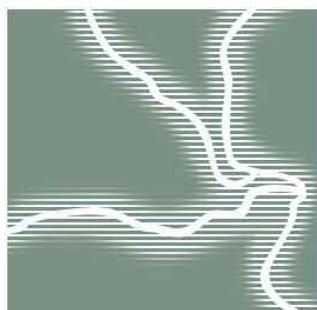


GREAT
RIVERS



Spring 2013

REPORTER

Great Rivers Environmental Law Center
705 Olive Street • Suite 614 • St. Louis, MO 63101 • (314) 231-4181 • www.greatriverslaw.org

Great Rivers' Environmental Justice Program Focuses On North St. Louis



*Thousands of Residents of North St. Louis Breathe in Polluted Air Daily;
Businesses Can Clean Up Their Facilities*

Letter from the President:



Missouri Senators Pursue Boondoggle at Great Expense

Senators Roy Blunt, R-Mo, and Claire McCaskill, D-Mo, agree on at least one thing: that the Corps of Engineers should continue to waste taxpayers' funds on its ill-conceived project to build a levee in the St. Johns Bayou/New Madrid Floodway, in the bootheel of the state. The proposed levee would completely sever the Mississippi River from its floodplain in Missouri by blocking the River with a 60-foot high, 1,500 foot long levee. The area behind the proposed levee is a 130,000-acre federally designated floodway, home to many species of animals and fish. Closing the gap will involve draining **80,000** acres of regularly inundated floodplain habitat, including **30,000** acres of wetlands.

Environmentalists and some governmental officials are opposed to this Project. The Corps' internal documents show that it is an "an economic dud with huge environmental consequences." The Fish and Wildlife Service said the project "would cause substantial, irretrievable losses of nationally significant fish and wildlife resources, and greatly diminish rare and unique habitats in southeastern Missouri."

Blunt has gone to great lengths to make sure this destruction occurs. On March 18, 2013, Blunt placed a temporary "hold" on the nomination of the head of the Environmental Protection Agency until there is "progress" on an environmental impact statement for the St. Johns Bayou project. McCaskill has joined Blunt in meeting with federal officials demanding the Corps release the Environmental Impact Statement.

The Washington Post Editorial Board has called the project a "Watery Waste of Taxpayers' Money," and called on Obama to kill the project.

Great Rivers Environmental Law Center has been working to stop this project. You can help by contacting your public officials and urging them to oppose the New Madrid Levee.

Kathleen Henry

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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AIR QUALITY AND ENVIRONMENTAL JUSTICE PROGRAMS

North St. Louis Residents Have a Raw Deal

Great Rivers continues to work for better air quality for residents of North St. Louis. In the summer of 2011, Great Rivers' attorney Bruce Morrison was invited to an "environmental justice bike ride" sponsored by Trailnet and Grace Hill Settlement House. Along the route, guides identified different polluting businesses that affect North St. Louis' air quality by emitting particulate matter, sulfur dioxide, nitrogen oxide, lead, and other pollutants. The residents of the neighborhoods of Old North and Hyde Park experience decreased life expectancy, as well as increased risk of asthma, hospitalizations, cancer and chronic conditions, because they are exposed to disproportionate environmental harm. Children especially are susceptible to illness caused by breathing in pollutants. Because these neighborhoods

are mostly low-income, minority populations, this area has been condemned to environmental injustices, as toxic businesses tend to settle where people have limited resources to resist them.

With the help of donations from the **R. V. Sager Foundation**, Great Rivers continues its investigation into businesses in North St. Louis and their compliance with local, state or federal laws. We hope to have the businesses there decrease their emissions of harmful pollutants so that residents might suffer less harm.

Other suburbs of St. Louis would not tolerate these businesses; why should residents of North St. Louis?



This is a photo of a tar-like substance collected in a rain barrel by a nearby North St. Louis resident.

GREAT RIVERS' FLOODPLAINS AND WETLANDS PRESERVATION PROGRAM

Great Rivers Files Suit Over Destruction of Two Mile Creek in Des Peres, Missouri

Two Mile Creek is a spring-fed creek located in Des Peres, Missouri, a suburb of St. Louis. Although parts of this creek have been stabilized in past years, there is a good portion of the creek that remained natural and was home to many species of fish and wildlife. That is, until a few residents complained about erosion. Other residents suffered from no erosion problems and Great Rivers' expert biologist said erosion was not a problem—the few residents complaining could have planted trees to protect their land.

Instead, the St. Louis Metropolitan Sewer District and U.S. Army Corps of Engineers' spent more than \$1

million to "fix a problem," and destroy a creek in the process. After Great Rivers was approached by two residents, Bill and Pamelah Oakey, who were concerned about the habitat, we filed suit to stop the destruction but were unable to convince a federal judge to issue a restraining order to prevent it before many one hundred year old trees were felled. Rather than allowing the creek to maintain its natural habitat, instead it will be lined with concrete blocks. Needless to say, the aesthetics of the creek were destroyed as well as its cleanliness and ability to support fish and wildlife along its banks. Great Rivers continues its lawsuit with the goal of persuading MSD and the Corps to lessen the overall impacts of the destruction.



The Oakey's Lost Many Very Old Trees that Could Have Been Saved

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GREAT RIVERS' FLOODPLAINS AND WETLANDS PRESERVATION PROGRAM *Continued*

Success on Jameson Island Project!

In 2012, Great Rivers' attorney Brook Spear attended and spoke at numerous hearings in Jefferson City in support of the Army Corps of Engineers' plan to re-introduce sediment to the Missouri River at Jameson Island. The Corps proposed this plan in 2007, but was stopped by the Missouri Clean Water Commission, which ruled that sediment was a "pollutant" and ordered the Corps to cease action on the project. The Commission held hearings in 2012 and finally, in November, rescinded the earlier order. In another hearing in January, 2013, the Commission voted against granting water quality certification for the project. However, the Commission also did not deny certification. After 60 days passed from the date the

Corps applied for certification, the certification was deemed waived by operation of law. The Department of Natural Resources has indicated that it will not block the project from going forward, unless there is an indication that water quality standards will be violated, which is unlikely given the robust monitoring system the Corps has put in place for the project.

The Jameson Island Project will restore 30 acres of shallow water habitat and the dynamic river processes which maintain it, for the benefit of native fish and wildlife species, including the endangered pallid sturgeon.

We are gratified the Commission rescinded its order.

GREAT RIVERS' ENDANGERED SPECIES PROGRAM

Great Rivers Environmental Law Center Serves Notice of Intent to Sue to Protect Ozark Hellbender and Four Other Endangered Species in Missouri's Mark Twain National Forest

On January 31, 2013, on behalf of the Missouri Coalition for the Environment ("MCE") and Center for Biological Diversity ("CBD"), Great Rivers Environmental Law Center and the CBD filed a formal Notice of Intent to the U.S. Forest Service ("FS") and U.S. Fish and Wildlife Service ("FWS") over the agencies' failure to protect the Ozark Hellbender, Hine's Emerald Dragonfly, Tumbling Creek Cavesnail and two endangered mussels in the Mark Twain National Forest, where logging, road use and other activities are polluting waterways.

Management of Mark Twain National Forest is guided by a forest plan prepared in 2005. Since the plan was written, several aquatic species that live near or in the Forest have been listed as endangered or had critical habitat designated for them. Specifically, the FWS

protected the Ozark Hellbender and two mussels (the "Spectaclecase" and "Snuffbox") as endangered, and the FWS designated critical habitat for the Hine's Emerald Dragonfly and Tumbling Creek Cavesnail. Habitat for all of these animals is being harmed by timber harvests, grazing, road construction and recreational activities that cause soil or pollutants to enter waterways.

The lawsuit would request the court to order the FS and FWS to revisit the 2005 plan to analyze the impacts of activities in the Forest on these newly protected endangered species and essential habitats, as the organizations allege is required by the Endangered Species Act. Such analysis is critical to ensure the animals' protection through best management practices and other measures. The organizations seek for the lawsuit to result in forest plan amendments — for instance, a prohibition on construction of bridges or boat ramps near Hellbender habitat.

GREAT RIVERS' ENERGY PROGRAM

The Campaign to Enforce Proposition C

Missouri voters passed Proposition C, the Renewable Energy Standard, in 2008. In 2011 the electric utilities should have been getting a modest 2% of their energy from renewable sources, but they have found ways to dodge the law, like using 100-year-old hydroelectric projects instead of building new wind farms. Empire District Electric even sneaked a bill through the legislature before Prop C passed that would exempt Empire alone from having to use any solar energy.

This year **Renew Missouri** and Great Rivers are going all-out to enforce Prop C. In January we filed cases (complaints) in the Public Service Commission on behalf of the **Missouri Coalition for the Environment**, the **Missouri Solar Energy Industries Association**, **Wind on the Wires**, **The Alternative Energy Co.**, **StraightUp Solar** and **Missouri Solar Applications** arguing that Ameren Missouri, Kansas City Power and Light, and Empire District are flouting the law through tortured interpretations that make a mockery of the voters' intent. At a pre-hearing conference in April the utilities made it clear that they will carry their obstructive tactics over into the complaint process.

Efficiency and Renewables vs. Coal

Great Rivers continues its work in the Public Service Commission on behalf of **Renew Missouri**, the **Natural Resources Defense Council** and the **Sierra Club**. This year we will be trying to get KCPL to file energy efficiency plans for roll-out in 2014 and showing the PSC as well as the utilities that efficiency and renewables are the best and most economical energy options—and that KCPL and Ameren need to retire their oldest and dirtiest coal-fired power plants.

Say No to Missouri's Version of the Keystone XL—the Flanagan South Tar Sands Pipeline

Although it is overlooked in all the uproar over the Keystone XL pipeline, the Canadian company Enbridge is planning to build an enlarged pipeline system from the Alberta tar sands to the Texas Gulf coast. One segment, the Flanagan South, would run through Missouri.

At a meeting in Chicago on March 25 hosted by the National Wildlife Federation, Great Rivers and the Missouri Coalition for the Environment hooked up with pipeline opponents from the Great Lakes states to explore strategies. Targets include the State Department, Army Corps of Engineers, Pipeline and Hazardous Materials Safety Administration and the EPA.

The Flanagan South would cross hundreds of streams and wetlands in northern and western Missouri, including impaired waters. In addition to the climate effects of the Alberta tar sands, there have been nasty spills from tar sands pipelines in Michigan and Arkansas. We cannot take it for granted that it would not spill into the Mississippi and Missouri Rivers, which are sources of drinking water for millions of people.

The "oil" that spills from tar sands pipelines is really diluted bitumen ("dilbit"), the goop that's the tar in tar sands. Unlike regular oil, it sinks when spilled and is much harder to clean up. Spills could harm endangered species like the pallid sturgeon. Spills are more likely because dilbit is more corrosive and abrasive to the pipes than crude oil and must be piped under higher temperature and pressure.

GREAT RIVERS' ATTORNEYS: SPEAKING NATIONALLY ON ENVIRONMENTAL PROTECTION

On February 23, 2013, on invitation from Tulane University, Great Rivers' attorneys Bruce Morrison and Brook Spear spoke in New Orleans at the Tulane Environmental Law Summit at a panel entitled, "Dead Zone: Desert in the Gulf." In their speeches, they discussed attempts to force the U.S. government to curb fertilizer run-off in farmland throughout the Mississippi River basin, and to require the EPA to set base guidelines for water quality and wastewater treatment.

On March 2, 2013, Great Rivers' attorney Henry Robertson spoke at the Public Interest Environmental Law Conference in Eugene, Oregon, at a panel entitled: "Transitioning From Fossil Fuels." In his speech, he discussed policies that are needed at state levels to successfully integrate renewables and efficiencies as we transition away from burning coal as our primary source of fuel.

Make Your Plans to Join Great Rivers at the Busch Family Mansion

Join us on Sunday, May 19, 2013, at our Spring Cocktail Party. At this party, hosted by Adolphus A. Busch, IV, you will be able to tour the elegant Mansion, have your photograph taken with a gorgeous Clydesdale, and enjoy delicious food and cocktails. Trudy Busch Valentine will speak about her years spent growing up in the Mansion and her sustainability initiative for Grant's Farm. Purchase your ticket online at www.brownpapertickets.com, or by calling us at 314-231-4181.

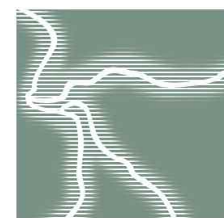


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