



Great Rivers' Floodplain Protection Program In Action

*Great Rivers Takes Steps To Protect
The Missouri and Mississippi River Floodplains*



Old Man River Takes Back His Flood Plain

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Letter from the President:



Power Corrupts; Absolute Power Corrupts Absolutely

Lord Acton of England expressed this opinion in 1887 and it still seems relevant today in Great Rivers' work in fighting two municipalities over their actions in violation of Missouri's Open Records, or Sunshine Law. Missouri's Open Records Law states, among other things, that government shall open its meetings and records to the public. However, it appears that some elected and appointed officials believe the law does not apply to them.

In Crystal City, Missouri, elected and appointed officials secretly negotiated the purchase and lease of property for use as a pig iron ore smelter, a coal-fired plant which will make pollutants in an amount comparable to AmerenUE's 1,160 MW Rush Island coal-fired power plant (i.e., no small amount).

In St. Peters, Missouri, elected and appointed officials refuse to release documents involving the construction of a 500-year levee, because, they say, they still are deciding whether the requested records are open records. Over 250 days have passed since we made our initial request and there is still no decision.

Elected and appointed officials must not forget that they serve their roles in the public trust. Their positions are defined by state and local laws. Their salaries are paid for by the taxpayers of the municipalities. They are not in similar positions to officials of private corporations, where secrecy and closed records are demanded.

Fortunately for Missouri citizens, the Sunshine Law allows any aggrieved taxpayer to seek enforcement of the law in the courts. Great Rivers has brought suits in two circuits seeking enforcement of the law. It would be far simpler for everyone if governmental officials remembered that they were elected to serve the public and that the public pays their salaries.

Kathleen Henry

Board News

Congratulations to Tom "**Yusha**" Sager on his marriage to Helen Messerly. They invited their friends to a celebration of their marriage on April 19, 2008, in where else but Buehler Park! In the perseverance he showed towards the preservation of the park over the past 10 years, Yusha is truly an inspiration to us all. We wish Yusha and Helen many years of happiness.

Great Rivers says good-bye to Board Member **Virginia Quick**, who resigned at the completion of her term in January, 2008. Thank you, Virginia, for all of your work.

**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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GREAT RIVERS' FLOODPLAIN PROTECTION PROGRAM

Great Rivers' Floodplain Protection Program consists of bringing legal challenges to environmentally detrimental floodplain development and the over-engineering of rivers by means of levees and other structures which destroy floodplains and aggravate flooding risk. 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.

Opposition to Proposed Levee in St. Peters, MO

Great Rivers has under review documents and modeling concerning a levee on the Missouri River at St. Peters.

We are concerned that the Federal Emergency Management Agency (FEMA) will attempt to revise the applicable flood insurance rate map without evaluating the impacts of the levee on neighboring communities. Annual flood losses continue to increase in spite of 75 years of federal flood control efforts. The trend is due largely to policies that encourage at-risk development. Great Rivers continues its efforts to bring about change to preserve the natural values of the floodplain.

Fighting the Development of Floodplains in Cottleville, MO

The Cottleville Development Co., LLC, has applied to the US Army Corps of Engineers for a permit authorizing the company to raise a huge 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. Great Rivers is working to ensure that this part of our region's floodplain is preserved.

Opposition to AmerenUE's Proposed Utility Waste Landfill for the Sioux Power Plant in the Floodplain in St. Charles County, MO

In February, 2008, Great Rivers Environmental Law Center opposed Ameren's proposal to build a landfill to dispose of waste from its Sioux coal-fired power plant on 204 acres in the Missouri River floodplain, 12 miles from the confluence of the Mississippi and Missouri Rivers. The waste will consist of bottom ash, fly ash, and flue gas scrubber by-products (gypsum). Ameren proposes to use the remainder of its 398-acre tract for soil and cover

materials for the landfill, and to construct a berm around the area that would function as a flood protection dike. Great Rivers is opposed to this plan because, as a matter of sound floodplain management, the proposed landfill should not be located within the 100-year floodway fringe.

Assisting Scientists in Calling for Independent Peer Review of Chevrons

Extensive scientific research confirms that construction of navigational structures in rivers causes flood levels to rise, in some places by several feet. Scientific sources point to the "800 pound gorilla" of flood magnification as being the navigational structures constructed in the channel, combined with new levee construction. In spite of these scientific conclusions, the St. Louis District of the Army Corps of Engineers continues to build navigational structures within the Mississippi River channel. In late 2007, the Corps constructed three new horseshoe-shaped structures called "chevrons" in the St. Louis Harbor and has announced plans to build more. According to the Corps, the purpose of the chevrons is to manage sediment and improve navigation by deepening a channel. However, the Corps constructed these chevrons without modeling their impacts on flood heights during a severe flood. At the same time the Corps is "decertifying" 5 levees in the St. Louis Metro East area because of structural deficiencies. Given the current structural condition of the Metro East levees, the chevrons are the equivalent of loaded cannons pointed at East St. Louis. Great Rivers and several leading scientists in Missouri and Illinois are calling for an independent evaluation of these navigational structures so that the Corps takes into account the impacts of its actions on flood heights.



Photo courtesy of U.S. Corp of Engineers, taken by Alan Dooley.

Brief Update on Other Projects

AIR QUALITY AND PUBLIC HEALTH PROGRAMS

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

It seems like a nightmare, but it can't be shaken off. Residents in Crystal City, Missouri, a city of 4,000 about 35 miles south of St. Louis, learned one day last August that their mayor and building commissioner had secretly been negotiating with a developer of a coal-fired pig iron ore smelter. The developer and mayor planned for the City to purchase the old PPG (Pittsburgh Plate Glass) site, and then the City would lease the property to the developer for the installation of a smelter. The developer would pay the City \$2.2 million; the City would pay that amount to PPG; the City would own the property and then lease it to the developer.

Upon learning of this the residents organized a group, Concerned Citizens for Crystal City, and conducted further investigation. They came to Great Rivers for assistance with the Open Records violations, and, in November, 2007, Great Rivers filed suit on their behalf against the City for violations of Missouri's Sunshine Law, which states that government meetings and records shall be open to the public. The suit is pending in Circuit Court in Hillsboro, Missouri.

The citizens are opposed to the smelter because it will emit tons of air pollutants that are hazardous to human health and that contribute to global warming.

St. Louis Asbestos Case

Great Rivers continues its representation of Families for Asbestos Compliance, Testing and Safety (FACTS), in its legal action against the City of St. Louis and City of St. Louis Airport Authority over the illegal and experimental use of the "wet method" of asbestos abatement. With the wet method, the asbestos is not removed from the home but instead is left in place while the home is being demolished, potentially exposing people to asbestos fibers released into the air and soil. The case is under submission in the federal district court in St. Louis.

LAND USE PROGRAM

Preservation of LaBarque Creek Watershed, Jefferson County, Missouri.

Great Rivers has joined with others in an effort to dissuade AmerenUE from constructing a transmission line in the LaBarque Creek Watershed. In October, 2007, Great Rivers wrote AmerenUE on behalf of nearby residents to request that Ameren select an alternative location for a planned transmission line that would not impact the LaBarque Creek Watershed. Ameren had two other sites to consider but did select the one that would impact this Watershed.

LaBarque Creek is a beautiful creek in Jefferson County that drains water from a 13-mile watershed into the Meramec River. It is remarkably healthy for a stream so close to St. Louis and in 2005 was home to 42 species of fish. Neighboring residents fear the

transmission line will contribute to the degradation of the high environmental quality of the LaBarque Creek watershed and cause habitat destruction.



Photo by Linda Ellis

Transmission line near Reeds Springs, Missouri



Photo by Linda Harris

LaBarque Creek Watershed

Brief Update on Other Projects *(continued)*

GREAT RIVERS' ENERGY PROGRAM

AmerenUE's Integrated Resource Plan

In December 2005, AmerenUE filed its 20-year Integrated Resource Plan (IRP) with the Missouri Public Service Commission (PSC). The entire filing was designated Highly Confidential. Great Rivers intervened and succeeded in getting roughly half the 3,700-page plan to become publicly available.

As a result of the settlement reached between the parties in that case, Great Rivers' client organizations became stakeholders in the preparation of a new IRP, which gave us access to and input into AmerenUE's continued planning. The updated IRP filing was made in February 2008, the vast majority of it being publicly accessible, and Great Rivers is preparing comments.

AmerenUE's plans include "aggressive" demand side management programs, limited investment in renewable energy, and the choice of a second nuclear unit as its preferred base load option. Ameren can do much more to ensure that our energy comes from renewable sources and Great Rivers is working to make this happen.



Will Callaway County soon look like this?

Global Warming Litigation

Great Rivers prepared a lawsuit challenging an environmental impact statement for a coal-burning power plant on the grounds that the federal agency, the Department of Agriculture's Rural Utilities Service (RUS), failed to consider the global warming impacts of the plant. The project, which was proposed for Carroll County, Missouri, has since been shelved indefinitely since RUS has suspended its loan program for rural electric cooperatives.

Legislation

Great Rivers has been engaged for the last year and a half in drafting state energy legislation.

In the 2007 legislative session, a net metering bill written by Great Rivers was introduced as the Easy Connection Act and, after being amended and attached to a larger bill, was enacted.

The environmental and clean energy communities have had less

luck in achieving a Renewable Electricity Standard. On behalf of Renew Missouri, a nonprofit dedicated to this issue, Great Rivers drafted a ballot initiative for direct approval by the voters. The initiative would require investor-owned utilities to generate or purchase 15% of their retail sales from renewable sources by 2021. Renew Missouri collected 170,000 signatures, more than enough to have the issue placed on the ballot this November.

Great Rivers continues to advise its clients on the KCPL Collaboration Agreement and has drafted legislation to promote energy efficiency. One bill would allow utilities to get equally favorable rate treatment for their efficiency programs as for their generation investments, thus removing the disincentive to help customers use less energy. Other measures proposed by Great Rivers call for energy-efficient state building codes and for creating tax incentives for customer-sited electricity generation.

KCPL found sponsors for its own bill to provide cost recovery for energy efficiency programs. Great Rivers advised the Sierra Club and CCPC on this bill. In KCPL's opinion, this less ambitious bill was a more politically realistic approach than Great Rivers' more comprehensive plan.

PSC Rulemakings

The Public Service Commission recently held public workshops that prepared the ground for two formal rulemakings: one on the Easy Connection Act and the other on the Renewable Energy Objective. Great Rivers participated as the only environmental voice in the utility-dominated proceedings. One further rulemaking is in the offing.

The Easy Connection Act charged the PSC with setting the rules for net metering and drafting simple contracts for customer-generators. Homeowners who install their own generating equipment are at a big disadvantage in dealing with utilities. Great Rivers seeks to ensure that the rules will be as fair to customers and as easy for them to follow as the statute allows.

The PSC drafted a rule called a "Renewable Energy Objective," which does not require utilities to obtain energy from renewable resources, but only to make a "good faith" effort to do so. Great Rivers is attending hearings on this "Objective" and trying to see to it that renewable energy remains a goal in the PSC rules. (If the Renewable Electricity Standard passes this November, the utilities will be forced to clean up their act notwithstanding the ineffective PSC rules).

The PSC will soon begin rewriting its IRP rule (See "AmerenUE's Integrated Resource Plan"), the regulation that requires electric utilities to make comprehensive 20-year plans for meeting changing energy demands and environmental challenges like new regulation of CO₂ and mercury pollution.

With our experience before the PSC, Great Rivers is uniquely capable of representing environmental and clean energy interests in this rulemaking. However, we will need funds to engage the technical consultants who would be needed.

*(See **Great Rivers Energy Program** continued on page 6)*

WHERE DO YOUR DONATIONS GO?

In March, 2008, a reporter of a new monthly magazine interviewed me for an article she is writing on green businesses in St. Louis. She hesitated to ask about our budget, but since we are a nonprofit, our budget is available to the public so I told her that we do our work on a budget of just under \$225,000 each year. "It seems that you do a lot for that amount of money," she said.

We *do* a lot on our budget of \$225,000. Donations to Great Rivers will be spent as follows:



BUDGET 2008

Annual Registration Report	15.00
Bank Charges	.50.00
Books/reference materials	.334.43
Case Related Costs (non-recoverable)	.500.00
Computer Maintenance	.800.00
Computer/Office Eq.-under \$500	.500.00
Computer Supplies/Software	.250.00
Continuing Education	.900.00
Copier	.260.00
Delivery Charges	.30.00
Depreciation	1,526.40
Dues	1,230.00
Employee Wages, Health Insurance, Taxes and Adjustments	164,672.24
Equipment Lease	.643.83
Fundraising Costs	9,274.65
Insurance Premiums	3,269.20
Internet On-Line Service	.782.28
Office Expense	1,193.00
Office Supplies	1,782.97
Postage	1,200.00
Professional Fees	1,000.00
Rent	18,000.00
Research Expenses	8,314.44
Telephone	3,420.00
Website	.298.00
Total Expenses	220,246.44

Great Rivers Summer Intern Program

Law students who are interested in protecting the environment often contact Great Rivers seeking employment during and after law school. Unfortunately, our budget constraints prohibit us from expanding at this time and we cannot offer employment to graduates. However, many law schools around the nation have instituted programs in which students who work for 501(c)(3) organizations are eligible for summer stipends from their schools. These programs enable Great Rivers to receive assistance from students for ten weeks every summer. In our first five years, we have had volunteer interns from the law schools of: St. Louis University, Tulane University, the University of Oregon, Washington University, and, this summer we will have our first intern from the University of Missouri at Kansas City. We are pleased to be a resource for students with this interest.

GREAT RIVERS' ENERGY PROGRAM

(continued from page 5)

KCPL Collaboration Agreement

In March 2007, Great Rivers' clients, the Sierra Club and Concerned Citizens of Platte County, settled their litigation with Kansas City Power & Light over the building of a new coal-fired power plant north of Kansas City. The settlement took the form of a "Collaboration Agreement" that, while permitting the plant to go forward, obligated KCPL to tighten pollution controls, build 400 megawatts of new wind generation, achieve the equivalent of 300 MW of energy savings through customer efficiency programs, and cooperate with the Sierra Club and CCPC in the legislative and regulatory arenas.

We are currently working with KCPL in the state legislature (see Legislation), and we are investigating the reasons for KCPL's delay of the 2008 component of its wind investments.

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

Contributions received October 2007 - April 2008

IN MEMORY OF:

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Great Rivers thanks the family and Betsy O'Herin for suggesting that memorial donations be made to Great Rivers Environmental Law Center
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In 2007, Great Rivers lost several beloved founders and supporters. We will always be grateful to them for all of their work on our behalf and we miss them.

**The Honorable
Thomas F. Eagleton
James (Jim) Holsen
Charles (Chuck) Kroger
John P. (Jack) McCammon
Phillip Sgroi**

Sponsors

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:

- Platinum - \$15,000 or Higher**
- Gold - \$10,000**
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November 13, 2008

for the annual Great Rivers Environmental Law Center Awards Dinner

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