

GREAT
RIVERS



Fall 2009

REPORTER

Great Rivers Environmental Law Center
705 Olive Street • Suite 614 • St. Louis, MO 63101 • (314) 231-4181 • www.greatriverslaw.org

SUCCESS! Nuclear Regulators Stop All Action on Callaway 2 License



*AmerenUE terminates its application in the Nuclear Regulatory
Commission to build second nuclear unit*

Letter from the President:



We Spoke: Readers Responded

In July of this year, we sent a letter to past donors informing them of our financial troubles. We told them that Great Rivers has reached a turning point in our seven-year history. The Lewis C. Green Trust, from which we have used about \$66,000 each year, has lost money in the stock market in 2008 and is almost depleted. Our annual budget is about \$225,000, which pays for salaries for three attorneys, an office manager, and overhead. With this low budget we have achieved a remarkably cost-effective record of tangible successes: preserving Buehler Park in Rolla, stopping a super-levee in Jefferson City, ending use of the “wet method” of asbestos control in Bridgeton, drafting successful citizen ballot initiatives — a statewide renewable electricity standard (Proposition C) and park protection in St. Louis City (Prop P) — and winning an appeal against Kansas City Power and Light’s proposal for a coal-fired power plant.

We asked those who made contributions in the past to assist us with raising funds. Furthermore, if anyone was in a position to make a sizeable donation, we said that now is the time that it is needed.

As a result of this letter, we received over \$13,000 in donations, which is a tremendous help. **We are very grateful to all of you who responded.** Another \$50,000 came in from an anonymous donor, as a kick-off toward our efforts to replace the funds needed that will not come in from the Lewis C. Green Trust in the future. Our financial problems are not over, but we are very grateful to those of you who have helped us.

Kathleen Henry

Board News

Wayne Goode was appointed by Governor Jay Nixon to the University of Missouri Board of Curators in July, 2009. In November, 2008, Nixon appointed Goode to be Deputy Transition Director for Budget Review, allowing Goode to advise Nixon on fiscal and appropriations matters in preparation for Nixon’s first budget as Governor. Way to go, Wayne!

Great Rivers Environmental Law Center *The legal resource for natural resources.* (a 501(c)(3) tax-exempt nonprofit corporation)

Mission Statement

We provide legal services to citizens’ groups, organizations and individuals who seek to protect and preserve the environment.

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GREAT RIVERS' ENERGY PROGRAM: Confronting Nuclear Power

NUCLEAR REGULATORS STOP ALL ACTION ON CALLAWAY 2 LICENSE

On August 28, 2009, an Atomic Safety and Licensing Board of the Nuclear Regulatory Commission (NRC) terminated all preparations for a hearing on AmerenUE's proposed Callaway 2 nuclear power plant. This comes very close to pulling the plug on a project that was already on life support. Ameren had announced it was suspending its effort to build Callaway 2 after the Missouri legislature refused to repeal a 1976 voter-passed law that forbids utilities to charge ratepayers for construction work in progress (CWIP).

On June 26, 2009, AmerenUE filed a motion with the Nuclear Regulatory Commission (NRC) to terminate the hearing on the Construction and Operating License Application (COLA) for the Callaway 2 reactor. On June 23 AmerenUE had sent a letter to the NRC Staff asking them to suspend all review of the COLA. Ameren gave no reason except that it was in the company's "best interests." The Staff agreed to the suspension on June 29. It no longer made sense for the Licensing Board to continue with the adjudicatory hearing process on the legal issues raised by the COLA.

Ameren filed the COLA on July 24, 2008. On April 6, 2009, following the NRC's Notice of Hearing and Opportunity to Intervene, Great Rivers Environmental Law Center filed a Petition to Intervene on behalf of the Missouri Coalition for the

Environment and Missourians for Safe Energy, pointing out flaws in AmerenUE's Environmental Report and their inability to guarantee disposal of the radioactive waste that Callaway 2 would emit and store on-site.

On August 14, 2009, Great Rivers joined with Ameren and the two other intervening parties (the Missouri Office of Public Counsel and Missourians Against Higher Utility Rates) in filing a Settlement Agreement in which the parties consented to termination with conditions that would, in essence, allow the parties to pick up from where they stand now if the license proceedings are ever reactivated. The settlement also protects the public's right to participate by allowing new parties to join the case in the future. The Licensing Board's order approved the settlement.

AmerenUE is not withdrawing its application, however. "They're trying to salvage something from the wreckage," said Henry Robertson, the Great Rivers attorney who filed the petition to intervene. "All indications are that Ameren has given up on Callaway 2. Ameren would like to sell the COLA to another company, but it looks extremely unlikely that anyone else will ever be able to finance this plant either."

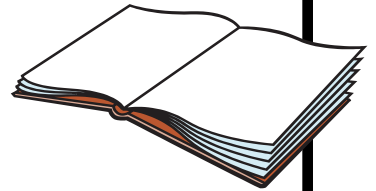
For now, Missouri will be spared a second nuclear plant with its accompanying routine releases of nuclear radiation and generation of nuclear wastes.

Great Rivers' Energy Program *Continued on page 4*

With your generosity, Great Rivers has been able to help the following organizations:

American Bottom Conservancy
Citizens for the Preservation of Buehler Park
Citizens to Protect Forest Park
Concerned Citizens of Carroll County
Concerned Citizens for Crystal City
Concerned Citizens of Platte County
Earth Share of Missouri
Families for Asbestos Compliance,
Testing and Safety
Great Rivers Habitat Alliance
Heartwood, Inc.
Missouri Coalition for the Environment
Missourians for Safe Energy
Missouri Parks Association
Renew Missouri
Sierra Club

LOOK FOR THIS NEW BOOK IN DECEMBER:



A Force for Nature: *The Environmental Litigation of Lewis C. Green* by Florence Shinkle and Patricia Tummons

Former Post-Dispatch writers Pat Tummons and Florence Shinkle have written a book on the environmental work of Lewis C. Green. St. Louis based-Reedy Press will publish it in December, 2009. The book discusses several important areas of litigation brought by Lewis Green including seminal air pollution and land use cases. You can reserve a copy of the book by calling Great Rivers at (314) 231-4181.

GREAT RIVERS' ENERGY PROGRAM *(continued)*

Great Rivers Intervenes in AmerenUE's Rate Case on Behalf of the Natural Resources Defense Council

On August 17, 2009, Great Rivers intervened in the Public Service Commission on AmerenUE's new rate case on behalf of the **Natural Resources Defense Council** (NRDC). NRDC and its members are interested in promoting energy efficiency, peak demand reduction and renewable energy resources to meet Missouri's energy needs. NRDC intervened in this proceeding in order that its members and others may benefit from well designed and cost-effective energy efficiency programs and renewable resources. NRDC has intervened or provided testimony on these issues in eight other states, and we are glad to have their involvement in Missouri.

Intervention in AmerenUE'S Integrated Resource Plan (IRP) Continues

AmerenUE's next Integrated Resource Plan is due in February, 2011. Ameren continues to hold stakeholder meetings on various aspects of the plan. Great Rivers attorney Henry Robertson attends these meetings on behalf of the Mid-Missouri Peaceworks, Missouri Coalition for the Environment and Sierra Club, which are particularly interested in Ameren's energy efficiency programs. We continue to pressure Ameren to do more with energy efficiency and renewable energy.

Legislation

Proposition C: Bringing Renewable Energy to Missouri

On Feb. 27, 2009, the staff of the Public Service Commission (PSC) released a draft rule to implement Proposition C, the Renewable Energy Standard. The measure requires the state's investor-owned utilities — AmerenUE, Kansas City Power & Light and Empire District Electric — to get an increasing percentage of their sales from renewable sources like wind, solar, biomass and small hydro. The three utilities will have to reach 2% renewable electricity by 2011, 5% by 2014, 10% by 2018, and 15% beginning in 2021. The PSC Staff's draft rule to implement Proposition C, has now gone through multiple iterations. On behalf of the **Missouri Coalition for the Environment** and **Renew Missouri**, Great Rivers has participated in three workshops to go over the rule. The next step should be the Staff's final effort which they will then turn over to the Commission for the formal rulemaking. That involves a 60-day public comment period culminating in a hearing before the Commission. On behalf of our clients, we are closely watching this to make sure that the voters' intentions are carried out.

Missouri's Department of Natural Resources also has to make a rule under Prop C. The renewable industries are not interested in doing this, so it falls upon Great Rivers to represent the public. DNR is still in the process of drafting a rule, and we are providing input.

Energy		Washing machine
Manufacturer Model		
More efficient 		B
Less efficient Energy consumption kWh/cycle <small>(based on standard test results for 60°C cotton cycle)</small> <small>Actual energy consumption will depend on how the appliance is used</small>		1.75
Washing performance <small>A: higher G: lower</small>		A B C D E F G
Spin drying performance <small>A: higher G: lower</small> Spin speed (rpm)		A B C D E F G 1400
Capacity (cotton) kg		5.0
Water consumption		5.5
Noise (dB(A) re 1 pW)		Washing: 5.2 Spinning: 7.6
Further information contained in product brochure		

According to the American Council for an Energy-Efficient (ACEEE), Missouri ranks 41st out of 50 states in its embracing of energy efficiency policies. Great Rivers hopes to improve that.

BRIEF UPDATE ON OTHER PROJECTS

WATER QUALITY PROGRAMS

Suit Filed to Protect the Ozark National Scenic Riverways

In July, 2009, on behalf of the **L-A-D Foundation**, Great Rivers filed suit against Shannon County for its violations of the federal Clean Water Act. Big Creek is a major tributary of the Current River below Big Spring. Great Rivers alleges that Shannon County cut a channel along the west side of Big Creek, diverting the creek to a new channel. Shannon County also mined gravel, clay, soil and rock from L-A-D lands and deposited these materials into Big Creek. These actions are not permitted by federal or state authorities and will result in additional sediment being carried down Big Creek and into the Current River. The Current River is a popular place for thousands of Missourians and must be protected for future generations.

FLOODPLAIN PRESERVATION PROGRAM

Great Rivers Appeals Suit Against Federal Emergency Management Agency

Suit Alleges Urban Levee Fails to Meet FEMA's Design Requirements

In December, 2008, Great Rivers Environmental Law Center filed suit on behalf of **Great Rivers Habitat Alliance** against the Federal Emergency Management Agency (FEMA), alleging that an urban levee in St. Charles County, Missouri, fails to satisfy FEMA's design requirements. The suit was filed in the United States District Court for the Eastern District of Missouri.

FEMA's regulations require that all openings of a levee must be provided with closure devices that are structural parts of the system during operation and designed according to sound engineering practice. The closure plan for two portions of the St. Peters levee calls for sandbagging for protection, an obvious non-compliance.

In July, 2009, the District Court dismissed the suit. We appealed to the 8th Circuit Court of Appeals in September, 2009.

AIR QUALITY AND PUBLIC HEALTH PROGRAMS: CONTINUING THE FIGHT AGAINST OLE KING COAL

Lawsuit Regarding Coal-Fired Pig Iron Ore Smelter

On behalf of the **Concerned Citizens for Crystal City**, Great Rivers continues its litigation against the City of Crystal City. We filed suit in November, 2007, alleging that city officials violated Missouri's Open Records, or Sunshine Law, and several other

statutes, when it entered into a lease with a company that plans to develop a coal-fired pig iron ore smelter. The citizens are opposed to the smelter because it was negotiated in illegally closed meetings and will emit pollutants that will cause respiratory problems, asthma, and global warming.

Coal-Fired Plants' Toxic Discharges

Coal-fired power plants discharge huge quantities of toxic chemicals to Missouri's waters. These discharges have fouled the State's rivers and streams, and create significant health risks. Great Rivers believes that State-issued National Pollutant Discharge Elimination System (NPDES) permits authorizing these discharges do not protect the public health or the environment. As these 5-year permits come up for renewal, Great Rivers is working to eliminate the toxic discharges.

LAND USE PROGRAM

Preservation of LaBarque Creek Watershed, Jefferson County, Missouri

LaBarque Creek is a beautiful creek in Jefferson County that drains water from a 13-mile watershed into the Meramec River. It is in pristine condition, home to over 42 species of fish, and part of the state's "Conservation Opportunity Area" (COA) program. The COA program allows the Department of Conservation to designate areas that are especially worthy of protection. MDC says of LaBarque Creek: "The LaBarque Creek COA ... provides more than six miles of permanent flowing Ozark stream that supports more than 40 species of fish, including black bass and sunfish, and 10 mussel species. Its level of aquatic biodiversity and richness can be found nowhere closer to the St. Louis area. The LaBarque Creek watershed also supports one of the few sandstone landscapes in Missouri with much of its natural integrity still intact."

In 2007, AmerenUE selected an area in the LaBarque Creek Watershed for the construction of a new transmission line. AmerenUE chose this area over two others, and over objections from the Department of Conservation, local residents and the Nature Conservancy. The transmission line will clear-cut an area 100-feet wide and extend for 11.3 miles, crossing LaBarque Creek in two spots. Generally, utilities spray pesticides and fungicides beneath their utility lines to prevent growth of vegetation beneath them.

Ameren was urged to pick this area by state legislators, who make it their policy to choose public lands over private lands for transmission lines. This decreases the amount of money Ameren would have to pay to private landowners for easements over their property, but causes a greater impact to conservations areas.

Great Rivers is investigating whether the Corps of Engineers acted lawfully in granting a permit for construction and whether the Departments of Natural Resources and Conservation have acted in compliance with the law.

GREAT RIVERS ENVIRONMENTAL LAW CENTER'S FOURTH ANNUAL DINNER

Lewis C. Green Environmental Service Awards Dinner, October 29, 2009 A Good Time For All

Awardees Call on Missourians to Take Action to Protect State Parks, Current and Jacks Fork Rivers

At the fourth annual Lewis C. Green Environmental Service Awards Dinner, Great Rivers presented awards to **Susan Flader, Professor Emerita of the University of Missouri-Columbia**, and **John Karel, Director, Tower Grove Park**. Professor Flader and Mr. Karel have dedicated themselves to the pursuit of environmental preservation for over four decades. The Lewis C. Green Awards are given to people who show "long-standing commitment to the preservation of the environment," and there could not be two people with more years of dedication than these two.

The Piper Palm House in Tower Grove Park in St. Louis provided a lovely setting for the wonderful dinner catered by Butler's Pantry. One hundred thirty people braved the rain to attend the event. Ms. Flader informed us about the crises facing Missouri's outstanding State Parks, due to funding cuts by the legislature resulting in staff reduction and deferred maintenance. Mr. Karel spoke about the degradation of the Ozark Natural Streams and the abuse of the Current and Jacks Forks Rivers due to over-usage, ATVs and horses. Both speakers asked Missourians to take actions to protect parks and wilderness areas.

SUSAN L. FLADER

Susan Flader holds a Ph.D. from Stanford University in History and Humanities. She has been a professor at the University of Missouri-Columbia since 1973 and currently is a professor emerita there. She has taught American and world environmental history and the history of the American West. She has published widely on the career and thought of Aldo Leopold, including *Thinking Like a Mountain* (1974/1994), *The River of the Mother of God* (1991), *Exploring Missouri's Legacy: State Parks and Historic Sites* (1992), "Environmental History at the Grassroots: The Missouri State Parks Experience," in Melosi and Scarpino, eds. *Public History and the Environment* (2004), as well as numerous other works of forest and environmental history. She has received dozens of national and state awards for publications, service and conservation action.



Ms. Flader has served on many boards of directors, including: Aldo Leopold Foundation 2002-present (chair 2004-present); American Forestry Association 1979-90; American Society for Environmental History 1979-82; 1993-2003 (president 1995-97); Audubon Missouri, 2001-present; Forest History Society 1972-83; 1995-98, L-A-D Foundation 1995-present (vice president 2000-present); Missouri Parks Association 1982-present (president 1982-86, 1998-2002); Missouri River Heritage Foundation Advisory Council, 1996-99; National Audubon Society 1974-80; Ozark Natural Resources Foundation: Vice-President, 2000-2007; and the Sierra Club: National Publications Committee, 1983-87.

She has served on many editorial boards, including: Journal of Forest History, Journal of Environmental Ethics, Environmental History Review, Sierra Club Books, University of Missouri Press, Columbia Guide to American Environmental History, Encyclopedia of World Environmental History, and the Encyclopedia of American Environmental History.

Ms. Flader has been a guest lecturer and visiting scholar in more than twenty-five states and at universities world-wide, including South Africa, Finland, China, England, Lithuania, Germany, Denmark, Canada, Brazil, Costa Rica, Ecuador, and Thailand.

JOHN A. KAREL

John Karel received a Master of Science degree from the University of Missouri-Columbia in 1966. He was appointed Director of the Parks Division of the Missouri Department of Natural Resources in October, 1979, and held that post until July of 1985. As Parks Director, he was responsible for administration of the Missouri State Parks system.



In October of 1987, John Karel accepted the directorship of Tower Grove Park. He is responsible for administration of all aspects of this 289-acre historic institution. During his tenure, Tower Grove Park has been substantially restored and revitalized.

From his college days, John Karel has been an active environmental leader on public land issues. He co-founded the Missouri Wilderness Coalition in 1976 and was the principal leader in legislative campaigns which resulted in congressional designation of several wilderness areas in Missouri. Since the mid-1980's he has become equally active in historic preservation. He has a special interest in Missouri history and geography.

Mr. Karel has published many articles in various publications, and belongs to numerous environmental, recreation, and historic preservation groups. He currently serves on the boards of several citizen organizations including the St. Louis chapter of the Victorian Society in America, the Foundation for the Restoration of Ste. Genevieve, the Missouri Parks Association, and the National Association for Olmsted Parks. He is President of the L-A-D Foundation, which owns over 140,000 acres of forest land in Missouri, demonstrating and supporting conservation and responsible forestry.

He is co-author of a highly regarded book on Missouri's state parks and historic sites, *Exploring Missouri's Legacy*, published in 1992 by the University of Missouri Press. He has received numerous awards and honors in recognition of his work for the protection and improvement of public lands and open spaces.

***We extend our heartfelt thanks to our supporters.
Without your support, we would not be able to carry on our projects.***

Contributions received May 2009 - September 2009

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Gold - \$10,000
Silver - \$7,500
Diamond - \$5,000
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Emerald - \$500

Cornerstone Society

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GREAT RIVERS THANKS ADOLPHUS BUSCH IV, MARK HAIM

Great Rivers thanks Adolphus Busch IV for his generous hospitality in allowing us to hold a Cocktail Party at the Busch Family Mansion at Grant's Farm on June 20, 2009. Over 120 guests enjoyed cocktails at the beautiful mansion on a warm summer evening.

Great Rivers also thanks Mark Haim and the Mid-Missouri Peacewords for holding a benefit concert for Great Rivers in Columbia on September 5, 2009. Musicians Noah Earle, Lizzie West and Baba Buffalo entertained concert-goers at the benefit concert for Great Rivers Environmental Law Center. We are very grateful for all the work of Mark and the musicians in putting together this concert.

*Fran Vinnacombe
poses with the
Clydesdale named
Matt at Grant's Farm.*



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