

**Part III - Statement of Program Service Accomplishments**

**I. AIR QUALITY PROGRAM**

An important part of our air quality program involves monitoring actions taken by federal, state and local governments that will impact the quality of the air breathed by the citizens of Missouri and surrounding states. Great Rivers is frequently involved in matters that adversely affect air quality. Measures taken by Great Rivers include commenting on proposed rules, issuing position papers about the pollutants, and, as a last resort, handling litigation for clients seeking to improve air quality.

***A. Ground Level Ozone***

Great Rivers represents the Sierra Club in its suit against the Environmental Protection Agency (EPA) over the ozone levels present in the City of St. Louis and surrounding areas in Missouri and Illinois.

***B. Global Warming***

Great Rivers is monitoring actions taking place at the federal and state levels, as actions being proposed may have financial and environmental repercussions for the state of Missouri. The federal government has decided against the regulation of the primary greenhouse gas, carbon dioxide (CO<sub>2</sub>) as an air pollutant. However, many observers expect this decision to be reversed as evidence of the potentially cataclysmic effects of global warming become more apparent.

***C. Reducing Emissions of Hazardous Air Pollutants***

There are over 100 new coal-burning power plants proposed for the United States. If all are built, the reductions in emissions taken by the rest of the world pursuant to the Kyoto agreement will be undone by the United States alone. There are two new coal-burning plants proposed for Missouri—one in Springfield, Missouri and one in Platte County near Kansas City. Great Rivers is assisting the Sierra Club in its legal and administrative challenges to both plants and the citizens' group, Concerned Citizens of Platte County, in its challenges to the plant proposed for Platte County. Both groups are concerned about the impacts the air pollutants will have on human health problems and global warming.

**II. WETLANDS AND FLOODPLAIN PROTECTION PROGRAM**

Our wetlands and floodplain protection program consists of challenging environmentally detrimental floodplain development and the over-engineering of rivers by means of levees and dams which destroy floodplains and aggravate flooding risk. We

monitor permit applications to dredge and fill wetlands. Great Rivers issues comments on proposals and assists environmental groups and individuals in their legal challenges to protect wetlands. These activities affect all of the people who inhabit and work in the watersheds of the Missouri and Mississippi Rivers which drain major portions of the central and northwestern United States.

*A. Mississippi and Missouri Rivers Basins Watershed Project*

**1. Missouri River Protection**

a. Opposition to Proposed Super-Levee in Jefferson City, Missouri

Great Rivers represents the Sierra Club in its suit against the Army Corps of Engineers (the Corps) and the Federal Emergency Management Agency (FEMA) over their approval of a 1,000-year, “Super-Levee,” in the Missouri River floodplain in Jefferson City, and the filling of 40 acres of wetlands. The wetlands at the site constitute a productive and valuable public resource. They serve significant biological functions such as feeding, nesting, spawning, rearing and resting sites for aquatic and land species. They also serve as valuable storage areas for storm and flood waters, which are purified as they slowly percolate through the soil to nearby water bodies or the groundwater below. The “super-levee” will cause increased flooding downstream, and impose hardships on neighboring communities. In addition, it will lead to further development on wetlands and floodplains. The case is before the 8<sup>th</sup> Circuit Court of Appeals.

b. Comments Filed Opposing Howard Bend Proposed Levee

In June 2004, Great Rivers submitted comments to the U.S. Army Corps of Engineers regarding the Corps’ Draft Environmental Impact Statement for the Howard Bend area of northwest St. Louis County. The comments focused on (1) insufficient consideration of cumulative impacts, and (2) the proposed general permit bypasses the National Environmental Policy Act process.

c. Comments Filed Opposing City of St. Peters Proposed Levee

Great Rivers submitted comments to the Corps of Engineers opposing construction of a proposed levee along the Missouri River in St. Peters. The proposed levee will destroy wetlands and floodplain habitat and increase water flows and water elevations upstream and downstream of the levee.

**2. Mississippi River Protection**

Two environmental groups have concerns about the construction of a new proposed bridge across the Mississippi River. After working with the Americans Bottom

Conservancy and Sierra Club, Piasa Chapter, Great Rivers published an op-ed piece in the St. Louis Post-Dispatch outlining the problems with the bridge. The bridge will destroy low-income homes on both sides of the River and will destroy wetlands in Illinois that are home to the endangered *decurrent false aster*. Furthermore, the loss of wetlands is detrimental to the health of humans, as wetlands serve as a valuable public resource.

### ***B. Floodplain Legislation Needed***

Great Rivers is in the process of drafting a floodplain development law for the State of Missouri which is designed to limit and control the extent of this type of development. Heretofore, the building of industrial, commercial and residential structures and the construction of levees to protect them has proceeded rapidly and chaotically without sufficient consideration of the significant adverse environmental effects on floodplains, wetlands, river habitats and the aggravation of flood risk damage. Many other states have such laws in place, and it is vitally important for Missouri to do the same.

## **III. WATER QUALITY PROGRAM**

Great Rivers seeks to protect and preserve the waters of Missouri and surrounding states. Our water quality program begins with monitoring proposed federal, state and local actions that will adversely affect water quality. Great Rivers is frequently involved in matters that adversely impact water quality. This includes assisting environmental groups, citizens' organizations and individuals in their legal challenges designed to protect the quality of the waters.

### ***A. Protection of Scenic Rivers***

Great Rivers received a major victory from the Missouri Supreme Court in 2004. Great Rivers represented the Missouri Coalition for the Environment and several individuals in their lawsuit against the Missouri Clean Water Commission and the United States Department of the Army arising from the Army's transfer of chemical weapons training from Alabama to Fort Leonard Wood, Missouri. The negative effects of the air and water pollutants include emissions of chemical, biological and radioactive emissions into the rivers of the Ozarks. The pollutants will impact the quality of waters that flow through hundreds of miles of the Ozark Mountains. Thousands of people use these rivers recreationally and will be affected by the pollutants. The Clean Water Commission had declined to take jurisdiction over the plaintiffs' appeal, and, pursuant to Great Rivers' challenge, the Missouri Supreme Court held that the Commission did have to hear the appeal. In so holding, the Missouri Supreme Court limited the holding of the Western District Court of Appeals. Great Rivers first received a victory from the Eastern District Court of Appeals and the Supreme Court upheld the Eastern District's ruling.

## ***B. Water Quality Standards***

Great Rivers and the Missouri Coalition for the Environment had a major victory in the Coalition's suit against the Environmental Protection Agency over the failures of the state of Missouri and EPA to promulgate water quality standards sufficient to protect public health and the environment. EPA signed a consent judgment and settlement agreement that require EPA to promulgate water quality standards if the Missouri Department of Natural Resources does not promulgate these standards by certain deadlines.

## **IV. LAND USE PROGRAM**

Our land use program consists of assisting environmental groups, citizens groups and individuals in their efforts to preserve and protect open space, forests and wilderness areas. Great Rivers issues comments on proposed rules that may affect environmentally sensitive areas, and as a last resort, represents environmental groups in litigation to enforce the laws.

### ***A. National Forest Protection***

Great Rivers represents the environmental organizations Heartwood and Missouri Forest Alliance in their suit against the U.S. Forest Service over a proposed plan to clearcut hundreds of acres of the Mark Twain National Forest. The Forest Service allowed the project to proceed without first allowing the public access to full information about the project.

### ***B. Waste Disposal***

Great Rivers represented the SHOW-ME organization ("Safe Handling of Waste Managed Environmentally") in a lawsuit demanding that the Department of Natural Resources follow the habitual violator requirements of Missouri's Solid Waste Management Law. These requirements are in place to ensure that solid waste disposal areas are not operated in a manner detrimental to the environment. SHOW-ME works to protect the health and welfare of all people living in Washington and Jefferson Counties.

### ***C. Preservation of Open Space and Parks***

#### **1. Preservation of Carondelet Park in the City of St. Louis**

Great Rivers is working with the Friends of Carondelet Park, a citizens' group which is opposed to the plan of the City of St. Louis Parks and Recreation Department to build a community recreation center at the eastern end of Carondelet Park in south St. Louis. The group opposes the building because it would destroy open space and ruin the

historic character of this Victorian-era park. Great Rivers is assisting the citizens' group in its legal challenges to the ill-advised proposal.

## **2. *Amicus* Brief Filed in Opposition to Construction of WalMart in Historic Part of New Orleans**

At the request of a group of attorneys representing several citizens' groups in New Orleans, LA, Great Rivers filed an *amicus curiae* brief in a suit brought by the groups attempting to block the construction and operation of a Wal-Mart supercenter and also urban residential redevelopment in the Lower Garden District, a historic part of the city which is listed on the National Register of Historic Places. The new buildings and associated traffic thoroughways and parking lots would destroy the unique historic character of the area and encourage further such redevelopment in other historic parts of the city. The supercenter was built and is now in operation, despite the pendency of the legal action. The case is now on appeal before the U.S. Fifth Circuit Court of Appeals and will be argued on the merits of the inadvisability of allowing the redevelopment project to proceed further. We will be filing a revised *amicus curiae* brief in support of this stage of the appeal.

## **V. ENVIRONMENTAL JUSTICE PROGRAM**

Great Rivers is committed to monitoring permitting actions for sites proposed for development that will unfairly burden minority or low income populations. Great Rivers has evaluated proposed developments to determine whether permitting authorities have unfairly targeted disadvantaged populations. Great Rivers has asserted environmental justice claims against the City of St. Louis and the Missouri Department of Natural Resources.

### ***Amicus Brief Filed in SLAPP Suit in Support of Citizens***

Great Rivers filed an *amicus* brief in *Weber v. Diehl* in support of citizens living close to a proposed solid waste transfer station. Fred Weber, Inc., had filed a SLAPP (strategic lawsuit against public participation) suit to stifle public outcry over the proposed facility.

## **VI. PUBLIC HEALTH PROGRAM**

Great Rivers seeks to protect the public health by preventing further deterioration of the region's air and water quality, and by reducing and preventing exposure to toxic substances. Our public health program consists of aiding organizations that seek legal assistance in connection with their work to protect the public health.

### ***A. St. Louis Lead Prevention Coalition***

Great Rivers routinely provides legal services to the St. Louis Lead Prevention Coalition, an organization seeking to reduce and eliminate lead exposure in the St. Louis metropolitan area. The work of the St. Louis Lead Prevention Coalition affects thousands of people in the St. Louis metropolitan area.

### ***B. Earth Share of Missouri***

Great Rivers is assisting Earth Share of Missouri in its appeal of a denial of its application to be a choice on the Combined Charitable Giving Campaign of the employees of the University of Missouri. In pursuit of this goal, Earth Share sought access to public records of the University. After the University refused to produce the records, Earth Share filed suit over a Sunshine Law violation. The suit was settled in 2004 and Earth Share continued to pursue access to the Campaign.

### ***C. Challenging a Proposed Coal-Fired Power Plant***

Great Rivers represents the Concerned Citizens of Platte County and the Sierra Club in an attempt to block the construction and operation of a new coal-fired electric generating plant being proposed by Kansas City Power and Light Co. on the eastern bank of the Missouri River near Weston, MO in Platte County, a short distance north of Kansas City. Beginning in June 2004, Great Rivers has participated in a workshop process convened by the Missouri Public Service Commission (PSC) to address the issues presented by opponents and proponents of the company's goal of securing PSC approval for a rate increase for the 5-year period before the plant becomes operational. The next step may be a formal rate case before the PSC at which we will present our clients' position that the plant is ill-advised due to air pollution (mercury, CO<sub>2</sub>, toxics, ozone precursors) and environmental damage (destruction of natural wetlands, depletion of drinking water aquifer, landfilling of toxics-contaminated fly ash in the floodplain); therefore, the company's rate increase request should be denied.