



# GREAT RIVERS SPRING 2023 REPORTER

Great Rivers Environmental Law Center  
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## Lawyers For The Environment

This issue of the *Great Rivers Reporter* highlights work from our Air Quality, Climate and Energy, and Water Quality programs. (There is plenty more to read about on our website.)

Bee Balm blooms atop a bluff overlooking the Meramec River Basin.  
The Myron and Sonya Glassberg Family Conservation Area, MO. Photo by Linden Mueller.



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## President's Letter



Dear Friends,

This edition of the Great Rivers Reporter features two matters, one just concluded, and the other just beginning.

In our Water Quality Program, our appeal of a permit authorizing a silica sand mine in Sainte Genevieve, Missouri has successfully concluded. Nexgen, the company seeking to build a sand mine in the vicinity of Hawn State Park, has terminated the permit because of irregularities that came to light in the evidentiary hearing. See page 6.

To a matter just beginning, in our Climate and Energy program, a homeowners' association (HOA) is making it almost impossible for community members to install rooftop solar energy. These families want to install solar collection systems on the roofs of their homes to save money and to offset the impacts of climate change. Last month we brought suit against to HOA to ensure that it complies with Missouri's new solar energy law. See page 7.

There is much more that we advocating for and we would love to tell you about it! None of these successes are possible without your much-appreciated support. Always grateful,

*Bruce*

## Great Rivers Environmental Law Center

**LAWYERS FOR THE ENVIRONMENT**  
(a 501(c)(3) tax-exempt nonprofit corporation)

### Mission Statement

Great Rivers provides free and low-cost legal services to citizen groups, organizations, and individuals who seek to preserve and protect the environment and public health.

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## Program News - Air Quality



Sarah Rubenstein is a staff attorney working on air quality, environmental justice and climate and energy matters

### *Engaging Communities*

We work hard to protect the air we breathe. The cumulative effects from multiple sources of air pollution, especially in the young and the elderly, increase the risk of developing asthma and other respiratory illnesses, as well as cancer and heart disease. Year after year we engage the Missouri Department of Natural Resources (MDNR) on the air pollution permits it issues across the State, advocating for better controls, adequate monitoring, and community engagement.

Last year, to help us better engage with communities affected by unhealthy air quality, the Missouri Foundation for Health gave us a grant enabling us to place air monitors in some of our most affected communities. This air monitoring project was borne out of partner concerns about the high incidence of asthma in their communities.

In collaboration with community partners Dutchtown South Community Corporation, A Red Circle and the Old North St. Louis Restoration Group, a monitoring network was designed under the guidance of engineering professor Jay Turner. The City of St. Louis gave us permission to place our air monitors on its street light poles, and Dr. Turner's graduate students installed the air monitors. Today, the monitors are in place and collecting data. (You can track the results and learn more about the project on our [website](https://sites.wustl.edu/stlozoneproject/home/).)

The project is timely, as the St. Louis metro area was recently “bumped up” by the U.S. Environmental Protection Agency to moderate nonattainment because of continued ozone pollution in the region.

The placement of the monitors and the data collected is enabling our community partners and their members to see first-hand how close they live, work, and play to unhealthy levels of air pollution. With them, we advocate for more air monitoring in overburdened communities; for regulators to better account for the cumulative impacts of polluting sources; and for regulators to proactively engage with overburdened communities early in the permitting process.



**TRACK OZONE POLLUTION  
IN YOUR NEIGHBORHOOD**

You may notice devices like this mounted on light poles around this neighborhood

These are **ozone monitors**, installed to detect the levels of ozone in the air in your neighborhood.

These monitors are part of a network of sensors monitoring the levels of ozone in the air around the Dutchtown neighborhood. They were installed through a partnership between Dutchtown South Community, Great Rivers Environmental Law Center, Washington University and Missouri Foundation for Health. For more information: <https://sites.wustl.edu/stlozoneproject/home/>

Logos: Great Rivers Environmental Law Center, Missouri Foundation for Health, Dutchtown South, Washington University

Signs like these are mounted near our ozone monitors to help engage community members.

# Thanking our Heroes

## Leaving a Legacy



Michael Panhorst made a gift that will allow Great Rivers to form an environmental legacy fund. A best friend to Bruce (since 1976), Mike passed away on December 12, 2022. Pictured below with Bruce are Mike's sister, Molly (L), and Mike's wife, Susan (R).



When you include Great Rivers in your estate plan, you are defending everyone's right to a healthy world today and for generations to come.

Let your advisor know your wishes and they will put the appropriate language in your will. If you already have a will, there is no need to rewrite it to include Great Rivers; your lawyer can add a bequest through a simple codicil.

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We extend our gratitude to all those who contributed financially to support our work in 2022. The legal protection of our environment is only possible thanks to you.

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Every effort has been made to list donors according to their wishes. Please notify Linden Mueller to note a correction or if you wish to be listed differently in future publishings.

## Program News - Water Quality



Bob Menees is a staff attorney working on water, wetlands and floodplain protection, and land use matters

### *An Unwanted Silica Mine*

This past year, despite widespread opposition from the community, NexGen Silica had been seeking authorization from the Missouri Department of Natural Resources to construct and operate a silica mine in Saint Genevieve County.

With community organizations Operation Sand and Friends of Hawn, we represented Sierra Club in opposing NexGen's application for a general operating permit to discharge its stormwater and process wastewater to the waters of the state. The Department had issued the permit authorizing the discharges in December 2022. With our colleagues, we appealed.

The Administrative Hearing Commission conducted an evidentiary hearing on the permit in April 2023. Together with our colleagues we presented evidence showing that the Department had arbitrarily deprived concerned citizens of their right to a public hearing, that NexGen had failed to include with its permit application information to apprise the Department of the potential harm to the State's waters, and that the Department unlawfully had failed to evaluate whether particular pollutants had the potential to cause harm and degrade the waters that would receive the discharges from the mine.

After the hearing, while we were briefing the issues for the hearing commissioner, NexGen wrote to the Department and asked that its permit be terminated "in light of procedural concerns raised at the AHC hearing."

The Department has terminated the permit.



The proposed mine would sit close to Hawn State Park and threaten the St. Francois Aquifer, which community members rely on for their drinking water.

## Program News- Climate and Energy

### *Aesthetics or Climate Change?*

In the 2022 legislative session the Missouri General Assembly passed legislation that helps solar energy generation. The new law should deter homeowners' associations from prohibiting or limiting rooftop solar panels. Like all legal requirements, though, the new solar law is not self-executing. Some homeowners' associations will comply. Others will not.

Over the past several months homeowners within a subdivision in Platte County, Missouri have reached out to us over the actions of their HOA. The HOA was not complying with the newly enacted law. It had established a policy that roof-mounted solar panels could be installed only at the rear of a home, that only more expensive solar shingles (not solar panels) could be used, and that homeowners first had to obtain the consent of their neighbors to install solar.



## Climate and Energy (from p. 6)

In April we sued the HOA on behalf of homeowners that wanted to install solar panels. These homeowners want to place solar collection systems on the roofs of their homes to reduce their reliance on fossil fuels, to save money, and to help offset the impacts of climate change. We intend to set a precedent for other homeowners' associations throughout the state. We are at a critical point where aesthetics should take a back seat to clean energy generation.

### *More Renewable Energy for Missouri*

As of the end of 2021, coal provided 74% of Missouri's electricity net generation, the second-highest share of any state, behind only West Virginia. Some good news - In 2021, renewable energy provided nearly 12% of our state's total electricity, exceeding 10% for the first time. So much of our climate and energy work is to move Missouri away from coal-fired electricity generation.

This Spring, we are before the Missouri Public Service Commission (PSC) on several matters, pressing Missouri's investor-owned utilities for change.

Bruce and Ethan represent Metropolitan Congregations United, Missouri NAACP, and Sierra Club in an Ameren Missouri rate case (PSC File No. ER-2022-0337). We are advocating for the Commission to require Ameren to identify capital costs that would be avoided if its Labadie or Sioux units were to retire before the end of this decade. Customers should be protected from an over-commitment of capital spending if Ameren's current projected end-of-life dates prove wrong, as they have already at Ameren's Rush Island facility. We also are advocating that the Commission not increase the monthly customer charge for any residential customers. Higher customer charges reduce a household's ability to lower their total bill through energy efficiency and conservation. High customer charges also penalize low energy users.



Ethan Thompson is a staff attorney working on climate and energy, water, and wetlands and floodplain protection

Additionally, Sarah is representing Sierra Club in the Grain Belt Express matter (PSC file No. EA-2023-0017), advocating for wind energy transmission.

We just finished up representing Sierra Club on Ameren's proposal to construct a new solar energy generation facility (PSC file No. EA-2022-0245). At the evidentiary hearing we showed that Ameren will have no choice but to replace its coal generation in the coming years as those units approach the end of their useful lives. While the precise timing of those replacements is uncertain, we showed that Ameren's customers and the environment will benefit if Ameren diversifies its energy generation sources today. Missouri Public Service Commission staff took an opposing view, asserting to the Commissioners that the solar facility is not needed. In April, the Commissioners granted a certificate of convenience and necessity authorizing construction of the 150 MW solar energy facility.

We also are representing several parties in Ameren Missouri's stakeholder process regarding its upcoming 20-year Integrated Resource Plan (IRP). We will continue to advocate for earlier retirement of the company's coal-fired power plants and increased reliance on solar and wind sources for energy generation.





**Great Rivers  
Environmental Law Center**

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COMMUNITY HAPPENINGS

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Friday, September 8, 2023  
The World's Fair Pavilion in Forest Park  
St. Louis, MO**

Tickets and sponsorships are available now  
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