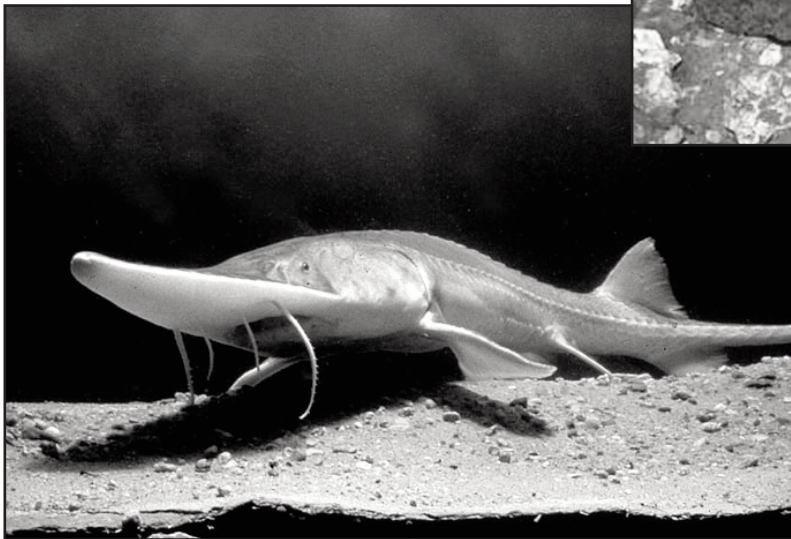


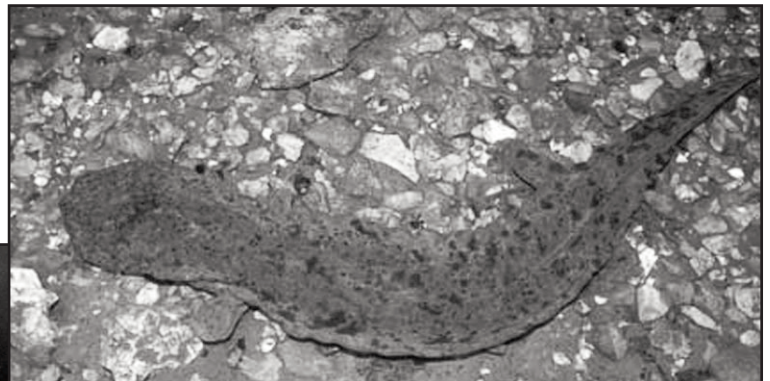


Great Rivers' Water Quality Program Focuses on Endangered Species

*Great Rivers Urges Fish and Wildlife Service to do more to
Protect the Endangered Ozark Hellbender and Pallid Sturgeon*



Pallid Sturgeon
Photo courtesy of U.S. Fish & Wildlife Center.



Ozark Hellbender
Photo courtesy of U.S. Fish & Wildlife Center.

Without Critical Habitat, Species Can't Survive

Letter from the President:



The Hubris of Man

The Nuclear Regulatory Commission states that spent nuclear reactor fuel “must be isolated and controlled for *thousands of years*” because some of the elements have half-lives of 24,000 years (plutonium-239). (US NRC, “Radioactive Waste: Production, Storage, Disposal.”)

As the events of Fukushima have taught us, natural events and human error will combine to create unforeseen events with disastrous consequences. Although the extent of harm to human, plant, animal and sea-water life is not yet known, there are already severe consequences in the deaths of workers at the plant, the spread of radioactive materials around the world, and the discharge of these materials into the ocean. Food has become contaminated and farm land unusable.

The experts who believe that humans can contain highly radioactive materials safely for thousands of years display hubris with an unjustifiable determination. We cannot control for every natural event or human error that our generation might experience, nor for those that our children, grandchildren, great-grandchildren, and so on might suffer. Since we cannot control everything, we should turn to safe forms of energy: efficiency, solar, wind, and conservation. At Great Rivers, we are proud to represent our clients the **Missouri Coalition for the Environment** and **Missourians for Safe Energy** in their battles to limit the production of highly radioactive materials. It is unrealistic for man to assume he can control for every contingency for thousands of years into the future, and an unfair burden to place upon our progeny.

Kathleen Henry

Board News

Jim Wilson has handed the reins to Rick Lageson who will serve as the new Chairman of our Board of Directors. In 2002, Lewis Green asked Jim to fill in for a “short term,” which turned into an eight-year period. **THANK YOU**, Jim, for your dedication and unwavering support for the past eight years.

Great Rivers Environmental Law Center

The legal resource for natural resources.
(a 501(c)(3) tax-exempt nonprofit corporation)

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

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WATER QUALITY PROGRAM

Great Rivers Seeks Habitat Protection for Endangered Ozark Hellbender and Pallid Sturgeon

It seems a no-brainer that without habitat, a species can't survive. What does it take for the U.S. Fish and Wildlife Service to realize this?

The Ozark Hellbender

Consider the Ozark Hellbender, a two-foot long salamander that lives in the Ozark streams and is one of the largest salamanders in the world. The origin of the name "hellbender" is unclear. The Missouri Department of Conservation says: "The name 'hellbender' probably comes from the animal's odd look. Perhaps it was named by settlers who thought 'it was a creature from hell where it's bent on returning.' Another rendition says the undulating skin of a hellbender reminded observers of 'horrible tortures of the infernal regions.' In reality, it's a harmless aquatic salamander."

The Ozark Hellbender is important to us because hellbenders are part of the overall health of the natural aquatic environment. They thrive on crayfish, and play a major role in maintaining crayfish populations to keep them in balance with other aquatic animals. Hellbenders have been in North America for **more than 6 million years**, but in the last 20 years, they have become almost extinct. The Missouri Department of Conservation listed it as a state endangered species in 2003, but the U.S. Fish and Wildlife Service (FWS) declined to follow suit. The FWS designated the hellbender as a "candidate" for listing under the Endangered Species Act in 2001, but declined to list it.

In September, 2010, with only 590 salamanders estimated to live in the wild, the FWS made a formal determination to list the Hellbender as endangered, but to **not** designate critical habitat for it. Such a designation would have required developers and landowners to undergo more rigorous scrutiny before constructing projects polluting the Ozark streams.

On behalf of a program of the national **Sierra Club's Water Sentinels** called the **Missouri Clean Water Campaign**, in November, 2010, Great Rivers filed Comments urging FWS to designate critical habitat for this unique creature. It seems axiomatic that without habitat, a species will die out.

The Pallid Sturgeon

The Pallid Sturgeon, once common throughout its historical range, has become the rarest species of freshwater fish in North America. The Pallid Sturgeon originated in the Cretaceous Period over 70 million years

ago. Although the species was robust enough to survive the Ice Ages, it was no match for the more than 50 years of human-induced modifications that occurred throughout its habitat range. Due to the construction of dams and channelization of the rivers upon which this fish depends, 90 percent of its wetland habitat has been destroyed. The species continues to be confronted with these threats along with others such as fishing and caviar harvesting, contaminants, hybridization, invasive species and Iridovirus. The Pallid Sturgeon was common in the Mississippi River and is still found in small numbers in parts of the Mississippi that flow through Missouri. The Pallid Sturgeon can weigh upwards of 80 pounds and measure over 6 feet in length. They can live to be forty years old.

The US FWS was on the ball enough to designate the Pallid Sturgeon as an endangered species in 1990, but to this day has failed to designate critical habitat for it. The number of sturgeons remaining has dropped so low that FWS estimates the Pallid Sturgeon will be extinct by 2018. Basically, we will have watched an incredible species disappear while doing nothing to protect it.

In November, 2010, on behalf of the **Missouri Coalition for the Environment and Missouri Clean Water Campaign**, Great Rivers filed a Petition to Designate Critical Habitat with the FWS. FWS has failed to take action on the Petition. We intend to pursue this with the FWS.

Federal Emergency Management Agency is No Better than the Fish and Wildlife Service

In our work on behalf of the **National Wildlife Federation and Great Rivers Habitat Alliance**, we served a Notice of Intent to Sue the Federal Emergency Management Agency in December, 2009. FEMA violates the Endangered Species Act when it sets rules for eligibility for communities for Flood Insurance because FEMA fails to consider the impacts of development on endangered species, such as the Pallid Sturgeon and interior least tern. In the past few months, we have presented to FEMA a proposed administrative record and also a letter offering to settle in advance of filing suit.

Water Quality Program *Continued on page 6*

Clean Up or Shut Down Dirty Old Coal Plants!

We Don't Have a Safe Way to Dispose of Waste Created by Burning Coal

A few years ago Great Rivers challenged the Associated Electric Cooperative, Inc.'s ("AECI") plans to build a new coal-fired power plant in Norborne, Missouri, in the northwest part of the state. Now we are getting involved with an old AECI coal-fired plant on the other side of the state, in Missouri's Bootheel. AECI operates a 39-year old coal-fired power plant in New Madrid, on 522 acres on the Mississippi River. AECI has been placing the coal wastes in an *unlined landfill* located on the Mississippi River ever since, under permits issued by the Missouri Department of Natural Resources ("DNR"). Coal combustion waste contains selenium, mercury, and arsenic, which are known to cause environmental harm and can represent a human health risk.

AECI's operating permit expired in 2008, and AECI operated without one for a few years. AECI filed a draft permit in 2010, and in March, 2011, Great Rivers filed Comments with the DNR challenging it. Great Rivers urged the DNR to set limits on the waste that can be placed in an unlined landfill on the Mississippi River, as there is reason to believe the pollutants will seep into groundwater used for drinking.

The DNR responded by saying it is requiring AECI to revise its permit; we are anxious to see the revisions.

David vs. Goliath — Great Rivers and Ameren Missouri

Momentous changes have been made in Missouri's energy law, thanks in part to Great Rivers. But our regulated utilities, especially Ameren Missouri, have been fighting them every step of the way.

How do you replace coal? With energy efficiency and renewable energy. We now have a Renewable Energy Standard and a law designed to reward utilities for helping their customers save energy. Ameren is out to gut them both.

Ameren is sacrificing efficiency and renewables on the

altar of nuclear power. Renewable energy is too expensive, they say. Why this sudden concern for ratepayers? Ameren has lined up the state's other utilities — KCPL, Empire District Electric, the rural electric cooperatives and the municipal utilities — to all take shares in a big new second reactor at the Callaway nuclear plant.

Ameren has an application on file with the Nuclear Regulatory Commission to build such a plant. Great Rivers intervened in that case on behalf of the **Missouri Coalition for the Environment** and **Missourians for Safe Energy**, but Ameren had to suspend the case in 2009.

The reason was that Ameren failed to get the Missouri legislature to pass a "construction work in progress" (CWIP) law that would let Ameren charge the construction costs to ratepayers before the plant went into service. Ameren is not a big enough company to take on that kind of debt. With CWIP customers would assume the risk of cost overruns and the possibility of still having to bear some of the costs if the plant is cancelled.

Never mind that nuclear is more expensive than solar power and far more expensive than wind. Never mind that if Ameren seriously pursued efficiency it could eliminate the need for more generating capacity — nuclear or coal — altogether. It wants a fat capital asset that will inflate consumers' bills for decades to come.

Intervention in Ameren's Integrated Resource Plan (IRP) Continues

In February, 2011, Ameren submitted the latest update of its twenty-year plan. An IRP is supposed to result in the lowest-cost way for a utility to serve its customers. Ameren's analysis was clear — efficiency is the cheapest energy resource. But Ameren not only refuses to increase its efficiency programs; it's actually cutting them back because the new incentives aren't generous enough to its shareholders.

Utility efficiency programs help customers bear the up-front costs of energy-saving measures like efficient appliances and insulation by offering rebates, discounts and other incentives. For businesses it could be

ENERGY PROGRAM

efficient electric motors, lighting or refrigeration systems. The Missouri Energy Efficiency Investment Act of 2009, a law drafted by Kansas City Power & Light so it's hardly hostile to utilities, lets electric utilities profit from selling less of their product by giving them a share of the savings realized by customers that would otherwise come off their bills. But it isn't enough for Ameren.

On behalf of the **Missouri Coalition for the Environment, Natural Resources Defense Council, Sierra Club** and **Mid-Missouri Peaceworks**, Great Rivers intervened in the Missouri Public Service Commission. We and our allies will be looking closely at the efficiency, coal, renewable and nuclear aspects of the IRP and demonstrating how Ameren violated the PSC rules. We will likely recommend that they retire their oldest coal plant, Meramec, in south St. Louis County.

In 2011 we intend to attack Ameren, and possibly KCPL and Empire, on two other fronts:

Efficiency litigation. We will intervene in court on behalf of the good parts of the PSC's efficiency rules, to see that the utilities get the incentives they need without negating their customers' incentive to participate in efficiency programs. Shareholder profits can't be allowed to swallow up the savings ratepayers should be seeing on their bills.

PSC cases. This year the utilities will begin filing plans and seeking rate adjustments for renewable energy and efficiency. We intend to see that the rules are being followed and the utilities aren't charging too much.

Lawsuit against Empire District over Solar Energy Requirements Moves to Court of Appeals

In March, 2010, Great Rivers filed suit against Empire District Electric to compel it to abide by the Renewable Energy Standard voters passed in 2008, Proposition C. The law requires utilities to obtain 2% of their energy portfolios from solar energy and offer rebates to customers who install their own solar panels. In May 2008, before Prop C even passed, Empire sneaked a

bill through the state legislature exempting itself from these solar requirements. On behalf of two customers and a solar installer, Great Rivers filed suit to compel Empire to abide by the law. In November, 2010, the trial court dismissed the case. We appealed to the Missouri Court of Appeals, Western District, where the case is pending.

Energy in the Missouri Legislature

The legislative session ends May 13, so we'll be able to celebrate or commiserate at our cocktail party the next day.

Great Rivers is not a lobbying organization, but we do draft legislation. This session we've been advising **Renew Missouri**, a project of the **Missouri Coalition for the Environment**, on the attempted overhaul of Proposition C, the Renewable Energy Standard we and they worked so hard to pass in 2008. This year HB 613, if it passes, will dramatically weaken Prop C.

Ameren is also making its latest attempt to get CWIP, mentioned above. This year they're trying the "camel's nose under the tent" approach, asking for only \$40 million to cover an Early Site Permit for Callaway. Rest assured, if they get it they'll be back for more.



Missouri utilities prove as stubborn as the Missouri Mule in kicking their heels and resisting clean technologies.

BRIEF UPDATE ON OTHER PROJECTS

FLOODPLAIN PRESERVATION PROGRAM

Great Rivers Continues to Litigate Suit to Prevent the City of St. Charles from “Blighting” Floodplains

On behalf of the **Great Rivers Habitat Alliance** and **Adolphus Busch Revocable Living Trust**, in February,

2010, Great Rivers Environmental Law Center filed suit against the City of St. Charles over its “blighting” of floodplains in St. Charles. We are engaged in lengthy pretrial “discovery” of records from the defendant.

LAND USE PROGRAM

Preservation of Boonville Lift Bridge

Great Rivers has been serving as a consulting party in a National Historic Preservation Act (NHPA) process intended to avoid or mitigate adverse impacts to the Boonville Lift Bridge. In this process, on Feb. 8, 2010, the Coast Guard sent notice of Union Pacific’s intent to transfer ownership of the Bridge to the City of Boonville, and suspended the NHPA process.

Meanwhile, the State of Missouri, on February 12, 2009, filed with the Surface Transportation Board a petition for a

declaratory order to clarify the status of the Bridge. Great Rivers filed a comment in support of the declaratory order request. On July 12, 2010, the Surface Transportation Board (STB) issued a decision, granting Missouri’s request for a declaratory order on the ground that Union Pacific’s attempted bridge abandonment was invalid because the NHPA process was not completed. On Sept. 10, 2010, the State of Missouri filed a petition for judicial review of the STB decision in the U.S. Court of Appeals for the D.C. Circuit.

WATER QUALITY PROGRAM *Continued from page 3*

Litigation to Protect the Ozark National Scenic Riverways

Current and Jacks Fork Rivers Under Siege

On behalf of the **L-A-D Foundation**, Great Rivers continues to press its lawsuit filed in 2009 against Shannon County, Missouri. Shannon County has created numerous illegal access points to the Current and Jacks Fork Rivers. The construction caused huge amounts of sediment to be deposited into Big Creek and the Current River. During the past year, through deposition and written discovery, Great Rivers has received from the County an acknowledgement of the illegal actions. The case is set for trial in May, 2011.

Great Rivers launches project to halt the rapid loss of wetlands within the Mississippi River corridor

A 2010 Report to Congress reveals that the United States Army Corps of Engineers is not complying with even the most basic and critical wetlands mitigation mandates. For

example, the Corps appears to creating illegal barriers to mitigation planning in determining that mitigation should be allowed only “to the extent incrementally justified;” in requiring mitigation only for impacts to “significant resources;” and in carrying out projects with either nonexistent or deficient mitigation. According to the 2010 Report, more than 80% of examined projects fail to meet basic mitigation mandates. Similar concerns exist for projects for which the Corps issues permits. Great Rivers will begin working to identify deficiencies in Corps mitigation efforts and advocate for compliance through formal comment, correspondence, position papers, and meetings with Corps officials, engage state and federal agencies for assistance in obtaining Corps compliance; and identify appropriate projects for appeal and/or litigation to compel compliance. The project’s ultimate goal is to end the rapid loss of wetlands within the Mississippi River corridor.

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

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