GREAT RIVERS’ CLIMATE CHANGE AND ENVIRONMENTAL JUSTICE PROGRAMS LEAP FORWARD

Great Rivers Spearheads Agreements by Missouri’s Two Biggest Electric Utilities to Provide Clean, Affordable, Renewable Energy in Low Income Communities and Communities of Color

These Agreements help wean us off coal. Missouri still gets 80% of its energy from coal, lagging far behind the rest of the nation in efforts to combat climate change.
Environmental Justice Problems Plague Our Region

The U.S. Environmental Protection Agency defines Environmental Justice as, “The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. This goal will be achieved when everyone enjoys: the same degree of protection from environmental and health hazards, and equal access to the decision-making process to have a healthy environment in which to live, learn, and work.”

February 11, 2019, marks the 25th anniversary of President Bill Clinton’s signing of the historic Executive Order 12898 on Environmental Justice entitled, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.”

The landmark Order was the first major federal action on environmental justice (EJ) in the United States and required that all federal agencies “make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.”

Twenty-five years after the issuance of the Order, low-income communities and communities of color across Missouri, Illinois and the entire U.S. continue to be exposed to toxic pollution in rates higher than the general population. Although the EPA, both nationally and in the regions covering Missouri and southern Illinois, claims that, “When EPA undertakes a permitting action under the Clean Air Act we will consider the needs of minority populations, low-income populations and indigenous peoples — those most impacted by environmental and public-health concerns — and provide opportunity for these populations to have a voice in shaping EPA’s final permitting action,” Great Rivers has yet to see any meaningful consideration of low-income people’s needs or opportunity for them to “have a voice.” The decisions on the permit applications seem pre-determined in favor of the applicant.

While Bill Clinton’s goals were laudable, they have not been fruitful. Environmental justice problems plague our communities the same now as they did before his Executive Order issued twenty-five years ago. Great Rivers is doing what we can to create a world where this injustice no longer exists, and to move our region forward.

Kathleen Henry
Much Needed News on Climate Change: Great Rivers represented the NAACP in negotiating an agreement with Kansas City Power and Light to address Low-Income Energy Needs by turning to Solar and Wind

Great Rivers’ Attorney Bruce Morrison serves as the Chair of the Environmental Justice Committee of the Missouri State Conference of the NAACP. In November, in a required planning process before the Missouri Public Service Commission, Great Rivers represented the national NAACP in its negotiations with the electric utility serving the western portion of Missouri, Kansas City Power and Light (“KCPL”). The NAACP and Kansas City Power and Light agreed to work together to locate clean, affordable, renewable energy in low income communities and communities of color within Kansas City Power and Light’s service territory, which covers a good portion of the western half of Missouri.

Great Rivers represented the NAACP in reaching a similar agreement with the electric utility covering the eastern portion of Missouri, Ameren Missouri, in April 2018. Now a significant portion of the state is going to undergo much needed transformation from coal to renewables.

Ameren Charge Ahead Pilot Program

AmerenMo and KCPL were denied Public Service Commission (PSC) approval last year to own electric vehicle (EV) charging infrastructure, but the Missouri Court of Appeals in Kansas City made clear that a utility can own EV charging stations.

AmerenMO proposed its “Charge Ahead” plan to pay incentives to EV charging providers who would offer highway, workplace and multi-family charging and to electrify other uses like fork lifts and airport baggage haulers. We intervened on behalf of Sierra Club and NRDC.

In February, the PSC approved only a few charging stations on Interstate corridors. It also opened an informational process to study the problem. The Commission remains conflicted on the proper role of monopoly utilities in a field where competitive businesses also operate. We believe that utility involvement is necessary to solve the chicken-and-egg problem: people won’t buy EVs if there’s no place to charge them! And, of course, they need to be charged with renewable electricity.

Energy Efficiency Plans — Cycle 3

Utility energy efficiency programs save ratepayers money by reducing their energy usage and saving the cost of building new power plants. Since the legislature authorized such programs in 2009, programs by AmerenMo and KCPL have become part of the energy landscape. It is disappointing to see them now being reined in by the PSC Staff and the supposed consumer watchdog, the Office of Public Counsel (OPC). These two state agencies think that investment in efficiency and renewable energy is a waste of money as long as we have these perfectly good pollution-belching, coal-burning power plants!

AmerenMo filed its third energy efficiency plan. Unlike prior utility EE plans, this would have lasted six years instead of just three, but PSC Staff forced them to cut it back to three years. Then KCPL filed another 3-year plan, but Staff has forced them to scrap it and negotiate a new one. And Missouri continues to burn more coal for electricity than any other state but Texas.

Wind Farms Are Going Up in Missouri!

AmerenMo has been granted permission by the PSC to build a 400 MW wind farm in Adair and Schuyler Counties. The PSC granted a CCN (certificate of convenience and necessity). We intervened on behalf of NRDC and Sierra Club to support the project.

Now Ameren has filed to build another wind farm of 157 MW in Atchison County in the northwest corner of the state. And Empire District Electric is seeking a CCN for two wind farms in southwest Missouri. These are all likely to go through by agreement of the parties. The Missouri Department of Conservation (MDC) has raised concerns about bat and bird fatalities, and so far the utilities have been willing to accommodate MDC’s demands. PSC Staff and OPC (see Energy Efficiency story above) are letting these wind farms be built because the utilities need more renewable power to meet the Renewable Energy Standard passed by the voters in 2008, which Great Rivers played a major role in drafting.

Clean Line Wind Power Awaits Approval after Missouri Supreme Court Win

Clean Line is a Houston company with plans to build a wind-only transmission line from the windy areas of Kansas to the population centers near the East Coast. The Grain Belt Express line would run across northern Missouri and on to Indiana, dropping off 500 MW worth of wind energy in Ameren’s territory. Great Rivers has represented the Sierra Club, NRDC and Renew Missouri in supporting the line. The Supreme Court affirmed the PSC’s authority to approve the line in July, 2018. After a final (?) hearing in December we anticipate a favorable decision by the Commission.

Climate Change and Environmental Justice Programs continued on page 7
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Developer Abandons Plans to Build Silica Sand Mine in Jefferson County!

Bob Menees is Great Rivers’ staff attorney working on water, wetlands, and floodplain protection issues.

Last spring, citizens in Jefferson County, Missouri, came to Great Rivers for assistance in fighting a frac silica sand mine proposed for a residential area in Hillsboro. Residents are concerned about health impacts and water quality issues of silica sand mines. The Planning and Zoning Commission denied the request in June, and the County Commission denied it in July. Unfortunately, the developer filed suit against Jefferson County in August, 2018, seeking to overturn the Commission’s decision. On behalf of nine neighbors, Great Rivers filed a motion to intervene but before that motion could be heard, the developer abandoned the proposal, and is now requesting monetary compensation for lost profits from the never-built sand mine. On behalf of the citizens, Great Rivers is seeking leave to file a friend of the court brief on behalf of the County, arguing the County should not have to pay the developer after denying the application.

Fight over Proposed Concrete Plant Starts Again

After the Court of Appeals handed down its opinion last spring, the developer again filed an application to build a concrete plant in Franklin County, MO, on land next to the Shaw Nature Reserve and an old residential area. Great Rivers again represents individuals in their fight to stop this plant. So far the Planning and Zoning Commission has approved it, the County Commission is poised to approve it, and then the fight will continue in court. There are good reasons for going to court again over this, as the County this time is calling the industrial plant a commercial business and letting it be built next to residences rather than in an industrial area.

Suit over New State Statute Concerning Parks

Senate Bill 35, passed in the state legislature in 2017, requires the Department of Natural Resources, when purchasing land, to hold public hearings in every county in which part of the land lies, to notify every elected official in each county and to publish notice in newspapers. This is burdensome and not required of other state agencies that also purchase land. The legislature passed it in revenge for DNR, under former Governor Nixon’s administration, properly acquiring land for four new state parks using money from mining companies that it held in public trust in recompense for environmental damage caused by lead mining. On behalf of Tom Sager and the Missouri Coalition for the Environment, we filed a petition in May, 2018, alleging violations of the constitutional requirements for bill passage and that SB 35 is a “special law” because it does not apply to other similarly situated agencies such as the Dept. of Conservation and Highway Commission, which can also purchase land on their own. The judge ruled against us in February. We expect to appeal.

GREAT RIVERS’ CLEAN WATER PROGRAM

Suit filed over State Law Stacking Clean Water Commission with Agribusiness Interests

In 2017 the state legislature passed HB 1713, which enables the governor and senate to stack the Clean Water Commission with agribusiness interests. Instead of four members representing the public, industry can now make up the majority or even the entire Commission. This change was tacked on to a bill for the “regulation of water systems.” On behalf of the Missouri Coalition for the Environment and Carolyn Johnson, we filed suit in the Spring of 2018, arguing that this was unconstitutional legislative procedure since a bill is allowed to have only one subject, and the makeup of the CWC goes far beyond the scope of the subject in the title of this bill.

The Cole County judge sided with the state, as usual. The case is now in the Missouri Supreme Court.
Fighting a Pipeline that will cross Missouri and Illinois

Spire (formerly Laclede Gas) is asking the Federal Energy Regulatory Commission (FERC) for a permit to build a pipeline from Illinois into St. Charles and St. Louis Counties to deliver gas from eastern states that is produced by hydraulic fracturing (fracking). Spire admits it has no need for more gas; it simply wants to diversify its supply. FERC takes a cavalier approach to environmental review, which it says is not part of its job. On behalf of Juli Viel, who lives near the path of the pipeline, Great Rivers filed comments with FERC, particularly calling out its poor assessment of the threat of climate change.

Last August FERC authorized the pipeline. Now they’re sitting on our request for rehearing so we can’t appeal while Spire proceeds to build the pipeline. We are trying to get the U.S. Circuit Court of Appeals for the D. C. Circuit to end this travesty and hear our case.

St. Louis City 100% Renewable Electricity Plan

Last fall the St. Louis Board of Aldermen passed a resolution to get all the City’s electricity from clean energy and efficiency by 2035. The resolution called for a plan to be made by the end of 2018. Great Rivers’ Bruce Morrison is on the Advisory Committee on behalf of Mo NAACP; Rev. Elston McCowan serves on it on behalf of the City of St. Louis NAACP; and Henry Robertson is on the Technical Committee that will be advising on measures the City can use to achieve its goal.

We are recommending that for City operations St. Louis should rely on a combination of energy efficient improvements in City-owned buildings, rooftop solar panels on many of those buildings, and subscribing to Ameren’s “green tariff,” which lets municipalities, as Ameren customers, subscribe to power from wind farms Ameren will build to meet corporate and municipal renewable energy goals.

LEWIS C. GREEN ENVIRONMENTAL SERVICE AWARDS NEWS

Maxine Lipeles and Tom “Yusha” Sager Honored with Lewis C. Green Awards

On October 14, 2018, Great Rivers Environmental Law Center presented its Lewis C. Green Environmental Service Award to Maxine Lipeles, Director of the Washington University Environmental Law Clinic, and Tom “Yusha” Sager, retired computer science professor at the Missouri University of Science and Technology and environmental activist for over half a century. Great Rivers presents this award annually to individuals or organizations that have shown long-time commitment to the preservation of the 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.

The board recognized Maxine for her exemplary work with the Washington University Interdisciplinary Environmental Clinic all across the state of Missouri, and recognized Yusha for his environmental work spanning decades, from the battles against the US Army Chemical Weapons School to his battles to protect Buehler Park.

Nominate Someone for the 2019 Lewis C. Green Award!

We invite you to nominate an environmental champion for a Lewis C. Green Environmental Service Award! Individuals and organizations are eligible. Selected recipients will be recognized by Great Rivers Environmental Law Center at the Lewis C. Green Awards Party on Sunday, September 22, 2019 at the Whittlemore House.

Nominees should have a demonstrated long-term commitment to preservation of the environment.

All nominations are due by April 1, 2019 and may be submitted online at https://goo.gl/forms/dOUWDTo6fCF8GSay2
We hope you can join one of our upcoming events!

For more about our events, visit greatriverslaw.org/events