Lawyers For The Environment

This issue of the Great Rivers Reporter highlights recent news from four of our programs - Water Quality, Climate & Energy, Wetlands & Floodplains, and Environmental Justice. These selected highlights are no indication that we are not working also to protect our air resources, or our parks and wild lands. We're just out of room. Stay tuned!
President’s Letter

When Great Rivers began seventeen years ago, Kathleen Henry (I know her as Katy), Lew Green, and I comprised our first Board of Directors. Seventeen years later, there has been continuity - and change. Lewis passed away before the end of our first year. Katy took the lead as our President, and I took on the role of General Counsel. Over the years, others have stepped up to serve as our Directors. Today, our Board consists of nineteen, dedicated people. Today, Katy is one of them. In September, I stepped into Katy’s shoes as Great Rivers' President.

Katy leaves us in a great place to carry on our work for a healthy environment, although she leaves at a time when our work is needed as much today as at any time in our seventeen years history. The quality of our air and water is trending down, action by government authorities to enforce the law is severely down, and suits against the government to compel it to act, and to stop it from acting unlawfully, continue to climb.

We have been here before, although not since the early 1980s. We know from experience that the pendulum eventually will swing back. One day, our elected officials again will play a role in protecting our environment. Until then, there is much work to be done.
Bob Menees is a Great Rivers’ staff attorney working on water, wetlands and floodplain protection issues.

For the past two years EPA has been waging war against clean water, rolling back and eliminating requirements which were protecting the Nation’s waters. Factor in Missouri’s “No Mo Red Tape” initiative and it comes as no surprise that our State’s rivers, lakes and streams are suffering.

In 1972, Congress placed a citizen suit provision in the Clean Water Act. The citizen suit provision gives a private citizen the right to stand in the shoes of government officials when they choose not to enforce the law.

Over the past seventeen years Great Rivers and our citizen colleagues have served upon many polluters notices of intent to enforce water pollution requirements and, when necessary, have brought citizen lawsuits to end the pollution. What has changed? The numbers! For the past two years, the number of notice letters we generate has mushroomed. Our federal and state officials, charged with enforcing the law, have decided that clean water requirements are too “burdensome.” “No Mo Red Tape,” they say.

Last week, Great Rivers Environmental Law Center, together with Missouri Confluence Waterkeeper, served yet another notice of intent to sue letter upon EPA, MDNR, and the polluter which is discharging toxic contaminants to one of Missouri’s rivers in violation of federal and state water pollution requirements. EPA and the state of Missouri will have 60 days to do what they are supposed to do. If they fail to act, we will once again stand in their shoes to protect Missouri’s waters.
Missouri burns more coal for electricity than any other state except Texas. For 15 years Great Rivers has been fighting to change that, and the balance is tilting, with a big assist from the economics that now favor wind and solar energy over coal.

Two of Missouri’s regulated utilities are actually retiring old coal plants — Evergy (formerly Kansas City Power & Light) and Empire District Electric in Joplin. Ameren Missouri remains the laggard, but we now find ourselves sometimes supporting even Ameren when they do things like add wind and solar and lay the groundwork for electric vehicle (EV) charging.

Some of Missouri’s big cities — KC, Columbia and St. Louis — are doing their part by pledging to go to 100% clean energy. Great Rivers is in the thick of things in St. Louis, where the Board of Aldermen in 2017 passed a resolution committing to 100% clean energy in the electricity sector by 2035. Bruce Morrison is on the Clean Energy Advisory Board while Henry Robertson is on the Technical Committee charged with laying out the City’s options. But the 100% goal is not limited to City Ops; it includes the whole City.

At the Public Service Commission (PSC), the state’s utility regulator where the word “climate” is seldom spoken, progress is being made. Henry represents the Natural Resources Defense Council (NRDC), Sierra Club and sometimes other groups. Lately we’re playing more defense than offense.

We’ve defended Ameren’s plans to build EV charging stations on highways and at workplaces, multi-unit dwellings and public places for “around town” charging. The PSC has been conflicted about offering this as a monopoly utility service, but so far a competitive market isn’t arising because there aren’t enough EVs yet to justify the investment. Utilities can help jump start the transition.

We’ve supported Ameren in building wind farms in Missouri and offering a “green tariff” program that lets corporations — and cities like St. Louis — that have renewable energy goals subscribe for wind energy that Ameren will provide.

While Ameren’s doing these good things, they have no excuse to keep running coal plants that are becoming as unnecessary as they are obsolete. In the southwest corner of the state, Empire District Electric has announced that it will retire its only solely-owned coal plant no later than next June. Empire is already replacing the plant with wind. On behalf of NRDC and Sierra Club, Great Rivers has intervened in Empire’s rate case and its long-range planning process to defend this decision. There are still parties at the PSC, including the Commission’s own Staff, the supposed consumer watchdog the Office of Public Counsel (OPC), and industrial customers, who think it’s a good idea to go on burning coal.
Climate and Energy, continued

Great Rivers and NRDC are defending Evergy for continuing to offer efficiency programs that cut down on coal burning and help ultimately make it possible to retire fossil-fuel power plants. PSC Staff and OPC came up with the bizarre theory that utilities shouldn’t do efficiency programs unless they would eliminate an imminent need to build a new plant. All the other benefits of efficiency like lower energy bills, better buildings, cleaner air and a climate that isn’t too badly destabilized count for nothing. But we’re also asking Evergy to improve its programs for low-income customers who have to spend a bigger portion of their income on energy than the rest of us.

When some other states are taking the lead in combatting climate breakdown, it can feel weird sitting here in Missouri observing what a bastion of denial and dirty energy remains. Cleaner, cheaper electricity is, or should be, a bipartisan cause. Look at it this way — we’re needed more here than in California or Massachusetts.

Wetlands and Floodplains

Not long ago, The Weather Channel published an article titled, “Missouri Under Water,” and grabbed this quote from Great Rivers: “Flood heights and frequency are ever-increasing, . . . The frequency is greater than it used to be. It’s not going down. It’s just going up.” The article then notes that, “An EPA report on the impact of climate change on the Show Me state indicates [Great Rivers] is correct. Missouri is already seeing more, and heavier, precipitation over the past 50 years — rainfall during the four wettest days of the year is up 35 percent, and the worst floods have 20 percent more water in them than they used to.”

As flood heights and flood frequency continue to rise, some of our Region’s levee districts have raised their levees without the required government approvals, pushing floodwater on to their neighbors. Great Rivers, along with several of our colleagues, have been pushing FEMA and the Army Corps to enforce their floodplain and wetlands requirements. It appears now that the government officials have reached a state of inaction - even though people and property in low lying areas are bearing the brunt of the levee districts’ unauthorized levee elevations. Our Sarah Rubenstein (meet Sarah on page 7) is working with our allies to evaluate potential legal options that can be used to bring an end to imprudent levee development and to compel appropriate enforcement protective of floodplains and wetlands.
Through our Environmental Justice Program, we protect disadvantaged communities from an unfair share of environmental harm. Low income minority communities in our Region and throughout the country are more likely to suffer from floods, toxic air emissions, and poisons on the land and in our waters. We oppose environmental injustices throughout Missouri, giving a voice to underrepresented members of the community.

On a different front, Bruce, in his role as Chair of the Environmental Justice Committee of the Missouri NAACP, has been facilitating discussions between the NAACP and Ameren Missouri to locate solar energy in minority low income communities within Ameren Missouri’s service territory. These discussions follow the agreement reached by the NAACP and Ameren Missouri on Ameren’s most recent Integrated Resource Plan. (Bruce represented the NAACP in proceedings before the Missouri Public Service Commission (PSC)). The NAACP and Kansas City Power and Light (now Evergy) reached a similar agreement, with Bruce also having represented the NAACP before the PSC.

As this newsletter goes to print, Great Rivers’ staff Bruce Morrison (as a member of the City of St. Louis’ Clean Energy Advisory Board) and Henry Robertson (as a member of that Board’s Technical Committee) are wrapping up their work for the City of St. Louis in the City’s quest to provide 100% Clean Energy to its residents. Much of that work is to ensure that the City’s low-income and minority communities have better health outcomes, improved access to clean, affordable, renewable energy, and equal access to good paying jobs that will come about through a green energy economy.
Welcome Sarah Rubenstein

Sarah Rubenstein first visited us 14 years ago. We're glad she came back! Sarah joins Great Rivers as a staff attorney after gathering more than 20 years of successful litigation practice. Sarah graduated magna cum laude from Amherst College in 1992 and the University of Chicago Law School in 1997, where she pursued her law degree out of her concern for and interest in protecting the environment. She is thrilled to be able to return full-time to her original mission. “I am excited to join Great Rivers. It will allow me to use my legal skills to help reduce pollution in our region. I look forward to working hand-in-hand with local stakeholders to help make our environment a better place for future generations.” – Sarah Rubenstein

When she is not fighting to preserve our natural world, Sarah can be found playing with her dogs, riding horses, tending her vegetable garden, or traveling the globe.

Matching Gift Available Now!

There's never been a better time to contribute to Great Rivers. Our good friend and board member Hugh Law has offered to match all new and increased gifts made now through December 15. Please consider giving today to make your gift do so much more. Your contribution will fund critical work to bring our state a cleaner energy infrastructure, protect our wild lands, and give a voice to those who bear a disproportionate burden of environmental toxins. Will you join us?

Fall Awards

Great Rivers held its annual awards celebration at the beautiful Whittemore House on the campus of Washington University in late September. Guests enjoyed cocktails, hors d'oeuvres, a silent auction and the classical music selections from Webster University's preparatory program. Richard Lageson, chair of the board, welcomed everyone to the event before Bruce Morrison presented Kathleen Henry with The Lewis C. Green Environmental Service Award. Kathleen helped build Great Rivers from its humble beginnings in 2002 to the pillar of the community it is today. Kathleen will continue to serve Great Rivers on its board of directors.
YPB News
This September we saw not one but two of our Young Professional Board [YPB] members say, “I do,” and marry their beaus. Congratulations to Dhruv (YPB) and Haley, and Christa (YPB) and John Ed! Congratulations also to YPB member Segolene Renaze on her graduation from Washington University School of Law!

Great Rivers Thanks our Volunteer Heroes
It takes a lot of background work to run a small but mighty law firm. We are so grateful to the kind and generous folks who volunteered their time with us this summer including: Dani Dant, Lauren Lageson, Anna Leavey, Christine Pecher, Nina Sadlo, Rob Shepherd, Grace Finocchiaro, Mike Wolzenski, Suzzanne Bouchard, Kate Mueller, and Wick Weller. Want to volunteer? We’d love to use your skills. Give us a call at (314) 231-4181. - Linden Mueller

Linden Mueller is Great Rivers’ Director of Development and Community Outreach. Linden created our first Young Professionals Board several years ago before she returned to Great Rivers this past Spring.