



Great Rivers' Energy Program Confronts Nuclear Power

Great Rivers Intervenes in State and Federal Proceedings in Challenges to AmerenUE's Proposed Second Nuclear Reactor



Nuclear Pinocchio:
*Fifty Years of Telling
Us There Would Be a
Safe Way to Dispose of
Nuclear Wastes*

Even though AmerenUE's anti-CWIP bill is dead, Ameren still has an application to build a new plant pending before the federal Nuclear Regulatory Commission

Letter from the President:



Great Rivers is Not Immune to Economic Downturn!

It is hard to get firm statistics on the effects of the economic downturn on local nonprofits and on national nonprofit environmental law firms. We know that the St. Louis Art Museum was forced to cut back on staff and that food pantries report increased demand. Washington University reported a large loss in its endowment. On the other hand, in the rush to create jobs, governmental officials at state, local and federal levels, are skirting or ignoring environmental laws meant to safeguard the public's health. There is an increased demand for our services.

The Foundation Center, a national leader in providing assistance to nonprofits nationwide, states prominently on its website: "The instability of today's economy and the global financial markets holds many repercussions for the nonprofit sector. Fundraising becomes increasingly challenging as donors can no longer give as generously as in the past. Foundations may be forced to reduce their grantmaking, and leaders may find it progressively more difficult to sustain their organizations through these complex economic times." At the same time as funds dry up, demand increases not just for food but for all kinds of services, including legal services.

At Great Rivers we have lost a significant percentage of funds which Lewis Green invested for us with the Charitable Trust Fund. Foundations that supported us lost funds and can no longer do so. Board members who assisted us in fundraising are having trouble obtaining donations from people already stretched by the economy. Donors are giving less as the economy has reduced their incomes.

We continue to do our work: working with and advising environmental groups and individuals, litigating if necessary, writing legislation, negotiating with governmental bodies. We have the legal talent to do this and we work within a minimal budget—\$225,000 per year pays for the salaries of three attorneys: one full-time and two part-time, an office manager, the rent, telephone, and printing costs and various office expenses. We are making a special appeal to our supporters in this time of need to give generously.

We are grateful to all our donors for enabling us to continue to provide our services, enforcing environmental laws and protecting the public health.

Kathleen Henry

Board News

Great Rivers welcomes **Todd West** to our Board! Todd is an attorney at Copeland Thompson Farris, PC, in St. Louis, MO, where he practices civil litigation and handles business, landlord-tenant, bankruptcy and domestic cases. He has a long-time interest in the preservation of the environment and we are delighted to have his help.

Thank you Todd, for joining Great Rivers Environmental Law Center!

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' ENERGY PROGRAM: Confronting Nuclear Power

GREAT RIVERS FILES PETITION TO INTERVENE IN NUCLEAR REGULATORY COMMISSION'S REVIEW OF AMERENUE'S APPLICATION TO BUILD A NEW NUCLEAR REACTOR

Even Though AmerenUE's Anti-CWIP (Construction Work in Progress) Law Appears To Be Dead For This Year, Amerenue Actively Pursues Its Permit In The NRC And Leaves Open The Possibility Of Reviving An Anti-Cwip Law Next Year Or Selling Its Permit To Another Company

On April 6, 2009, Great Rivers Environmental Law Center filed a Petition to Intervene on behalf of the Missouri Coalition for the Environment ("Coalition") and Missourians for Safe Energy ("MSE") against AmerenUE's combined Construction and Operating License Application (COLA) which is before the Nuclear Regulatory Commission (NRC).

In July, 2008, AmerenUE filed a COLA for a license to build a second unit at the Callaway nuclear plant near Fulton, MO. The Coalition and MSE raise concerns about the safety of nuclear power and the storage of nuclear waste, and believe that there are cheaper, environmentally friendlier alternatives.

"Nuclear is not the answer to Missouri's energy needs," said Henry Robertson, attorney for the intervenors. "We'll be better protected as citizens and ratepayers if we use energy more efficiently and wisely and invest in renewable energy. In November the voters passed Proposition C, which requires AmerenUE and other utilities to get 15% of their power from renewables by 2021. Prop C and energy efficiency can eliminate the need for a new nuclear reactor."

Our clients also argue that AmerenUE failed to consider the effects of a second reactor on local groundwater, wetlands and floodplains. In addition, AmerenUE ignores the fact that there is no safe place for AmerenUE to store radioactive wastes. AmerenUE should not be allowed to generate more wastes that have to be stored safely for hundreds of thousands of years. AmerenUE has no permanent storage site for the radioactive wastes it generates from the first reactor. A second reactor will exacerbate the problem.

AmerenUE proposes to use a reactor design from Europe, where no such plant has yet been completed. The NRC must certify this design for use in the U.S. but is not expected to do so till mid-2011.

The NRC will now decide whether to hold a hearing on the groups' Petition to Intervene.

AMERENUE TRIED TO CHARGE RATE-PAYERS FOR COSTS ASSOCIATED WITH NEW NUCLEAR PLANT; GREAT RIVERS SUCCESSFUL IN INTERVENTION IN AMERENUE'S 2008 RATE CASE IN KEEPING COSTS FROM BEING CHARGED TO RATEPAYERS

Public Service Commission Refuses to Allow AmerenUE to Charge Customers for New Nuclear Plant Before it is Built

In October, 2008, Great Rivers intervened in AmerenUE's ongoing rate case, solely on the issue related to Callaway 2. AmerenUE had sought a rate increase of \$251 million from its Missouri customers, \$46 million of which was to recover funds spent on the NRC license application. At the hearings in November and December, 2008, Great Rivers argued that these costs violated Missouri's law prohibiting utilities from charging customers for plants before they are fully operational. In January, 2009, the PSC agreed and denied AmerenUE recovery of these costs. If AmerenUE had been successful in repealing the anti-CWIP law in the legislature this year, ratepayers would have already started paying for the proposed plant.



Mark Haim of Missourians for Safe Waste is unable to convince anyone to take nuclear waste from him.

Photo by Peg Miller

Great Rivers' Energy Program *Continued on page 4*

GREAT RIVERS' ENERGY PROGRAM *(continued)*

Great Rivers Files Suit Against Public Service Commission over Net Metering Rule

Great Rivers Says Insurance Requirement is Illegal

On December 22, 2008, Great Rivers Environmental Law Center filed suit on behalf of Renew Missouri against the Missouri Public Service Commission (PSC), alleging the PSC's new rule requiring customers of electric utilities to purchase insurance before they can feed back excess energy to the utilities is illegal. The suit was filed in the Circuit Court of Cole County.

In 2007 the General Assembly passed a law, the Easy Connection Act, requiring utilities to give credit on their bills for excess energy generated by customers using solar or wind power to make their own electricity. There was no requirement in the law that the customers purchase insurance before the utilities would take back the electricity.

In October, 2008, the PSC issued an order requiring customers who produce 10 kilowatts or less of energy to carry \$100,000 worth of insurance. Customers who generate more than 10 kilowatts of energy will be required to carry \$1,000,000 worth of liability insurance under the new rule.

Renew Missouri, the citizens' group that worked to get the Easy Connection Act passed, believes it will be difficult or impossible for homeowners and businesses to get this kind of insurance.

"There is no insurance requirement stated in the law," said Henry Robertson, attorney at Great Rivers Environmental Law Center. "The PSC's rule will discourage people from producing their own electricity. The Easy Connection Act is supposed to make it easy to do that. This rule negates the spirit and the letter of the law."

In January, 2009, after the newly elected state officials took office, the PSC Chairman changed also. Thanks to the new PSC Chairman, Robert Clayton, and some pressure on the old chairman by the Act's sponsor, the PSC sent an amendment to the Secretary of State that would remove the insurance requirement. On our motion the court suspended the case pending the outcome of a new rulemaking. We intend to participate in that.

Intervention in AmerenUE'S Integrated Resource Plan (IRP) Continues

On February 5, 2008, AmerenUE filed its revised Integrated Resource Plan. Thanks to our intervention in their 2005 IRP, a significant portion of their revised plan has been made public. The 2008 IRP envisions a new nuclear unit, Callaway 2, and some modest renewable energy and efficiency investments. GRELC filed a report on the IRP on June 18, 2008. The parties then attempted to reach agreement on ways to remedy deficiencies in the plan, with only partial success. Great Rivers filed comments September 12 and 26, and participated in a hearing before the Public Service Commission on unresolved issues on October 7, 2008. On Feb. 19, 2009, the PSC issued a Final Order denying a hearing but giving Ameren only until April 2010 to file its next plan; Ameren has asked for an extension until Nov. 2010. An appeal would serve no purpose. Great Rivers continues to participate in stakeholder

meetings which continue even between plans. The next plan should be critical in deciding whether Ameren proceeds with Callaway 2.

Legislation

Proposition C: Bringing Renewable Energy to Missouri

On Feb. 27, 2009, the staff of the Public Service Commission released a draft rule to implement Proposition C, the Renewable Energy Standard. The measure requires the state's investor-owned utilities — AmerenUE, Kansas City Power & Light, Aquila and Empire District Electric — to get an increasing percentage of their sales from renewable sources like wind, solar, biomass and small hydro. The four utilities will have to reach 2% renewable electricity by 2011, 5% by 2014, 10% by 2018, and 15% beginning in 2021. The Public Service Commission will hold hearings during 2009 to draft regulations on the implementation of the rule. Great Rivers needs to have an attorney at the hearings to represent the interests of the voters. Henry Robertson participated in a workshop to go over the rule on March 9, 2009, and will continue to attend the hearings for the coming year.

Missouri's Department of Natural Resources also has to make a rule under Prop C. The renewable industries are not interested in doing this, so it falls upon Great Rivers to represent the public. DNR is still in the process of drafting a rule, and we are providing input.

Energy Efficiency Bills

In the fall of 2008, Great Rivers drafted two bills to promote energy efficiency. One bill would allow utilities to get more favorable rate treatment for their efficiency programs than for their generation investments, thus removing the disincentive to help customers use less energy. The problem is that when a utility, such as AmerenUE, makes it easy for customers to save electricity by distributing energy efficient light bulbs, AmerenUE makes less money than when customers use more electricity. Missouri laws reward Ameren shareholders for Ameren's investments in coal and nuclear plants but not for saving energy. These laws need to be changed.

In the Spring, 2009, legislative session, the rate treatment bill has been introduced as HB 921, but Kansas City Power and Light (KCPL) found a sponsor for a competing bill, SB 376 and its counterpart HB 882. KCPL's bill was not as good as our clients would have liked, but it has been greatly improved by negotiation between KCPL, the Sierra Club and Great Rivers.

The second bill Great Rivers drafted would remove regulatory and utility barriers to the use of combined heat and power (CHP). CHP is the use of waste heat from industrial processes or electricity generated to heat and cool a building (and possibly some neighboring buildings) or to generate more electricity. CHP can double or triple the efficiency with which the original fuel is used.

The CHP bill was not introduced but may be attached by Sen. Bray to another bill if opportunity permits.

BRIEF UPDATE ON OTHER PROJECTS

AIR QUALITY AND PUBLIC HEALTH PROGRAMS

Nuclear Waste at West Lake Landfill

As we reported in the Fall, 2006, Great Rivers Reporter, the Mallinckrodt Chemical Works in St. Louis processed uranium for nuclear weapons as far back as the 1940's. Radioactive waste from this enterprise wound up at various sites in St. Louis City and County over the years. In 1973 a large quantity was illegally dumped at West Lake Landfill in Bridgeton, Missouri, and it is still there. In 2008, the EPA made a formal decision to leave the wastes there. On behalf of the Missouri Coalition for the Environment, in April, 2009, Great Rivers made a formal request to the new director of the EPA to reconsider its decision to keep highly radioactive wastes in the floodplain of the Missouri River. We pointed out that the decision is unwise because the floodplains are prone to flooding: the "500-year" levee will not keep the wastes isolated from the human biosphere for the requisite centuries.

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

Great Rivers continues its work for the Concerned Citizens for Crystal City in the pending lawsuit against the City of Crystal City. We filed suit in November, 2007, alleging that city officials violated Missouri's Open Records, or Sunshine Law, and several other statutes, when it entered into a lease with a company that plans to develop a coal-fired pig iron ore smelter. In 2008, we engaged in a lengthy period of trying to receive documents from city officials. In

2009, we filed an amended petition, alleging violations of even more state statutes and we are waiting for the court to rule on pending motions.

The citizens are opposed to the smelter because it will emit pollutants that will cause respiratory problems, asthma, and contribute to global warming.

FLOODPLAIN PRESERVATION PROGRAM

Great Rivers Files Suit Against Federal Emergency Management Agency

Suit Alleges Urban Levee Fails to Meet FEMA's Design Requirements

In December, 2008, Great Rivers Environmental Law Center filed suit on behalf of Great Rivers Habitat Alliance against the Federal Emergency Management Agency (FEMA), alleging that an urban levee in St. Charles County, Missouri, fails to satisfy FEMA's design requirements. The suit was filed in the United States District Court for the Eastern District of Missouri.

FEMA's regulations require that all openings of a levee must be provided with closure devices that are structural parts of the system during operation and designed according to sound engineering practice. The closure plan for two portions of the St. Peters levee calls for sandbagging for protection, an obvious non-compliance.

The suit is pending in federal court.

Brief Updates continued on page 8

BOARD MEMBER SPOTLIGHT: Tom Sager—A One-Man Powerhouse

While Great Rivers has nineteen dedicated, hard-working, underpraised and unpaid board members, one board member outdid himself in recent weeks on behalf of Great Rivers and deserves special recognition. Tom Sager, a retired professor of mathematics at the University of Missouri-Rolla, showed such ingenuity and energy during April that we mention him here.

Tom joined Great Rivers' Board of Directors in 2001 at the request of Lewis Green, our founder. Lewis had been assisting Tom with fighting to preserve Buehler Park in Rolla for several years, and had run into some road blocks. Undeterred, Tom was willing to fight for the preservation of Buehler Park for six more years. During that time, Tom has always been a helpful fundraiser for Great Rivers, by asking people in Rolla to donate to us, and organizing picnics in Buehler Park to raise awareness of the park and our work.

In April, 2009, on behalf of Great Rivers, Tom set up booths at two Earth Day celebrations—in Rolla and Columbia. Tom made several science fair-sized poster boards discussing Great Rivers. On one board Tom created a game which he calls, "Plant a Tree for the Lorax," after Dr. Seuss' story, *The Lorax*.

In *The Lorax*, Seuss showed with imaginary creatures what happens

when a civilization uses up its natural resources. "Once-lers" live in a forest and chop down Truffula trees to make "Thneeds." The Lorax begs the Once-lers to stop chopping down the trees. The Once-lers build polluting factories, and after chopping down the last tree, abandon the polluted land. The Lorax too, is forced to leave.

One Once-ler remains and gives a boy who arrives at the deserted land the last Truffula seed, and asks the boy to start a new forest and protect it so that the Lorax and his friends may return.

In Tom's game, Tom told the story to children and asked the children to plant a tree for the Lorax. The game worked like "Pin the Tale on the Donkey." After the blind-folded child

"planted the tree," he was given three "carbon-credits" (Hershey's chocolate kisses).

At the Earth Day festivals, over and over Tom told the story to enchanted children. After the child "planted the tree," Tom told the parents that Great Rivers speaks for the trees, handed them our brochure and discussed our successes. Tom's wife Helen assisted him, and his grandson Tommy shared his grandfather with dozens of other children.

Thank you Tom, Helen and Tommy, for all your work for Great Rivers!



GREAT RIVERS ENVIRONMENTAL LAW CENTER'S THIRD ANNUAL DINNER

Lewis C. Green Environmental Service Awards Dinner, November 13, 2008 *A Good Time For All*

At the third annual Lewis C. Green Environmental Service Awards Dinner, Great Rivers presented awards to **Adolphus Busch, IV, Founder and Chairman of the Great Rivers Habitat Alliance, and Thomas Carnahan, President, Wind Capital Group.** Great Rivers also presented its first Distinguished Service Award to **Joseph P. Logan, for his unwavering support.**

ADOLPHUS A. BUSCH IV *Pioneer of Floodplain Preservation*

Few people have done more to protect America's flood plain environments and ecosystems from devastation by development and the construction of levees than Adolphus A. Busch, IV, of the Anheuser-Busch brewing family.



Adolphus A. Busch IV was born in St. Louis Missouri on July 17, 1953, went to the University of Denver for two years then graduated from St. Louis University with a degree in business.

As founder and chairman of the Great Rivers Habitat Alliance in St. Louis, Adolphus A. Busch IV has been a pioneer in preserving floodplain habitats and river ways along the Mississippi and Missouri Rivers. The Great Rivers Habitat Alliance was founded in 2000, in order to challenge and reduce the development of the flood plains along the Missouri and Mississippi Rivers. Under Busch's leadership this organization has steadfastly sought to educate the public and policy makers about the hazards of developing flood plains and constructing new levees, and has raised the attention about the importance of saving flood plains as natural water storage areas, wildlife habitats, and productive farming communities.

Adolphus Busch and the Great Rivers Habitat Alliance have fought and won legal battles against the U.S. Army Corps of Engineers, preventing them from starting individual levee projects designed to promote development on flood plains. More importantly, GRHA has joined with other conservation groups including the National Wildlife Federation, forming the Corps Reform Network, aimed at changing the policies of the U.S. Corps of Engineers, where their mission is faulty in terms of their quest to modify river ways and promote development on floodplains.

THOMAS S. CARNAHAN *Founder and President of Wind Capital Group*

Thomas S. Carnahan is the founder and president of Wind Capital Group. In 2005, seeking a clear need for alternative energy source development in his home state of Missouri, he drew upon his background in law, politics, development, and farm



management and partnered with Missouri farmers and rural electric cooperatives to develop the state's first wind farm. Since then, Wind Capital Group has become one of the fastest growing wind developers in the country.

Tom Carnahan is actively involved in growing not only Wind Capital Group, but the wind energy industry as a whole. He serves on the American Wind Energy Association Legislative and Policy Committee and is a regular and enthusiastic spokesman for wind energy. He has appeared on National Public Radio's "All things Considered," ABC World News, Fox Business News and other major networks as a wind energy development expert.

JOSEPH P. LOGAN *Distinguished Service to Great Rivers Environmental Law Center*



Joseph P. Logan was born in Topeka, Kansas in 1921. He graduated from Dartmouth College in 1942. He served in the Navy during World War II, as gunnery officer aboard the USS Hambleton DD 455 destroyer, and took part in the D-day landing at Normandy on June 6, 1944. After the war, he attended Harvard Law School and received his JD in 1948. He and his wife, Yvonne, were married in 1943 and have been living in Webster Groves since 1951, that is, when they're not up at Lake Michigan, sailing and swimming.

Joseph Logan joined the law offices of Thompson Coburn in 1948, where he continues to work doing probate and estate planning. He has been active in volunteer work for the Ranken Jordan Home for Convalescent Crippled Children and the First Congregational Church of Webster Groves for more than four decades. In addition, he served on the board of the American Civil Liberties Union for many years.

Joe has spent decades working for environmental groups. He was one of the earliest leaders of the Open Space Council, founded in 1965, the Open Space Foundation, founded in 1967, and the Missouri Coalition for the Environment, founded in 1969, and he assisted them well into the 1990's. He showed his appreciation for the environment by going on countless float trips on Missouri streams with the Dreys, Buders, Stixes and Greens. After a hard night on the gravel bars, this group started its mornings with a "Shannon County", a mixture of bourbon and orange juice.

When Lewis Green was planning the Great Rivers Environmental Law Center during the years of 1998 to 2002, he often consulted Joseph Logan. After Lewis' death in 2003, Joe continued to provide support to the law center. He organized the Tribute Dinner to Lewis Green in 2004 and served as Honorary Chairman of the Annual Dinner of Great Rivers in 2006 and 2007. Great Rivers is fortunate to have had Joe's wisdom and support throughout the law center's first six years.

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

Contributions received October 2008 - April 2009

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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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Cornerstone Society

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**Members of our Cornerstone Society—a Three-Year Commitment at any of our Sponsorship Levels*

LAND USE PROGRAM

Boonville Lift Bridge

Great Rivers is serving as a consulting party in a National Historic Preservation Act process intended to avoid or mitigate adverse impacts to the Boonville Lift Bridge. In January 2009, Great Rivers filed comments with the National Surface Transportation Board on a petition filed by the State of Missouri for a declaratory order on whether Union Pacific had authority to abandon the Bridge.

WATER QUALITY PROGRAM

Ozark National Scenic Riverways

National Park Service (NPS) employees report that Shannon County has plowed, within the Ozark National Scenic Riverways (ONSR), seven illegal roads in 2007 and two illegal roads in 2008. Further, according to one NPS employee, one of the illegal roads has destroyed features that fall within the protections of the Archaeological Resources Protection Act of 1979. Conversations with NPS employees reveal that federal officials will not enforce the restrictions which prohibit these illegal roads, or any other illegal road plowed by Shannon County. A park service official showed Great Rivers staff the destruction caused by these roads during a visit to the ONSR in May, 2008. Great Rivers made requests for documents under the Freedom of Information Act and is reviewing documents produced after many months.



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a Delightful
Summer's Eve
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Saturday, June 20, 2009

Busch Family Mansion at Grant's Farm

Cocktails and Hors D'Oeuvres

5:30-8:00 pm

Attendance is Limited

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