



GREAT RIVERS' ENVIRONMENTAL JUSTICE PROGRAM FINDS MORE THAN 100 TONS OF FINE PARTICULATE MATTER EMITTED ANNUALLY WITHIN ONE MILE RADIUS OF 6,500 PEOPLE



The City of St. Louis encourages plants like this to locate in poor, minority neighborhoods in North St. Louis where the plants receive little oversight from the City or State

St. Louis City's Health Department acknowledges City residents in Old North, Hyde Park, and College Hill Neighborhoods have asthma rates four times higher than average Missourians, but City does not connect the asthma to the polluting plants it encourages to locate in the area

City report connects asthma to "dust, tobacco smoke, cockroaches and some chemicals" but makes no mention of particulate matter

Letter from the President:



Great Rivers Expands its Outreach

As we enter our fourteenth year of providing free and reduced-fee legal services, we enjoy working on issues that span the state, and that make us aware of problems that we had not dealt with before. Close to home, we are advocating for city governments to allow sustainable gardens, which impact the environment and public health in many ways. Far from home, in Kansas City, we are working to stop an amusement park from discharging pollutants including chlorine, copper, oil and grease into tributaries of the Missouri River, in quantities many times in exceedance of those allowed under the amusement park's permit.

On another side of the state, in far southeastern Missouri, we have delved into investigating Drainage Districts and their maintenance of wetlands and ditches which discharge hundreds of thousands of gallons of water from farms into the Mississippi River. And in southern Missouri, we are investigating the State's purchase of land near the Eleven Point River, one of the first Ozark National Scenic Riverways, and investigating the Department of Conservation's plans to clear-cut many acres of Indian Trail Conservation Area.

We could not undertake these new projects, or continue working on our other projects, without the support of our readers. Your donations make a difference! We are continuously humbled by and grateful for your compassion and support.

Kathleen Henry

BOARD NEWS

We extend our condolences to Board Member Kay Drey, whose husband, Leo Drey, passed away in May at age 98. Leo's land purchases over the years ensure that many wild and scenic places in Missouri will remain undeveloped, and Leo worked closely with Great Rivers' founder, Lewis Green, on many issues over the years, helping to protect additional open space. Missouri has lost an irreplaceable treasure.

Great Rivers Environmental Law Center *Lawyers for the Environment*

(a 501(c)(3) tax-exempt nonprofit corporation)

Mission Statement

We provide free and reduced-fee legal services to citizens' groups, organizations and individuals who seek to protect and preserve the environment.

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(1924 - 2003)

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GREAT RIVERS' ENVIRONMENTAL JUSTICE, PUBLIC HEALTH AND CLEAN AIR PROGRAMS

Bring Environmental Justice to North St. Louis

St. Louis City residents of the Old North, Hyde Park, and College Hill neighborhoods live in close proximity to dozens of businesses that emit pollutants into the air, water and soil. For several years, Great Rivers has been investigating the amount of pollutants emitted by fifteen companies in the area and the environmental impacts on low-income, minority communities from this pollution. The City of St. Louis and the state Department of Natural Resources look at each business separately when issuing permits. Great Rivers' attorneys Kathleen Henry and Bob Menees are reviewing the totality of pollutants emitted by these fifteen plants. We are deeply disturbed by the amounts of some pollutants that are emitted in this area. One example is particulate matter, which is linked to asthma, Alzheimer's and cancer. When adding together the emissions of the 15 businesses we have investigated, we see that they emit more than 100 tons of particulate matter per year.

This is a lot of pollution within a one-mile radius with approximately 6,500 people on the Missouri side of

the river. We are currently identifying other sources of pollutants to determine the full extent of the environmental impacts felt by these communities. The City of St. Louis issued a report in 2012 entitled, "Public Health: Understanding Our Needs, Update 2012." In Part 2 of the report, which discusses asthma, the City acknowledges that people in the zip codes including Old North, Hyde Park, and College Hill have asthma rates more than four times those of average Missourians. Yet the City also includes a statement that, "Asthma triggers include dust, tobacco smoke, cockroaches and some chemicals." The City nowhere in the report mentions the pollution from businesses it encourages to locate along the river and near populated areas.

St. Louis City, the Missouri Department of Natural Resources and the U.S. Environmental Protection Agency should all be more concerned about the environmental injustices they are condoning.

GREAT RIVERS' LAND USE PROGRAM

GREAT RIVERS FILES SECOND APPEAL TO STOP CONCRETE PLANT PROPOSED NEAR SHAW NATURE RESERVE

Citizens Ask Trial Court to Overturn County Commission of Franklin County

For the second time, on behalf of citizens in Franklin County, Kathleen Henry has filed suit against the Franklin County government opposing its actions allowing a concrete plant to be built on land near residences and the world-renowned Missouri Botanical Garden's Shaw Nature Reserve. The first suit ended after Great Rivers received a favorable ruling from the trial court, allowing our case to proceed on many counts, but the developer tried to circumvent the ruling by withdrawing the application in March, 2015, and shortly after filed a new application under a different zoning ordinance for the same plant. The



Rolling Hills in Franklin County

Planning and Zoning Commission allowed the rezoning requested by the developer, and the County Commission also recommended rezoning. In September 2015, Great Rivers filed an appeal on behalf of concerned citizens to

the Franklin County Circuit Court, asking it to overturn the rezoning allowed by the County Commission of Franklin County.

Landvatter Ready Mix, Inc. proposes to build a ready-mix concrete plant on tree-covered hills just 600 feet from the Nature Reserve in Franklin County. There are houses and apartments in the area between the Nature Reserve and the proposed plant. The homeowners believe the proposed plant will cause them to breathe in dust, suffer from noise and increased traffic, and believe that the wildlife, fish, birds, flora and fauna in the Nature Reserve will also suffer from the plant.

In their appeal to the Circuit Court, the citizens argue that the rezoning is invalid because it violates Franklin County zoning codes and state and federal law since the proposed concrete plant endangers public health and safety and decreases the value of adjoining property. Citizens also argue that the rezoning is illegal because the County is allowing industrial plants in commercially zoned districts without requiring them to obtain special permits, and because the Planning and Zoning Commission failed to hold a public hearing before it issued its recommendation.

Land Use Program continued on page 8

Global warming is the greatest challenge of our time. It has brought Great Rivers into areas that are not the target and the cure. The cure is advancing renewable energy and energy efficiency in the Public Service Commission.

After Victory in Missouri Supreme Court, Citizens in Joplin, Missouri Actually Receive their Solar Rebates

While Ameren Missouri and Kansas City Power & Light paid out over \$175 million in solar incentives in the St Louis and Kansas City areas since 2010, Empire District Electric Company in Joplin claimed an exemption. Since June, thanks to Great Rivers' attorney Henry Robertson, Empire has been paying the rebates of \$2 per Watt of solar energy installed on customer roofs.

Empire sneaked an amendment onto House Bill 1181 in May 2008, which said that Empire would be exempt from any solar requirements should they exist in the future. But the subsequent renewable energy ballot initiative, Proposition C, passed in November 2008 with 66 percent of the popular vote, required all publicly regulated utilities to offer solar rebates to their customers.

In a 5-2 decision released February 10 by the Missouri Supreme Court, our client Renew Missouri won its appeal against Empire District Electric and the Public Service Commission. The Court explained that "the legislature could not preemptively negate the effect of the initiative before it had even been voted on by the people and make the people's later vote a meaningless act..." Therefore Proposition C repealed the exemption.

Great Rivers Continues Its Work Protecting Missouri's Renewable Energy Law

Renewable energy laws have been attacked all over the nation, and Missouri is no exception. Here, the legislative Joint Commission on Administrative Rules ("JCAR") knocked out a key provision of the PSC's rule for implementing the Renewable Energy Standard passed as Proposition C. That provision required utilities to obtain renewable energy that was delivered to Missouri and not just purchase renewable energy certificates representing wind or solar energy from anywhere in the nation. The PSC had agreed with us that Prop C was intended to boost Missouri's economy and clean energy.

As economist Paul Krugman pointed out in an op-ed piece in the New York Times on October 5, 2015, "Wind and solar used to have a reputation as hippie-dippy stuff,

not part of any serious approach to our energy future, and many people still have that perception. But it's way out of date. The cost of wind power has dropped sharply – 30 percent in just the past five years, according to the International Energy Agency.

"And solar panels are becoming cheaper and more efficient at a startling rate, reminiscent of the progress in microchips that underlies the information technology revolution. As a result, renewables account for essentially all recent growth in electricity generation capacity in advanced countries."

Great Rivers went to court to undo the damage wrought by JCAR and the utilities. We are building on a 1997 decision by the Missouri Supreme Court, brought by us on behalf of the Missouri Coalition for the Environment (MCE), which held that JCAR's interference in executive agencies' rulemaking process violated the separation of legislative from executive powers in Missouri's system of government.

Our new case, filed by Henry Robertson and Bruce Morrison on behalf of MCE, Missouri Solar Applications and Great Rivers board member Tom Sager, is now in the Supreme Court.

Energy Efficiency

Every home and business could benefit from using energy more efficiently, saving money as well as improving public health and mitigating climate change. But they often lack the money or knowledge to make the necessary investments in low-energy lighting and appliances, insulation, and efficient industrial equipment.

Utilities have the knowledge and financial wherewithal to help their customers save energy, and utility programs in many states have been saving 2–3% of overall energy use year on year. In 2009 the Missouri legislature passed a utility-drafted bill called the Missouri Energy Efficiency Investment Act ("MEEIA"). It is voluntary, so the utilities have been able to make extortionate demands for offering efficiency programs. While the programs have been highly successful, the utilities have set very low energy-savings targets and demanded over-compensation through processes that are not transparent. These problems came to a head in 2015.

traditional turf of environmental lawyers—energy and utility regulation. Our programs address both the cause in (PSC) and in the courts. To address the cause we are attacking coal-fired power plants.

Henry Robertson represents the Natural Resources Defense Council (“NRDC”) and the Sierra Club (“SC”) as local counsel in MEEIA proceedings in the Public Service Commission. Ameren Missouri filed a second energy efficiency (EE) plan for the three-year cycle 2016–18. MEEIA cases should be settled to the mutual benefit of the utility and customers represented by stakeholders at the PSC. This time settlement talks failed, a three-day hearing was held, and the PSC ultimately rejected Ameren’s plan. Whether Ameren will offer any efficiency programs at all next year is now up in the air.

Our clients objected to Ameren’s new EE plan because it would save only half as much energy as the first three-year plan but cost almost as much. Ameren also demanded to be paid for electricity it didn’t have to generate as a result of the programs, and claims a rich “performance incentive” for such an unambitious plan. But blame must also go to the PSC Staff and the Office of Public Counsel, who made unreasonable demands of their own and showed a disturbing hostility to energy efficiency despite the fact that it is unquestionably a cheaper energy alternative to building new, polluting power plants.

Kansas City Power and Light (“KCP&L”) filed its own three-year plan a few months later than Ameren. As we go to press settlement talks are reaching a climax, and the prospects are much better than with Ameren. Nevertheless, some of the same problems exist. Missouri’s utilities insist that they cannot achieve the kinds of energy savings that other states have been seeing for years. The American Council for an Energy Efficient Economy, in its 2015 scorecard of the 50 states and D.C., ranked Missouri 44th for the second straight year.

The EPA issued its final Clean Power Plan (CPP) in August to reduce CO2 emissions from existing power plants. It will take several years for the states to submit their compliance plans, and the Plan is threatened in court, but utility energy efficiency programs are the best, cheapest and easiest way for the states to meet the requirements of the CPP. Great Rivers and its clients will continue their work to drag Missouri into the 21st century energy world.

Great Rivers Urges U.S. Army Corps of Engineers to Refuse Permit to Coal Company to Conduct Surface Mining in Bates County, Missouri

Continental Coal Company applied for a permit with the U.S. Army Corps of Engineers (“Corps”) to expand Missouri’s last remaining coal mine in Bates County, in the western part of the state. Continental applied to the Corps because the mine will impact wetlands and streams. Great Rivers’ Bob Menees urged the Corps to deny the permit. Coal mining contributes to climate change, which we can no longer ignore. Furthermore, Great Rivers argues that the proposed mine could place downstream residents at increased risk from pollution, flooding, dewatering of ground water, decreases in property values, blasting, dust, and aesthetic injuries. The immediate area has been recovering for 75 years from previous mining activities in the 1940s, and the new proposal would once again subject the area to the negative environmental and social impacts over at least

ENERGY SAVER

Energy Saver 101: Home Energy Audits

Take the first step to improving your home's energy efficiency: get a home energy audit.

What is a home energy audit?

A home energy audit helps you pinpoint where your house is losing energy and **what you can do to save money**. A home energy auditor will also assess health and safety issues that might exist in your home.

The audit involves two parts: the **home assessment** and **analysis** using computer software.

{ DID YOU KNOW? }

30% You could **save 5 to 30 percent** on your energy bill by making efficiency upgrades identified in your home energy audit.

ENERGYDOY

The U.S. Department of Energy promotes energy efficiency by encouraging people to obtain home energy audits. If utilities won't help, the DOE encourages people to conduct do-it-yourself audits.

GREAT RIVERS' WETLANDS AND CLEAN WATER PROGRAMS

Great Rivers is Fighting the Little River Drainage District's Plans to Clearcut Significant Cypress Groves in Southeastern Missouri

The Little River Drainage District ("LRDD") was created by statute to be a "swamp-buster" in the early 1900s. It drains 1.2 million acres of Missouri's swamps so that people can farm in southeastern Missouri. One critique of the LRDD says it would never be allowed to drain so much land today, as it has destroyed almost all of the natural ecosystems and wetlands and sends enormous amounts of water into the Mississippi. This contributes to downstream flooding and the "dead zone" in the Gulf of Mexico, which is caused by runoff of nitrogen from fertilizers.

People who live in Puxico, MO, contacted us asking us to help fight a proposed "maintenance" project that the LRDD plans to undertake shortly. The neighbors are opposed because they have valuable trees on their property and believe the clearcutting of them will increase erosion of their property. The LRDD claims it has easements; Kathleen Henry filed Sunshine Law requests and reviewed documents. At our request, LRDD held a public meeting in October to discuss this project. To the surprise of LRDD, residents heatedly aired their grievances with the proposed project. Apparently these are some of the only trees left in the huge area that the LRDD maintains. By the conclusion of the meeting, LRDD said it would seriously consider not carrying out this project, but we don't yet know if the issue is finally resolved.

Great Rivers Files Notice of Intent to Sue Letter Concerning Worlds of Fun, an Amusement Park in Kansas City, over its Large Discharges of Pollutants into Missouri River Tributaries

No one likes to think amusement parks can do wrong. But one amusement park in Kansas City is discharging pollutants in quantities much larger than it is allowed to under the law. Worlds of Fun is discharging chlorine, copper, total suspended solids, and oil and grease into Missouri River tributaries.

Many of the permit exceedances are over 1,000% of permitted levels. Two outfalls have exceeded the permit limits by 16,150% and 13,650%. The violations are ongoing, frequent, and will likely continue to occur without intervention because the state has allowed these violations to occur without any meaningful enforcement action for many years.

Great Rivers' Bob Menees and Earthrise, a clinic at Lewis and Clark Law School in Portland, Oregon, on behalf of the Missouri Coalition for the Environment, sent a 60-day Notice of Intent to Sue letter on September

11, 2015, to Worlds of Fun, the Missouri Department of Natural Resources, and the Environmental Protection Agency. We are waiting for a response.

Working to stop the St. Johns New Madrid Floodway Project

In connection with groups up and down the entire Mississippi River, Great Rivers' Bruce Morrison has been advocating for the U.S. Army Corps of Engineers to abandon its plans to build a levee along the Mississippi River in the far southeastern part of the state, at New Madrid. This levee would separate the Mississippi from its last remaining wetlands and harm habitat essential for many species of birds, fish and animals.

Eleven Point Scenic River Easement Under Attack

Governor Nixon has purchased land and plans to build a new state park adjoining the Eleven Point Scenic River easement. The Department of Natural Resources first planned to build 6-foot wide trails through the easement to allow people access to a pristine 8-mile stretch of the Eleven Point. Bruce Morrison is working with a group of stakeholders to illuminate the state's plans and proposed funding. The concerns include fear that the state will lay as much concrete in undeveloped areas as it did in the newly purchased Camp Zoe State Park, as well as concerns over the use of funds which were intended to restore land in the southeastern part of the state that was destroyed by lead pollution.

Coastal Energy's Storage Tanks Threaten Water Quality of Eleven Point River

On behalf of a concerned citizen who lives near the Eleven Point in Willow Springs, we filed Comments with the EPA in September, on the proposed settlement of the EPA against Coastal Energy over Coastal Energy's violations of the Clean Water Act and discharges of pollutants into land adjacent to the Eleven Point River. Coastal Energy manufactures asphalt oil and stores approximately 2.8 million gallons of liquid asphalt, ethanol, and diesel fuel at a facility directly adjacent to the Eleven Point River. Bob Menees urged the EPA to require Coastal to remove these storage tanks from karst topography next to a pristine river, and to impose stiffer penalties than it was seeking based on the severe and lengthy nature of the violations.

Great Rivers Environmental Law Center Presented Lewis C. Green Environmental Service Awards to Dr. Dan Berg and Tom and Angel Kruzen

On September 27, 2015, Great Rivers Environmental Law Center presented its Lewis C. Green Environmental Service Awards to Dr. Daniel Berg, M.D., and Tom and Angel Kruzen at its 10th Annual Awards Party. Great Rivers presents this award annually to individuals or programs that have shown long-time commitment to the preservation of the environment.

Dan Berg is an internal medicine physician who practices at the Family Care Health Center in St. Louis. He attended medical school at Washington University School of Medicine, where he became aware that Washington U. was planning to ship its medical wastes to North St. Louis, and realized this was as an environmental justice issue. The incinerator, which would emit dioxin and other hazardous pollutants, was proposed for a poor inner-city neighborhood while prohibited in St. Louis County. Dr. Berg helped organize a coalition to fight the proposed incinerator. The coalition he assembled defeated the



Dan Berg

proposed incinerator and succeeded in closing three medical waste incinerators. For over a decade he has been a leading advocate for lead prevention in inner-city children. He started "The Heavy Metal Project," which operates through the Lead Safe Program of St. Louis City, and seeks to get the lead out of children not only by treating a child after symptoms develop, but by remediating the home of any pregnant woman living in a home with lead paint.

Tom and Angel Kruzen have spent almost four decades fighting to protect Missouri's natural resources. They live in Mountain View, Missouri, in the scenic Missouri Ozarks, and have spent many years battling Doe Run in efforts to clean-up the lead belt, and had successes in taking

on that giant when it was forced to pay millions of dollars in fines for its pollution. They also fight against clear-cutting which threatens to pollute the Ozark streams and



Tom and Angel Kruzen

rivers. In addition, they are Water Sentinels for the Sierra Club, serving as watch-dogs over the Ozarks. They are "valuable environmental activists in a region where environmental activism isn't always welcome," said a former Superintendent of the Ozark National Scenic Riverways. Their most recent efforts include exposing and fighting Coastal Energy

Corporation, which stores asphalt and other chemicals in large tanks at the headwaters of the Eleven Point River and had gone unnoticed until the Kruzens discovered them. These are only some of the issues the Kruzens have taken on in their many years fighting for Missouri's environment.

The award is named after the founder of Great Rivers Environmental Law Center, the late Lewis C. Green, a leading environmental litigator in Missouri for many decades.

Great Rivers Environmental Law Center Held its Spring Cocktail Party at the Busch Family Mansion

In May, 2015, Great Rivers held its annual Spring Cocktail Party at the Busch Family Mansion. Over 100 people enjoyed the beautiful Mansion and grounds, and fine food and drinks. The Community Music School of Webster University Prep Program provided classical string musicians and people got to get up close to a Clydesdale.

Great Rivers extends its sincere appreciation to Adolphus Busch, Don Musick and the Great Rivers Habitat Alliance for their generosity in making this event possible.

Great Rivers Extends its Appreciation to All of Its 2015 Donors

We could not provide legal services without your help, as we are dependent on contributions from individuals and foundations to do our work. We will list our donors for the year 2015 in the Spring 2016 newsletter so that we can thank everyone for the year at one time.

Advocating for Sustainable Gardening in Maplewood, Missouri

We will let this client speak for herself!

October 21, 2015

Dear Staff and Volunteers,

I wanted to let you know how much I appreciate your organization and Bruce Morrison in particular for the environmental work you do in Missouri.

I have been planting my landscape for years to preserve native plants and the many pollinators (including the threatened honey bee and monarch butterfly) that use them. Unfortunately, since 2012 the City of Maplewood has been attempting to enforce an outdated and ill-defined "weed" ordinance on my landscape.

I heard Mr. Morrison speak about our parks at Powder Valley Nature Center. I knew he was someone who could help and that is when I approached him regarding my dilemma. After checking with the Great Rivers Environmental Law Center he advised me that the Law Center would be more than happy to help me.

Now I have hope for my landscape, the pollinators and the environment. Thank you again for all of your efforts and hard work on behalf of the environment and citizens working to protect it.

Sincerely,
Alice Hezel
Maplewood, Missouri

Indian Trail Conservation Area—Opposing Clear-Cutting by Missouri Department of Conservation

On behalf of neighbors of the Indian Trail Conservation Area, Great Rivers urged the Missouri Department of Conservation ("MDC") to abandon its plans to clear-cut many acres of land in the Indian Trail Conservation Area, in Salem, Missouri. MDC plans to sell timber and allow clear-cutting of many acres on steep slopes which neighbors fear will cause erosion into a creek that flows onto a neighbor's property, and which their cattle depend on for drinking water.

Leo Drey's organization, Pioneer Forest, has proved that selective tree management is more profitable and sustainable than clear-cutting. In our comments, we urged MDC to follow Pioneer Forest's methods of forestry.

There's Still Time!

Donate today and help us meet our goal for 2015! There are many ways to donate to Great Rivers. You can donate one through our website, or by U.S. Postal Service; or online through AmazonSmiles or Network for Good. Donate in memory of or in honor of someone if you wish. Make a bequest if you like. We depend on concerned individuals and foundations. *In addition, you may dedicate your donation toward a particular program or project.*

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