

Part III - Statement of Program Service Accomplishments

I. ENERGY AND AIR QUALITY PROGRAM

An important part of our energy and air quality program involves monitoring actions taken by federal, state and local governments that will impact global warming and the quality of the air breathed by the citizens of Missouri and surrounding states. All of our air quality work is also public health work, as air pollution causes asthma and other respiratory problems as well as global warming. Great Rivers is frequently involved in matters that adversely affect air quality and global warming. Measures taken by Great Rivers include commenting on proposed rules, issuing position papers about hazardous air pollutants, drafting legislation, assisting clients with negotiations with governmental agencies, and, as a last resort, handling litigation for clients seeking to protect air quality and prevent the emission of global-warming causing pollutants.

Global Warming and Air Pollution

There are over 150 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. Electric utility companies have a great responsibility to try to clean up their plants, but without any financial incentive, the ones operating in Missouri fail to take meaningful action. On behalf of several citizens' groups, in 2007 Great Rivers represented their interests in proceedings before courts and administrative agencies, and in drafting legislation.

1. Challenging the Coal-Fired Power Plant Proposed for the Kansas City Area

Great Rivers continued its representation of 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 proposed by Kansas City Power and Light Co. (KCPL) on the eastern bank of the Missouri River near Weston, MO in Platte County, a short distance north of Kansas City. In 2005, we represented the groups at a formal hearing before the Public Service Commission (PSC) in which we argued that the plant is ill-advised due to air pollution (mercury, CO₂, toxics, ozone precursors) and environmental damage (destruction of natural wetlands, depletion of drinking water aquifer, disposal of toxics-contaminated fly ash in landfills in the floodplain); therefore, the company's request for approval of the new plant should be denied. The PSC upheld the agreement calling for a new plant and, in 2006, we appealed the PSC's ruling to the trial and appellate courts. In February, 2007, the Missouri Court of Appeals for the Western District ruled in our favor and held that the PSC lacked jurisdiction when it approved the Stipulation. This led to negotiations between the parties and in March, 2007, the parties entered into a Collaboration Agreement with potential nationwide implications. KCPL will build the new plant, but agreed to offset all of its CO₂ emissions with wind power and energy efficiency programs offered to customers. During the remainder of 2007, Great Rivers continued to

represent the Sierra Club and Concerned Citizens in implementing the Agreement.

Great Rivers sought no attorney fees from the clients in this case. Pursuant to the settlement agreement, Great Rivers received \$50,000.

2. Challenging the Coal-Fired Power Plant Proposed for Norborne, Missouri

Norborne, Missouri, is a small town about 65 miles northeast of Kansas City, Missouri, in Carroll County. In 2006, Associated Electric Cooperative, Inc. (AECI), of Springfield, Missouri, filed a permit application with the state Department of Natural Resources (DNR) to build a new 660 MW coal-fired power plant in Norborne. AECI sought a loan from the Rural Utilities Services of the US Department of Agriculture (USDA), which triggered the National Environmental Policy Act. The Concerned Citizens of Carroll County and the Sierra Club contacted Great Rivers for assistance in this matter. The USDA filed an Environmental Impact Statement (EIS), and in 2007, Great Rivers filed comments on it on behalf of the Concerned Citizens and the Sierra Club, arguing that the USDA failed to consider the cumulative impacts of global warming causing pollutants when drafting the EIS. Great Rivers is preparing a lawsuit to be filed in the District Court of the District of Columbia challenging the USDA's failure.

No attorney fees were sought or recovered in this case.

3. Intervention in AmerenUE's Integrated Resource Plan

On behalf of four nonprofit groups—Association for Community Reform Now (ACORN), Mid-Missouri Peaceworks, Missouri Coalition for the Environment and the Sierra Club, Great Rivers continued its work in the intervention in the proceedings held before the Missouri Public Service Commission (PSC) on AmerenUE's filing of its twenty-year plan. The plan was filed as "highly confidential," meaning the public could not know whether AmerenUE planned a new coal-fired or nuclear power plant or both. In 2006, Great Rivers succeeded in persuading the PSC to order AmerenUE to declassify many of its documents. Great Rivers also had an expert review the 3,700 page plan and Great Rivers filed comments opposing parts of the plan in May, 2006. Great Rivers and others found Ameren's IRP deficient, and in December, 2006, the parties entered into a Stipulation and Agreement requiring AmerenUE to file a compliant IRP in February, 2008. Ameren agreed to a stakeholder process that would allow the other parties to have input on many aspects of utility operations. Great Rivers and its clients are concerned especially with Ameren's design and implementation of energy efficiency programs, Ameren's analysis of renewable energy options and other forms of new generation including nuclear, and Ameren's analysis of environmental costs and risks. In 2007, Great Rivers attended numerous stakeholder meetings on behalf of our clients pressing these concerns.

No attorney fees were sought or recovered in this case.

4. Intervention in State Implementation of Federal Energy Policy Act Standards

On behalf of six citizens' groups advocating clean energy, Great Rivers intervened in the hearings called for by the Missouri Public Service Commission on the State's implementation of the federal Energy Policy Act of 2005 (EPAct). The groups are: Concerned Citizens of Platte County, the Sierra Club, Heartland Renewable Energy Society, Mid-Missouri Peaceworks,

Burroughs Audubon and Ozark Energy Services. The PSC is required to consider five standards under this Act: net metering, interconnection of home and business generators, time-of-use based metering, utility fuel diversification plans and improved efficiency of fossil fuel generators. On behalf of our clients, Great Rivers advocated improved net metering and other laws at meetings held throughout the year of 2007. At the end of the meetings, the PSC held that Missouri had already considered or adopted the same or comparable standards and dismissed the cases.

No attorney fees were sought or recovered in this case.

5. Energy Legislation

On behalf of Renew Missouri, a coalition based in Columbia, MO, consisting of Missouri Votes Conservation, the Missouri Coalition for the Environment, the Heartland Renewable Energy Society and the Sierra Club, Great Rivers drafted bills for net metering and interconnection, and for a Renewable Electricity Standard (RES). The Easy Connection Act (net metering and interconnection) passed both houses of the legislature and was signed by the Governor in 2007. Renew Missouri failed to find a sponsor for the RES bill. Renew Missouri requested and received assistance from Great Rivers in 2007 in drafting an initiative petition for the RES and in drafting energy efficiency legislation.

No attorney fees were sought or recovered for these clients.

Hydro-Electric Power

Challenging the Rebuilding of the Taum Sauk Hydroelectric Plant

The Missouri Parks Association (MPA) requested Great Rivers' assistance in 2007 in the matter of AmerenUE's rebuilding of the upper reservoir of the Taum Sauk pumped storage project located on the East Black Fork River, in Reynolds County, Missouri. The Federal Energy Regulatory Commission (FERC) prepared an Environmental Assessment (EA), finding the rebuilding does not constitute a major federal action, and the MPA did not believe this was adequate. In December, 2007, Great Rivers filed a lawsuit on behalf of the MPA against the (FERC) in the US District Court for the District of Columbia, arguing it should have prepared an Environmental Impact Statement (EIS) to address the full array of impacts associated with the construction of the facility.

II. 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 individuals, citizens' groups and organizations that seek legal assistance in connection with their work to protect the public health. Our work done in the Public Health Program overlaps the work done in Energy and Air Quality Program.

1. Fighting a Coal-Fired Iron-Ore Smelter Proposed for Crystal City, Missouri

In 2007, the Concerned Citizens for Crystal City sought assistance from Great Rivers after they learned their city government had secretly agreed to lease public land to a developer who plans to construct a new coal-fired pig iron ore smelter on the property. The Citizens oppose it because it will cause further deterioration of the air quality and contribute to global warming. Crystal City is 35 miles south of St. Louis and shares in the health problems such as asthma and respiratory illnesses caused by the regions' poor air quality. The entire region remains out of compliance with EPA limits on certain air pollutants, and is not expected to be in compliance by the time the new plant is built.

In November, 2007, Great Rivers filed a lawsuit in state trial court arguing the City government had failed to comply with Missouri's Open Records law, or Sunshine Law. The case is awaiting a judge to be assigned to it.

At its request, our client received an itemized account of the attorney hours spent on the case. Great Rivers showed it spent 191.80 hours during the months of October through December, 2007. Pursuant to IRS Revenue Procedure 92-59, Great Rivers may charge fees in the amount determined by the regulation, which equals \$65.00/hour for Great Rivers. Great Rivers calculated the fees and hours to be \$12,467.00. Our client paid Great Rivers \$6,323.55 for this work in 2007.

2. Assistance in Asbestos Removal Case

Great Rivers represents Families for Asbestos Compliance, Testing and Safety (FACTS) in its legal challenge against the City of St. Louis and City of St. Louis Airport Authority over the illegal use of the "wet method" of asbestos removal in demolishing more than 300 homes in Bridgeton, Missouri. In this method, buildings containing asbestos are sprayed with water and then demolished. The neighboring residents do not believe that method adequately protected their health and they are seeking to have their health tested in future years. Parties filed motions for summary judgment before the US District Court for the Eastern District of Missouri in September, 2006, and awaited the court's ruling during the year of 2007.

No attorney fees were sought or recovered in this case.

III. 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. Wetlands and floodplains are vital to public health in that they affect our water supply and the quality, recharge and discharge of water; they assist in the cleansing of pollutants from waters; and they provide valuable services for flood and storm hazards, and for the controlling of sediment and erosion. In addition, they are necessary for the maintenance of natural systems, including conservation and

long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources.

Mississippi and Missouri Rivers Basins Watershed Project

Missouri River Protection

1. Opposition to Proposed Super-Levee in Jefferson City, Missouri (L-142)

Great Rivers continued its representation of 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. In 2006, the 8th Circuit Court of Appeals reinstated our challenge that had been dismissed on procedural grounds by a lower court and sent the case back to the District court for further proceedings. In March, 2007, Great Rivers filed a motion for summary judgment in the US District Court for the Western District of Missouri. The court ruled in our favor in May, 2007, delivering plaintiffs a victory in the case. This is the first time any court has said that the Corps must look at the cumulative impacts of levees and other flood control structures on flood heights. The Corps appealed but dismissed its appeal in 2007.

No attorney fees were sought or recovered in this case.

2. Development of Floodplains in Cottleville, Missouri

The Cottleville Development Co., LLC, has applied to the US Army Corps of Engineers (the Corps), for a permit authorizing the company to raise an area out of the 100-year floodplain in connection with the proposed development of 563 single-family residential lots. The applicant proposes to fill 2.3 acres of wetlands, fill approximately 4,100 linear feet of unnamed tributaries, and excavate approximately 2,780 linear feet of unnamed tributaries. On behalf of area residents, Great Rivers is reviewing documents in connection with the application and requesting further documents.

No attorney fees were sought or recovered in this case.

3. Opposition to Proposed Levee in St. Peters, MO (Lakeside 370)

On behalf of the Great Rivers Habitat Alliance (GRHA), we are reviewing documents in connection with the permit issued by the US Army Corps of Engineers to the City of St. Peters, allowing it to construct a levee on the Missouri River at St. Peters. GRHA is concerned the Corps has not looked at the cumulative impact of its permit actions on flood heights and flood

storage capacity. GRHA also is concerned that the Federal Emergency Management Agency (FEMA) might revise the applicable flood insurance rate map without evaluating the impacts of the levee on neighboring communities.

At its request, our client received an itemized account of the attorney hours spent on the case. Great Rivers showed it spent 39.7 hours during the months of July through September, 2007. Pursuant to IRS Revenue Procedure 92-59, Great Rivers may charge fees in the amount determined by the regulation, which equals \$65.00/hour for Great Rivers. Great Rivers calculated the fees and hours to be \$2,580.50, which the client paid Great Rivers.

4. City of St. Peters - Open Records

Great Rivers Environmental Law Center sought public records from the City of St. Peters concerning St. Peters' effort to revise the effective Flood Insurance Rate Map for St. Charles County, MO and incorporated areas. St. Peters failed to make the records public and in September, 2007, Great Rivers filed suit against the City of St. Peters for violating Missouri's Open Records Law.

Mississippi River Protection

Challenging the Milam, IL Landfill

St. Louisans' trash is frequently dumped across the Mississippi River, in Illinois. On behalf of the American Bottom Conservancy, a small nonprofit in East St. Louis, Illinois, and the Sierra Club, Great Rivers filed a petition for review of the permit issued by the City of Madison, IL, to the Waste Management Company for expansion of a landfill on 119 acres, some of which are arguably in the floodplains of the Mississippi River. Petitioners argue that the decision to approve the landfill was based on information not available to the public until after the hearing, and that the expanded landfill would be in an area that is incompatible with the surrounding area in that it is in close proximity to Horseshoe Lake and Cahokia Mounds. Great Rivers represented the parties at a hearing held in August, 2007, before the Illinois Pollution Control Board. The Board denied the petition in December, 2007, and plaintiffs filed an appeal in December, 2007.

No attorney fees were sought or recovered in this case.

IV. 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.

V. 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.

Preservation of Open Space and Parks

1. Protection of Buehler Park in Rolla, Missouri

Great Rivers represents Citizens for the Preservation of Buehler Park, a citizens' group in Rolla, Missouri, in its challenge to the City of Rolla over its scheme to sell and develop historic Buehler Park. The Citizens believe that Buehler Park was dedicated to the public for use as a park and may not be sold by the City for commercial development. The trial court held that the Citizens did not have the legal right to sue (standing). However, in 2006, the Missouri Court of Appeals, Southern District, sided with Great Rivers and ruled that the Citizens group does have standing. The case returned to the trial court which ruled in late 2006 that the language of the deed granting the park to the City does not amount to a "dedication," even though it states that the land "shall be used for park purposes only and none other...forever." Great Rivers appealed that ruling to the Court of Appeals, and in August, 2007, the Court of Appeals ruled in our favor, holding that the users of public property can sue to uphold that use. This is the first time a Missouri court has decided this issue in this way since 1910. Defendants did not seek rehearing or transfer to the Missouri Supreme Court.

No attorney fees were sought or recovered in this case.

2. Protection of the Katy Trail State Park

Great Rivers represents several trail users in their challenge to Governor Matt Blunt and the Department of Natural Resources' decision to give the historic Boonville Lift Bridge to Union Pacific. The users believe the State's plan violates the Katy Trail's use agreement, which requires the Bridge to remain banked for potential rail use but allows Union Pacific to modify the bridge. In 2006, the trial court dismissed the suit and plaintiffs appealed. The court of appeals affirmed the dismissal, ruling that plaintiffs lacked standing to sue.

No attorney fees were sought or recovered in this case.

3. Preservation of Forest Park in St. Louis

In 2006 the City of St. Louis announced that it would lease to Barnes-Jewish Hospital a part of Forest Park for construction of buildings. The citizens group "Citizens to Protect Forest Park" came to Great Rivers for assistance in drafting a petition for a City Charter Amendment which would call for any sale or lease of park land in the future to be put to a vote of the people before it is sold or leased. Great Rivers drafted the language for the petition, and the initiative was placed on the April, 2007 ballot. It passed with 69.27% of the vote.

No attorney fees were sought or recovered for this work.

VI. 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.

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.

No attorney fees were sought or recovered from the St. Louis Lead Prevention Coalition.