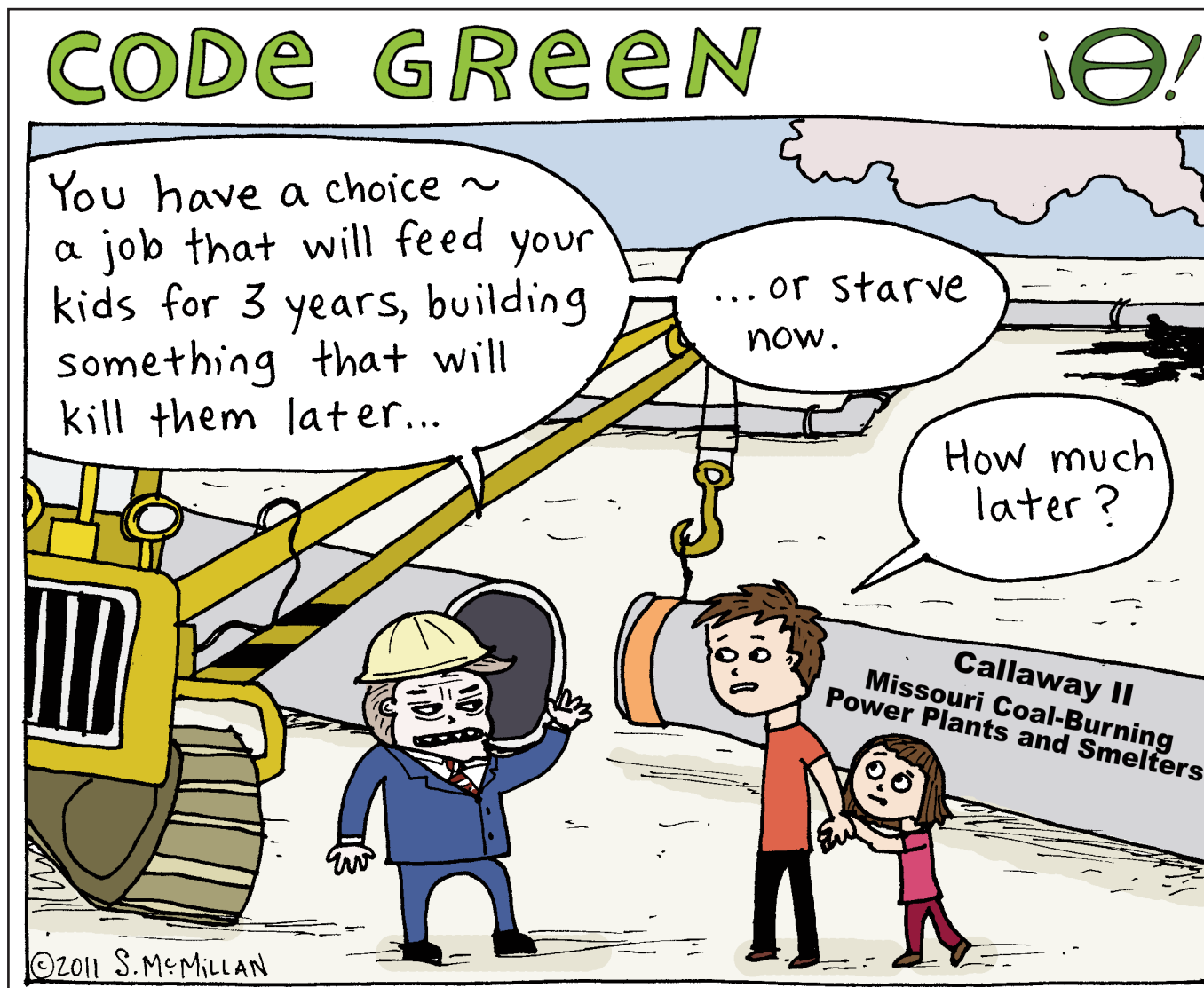




Great Rivers Fights for Green Jobs: Dirty Jobs Sacrifice Public Health



Cartoon courtesy of Stephanie McMillan

Letter from the President:



Public Health and the Environment v. Jobs

In September, the Obama administration decided not to tighten federal ozone standards for air pollution, citing the need to remove regulatory burdens and uncertainty for businesses. Obama put politics ahead of public health and delayed implementation of a new, stricter standard for ozone-causing pollutants until at least 2013. Ozone causes asthma and other respiratory problems and has been linked to cancer.

In St. Louis, "Energy for Missouri Jobs," recently placed ads claiming that thousands of Missourians will lose their jobs because the EPA is "in a rush" to impose regulations that would increase energy prices. Energy for Mo. Jobs is funded by the American Coalition for Clean Coal Electricity; its members include Peabody, Arch Coal, and Ameren. The ads fail to mention the fact that the regulations are meant to protect the public from harmful pollutants that cause a host of cancers and respiratory problems.

News organizations have asked experts whether having a healthier environment does harm jobs. The answer is **no**. CNN Money reported that a study done by the U. of Mass. found that requiring coal utilities to run cleaner would actually *create* 1.5 million new jobs each year for five years after the regulations took effect. USA Today reported that the N.Y. U. Law School's Institute for Policy Integrity found that tougher air pollution standards will save money currently lost when people get sick from air pollution, resulting in lost productivity, hospital bills, more asthma cases and untimely deaths. The EPA said that industry is exaggerating the job loss claims, threatening massive losses when businesses are really concerned about their own profits.

Our jobs as attorneys at Great Rivers become tougher as regulations are weakened, and our clients face pressure from community members to back off of their opposition to polluting plants. The industries have succeeded in making the public fearful when there is too much at stake to succumb to that fear.

Kathleen Henry

Board News

Great Rivers welcomes new board member **Roger Hershey!** **Roger** is the Vice-President and General Counsel of Park University in Parkville, MO, and lives in Independence, MO. We are pleased to have him on board for his expertise and for the perspectives he brings from the western part of the state.

**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

Clean Up or Shut Down Dirty Old Coal Plants

Great Rivers' Work Results in State-Wide Changes Concerning Coal Waste

Earlier this year, Great Rivers opposed a permit the Missouri Department of Natural Resources planned to issue to the Associated Electric Cooperative, Inc. ("AECI"), concerning its 39-year old coal-fired power plant in New Madrid, on 522 acres on the Mississippi River. For decades AECI placed the coal wastes in an unlined landfill on the Mississippi River, and, the DNR did not require AECI to monitor the water for pollutants which come from coal combustion waste including selenium, mercury, and arsenic, which are known to cause environmental harm and can pose a human health risk. In 1997, the DNR required monitoring at new ash disposal sites, but not at older sites.

Over the course of several months, we urged the DNR to set limits on the waste that can be placed in the unlined landfill, identify the types and quantities of discharges from the landfill and reduce the potential that the discharges will reach groundwater.

In response to our efforts, DNR added special conditions to the permit, requiring AECI to implement a groundwater monitoring program and to determine the impact of the unlined coal ash on both groundwater and surface water. Furthermore, DNR stated that it will require all utilities to implement this monitoring on all old coal ash disposal sites across the state.

This is a terrific result but it is appalling this monitoring has not been required before this year. In Missouri, shareholder profits trump public health all the time.

Victory in Efficiency Rule Litigation

Getting Missouri's utilities to do the right thing never comes easy, but on November 10 the Cole County circuit court handed us a win when it upheld the PSC's rules on energy efficiency.

In 2009 the legislature passed the Missouri Energy Efficiency Investment Act. Drafted by Kansas City Power & Light, it's intended to give utilities the financial incentives they need to offer their customers programs that will save them energy and money. Traditional utility ratemaking only rewards capital investments like power plants; utilities are unable to make any profit on efficiency programs.

Great Rivers supported the Act even though it does not require utilities to offer any efficiency programs. We participated in the long Public Service Commission rulemaking. Unfortunately but predictably, the utilities weren't satisfied with the incentives they had sought in their own bill. Ameren Missouri and KCPL appealed. The Office of Public Counsel (OPC), the state watchdog for utility customers, appealed for a different reason.

Great Rivers, representing **Renew Missouri**, filed a brief supporting the PSC rules and opposing both the utilities and OPC, and argued the case in Cole County Circuit Court on November 1. In a short decision entered ten days later, the court upheld the rules in all respects.

Because efficiency programs reduce electricity sales, the utilities lose the income from those sales. Even though the rules provide them with compensating incentives, the utilities still want these "lost revenues." The PSC rules give them lost revenue—but not enough for their liking. They insisted on a definition of lost revenue that would allow them to profit from selling more electricity even when their efficiency programs reduced demand—a case of conflicting incentives. Indeed, it appears that they want to make the same money they would have made selling phantom electricity they never had to generate. On top of that, they would get their costs back for the efficiency programs plus an incentive. The court rejected this overreaching.

Great Rivers also opposed the OPC's appeal. OPC consistently takes the position that the utilities should never be able to change their rates outside of a rate case. OPC thinks consumers are better protected this way, but, as explained above, this old model of ratemaking no longer works. Great Rivers, siding with the utilities as well as the PSC on this issue, argued that MEEIA's provision for "timely" cost-recovery meant that the utilities could get their costs back semi-annually without having to file a new rate case. This accelerated cost-recovery is an important incentive for encouraging the utilities to offer efficiency programs.

The battle isn't over. We'll be back in the PSC soon striving to strike a proper balance between the interests of the utilities, consumers and the environment.

Energy Program *continued on page 5*

BRIEF UPDATE ON OTHER PROJECTS

LAND USE PROGRAM

Great Rivers seeks Preservation of Church Mountain and Improvements in Taum Sauk Mountain

In October, 2011, Great Rivers filed Comments on behalf of the **Missouri Parks Association** on AmerenMO's application to relicense its hydropower plant on Taum Sauk Mountain. Although the Taum Sauk facility went into commercial operation in 1963, there never has been a comprehensive evaluation of the facility's environmental impacts or alternatives to its operation. Great Rivers is pressing for a long overdue environmental impact statement. In addition, the ongoing operation of the reconstructed plant (following the 2005 upper reservoir collapse) has greatly devalued the surrounding public lands. The new upper reservoir, with its high walls and glaring white concrete, is far more intrusive than the original structure by day, and the array of lights make it even more glaringly obvious at night. Also, there also has been a significant rise of ATV use that is not only unauthorized but harmful to the trails. Further, since reconstruction of the facility, access to the Church

Mountain trails has been closed to the public. To mitigate these harmful impacts, Great Rivers is urging FERC to require AmerenMO to transfer title of Church Mountain and the Taum Sauk Creek Valley Lands to the State of Missouri for management as part of the complex of state parks and natural areas in the region.



*Church Mountain
Photo courtesy of MO. DNR*

FLOOD LAND AND WETLANDS PRESERVATION PROGRAM

Halt the Rapid Loss of Wetlands

In June, 2011, we launched a project to end the rapid loss of wetlands within the Mississippi River corridor. At one time almost 7 million acres (37%) of the 18.4 million acres in the 100-year flood zone were wetlands. Four million acres of these former wetlands have now been drained, and federal levees isolate approximately 2.3 million acres (13%) of floodplain from their parent rivers. In the Water Resources Development Act of 2007, Congress tried to stem the rapid loss of wetlands by imposing on the Army Corps of Engineers very specific and mandatory wetlands mitigation requirements. Our investigation these past several months shows the Army Corps has responded largely by ignoring Congress. On the regulatory side, the

Corps often is not requiring the amount and type of mitigation necessary to halt wetlands losses. When the Corps does require appropriate mitigation, often the Corps does not require the developer to actually create or restore the wetlands. The situation is worse on the civil works side, where the Corps is failing to put in place for its own projects even the most basic of the critical mitigation requirements. After identifying Corps' deficiencies, we are advocating for compliance with the law through formal comment, correspondence, position papers, and meetings with state and federal officials, and identifying appropriate projects for litigation, if needed.

AIR QUALITY AND PUBLIC HEALTH PROGRAM

Concerned Citizens for Crystal City Win "Best Gadflies" Award from Riverfront Times

In September, 2011, the **Concerned Citizens for Crystal City** were given the award of "Best Gadflies" by the weekly newspaper, the Riverfront Times. The **Concerned Citizens** were recognized for their tenacity in resisting the overly broad claims made by the smelter developer that

he needed to know the identities of posters of over 4,000 anonymous messages to an internet forum. For four years Great Rivers has represented the **Concerned Citizens** and we are finally back in trial court where we hope to have the judge rule on the merits of the case.

GREAT RIVERS' ENERGY PROGRAM *Continued from page 3*

AmerenMO's Integrated Resource Plan (IRP)

AmerenMO's long-range plan, filed back in February, confirmed what we already knew—energy efficiency is the lowest-cost way utilities can meet their customer's energy needs. Efficiency reduces customers' bills and avoids the need to build expensive and polluting power plants. Therefore, under the PSC's IRP rules, this is what AmerenMO should be doing.

But no, AmerenMO rejects this conclusion because, it says, the energy efficiency law discussed on page 3 of this newsletter isn't generous enough to their shareholders—never mind the ratepayers and the utility's duty to serve the public interest.

In fact, AmerenMO filed a change to its plan in October slashing its already low spending on efficiency. Under the weak IRP rules, there's little we can do about this.

Great Rivers and its clients continue to seek a way out of this impasse. The utilities will soon be filing cases under the efficiency law specifying what incentives they want. We will continue to engage in this process in hopes of a negotiated solution.

Expressions of public outrage, directed to AmerenMO and the PSC, wouldn't hurt.

Renewable Energy

From our "Anything can happen" department: the Renewable Energy Standard, passed by the voters as Proposition C in 2008, requires electric utilities to offer a rebate to customers who install their own solar panels.

On June 29, a judge in Cole County declared this rebate unconstitutional!

Great Rivers jumped into the case and, together with representatives of Missouri's solar industry, succeeded in getting the judge to retract this unexpected and shocking result.

Renew Missouri plans to go back to the ballot in 2012 to strengthen the Standard and remove a couple of loopholes the utilities have found and are exploiting to the full, which resulted in essentially no renewable energy development when the first, 2%, energy target went into effect at the start of this year. Great Rivers is involved in crafting a new initiative.

GREAT RIVERS' INTERNSHIP PROGRAM

Where Do Our Summer Interns Go?

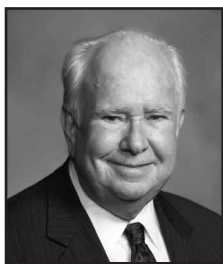
Since our first year in 2002, we have had summer interns. We welcome interns who have completed at least one year of law school and try to ensure we provide students with experiences that will benefit them in their future practice.

We have had interns who are law students at American University, St. Louis University, Tulane University, University of Missouri-Kansas City, University of Oregon, and Washington University. Our former interns have gone on to work at the EPA

in Washington state, Cascadia Wildlands in Oregon, Earthjustice in Hawaii, the Missouri Attorney General's office, and recently two former interns were finalists for a position with the Conservation Law Foundation in Maine.

We are grateful we can provide meaningful experiences to those seeking work across the nation.

LEWIS C. GREEN ENVIRONMENTAL SERVICE AWARD PRESENTED TO DR. PETER H. RAVEN



Dr. Peter H. Raven

This year the Board of Directors presented a Lewis C. Green Environmental Service Award to Dr. Peter H. Raven, in recognition of his long-time commitment to the preservation of the environment. Over 100 people attended the Sixth Annual Award Party, held this year at the Busch Family

Mansion on October 2, 2011. Dr. Raven gave an inspiring talk on the dangers of over-population, global warming, and the anti-science attitude that is currently pervasive. Great Rivers extends its thanks to Adolphus A. Busch for making the wonderful setting available.



Joe and Yvonne Logan



John and Susan Rava



Carol Dowd and Carol Gaskin

GREAT RIVERS' COCKTAIL PARTY IN LAFAYETTE SQUARE A SUCCESS!

On May 14, 2011, over 75 guests enjoyed cocktails and hors d'oeuvres at the beautiful home of Dr. and Mrs. Jon Ritter in Lafayette Square. The 1878 mansion was built for Eliza Eads How, daughter of James B. Eads, designer and chief engineer of St. Louis' Eads Bridge.



James B. Eads, designer of Eads Bridge in St. Louis, built this house in Lafayette Square for his daughter Eliza in 1878

BRUCE A. MORRISON NAMED BEST LAWYERS' "ENVIRONMENTAL LITIGATION LAWYER OF THE YEAR 2012"

Best Lawyers, a "respected peer-review" publication in the legal profession, named Bruce A. Morrison as the "St. Louis Best Lawyers Litigation—Environmental Lawyer of the Year" for 2012.

After more than a quarter of a century in publication, Best Lawyers is designating "Lawyers of the Year" in high-profile legal specialties in large legal communities. Only a single lawyer in each specialty in each community is honored as the "Lawyer of the Year."

The lawyers honored as "Lawyer of the Year" have received particularly high ratings in Best Lawyers'

surveys by earning a high level of respect among their peers for their abilities, professionalism, and integrity.

Steven Naifeh, President of Best Lawyers, says, "We continue to believe—as we have believed for more than 25 years—that recognition by one's peers is the most meaningful form of praise in the legal profession. We would like to congratulate Bruce A. Morrison on being selected as the 'St. Louis Best Lawyers Litigation—Environmental Lawyer of the Year' for 2012."

Great Rivers congratulates Bruce on his well-deserved recognition.

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

Contributions received April 1, 2011 - October 31, 2011

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Great Rivers thanks the family for suggesting that memorial donations be made to Great Rivers Environmental Law Center
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Great Rivers started a Sponsorship program in the Summer of 2006. Sponsors are entitled to certain benefits based on their level of contribution. Our levels are:

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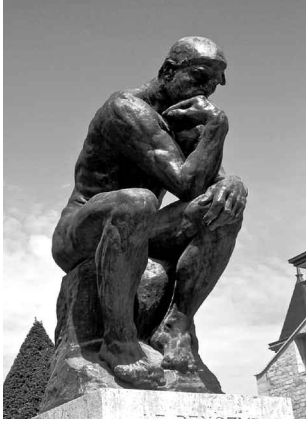
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TRIVIA NIGHT

Save the Date for our first TRIVIA NIGHT



**Saturday, February 18, 2011
7:00 pm (doors open at 6:00 pm)**

**Richmond Heights Community Center
8001 Dale Avenue
St. Louis, MO 63117
(near the intersection of Hwy. 40 and 170)**

**Bring your own snacks
Wine and beer available for purchase
\$150 table of 8; \$20 a person
Call 314-231-4181 to make your reservation**

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