



## Great Rivers Environmental Law Center Prevails in Missouri Court of Appeals on Crystal City Case

*Court Sides with Great Rivers and Holds  
Request for Identities of Anonymous Writers  
of More Than 4,000 Messages is Too Broad*



***Concerned Citizens for Crystal City's  
Case Against Smelter Moves Forward***

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# Letter from the President:



## **Global Warming is Not a Hoax! *Climate Change is a Serious Threat***

Recently, I was lamenting the fact that thousands of educated people have decided that global warming is a hoax. This fact presented itself in the election as well as in conversations I had with people informing me with all seriousness that they share this belief.

I find this shocking. 97% of top scientists agree that global warming exists and is caused by man-made carbon emissions. Furthermore, they confirm that climate change will have catastrophic results for millions of people across the world. Amazingly, only 50% of the public believes global warming is real. Even scarier, about 100 freshmen GOP Congressmen do not believe in global warming.

It doesn't take a scientist to tell you that glaciers are melting. The internet is full of photos of changed terrain due to the melting of ancient and huge glaciers. Great Rivers' awardee Don Corrigan pointed out in his speech that officials in Glacier National Park in Montana are discussing new names for the Park as the glaciers will have vanished shortly.

At the very least, the nonbelievers should exercise the "precautionary principle" and fight to limit carbon emissions in case the scientists are right. The stakes are too high in terms of the planet we leave to our children.

Kathleen Henry

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## **Board News**

Great Rivers is pleased to welcome Rick Lageson and Cathy Primm to our Board of Directors! Rick is a partner at Polsinelli Shughart and worked with Lewis C. Green at Green, Hennings and Henry in the 1980's. Cathy lives in Mountain View, MO, and worked as a computer specialist for the MO Department of Natural Resources for over 20 years. Thank you, Rick and Cathy, for joining our board!

## **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 PUBLIC HEALTH PROGRAMS

## **Victory in the Court of Appeals! Citizens Were Shut Out of Local Government Decision-Making**



On Tuesday, October 26, 2010, the Missouri Court of Appeals for the Eastern District held that a case against a smelter may move forward. The Court ruled that the trial court abused its discretion in dismissing the Concerned Citizens' case as a sanction for not responding fully to overly broad discovery requests.

Great Rivers Environmental Law Center filed a petition on behalf of the **Concerned Citizens for Crystal City** in November, 2007, alleging that the City of Crystal City violated the Sunshine, or Open Records law, as well as other statutes. The Concerned Citizens seek to void a contract and lease made by city officials allowing the development of a pig-iron ore smelter in Crystal City.

The Citizens learned of the contract and lease for the smelter in 2007, and after that, one plaintiff started a website informing people about the Crystal City local government. The website program contained a "forum," in which anyone in the world with access to a computer could post messages, and the poster's identity would not be revealed on the message.

In 2009 the smelter developer sought the identities of the posters of over 4,000 messages, many of which were posted anonymously. The web administrator refused to turn over the identities, as he had made contracts assuring anonymity and people in the community fear harassment if their identities are made known. The trial court dismissed the case, throwing out all five plaintiffs' claims that their city violated the Sunshine Law. In addition, the trial court had earlier refused to allow plaintiffs to amend their original petition and add new grounds arguing the city violated the statute of frauds as well as the Sunshine Law.

The plaintiffs appealed to the Court of Appeals, arguing the request for identities of posters of over 4,000 messages is too broad and that the identities are protected by the First Amendment. The Court did not reach the First Amendment claim, but ruled in favor of plaintiffs on the ground that the discovery request was too broad.

The case will now go back to the trial court for further proceedings on the amended petition.

Again and again, Great Rivers sees local, state and federal governments shutting out the citizens while trying to make a quick buck. As the economy remains stalled, governments will resort to more and more desperate actions in order to generate revenue. Great Rivers remains the only way for some citizens to stand up to these lawless governments.

## **Great Rivers Urges Mo. Department of Natural Resources to Tighten Operating Permits for Coal-Fired Plants**

Great Rivers continues working on our program designed to get utilities to "Clean-Up or Shut Down" dirty old power plants. There are many plants in Missouri that emit thousands of tons of pollutants that cause cancer, asthma and global warming. In the past few months, Great Rivers has urged MDNR to tighten requirements for coal-fired plants throughout the state.

## **Great Rivers Investigates Pollutants Emitted at Honeywell Site in Kansas City, Missouri**

For many decades, several local, state and federal agencies quietly let the federal government and its contractors emit hazardous pollutants at the Bannister Federal Complex in Kansas City. Parents and adults worked on the site and dropped their children off at the on-site day care center without knowing that, within the complex, there were more than a dozen sites considered Superfund sites by the federal government. Only recently has the government even acknowledged the beginnings of a problem. Over 300 people have been sickened or killed by hazardous materials emitted at the site; the local television station has set up a website tracking the illnesses. On behalf of the **Physicians for Social Responsibility** and **Sierra Club**, Great Rivers has been investigating the state and federal agencies responsible for this reprehensible conduct.

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# GREAT RIVERS' ENERGY PROGRAM

## Proposition C in Jeopardy

In November, 2008, Missouri voters passed Proposition C, the Renewable Energy Standard, requiring electric utilities to get increasing amounts of electricity from renewable sources, starting at 2% of sales in 2011 and working up to 15% by 2021. Prop C got 66% of the vote and carried every county but one. This clear mandate from the people has not stopped the utilities from trying to override important parts of Prop C.

One of these provisions allowed utilities to buy Renewable Energy Credits (RECs) instead of generating electricity themselves, but only if the RECs represented energy "sold to" Missouri customers. The utilities and big industrial energy consumers complained to the Joint Committee on Administrative Rules (JCAR), a standing committee of the legislature that claims the authority (unconstitutionally) to veto agency rules. JCAR allowed RECs to come from anywhere in the country, a blow to Prop C's intent to advance Missouri solar and wind industries.

Now the utilities and industrials, led by Ameren Missouri, are trying to write this into the law itself, not just the PSC's regulations. They also want to change Prop C's guarantee that renewable energy can't raise rates by more than 1%. They want to compare the cost of renewables to the cost of existing generation, which is mostly coal-fired. To be fair, the future cost of renewable energy (which is falling) should be compared to the future cost of nonrenewable generation (which is rising). On behalf of the **Missouri Coalition for the Environment** and **Renew Missouri**, Great Rivers is advocating the voters' intent at hearings before the Public Service Commission on this proposed re-writing of the law.

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

On behalf of the **Mid-Missouri Peaceworks**, **Missouri Coalition for the Environment**, **Natural Resources Defense Council** and **Sierra Club**, Great Rivers intervened in the Missouri Public Service Commission in its proceedings concerning Ameren Missouri's Integrated Resource Plan, a 20-year comprehensive plan for meeting expected demand for electricity.

In the five years we've been watching Ameren's IRPs, they have morphed significantly. The 2005 plan called for a new coal plant; the 2008 plan called for a nuclear plant; and it looks as if the emphasis in the plan due in February, 2011 will be on energy efficiency. That's progress!

## Lawsuit Proceeds Against Empire District over Solar Energy Requirements

In March, 2010, Great Rivers filed suit against Empire District Electric, the regulated utility in the southwestern part of the state, to compel it to abide by the law voters passed in 2008, Proposition C. The law requires utilities to obtain 2% of their renewable energy portfolios from solar energy, and to offer customers a \$2 per watt rebate for solar installations on their roofs. Empire received an exemption from the state legislature before Prop C was even voted on, allowing it to disregard the solar energy provisions. On behalf of two Empire customers and a small solar installation company, Great Rivers filed suit to strike down the exemption.

In November the Cole County trial court dismissed the case because we had not first taken our case to the PSC. We believe this ruling is erroneous because the PSC has no authority to strike down a law. We intend to appeal.

## Missouri Ranked 43rd in Energy Efficiency; Great Rivers Works to Improve that Ranking

The American Council for an Energy-Efficient Economy ("ACEEE") released its annual ranking in October 2010, evaluating the states' energy efficiency policies. Missouri dropped two points from 2009 to be ranked number 43, seventh from the worst.

ACEEE examined each state's policies aimed at stopping energy waste and increasing energy savings. ACEEE looked at whether power companies provide financial incentives and other assistance to help residents pay for and make energy-saving improvements to homes and other buildings.

Missouri utilities remain wedded to coal and nuclear, the two most polluting methods of generating electricity. While they are starting to offer more efficiency programs to their customers, they want to do it in a way that maximizes profits to themselves even if it minimizes the savings to customers and undermines customers' incentive to save energy.

In 2009 the legislature passed a law written by Kansas City Power & Light to give the utilities the incentives they desire to profit from selling less electricity. Great Rivers is participating in the PSC rulemaking on this law. While we want the utilities to profit from efficiency, we also want to see that efficiency programs are comprehensive and cost-effective, and that the lion's share of the savings comes off of ratepayers' bills.

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# WATER QUALITY PROGRAM

## Litigation to Protect the Ozark National Scenic Riverways *Current and Jacks Fork Rivers Under Siege*

Shannon County, Missouri, has been creating numerous illegal access points to the Current and Jacks Fork Rivers. The illegal road construction has caused huge amounts of sediment to be deposited into Big Creek and the Current River. These past few months, through deposition and written discovery,

Great Rivers has gotten the County to acknowledge the illegal actions. The case is set for trial in May, 2011. On behalf of the **L-A-D Foundation**, Great Rivers continues to press its lawsuit filed in 2009 against Shannon County, Missouri.

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# FLOODPLAIN PRESERVATION PROGRAM

Our Region's misuse of tax incentives has garnered heightened attention these past few weeks. In a recent editorial the St. Louis Post Dispatch noted that area taxpayers have spent \$3.5 billion on real estate tax incentives in the last 10 years, that tax-increment financing deals account for more than half of this sum, and that these TIF deals are almost exclusively for retail projects which tend to play one cash-strapped municipality off another. More wasteful still, these deals often involve property within the Region's flood plains. Great Rivers continues with its work to protect and preserve the Regions' valuable flood plains, from our efforts concerning the proposed (and now ill-fated) casino just south of the Mississippi and Missouri Rivers confluence (aimed at more than 300 flood plain acres) to our work in St. Charles County (100 acres of flood plain that, in the municipality's view, fail to generate sufficient revenue).

## FEMA's Flood Insurance Program

Within the past year, Great Rivers Environmental Law Center served a notice of intent to file a citizen suit on behalf of the National Wildlife Federation and Great Rivers Habitat Alliance against the Federal Emergency Management Agency (FEMA). For years, FEMA's implementation of the Flood Insurance Program in Missouri has violated the Endangered Species Act (ESA). Among other problems, FEMA's implementation of the program fails to limit development in high-risk flood plains and fails to consider the impacts of development on environmentally sensitive lands. Negotiations with FEMA concerning these violations have begun.

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## Great Rivers Assisted by St. Louis U. Students on "Make a Difference Day," October 23, 2010

"Make a Difference Day" is a day in which people are urged to volunteer their time to assist nonprofits. This year, Great Rivers had the fortune to receive help from five talented college students from St. Louis University.

Jason Feraris, Tim Clohisy, Kayla Vickers, Ellie Brokaw and Anna Vigdorova assisted Great Rivers with making its Press Books, and, in the process, removed piles of loose papers that flooded the office before the students' arrival.



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# GREAT RIVERS' ANNUAL DINNER HELD ON NOVEMBER 4, 2010, AT THE ST. LOUIS WOMAN'S CLUB

This year the Board of Directors presented the fifth annual Lewis C. Green Environmental Service Awards to two individuals who have shown long-time commitment to the preservation of the environment.

Over 100 people attended the dinner and enjoyed the French cuisine prepared by the Woman's Club. Florence Shinkle introduced the book she co-authored with Pat Tummons, entitled "A Force for Nature: The Environmental Litigation of Lewis C. Green." Board Director Jim Wilson and board member Rick Lageson entertained the guests with humorous tales. Wayne Goode and Charles Klotzer presented the recipients with their awards.

## Joan Bray

Joan Bray served in the Missouri Senate from January, 2003, to the end of this year, at which time she will resign due to the expiration of her term limits. She served as a Missouri State Representative from 1992-2002. During her years in the General Assembly, she sponsored and co-sponsored many bills designed to preserve and protect the environment and public health. She has been a leading advocate for public transportation, serving on local, state and national passenger rail committees and the Governor's Total Transportation Commission. In her leadership roles on state transportation issues, she has testified several times before committees of the United States Senate and House of Representatives.



Some of the bills Ms. Bray introduced that were designed to improve public health and the environment are the following: a Complete Streets bill, which would require the Department of Transportation's plans, programs, and projects to provide full consideration for the safety and contiguous routes for bicyclists, pedestrians, disabled persons, and transit users of all ages and abilities; a Uniform Building Energy Code, which would implement statewide energy standards for building construction and renovation that must conform to the International Energy Conservation Code; a revised Indoor Clean Air Act, which would prohibit smoking in all enclosed public places; and a bill creating the Missouri Energy Efficiency Performance Standard, which would require electric companies and gas companies to implement energy efficiency programs that achieve certain percentages of energy savings over time.

## Don Corrigan

Don Corrigan has served for more than 25 years as a professor of journalism at Webster University in St. Louis. He regularly teaches a course entitled, "Environmental Journalism and Communication," at Webster University. He recently started a Certificate in Outdoor/Environmental Journalism program in which students learn to communicate about outdoor and environmental issues. Mr. Corrigan is also editor in chief and co-publisher of the Webster-Kirkwood Times and South County Times newspapers in suburban St. Louis. He is a contributing writer for the St. Louis Journalism Review, and has served on that publication's editorial board for more than 25 years. In addition, he is a member of the Society of Environmental Journalists.



Mr. Corrigan has reported extensively on environmental issues ranging from transport of hazardous wastes to dioxin contamination at Times Beach, Mo., to the issue of whether EMFs (Electromagnetic Frequencies) present a health hazard. His writing on environmental issues has appeared in weekly newspapers and monthly publications, as well as in the investigative work of columnist Jack Anderson.

Mr. Corrigan is the author of a book on Missouri nature sites entitled, "Show Me ... Natural Wonders," published by Reedy Press in 2007. Mr. Corrigan has also authored: "Show Me Nature's Wrath," an historic chronicle of the forces of nature in Missouri, including images and lyrical descriptions of dozens of incredible weather events in Missouri.

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Without your support, we would not be able to carry on our projects.***

**Contributions received May 1, 2010 - November 15, 2010**

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## Find Great Rivers on Facebook and Twitter

Great Rivers has joined the 21st Century. Board member Todd West's teen-aged daughter has started our Facebook site! She has also put us on Twitter. Some of the older staff members share Betty White's sentiments about Facebook, as stated on Saturday Night Live. However, the more progressive staff and board clearly see the benefits of us joining Facebook. Now that we are on it, some of you can become our Friends.

## Support Great Rivers by Using IGive.com

A website that directly benefits Great Rivers financially is IGive.com. Visit it when you need to purchase something on the internet. For instance, if you want to buy something from Macy's, go to IGive.com *first*. Select Great Rivers Environmental Law Center as the nonprofit you would like your purchase to benefit, then go to Macy's *from* the IGive site. The Macy's prices are the same as if you had gone directly to Macy's website. You will not spend an extra penny but Great Rivers will receive a percentage of the purchase price of the item. This is a painless way you can help Great Rivers.

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