



Great Rivers Helps Bring Missouri into the 21st Century on Energy Efficiency



Photo by C.T. Bryson, USDA.

The pondberry is found in Missouri but is now endangered and will most likely become extinct as a result of climate change.

***Ameren Pledges \$147 Million, Largest Amount Ever
Invested in Missouri toward Energy Efficiency***

Letter from the President:



Missouri Can Do More!

Energy efficiency is defined as producing goods or services with less energy. In addition to providing economic savings to consumers and utilities, it also is a “low-cost resource for achieving carbon emissions reductions,” according to the EPA. Energy efficiency reduces pollutants which cause asthma, respiratory problems, and cancers, as well as global-warming.

Since 2000, Missouri has ranked in the bottom ten of all states in its energy efficiency programs and savings. This is due in part to the paltry sum of money our utilities spend on energy efficiency programs. In 2011, utilities in our state spent \$47.2 million on energy efficiency programs, which is a mere 6/10ths of one percent of statewide utility revenues. The leading states spend between 4 and 6% of statewide utility revenues, or 8 times as much of total revenue as does Missouri.

In 2011, Ameren Missouri drastically slashed its already small programs at the same time as admitting that energy efficiency is the cheapest way to meet growing demand for energy. Ameren did not believe it received enough money for its energy efficiency programs. After countless hours of negotiations with the Public Service Commission, DNR, Office of Public Counsel, and other parties, Ameren finally reached an agreement that should improve our ranking. Great Rivers Environmental Law Center represented the Natural Resources Defense Council, Renew Missouri and the Sierra Club. As I write, a similar agreement is being reached with KCP&L-Greater Missouri Operations (GMO). These agreements are good news, but Ameren and the other utilities in Missouri can and should do better, as we'll explain in this newsletter.

Kathleen Henry

Board News

Great Rivers turned 10 this year! We are grateful to those board members who have been with us for the entire 10-year period: **Joyce Armstrong, Beatrice Clemens, Yusha Sager** and **Jim Wilson**. Your perseverance and dedication are admirable and greatly appreciated.

**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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Office Address

705 Olive Street, Suite 614
St. Louis, MO 63101
(314) 231-4181
(314) 231-4184 (facsimile)
e-mail: khenry@greatriverslaw.org
Website: www.greatriverslaw.org

GREAT RIVERS' FLOODPLAINS AND WETLANDS PRESERVATION PROGRAM

Great Rivers Works to “Halt the Rapid Loss of Wetlands” in the Mississippi River Corridor

Great Rivers continues its work on its project to “Halt the Rapid Loss of Wetlands in the Mississippi River Corridor.” Great Rivers has had recent successes on this project.

In three instances developers had agreed, years ago as a condition to receiving their permits from the Corps to fill wetlands, to create compensatory wetlands for the wetlands taken. Our recent investigation revealed that these developers had not followed through with the required mitigation. Egregious deficiencies include projects undertaken in Chesterfield Valley, St. Louis County, Missouri, in which there appears to be a current shortfall of 97 acres of wetlands out of 129 acres required for compensatory mitigation, and in Hazelwood, St. Louis County, Missouri, in which there appears to be a current shortfall of 95 acres of wetlands out of 155 acres required for compensatory mitigation. After we alerted the U.S. Army Corps of Engineers to these deficiencies, developers willingly are making good on their commitments to create wetlands.

Great Rivers continues its work in opposition to the St.

Johns Bayou/New Madrid Floodway project, in which the Corps of Engineers proposes to destroy 50,000 acres of wetlands.

Great Rivers' Attorneys Speak Out in Support of Wetlands

Great Rivers' attorney Kathleen Henry spoke at “River Soundings 2012” in September. She spoke on Wetlands Mitigation and the history of efforts made by the federal government to improve mitigation of destroyed wetlands. River Soundings 2012 is sponsored by the **Greenway Network**, an organization whose mission is to conserve natural resources and encourage sound management of the watersheds.

In October, Brook Spear spoke at the Big Muddy Speaker Series, sponsored by the group, “**Friends of the Big Muddy**,” a coalition of individuals and organizations dedicated to supporting habitat restoration on the Big Muddy National Fish and Wildlife Refuge. Brook spoke in support of the U.S. Army Corps of Engineers' proposal to re-introduce sediment into the Missouri River at Jameson Island.

AIR QUALITY AND ENVIRONMENTAL JUSTICE PROGRAMS

Great Rivers Continues to Fight to Bring Environmental Justice to North St. Louis

The need for environmental justice in North St. Louis is pressing. This region is rife with toxic industries that impact the health of its community members. More than 90% of this area's population is African-American, and a staggering number of families live below the poverty line. The per capita income in the area we are targeting ranges from \$7,865 and \$10,008 annually. Low-income families and minorities in North St. Louis bear a disproportionate burden of toxicity in their environment as compared to their racial and socioeconomic counterparts.

Environmental hazards, including air, water and land contamination, have had harmful repercussions on the health of local residents, making the region one of the unhealthiest of the nation. With the help of the generous donation from the R. V. Sager Foundation last year, Great Rivers started this Project with the intent of investigating five polluting businesses in North St. Louis. Our work revealed that there are at least fifteen polluting facilities whose emissions may cause detrimental health impacts

to residents of North St. Louis. Great Rivers' attorney Brook Spear made dozens of Sunshine Law requests to the Missouri Department of Natural Resources and St. Louis City Air Pollution Control Board, requesting permits and monitoring reports of fifteen businesses in North St. Louis. The documents show that the DNR and St. Louis City Air Pollution Control Board do not oversee the plants in North St. Louis with any great interest or regularity. Great Rivers is pressing governmental officials to require the businesses to install better controls over their pollutants.



North St. Louis

Great Rivers Helps Bring Missouri into the 21st Century on Energy Efficiency

On August 1, 2012, the Missouri Public Service Commission approved Ameren Missouri's new energy efficiency programs. These programs will result in the most significant energy efficiency efforts ever made in Missouri. Ameren agreed to invest **\$147 million** over the next three years into energy efficiency programs, which will result in \$500 million in customer benefits over the next twenty years. Residential and business customers will be eligible to receive financial assistance to make changes that will lower their energy consumption and electric bills.

In late October Great Rivers' clients reached a similar agreement with KCP&L-Greater Missouri Operations (GMO, formerly Aquila). GMO plans to spend \$39 million with benefits of \$149 million. The utilities get to keep a share of these benefits

Great Rivers' attorney Henry Robertson has taken part in hundreds of hours of meetings and conference calls with the Public Service Commission staff, Ameren employees, industrial energy users, and the Missouri Department of Natural Resources. In those meetings Robertson, who represented **Renew Missouri**, the **Natural Resources Defense Council**, and the **Sierra Club**, pressed Ameren and the PSC to strengthen Ameren's energy efficiency programs while protecting ratepayers.

These agreements represent real progress, but they are not ideal. They follow the Missouri Energy Efficiency Investment Act of 2009 (MEEIA), a law designed to give utilities incentives but not obligations. Ameren and GMO are rewarded more handsomely than utilities in other states that are achieving much more. This matters because they are, after all, spending ratepayers' money. Customers who do not directly participate in the programs will see a slight increase in bills in the short term, but the energy savings should pile up and bills go down. Meanwhile, everyone benefits as the need to build expensive new generating plants or retrofit old ones is deferred or even eliminated.

The challenge now is to leverage the energy savings into getting the utilities to shut down their oldest, most polluting power plants. Missouri could also benefit from a law of the kind that exists in Illinois and many other states that requires utilities to reduce the demand on their systems by at least a fixed amount (e.g. 0.5%,

then 1%, the 1.5%) each year; such a law is called an Energy Efficiency Resource Standard or Energy Efficiency Portfolio Standard.



Peary Caribou in the Arctic. Photo by the National Oceanic and Atmospheric Administration.

The National Oceanic and Atmospheric Administration (NOAA) reported that the summer of 2012 was the third hottest summer on record for the contiguous United States since recordkeeping began in 1895. Arctic sea ice has fallen to a new all-time record low. In the past 50 years, the population of Peary Caribou has decreased by more than 84%. Missouri utility companies should stop putting profits ahead of the fate of the earth and make serious efforts to reduce carbon emissions by using energy efficiency, solar and wind.

Kansas City Power and Light's Long-Range Plan

The great disappointment on the energy efficiency front has been KCPL. Like Ameren and its sister subsidiary GMO, KCPL filed a MEEIA plan for approval by the PSC but then withdrew it. With plenty of generating capacity from a brand new coal-burner north of Kansas City, KCPL saw no point in offering efficiency programs. Even though it has old power plants dating back as far as the late 1950s, KCPL would rather spend billions putting pollution controls on these plants—and profiting from the resulting higher rates—than shut them down.

The one way to put legal pressure on KCPL was through its IRP. Under Missouri law, every three years the utility companies must file Integrated Resource Plans exploring their options for the next 20 years and giving efficiency equal weight with investments in generating plants. On behalf of **Renew Missouri**, the **Sierra Club** and the **Natural Resources Defense Council**, in the spring of 2012 Great Rivers intervened

ENERGY PROGRAM

in KCPL's Integrated Resource Plan filed in the Missouri Public Service Commission.

KCPL says it will offer new efficiency programs in 2014. But the utility is supposed to pick the lowest-cost feasible plan, and KCPL has not done that. They admit that the least-cost plan would be one with more aggressive efficiency programs, but do not even attempt to explain why this lower-cost plan is not feasible. Right now we are working with KCPL to improve their plan in the coming year.

Nuclear Waste Myths Exposed by Federal Court—Callaway County Nuclear Plant Affected

Earlier this year, the **Missouri Coalition for the Environment**, represented by **Great Rivers Environmental Law Center** attorney Henry Robertson as local counsel and attorney Diane Curran of Washington, D.C., the nation's leading anti-nuclear lawyer, filed a challenge with the Nuclear Regulatory Commission to Ameren's application to relicense Callaway 1, which received a 40-year license in 1984 and is allowed to seek a 20-year extension. The NRC licensing board held a hearing in Fulton, Missouri, in June to consider the implications of the disaster in Fukushima, Japan, but later denied our claims.

Meanwhile, the U.S. Court of Appeals for the D.C. Circuit struck down the NRC's "waste confidence rule," which asserted the Commission's confidence that highly radioactive nuclear waste in the form of spent, or "used," reactor fuel will someday be safely disposed of.

The Court noted that, after decades of failure to site a repository, including twenty years of working on the now-abandoned Yucca Mountain repository, **the NRC "has no long-term plan other than hoping for a geologic repository."** Therefore it is possible that spent fuel will be stored at reactor sites "on a permanent basis." The court held that the NRC must examine the environmental consequences of failing to establish a repository when one is needed.

The court also rejected NRC's decision minimizing the risks of leaks or fires from spent fuel stored in reactor pools during future storage, because the NRC had not demonstrated that these future impacts would be insignificant. The Court found that past experience with pool leaks was not an adequate predictor of future experience. It also concluded that the NRC had not

shown that catastrophic fires in spent fuel pools were so unlikely that their risks could be ignored. In August, the NRC froze all applications pending for construction and operation of new plants, as well as applications for extensions of existing plants.

The NRC has just invited "scoping comments" to set the parameters for the environmental impact statement, but the scope of the scoping comments is deficient. The Coalition will continue to be involved in this process.

The High Price of Coal-Fired Energy

A recent Harvard Medical School study finds that each stage in the life cycle of coal, from extraction to combustion to disposal, generates a waste stream and carries multiple hazards for health and the environment. These costs are external to the coal industry and thus are often termed "externalities." The study finds that the life cycle effects of coal and the waste stream generated are costing the U.S. public a third to over one-half of a trillion dollars annually. Thus, while it may seem that we are able to purchase and burn coal cheaply, in reality we are paying a much higher price for coal-fired power. In a minefill setting in particular, coal combustion residues contain a wide variety of constituents that are potentially of concern for human health. The primary concern is the contamination of drinking water sources, particularly groundwater, by metals that may be leached from the material.

Thanks to the generous support of the Philpott Family Foundation and the R. V. Sager Foundation, in 2012 Great Rivers focused its efforts on the largely unmonitored practice of injecting coal combustion waste underground. For many years, the Missouri Department of Natural Resources ("DNR") has been issuing permits for the injection of coal ash slurry into abandoned, underground mines. The practice was proceeding along unchecked until late last year when a retired DNR employee contacted us about these permits.

In the spring of 2012 Great Rivers urged the DNR to utilize more stringent controls on a permit issued to Underground Services Company in North Kansas City, Missouri. The company receives coal combustion waste from several Missouri coal-fired power facilities and injects the ash to an underground mine. The mine is located approximately one half mile north of the

Energy Program *continued on page 6*

LEWIS C. GREEN ENVIRONMENTAL SERVICE AWARDS PRESENTED TO RON COLEMAN AND TERRY CUNNINGHAM

This year the Board of Directors presented Lewis C. Green Environmental Service Awards to **Ron Coleman** and **Terry Cunningham** in recognition of their long-time commitment to the preservation of the environment.

Ron Coleman, Executive Director of the Open Space Council, has helped to conserve thousands of acres of open space in the form of conservation and park land, acquire and develop miles of hiking and biking trails and helped to restore the natural beauty to the lower Meramec River. He has inspired thousands of individuals and companies to volunteer their time and resources for river stewardship projects such as Operation Clean Stream, the Missouri Stream Team, and the Meramec River Tributary Alliance. Although he never takes full credit, his leadership has resulted in raising millions of dollars for land and water conservation endeavors in our state.

Terry Cunningham, Forest Manager of Pioneer Forest, started working for Pioneer Forest in 1972 as a district forester on Pioneer lands near Van Buren, Missouri. He then moved to Salem, Missouri when he was promoted to Chief Forester by Leo Drey. Terry now serves as

Pioneer's Forest Manager. His professional career marks more than 40 years in conservation forestry, and he has served Pioneer Forest longer than any other staff member. Beginning in the 1990's, conservation forestry received new attention, bringing visitors and other foresters to Pioneer to consult with Terry about his techniques. Terry is widely acknowledged by many as one of Missouri's most skilled field foresters.

Great Rivers extends its thanks to Lisa and Tom Carnahan for making the wonderful setting available.



*Kathleen Henry, Terry Cunningham,
Bruce Morrison, and Ron Coleman*

GREAT RIVERS' ENERGY PROGRAM *Continued from page 5*

Missouri River. Responding to our efforts the DNR tightened the permit, requiring the company to put in place an effective groundwater monitoring program and to monitor for metals which Great Rivers pointed out are pollutants of concern associated with coal combustion waste. In the fall of 2012, Great Rivers next advocated for more stringent controls on a permit issued to the Lafarge North America, Inc. Sugar Creek facility in Kansas City, Missouri. Lafarge receives coal combustion waste slurry from the Nearman and Hawthorn power plants. Lafarge injects the ash slurry into an underground mine and also places the slurry into subsided surface areas. We await the DNR's decision.

RES "Compliance"

Proposition C, the Renewable Energy Standard (RES) requires utilities to report annually on their progress in meeting the renewable energy targets, which began

in 2011 as a mere 2% of each utility's sales. In April, the reports came in for that first year. They show that the utilities have done virtually nothing because of loopholes they shot in the law. For example, Prop C limits hydropower to 10 megawatts to minimize its environmental damage, but Ameren claims that its 99-year-old hydro plant on the Mississippi River at Keokuk, Iowa, meets this standard because each of its 15 generators is less than 10 MW.

Great Rivers argued before the Commission that it should fix these loopholes, but the PSC declined to act, concluding that the compliance filings were merely informational. Now, on behalf of **Renew Missouri** and the **Sierra Club**, and other groups, Great Rivers is preparing to file cases that will compel the Commission to act and enforce the will of the voters.

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

Contributions received May 16 - October 31, 2012

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You can become a member of our **Cornerstone Society** by making a three-year commitment to sponsorship at any of the levels indicated at \$500 or more.

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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Great Rivers Environmental Law Center Receives a Tier One Ranking in the 2013 Edition of *U.S. News-Best Lawyers* “Best Law Firms.”

In November 2012, Great Rivers received a Tier One ranking in the 2013 Edition of U.S. News-Best Lawyers “Best Law Firms.” This ranking is based on an evaluation process that includes reviewing client and lawyer evaluations, peer reviews from attorneys in their field, and additional information provided by law firms as part of the formal submission process. To be eligible for a ranking, a law firm must have at least one lawyer who is included in Best Lawyers in America as part of the annual peer review assessment. Great Rivers’ attorney Bruce Morrison has received that honor, making Great Rivers eligible to receive its Tier One ranking.

MEET ADAM FIELD, Great Rivers’ New Interim Staff Attorney

We are excited to announce that Adam Field started working at Great Rivers in October. Adam is a recent graduate of the University of Illinois College of Law and has passed the Missouri Bar Exam. Under a program made possible through the University of Illinois, Adam is paid a stipend by his University which allows him to work here for nine months. We are grateful to the University of Illinois for making Adam’s work here possible.



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705 Olive Street
Suite 614
St. Louis, MO 63101
(314) 231-4181 phone
(314) 231-4184 fax
www.greatriverslaw.org

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