by state law is illegal and void.
28. Therefore, the majority vote of Board members in relators' favor at the Board hearing controls and the Board's reversal of the P & Z Commission controls.

**Count II**  
**Violation of RSMo Section 105.462**

29. Relators incorporate by reference §§ 1-28 above.

30. The Board's action was not authorized by law because RSMo § 105.462 prohibits a Board of Zoning Adjustment member from attempting to influence the decision or participate, directly or indirectly, in the decision of the agency in which he is a member when he knows the result of such decision may be the adoption of rates or zoning plans by the agent which may result in a direct financial gain or loss to him.

31. The P & Z's decision was illegal and void because Fred Thatcher, a Board of Zoning Adjustment member, participated in a P & Z hearing in which he had a direct financial interest as the real estate agent of both the buyer (Landvatter) and the seller. Mr. Thatcher twice put himself on the record at the hearing before the P & Z Commission with the full knowledge that his stated support for the CUP would later be transmitted to Board of Zoning Adjustment. This made the P & Z decision void and therefore made the Board's decision illegal because the permit issued below was illegal and void.

32. Mr. Thatcher's two speeches caused members of the Concerned Citizens to lose faith in their government, thereby making the P & Z decision void.

**Count III**  
**Violation of RSMo Section 105.458**

33. Relators incorporate by reference §§ 1-32 above.

34. The Board's action was not authorized by law because RSMo § 105.458 prohibits members of governmental bodies from attempting to influence the decision of an agency for any compensation other than that provided for in the performance of their duties.

35. In this case, Mr. Thatcher's speeches to the P & Z Commission were improper attempts by him to influence the P & Z and Board and he knew he would receive a commission from the sale of the property as he represents both the buyer and the seller.

36. Mr. Thatcher's speeches caused members of the Concerned Citizens to lose faith in their government, thereby making the P & Z decision void.

#### Count IV

**The Board's Decision is Not Supported by Competent and Substantial Evidence and was Arbitrary and Capricious, because the Overwhelming Evidence shows the Proposed Plant is not in Harmony with the Area and the Conditional Use Permit Violates Franklin County Planning and Zoning Unified Land Use Regulations and the Franklin County Master Plan**

37. Relators incorporate by reference §§ 1-36 above.

38. The Board's decision was illegal because it was an abuse of discretion and not supported by competent and substantial evidence upon the whole record, and was arbitrary and capricious, in that the overwhelming weight of the evidence demonstrates that the plant is not in harmony with the area and the issuance of the CUP violates the Franklin County Planning and Zoning Unified Land Use Regulations which state that the P & Z Commission may deny the permit if it concludes that the development will more probably than not materially endanger public health or safety, will injure the value of adjoining or abutting property, will not be in harmony with the area, and will not be in conformity with the Master Plan.

**A. The overwhelming evidence shows the proposed plant will not be in conformity with the Master Plan which requires Franklin County to conserve natural resources, and to promote the health, safety, convenience, prosperity and general welfare of the county inhabitants. The conditional use permit violates all of those requirements.**

##### *1. Prosperity*

(a) The overwhelming evidence shows the development will more probably than not injure the value of adjoining or abutting property

39. The overwhelming evidence shows that proposed plant will not promote the prosperity of the inhabitants because it will destroy the property values of the 21 owners of properties on Old Gray Summit Road who make up the Concerned Citizens. Their views of rolling, tree-covered hills will be destroyed and replaced with views of concrete, trucks, 70-foot silos, and a conveyer belt. This will have a significant detrimental effect on their property values.

40. The proposed plant also will not promote the prosperity of the residents because the developer's claims that he will create 25 jobs are unfounded and not supported by any evidence. Relators presented evidence from two other local concrete plant operators who stated that business is half of what it was in 2006 and they have been forced to idle their plants; in addition, Franklin County required these two operators to relocate away from residences and Franklin County should not favor this developer by allowing him to locate adjacent to residences.

## *2. General Welfare*

41. The overwhelming evidence shows that the proposed plant will not promote the general welfare of the relators as it will destroy their quality of life. They currently enjoy viewing many species of wildlife and birds in their backyards, and the wildlife and birds will be detrimentally affected by the concrete, noise and dust which will come onto the homeowners' properties.

42. The solitude and peace people enjoy will be destroyed and replaced with noises of trucks entering, exiting, loading, unloading, backing up, beeping, warming up, etc.



43. The local environment and Brush Creek and the habitat it provides for fish and wildlife will be detrimentally affected by stormwater runoff containing pollutants emitted from the proposed plant and the increased impervious surfaces it creates.

### *3. Health and Safety*

- a. The overwhelming evidence shows the development will more probably than not materially endanger public health and safety

44. The health of residents will also be affected by an increased number of sewer overflows on their properties, because the increased stormwater runoff will impose additional stress on the Brush Creek Sewer System, which already receives twice as many gallons as it is designed to handle and is involved in litigation due to its problems.

45. The Master Plan states specifically that one of its goals is to: “Promote adequate public water and sewer services,” (Utilities and Infrastructure Goals and Objectives, Goal 1: Plan, p.14). This goal will be violated because stormwater runoff will cause more runoff carrying more pollutants to enter Brush Creek, and the Brush Creek Sewer District cannot handle more sewage. No more than 200,000 gallons of sewage per day can come from the Brush Creek Sewer District, but there have been recent readings of 400,000 gallons, twice the legal limit.

46. The proposed plant will also not promote the health of the residents because the history of Landvatter’s operation of two other concrete plants reveals a high likelihood that the plant will emit pollutants that are harmful to human health in excess of the legal limits.

Documents received from the Missouri Department of Natural Resources (“DNR”) show that Landvatter’s violations of environmental laws are recent, consistent, and severe. Between 2006 and 2013, Landvatter consistently received letters of warning and notices of violation regarding violations of the Missouri Clean Water Law, Clean Water Commission Regulations, Landvatter’s Missouri State Operating Permit, and Control of Emissions from Solvent Metal Cleaning. The

pH readings on Landvatter's Discharge Monitoring Reports show readings which are egregiously above permitted levels and nearly reach the limit on the pH reading scale itself. The Total Suspended Solids levels also show readings which are over three times above the permitted levels.

47. The plant will also not promote health because it is very stressful for residents to lose their property values, and to lose the use of their property due to noise and dust.

48. The proposed plant will not promote the safety of residents as the increased truck traffic will make travel on the roads more dangerous for all travelers, and especially for school buses which must make frequent stops on hilly roads where visibility is limited.

#### *4. Convenience*

49. The proposed plant will not promote the convenience of residents as it will destroy the value and use of their property, increase traffic on local roads, and cause noise and dust to make them unable to enjoy their property.

#### **B. The Proposed Concrete Plant will not Conserve the Natural Resources of the County.**

50. The overwhelming evidence, as shown by relator's expert witness, shows that the stormwater runoff from the concrete plant will negatively impact Brush Creek, home of many species of fish and wildlife, and the runoff may contaminate the Meramec River, a source of drinking water, and will have a detrimental effect on habitat necessary to support fish and wildlife.

51. Relators presented evidence that Landvatter has violated environmental laws and regulations on numerous occasions over many years.

52. The developer's history of environmental noncompliance is overwhelming evidence the permit should not be issued.

**C. The overwhelming evidence shows the plant will not be in harmony with the area**

53. Currently Relators enjoy views of rolling, tree-covered hills. A concrete plant with its 70-foot silos, conveyor belt, and buildings will destroy the homeowners' views and property values.

54. Concerned Citizens will also not be able to enjoy their property because of the noise of the trucks and dust that comes from the proposed plant.

55. The land was zoned Community Development and there is good reason it had that designation as there is overwhelming evidence that it is unsuitable for heavy Industry.

56. The wildlife and birds that frequent the homeowners' yards and area will be adversely affected by the dust, noise and pollutants emitted from the proposed plant.

57. The proposed plant will also not be in harmony with contiguous land use because the plant will be built just 600 feet from the Shaw Nature Reserve, a 2,400-acre area dedicated to public enjoyment of the natural world and which contains 2,400 acres of wetlands, prairie and woodlands and has over 14 miles of trails, and attracts 60,000 visitors annually.

58. The proposed plant will not be in harmony with the Historic Route 66 on which it will be built. Franklin County worked with the Historic Route 66 group in past years to have this designation bestowed in this area; the Historic Route should not be violated by this plant.

**Count V  
Violation of RSMo Sections 64.870.1 and 71.010**

59. Relators incorporate by reference §§ 1-58 above.

60. Franklin County Unified Land Use Regulations Article 4, Part 3, Section A, Subpart 2, signed into approval on April 17, 2014, states that an appeal of a conditional use permit must be filed not more than 90 days from the date of approval by the Planning and Zoning Commission.

61. This regulation violates RSMo § 64.870.1 which states that, “appeals shall not be taken within a period of not more than three months.” Ninety days is less than three months in many instances, including relators’ matter, and the Franklin County government cannot legally shorten a time period mandated by law.

62. RSMo § 71.010 states that, “Any municipal corporation in this state...shall confine...the passage of its ordinances to and in conformity with the state law upon the same subject.”

63. In this case, RSMo § 64.870 is a state law upon the same subject and therefore the Franklin County ordinance is illegal.

**Count VI**  
**Violation of RSMo Section 64.875**

64. Relators incorporate by reference §§ 1-63 above.

65. The Board’s action was not authorized by law because RSMo § 64.875 states that when a written protest signed by the owners of thirty percent of the frontage within one thousand feet to the right or left of the frontage proposed to be changed, or by the owners of thirty percent of the frontage directly opposite, or directly in the rear of the frontage proposed to be altered, the amendment may not be passed except by the favorable vote of two-thirds of all the members of the county commission.

66. A written protest, signed by the owners of 16 of 21 properties which abut the frontage proposed to be changed, was timely filed before the P & Z Commission and is attached to this Petition as Exhibit 1.

67. In this case, the P & Z Commission voted 6-4 to issue the conditional use permit. Since six is not two-thirds of ten, the permit is illegal and void, making the Board's affirmance of it illegal.

WHEREFORE, for the foregoing reasons, relators pray that this Court:

1. Issue a writ of certiorari directing respondent Board of Zoning Adjustment of Franklin County to provide this Court on or before the date indicated in the Writ with a certified copy of the full, true and complete record pertaining to the Board's decision in File or Appeal No. 140007, including without limitation the action taken and the records acted upon; and

2. Upon review of the record, reverse the decision of the Franklin County Board of Zoning Adjustment and enter judgment that the conditional use permit was issued in violation of the law because:

a. The Board's decision reversing the P & Z Commission is valid because RSMo § 64.870.2 only requires a majority vote;

b. The permit issued below was illegal and void because a member of the Board spoke in violation of RSMo § 105.462;

c. The permit issued below was illegal and void because a member of the Board spoke in violation of RSMo § 105.458;

d. The Board's decision is void because it is not supported by competent and substantial evidence and the permit issued below is illegal in violation of the Franklin County Planning and Zoning Unified Land Use Regulations and Franklin County Master Plan; and

e. The Board's decision is void because the Board operated under an invalid ordinance which violated RSMo §§ 64.870.1 and 71.010;

f. The Board's decision is void because the P & Z permit was illegal and void and gave the Board nothing to review; and

3. Grant such further relief as the Court deems just and proper.

s/s Kathleen G. Henry

Kathleen G. Henry (Mo. Bar No. 39504)

Great Rivers Environmental Law Center

319 No. Fourth Street, Suite 800

St. Louis, Missouri 63102

(314) 231-4181

(314) 231-4184 (facsimile)

khenry@greatriverslaw.org

*Counsel for Relators*

STATE OF MISSOURI )  
 ) SS:  
COUNTY OF FRANKLIN )

CERTIFIED COPY

My name is Nichole Zielke; I maintain the records for the Franklin County Planning and Zoning Department. I have custody of File #140007, Roger Landvatter d/b/a Landvatter Ready Mix, Inc. C.U.P.

Having reviewed the accompanying document, I hereby certify that the following five (5) pages are, to the best of my knowledge, a true and accurate copy of a petition received by the Planning & Zoning Department on February 13, 2014 in conjunction with the above referenced file.

Nichole Zielke  
Nichole Zielke

08/20/14  
Date

State of Missouri, County of Franklin }  
<sup>JUZ</sup>  
AUGUST 20, 2014

On ~~July 11, 2014~~, before me personally appeared Nichole Zielke, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that she executed the same as her free act and deed. IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year last above written.

Joan U Zimmermann  
Notary Public

JOAN U. ZIMMERMANN  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Franklin County  
My Commission Expires: January 10, 2015  
Commission Number: 11538315

**EXHIBIT**  
1  
Relators

RECEIVED

FEB 18 2014

FRANKLIN COUNTY MO  
PLANNING & ZONING DEPT.

## **Petition Opposing the Issuance of A Conditional Use Permit To Landvatter Ready Mix**

On Tuesday February 18, 2014 at 7:00 P.M the Franklin County Planning and Zoning Commission has scheduled a hearing on a proposed Conditional Use Permit that will allow Landvatter Ready Mix, Inc to operate a materials handling facility related to the manufacturing and sales of concrete in the Community Development Zoning District. The location of this facility will be 7/10 of a mile east of the intersection of Old Rout 66/W. Osage St and Gray Summit Road.,

To: Members of the Franklin County Planning and Zoning Commission

I, the undersigned, voice my opposition to the issuance of a Conditional Use Permit to Landvatter Ready Mix, Inc to operate a materials handling facility related to the manufacturing and sales of concrete in the Community Development Zoning District.

We believe that the traffic, noise, and possible airborne emissions from this proposed facility could negatively impact our quality of life, health, and property values.

165  
140007



**Action Petitioned For:** We the undersigned are concerned citizens who urge the Franklin County Planning and Zoning Commission to deny a Conditional Use Permit to Landvatter Ready Mix.

Date	Signature	Printed Name	Address	Comment
2-7-14	Donald R. Brocato	DONALD R BROCATO	2808 OLD GRAY SUMMIT RD. PACIFIC, MO 63069	
2-7-14	Marian J. Brocato	MARIAN J. BROCATO	2808 OLD GRAY SUMMIT RD PACIFIC, MO. 63069	
2-7-14	<i>[Signature]</i>	Robert Lovett	2834 Old Gray Summit Rd Pacific, Mo 63069	
2-7-14	<i>[Signature]</i>	Kathleen Lovett	11	
2-7-14	Edward Lee Huff	Edward Lee Huff	2790 Old Gray Summit Rd Pacific, Mo	
2-7-14	Mavis Huff	Mavis Huff	2790 Old Gray Summit Rd Pacific, Mo	
2-8-14	Kelly D. Brothers	Kelly D. Brothers	2748 Old Gray Summit Rd Pacific, MO 63069	
2-8-14	Don Caldwell	DON CALDWELL	974 Decker Road Pacific, Mo	2750 OLD GRAY SUMMIT RD
2-8-14	Marilyn Sue Caldwell	MARILYN SUE CALDWELL	974 Decker Rd Pacific, Mo 63069	2750 OLD GRAY SUMMIT RD PACIFIC, MO 63069

280  
140007

**Action Petitioned For:** We the undersigned are concerned citizens who urge the Franklin County Planning and Zoning Commission to deny a Conditional Use Permit to Landvatter Ready Mix.

Date	Signature	Printed Name	Address	Comment
02-08-14	<i>[Signature]</i>	James & Pam Owens	2730 Old Gray Summit	OPPOSED!
02-08-14	<i>[Signature]</i>	JAMES P OWENS	2730 OLD GRAY SUMMIT	OPPOSED!
2-8-14	<i>[Signature]</i>	Kraig Dean	2232 Old Gray Summit Rd.	
2-8-14	<i>[Signature]</i>	Karen Dean	2232 Old Gray Summit Rd.	
2-8-14	<i>[Signature]</i>	Cecil Pemberton	2782 Old Gray Summit Rd.	OPPOSED!
2-8-14	<i>[Signature]</i>	Debbie Pemberton	2782 Old Gray Summit Rd.	OPPOSED!
2-8-14	<i>[Signature]</i>	Sandy Pemberton	2782 Old Gray Summit Rd.	
2-8-14	<i>[Signature]</i>	Jessica D Tolan	2820 Old Gray Summit	OPPOSED!
2-8-14	<i>[Signature]</i>	Robert Johnson	2826 Old Gray Summit	OPPOSED

3 of 5  
140007

**Action Petitioned For:** We the undersigned are concerned citizens who urge the Franklin County Planning and Zoning Commission to deny a Conditional Use Permit to Landvatter Ready Mix.

Date	Signature	Printed Name	Address	Comment
9 FEB 2014	<i>James L. Frisch</i>	JAMES L. FRISCH	2710 OLD GRAY SUMMIT RD PACIFIC, MO.	
9 Feb 2014	<i>Louis Vondera</i>	Louis Vondera	2820 Old Gray Summit Pacific, MO 63069	
9 Feb 2014	<i>Nichole Gitley</i>	Nichole Gitley	2820 Old Gray Summit Pacific, MO 63069	
9 Feb 2014	<i>Louis Vondera</i>	Louis Vondera	2756 Old Gray Summit Pacific MO 63069	
9 Feb 2014	<i>Janelle Vondera</i>	Janelle Vondera	2756 Old Gray Summit Pacific MO 63069	
9-10-2014	<i>Phyllis Cook</i>	Phyllis Cook	2798 Old Gray Summit Rd Pacific, Mo 63069	
2-11-2014	<i>Leroy Eiskant</i>	Leroy Eiskant	2670 Old Gray Summit Pacific mo 63069	
2-11-2014	<i>Myra Eiskant</i>	MYRA EISKANT	2670 Old Gray Summit Pacific MO 63069	
2-11-2014	<i>Ben Schwartz</i>	Ben Schwartz	2770 Old Gray Summit Pacific Mo. 63069	

4 of 5  
140007



STATE OF MISSOURI )  
 )  
COUNTY OF FRANKLIN ) SS

Kelly Brothers, of lawful age, being duly sworn upon her oath, states that she is one of the Relators herein, and that the facts stated herein are true according to her best knowledge, information and belief.

Kelly Brothers  
Kelly Brothers



TINA M. NEAVEILL  
My Commission Expires  
July 10, 2015  
Franklin County  
Commission #11387537

Subscribed and sworn before me this 20<sup>th</sup> day of August, 2014.

Tina M Neaveill  
Notary Public Tina M Neaveill

My Commission expires: 7-10-15

STATE OF MISSOURI )  
 )  
 ) SS  
COUNTY OF FRANKLIN )

Kelly Brothers, of lawful age, being duly sworn upon her oath, states that she is the spokesperson for and authorized to act on behalf of the Concerned Citizens Against Landvatter Ready Mix LLC, and she is one of the Relators herein, and that the facts stated herein are true according to her best knowledge, information and belief.

Kelly Brothers  
Kelly Brothers



TINA M. NEAVEILL  
My Commission Expires  
July 10, 2015  
Franklin County  
Commission #11887537

Subscribed and sworn before me this 20<sup>th</sup> day of August, 2014.

Tina M Neaveill  
Notary Public Tina M. Neaveill

My Commission expires: 7-10-15