

### Part III - Statement of Program Service Accomplishments

#### I. ENERGY AND AIR QUALITY PROGRAM

An important part of our energy and air quality program involves monitoring actions taken by federal, state and local governments that will impact global warming and the quality of the air breathed by the citizens of Missouri and surrounding states. Great Rivers is frequently involved in matters that adversely affect air quality and global warming. Measures taken by Great Rivers include commenting on proposed rules, issuing position papers about hazardous air pollutants, and, as a last resort, handling litigation for clients seeking to improve air quality.

##### *Global Warming*

There are over 100 new coal-burning power plants proposed for the United States. If all are built, the reductions in emissions taken by the rest of the world pursuant to the Kyoto agreement will be undone by the United States alone. Electric utility companies have a great responsibility to try to clean up their plants, but without any financial incentive, the ones operating in Missouri fail to take meaningful action. On behalf of several citizens' groups, Great Rivers represented their interests in proceedings before courts and administrative agencies in 2006.

##### **1. Challenging the Coal-Fired Power Plant Proposed for the Kansas City Area**

Great Rivers continued its representation of the Concerned Citizens of Platte County and the Sierra Club in an attempt to block the construction and operation of a new coal-fired electric generating plant being proposed by Kansas City Power and Light Co. on the eastern bank of the Missouri River near Weston, MO in Platte County, a short distance north of Kansas City. In 2005, we represented the groups at a formal hearing before the Public Service Commission in which we argued that the plant is ill-advised due to air pollution (mercury, CO<sub>2</sub>, toxics, ozone precursors) and environmental damage (destruction of natural wetlands, depletion of drinking water aquifer, landfilling of toxics-contaminated fly ash in the floodplain); therefore, the company's request for approval of the new plant should be denied. The PSC upheld the agreement calling for a new plant and, in 2006, we appealed the PSC's ruling to the trial and appellate courts, where the matter still waits for the appellate court's ruling.

##### **2. Intervention in AmerenUE's Integrated Resource Plan**

On behalf of four nonprofit groups—Association for Community Reform Now (ACORN), Mid-Missouri Peaceworks, Missouri Coalition for the Environment and the Sierra Club, Great Rivers continued its work in the intervention in the proceedings held before the Missouri Public Service Commission on AmerenUE's filing of its twenty-year plan. The plan was filed as "highly confidential," meaning the public could not know whether AmerenUE

planned a new coal-fired or nuclear power plant or both. Great Rivers succeeded in persuading the PSC to order AmerenUE to declassify many of its documents. Great Rivers also had an expert review the 3,700 page plan and Great Rivers filed comments opposing parts of the plan.

### **3. Intervention in State Implementation of Federal Energy Policy Act Standards**

On behalf of six citizens' groups advocating clean energy, Great Rivers intervened in the hearings called for by the Missouri Public Service Commission on the State's implementation of the federal Energy Policy Act of 2005 (EPAct). The groups are: Concerned Citizens of Platte County, the Sierra Club, Heartland Renewable Energy Society, Mid-Missouri Peaceworks, Burroughs Audubon and Ozark Energy Services. The PSC is required to consider five standards under this Act: net metering, interconnection of home and business generators, time-of-use based metering, utility fuel diversification plans and improved efficiency of fossil fuel generators. On behalf of our clients, Great Rivers advocated improved net metering and other laws.

## **II. WETLANDS AND FLOODPLAIN PROTECTION PROGRAM**

Our wetlands and floodplain protection program consists of challenging environmentally detrimental floodplain development and the over-engineering of rivers by means of levees and dams which destroy floodplains and aggravate flooding risk. We monitor permit applications to dredge and fill wetlands. Great Rivers issues comments on proposals and assists environmental groups and individuals in their legal challenges to protect wetlands. These activities affect all of the people who inhabit and work in the watersheds of the Missouri and Mississippi Rivers which drain major portions of the central and northwestern United States.

### ***Mississippi and Missouri Rivers Basins Watershed Project***

#### **Missouri River Protection**

##### **Opposition to Proposed Super-Levee in Jefferson City, Missouri**

Great Rivers continued its representation of the Sierra Club in its suit against the Army Corps of Engineers (the Corps) and the Federal Emergency Management Agency (FEMA) over their approval of a 1,000-year, "Super-Levee," in the Missouri River floodplain in Jefferson City, and the filling of 40 acres of wetlands. The wetlands at the site constitute a productive and valuable public resource. They serve significant biological functions such as feeding, nesting, spawning, rearing and resting sites for aquatic and land species. They also serve as valuable storage areas for storm and flood waters, which are purified as they slowly percolate through the soil to nearby water bodies or the groundwater below. The "super-levee" will cause increased flooding downstream, and impose hardships on neighboring communities. In addition, it will lead to further development on wetlands and floodplains. In 2006, the 8<sup>th</sup> Circuit Court of Appeals reinstated our challenge that had been dismissed on procedural grounds by a lower court. The 8<sup>th</sup> Circuit sent the case back to the District court for further proceedings.

### **III. WATER QUALITY PROGRAM**

Great Rivers seeks to protect and preserve the waters of Missouri and surrounding states. Our water quality program begins with monitoring proposed federal, state and local actions that will adversely affect water quality. Great Rivers is frequently involved in matters that adversely impact water quality. This includes assisting environmental groups, citizens' organizations and individuals in their legal challenges designed to protect the quality of the waters.

#### **Missouri's List of Impaired Waters**

Under federal law, the state of Missouri is required to compile a list of impaired waters (rivers and streams that do not meet federal water quality standards) by April 1 of each even-numbered year. The State of Missouri did not submit such a list on April 1, 2004, nor by April 1, 2006. On behalf of the Sierra Club, Great Rivers sent a notice of intent to sue letter to the EPA and Missouri Department of Natural Resources notifying them of such intent. In late 2006, the DNR did issue a list.

### **IV. LAND USE PROGRAM**

Our land use program consists of assisting environmental groups, citizens' groups and individuals in their efforts to preserve and protect open space, forests and wilderness areas. Great Rivers issues comments on proposed rules that may affect environmentally sensitive areas, and as a last resort, represents environmental groups in litigation to enforce the laws.

#### ***A. National Forest Protection***

Great Rivers filed comments with the United States Forest Service on behalf of the Ozark Chapter of the Sierra Club in opposition to the Bush Administration's plan to sell more than 300,000 acres of national forest land to raise money to fund rural schools. These lands provide critical wildlife habitat, cleansing systems for our air and water, and a legacy to our children.

#### ***B. Preservation of Open Space and Parks***

##### **1. Protection of Buehler Park in Rolla, Missouri**

Great Rivers represents Citizens for the Preservation of Buehler Park, a citizens' group in Rolla, Missouri, in its challenge to the City of Rolla over its scheme to sell and develop historic Buehler Park. The Citizens believe that Buehler Park was dedicated to the public for use as a park and may not be sold by the City for commercial development. The trial court held that the Citizens did not have the legal right to sue (standing). However, in 2006, the Missouri Court of Appeals, Southern District, sided with Great Rivers and ruled that the Citizens group does have standing. The case returned to the trial court which ruled in late 2006 that the language of the deed granting the park to the City does not amount to a "dedication," even though it states that the land "shall be used for park purposes only and none other...forever." Great Rivers is appealing that ruling to the Court of Appeals.

## **2. Protection of the Katy Trail State Park**

Great Rivers represents several trail users in their challenge to Governor Matt Blunt and the Department of Natural Resources' decision to give the historic Boonville Lift Bridge to Union Pacific. The users believe the State's plan violates the Katy Trail's use agreement, which requires the Bridge to remain banked for potential rail use but allows Union Pacific to modify the bridge. In 2006, Great Rivers filed an Amicus Brief on behalf of three former directors of the Missouri Department of Natural Resources who argue that it was their understanding that the Boonville Bridge would remain part of the rail-banked Katy Trail corridor and that the Bridge was required to be kept available for transportation purposes.

## **3. Preservation of Forest Park in St. Louis**

In 2006 the City of St. Louis announced that it would lease to Barnes-Jewish Hospital a part of Forest Park for construction of buildings. The citizens group "Citizens to Protect Forest Park" came to Great Rivers for assistance in drafting a petition for a City Charter Amendment which would call for any sale or lease of park land in the future to be put to a vote of the people before it is sold or leased. Great Rivers drafted the language for the petition.

## **V. ENVIRONMENTAL JUSTICE PROGRAM**

Great Rivers is committed to monitoring permitting actions for sites proposed for development that will unfairly burden minority or low income populations. Great Rivers has evaluated proposed developments to determine whether permitting authorities have unfairly targeted disadvantaged populations. Great Rivers has asserted environmental justice claims against the City of St. Louis and the Missouri Department of Natural Resources.

### ***St. Louis Lead Prevention Coalition***

Great Rivers routinely provides legal services to the St. Louis Lead Prevention Coalition, an organization seeking to reduce and eliminate lead exposure in the St. Louis metropolitan area. The work of the St. Louis Lead Prevention Coalition affects thousands of people in the St. Louis metropolitan area.

## **VI. PUBLIC HEALTH PROGRAM**

Great Rivers seeks to protect the public health by preventing further deterioration of the region's air and water quality, and by reducing and preventing exposure to toxic substances. Our public health program consists of aiding organizations that seek legal assistance in connection with their work to protect the public health. Our work done in the Public Health Program overlaps the work done in Energy and Air Quality Program.

### ***A. Assistance in Asbestos Removal Case***

Great Rivers represents Families for Asbestos Compliance, Testing and Safety (FACTS)

in its legal challenge against the City of St. Louis and City of St. Louis Airport Authority over the illegal use of the “wet method” of asbestos removal in demolishing more than 300 homes in Bridgeton, Missouri. In this method, buildings containing asbestos are sprayed with water and then demolished. The neighboring residents do not believe that method adequately protected their health and they are seeking to have their health tested in future years.

### ***B. Nuclear Waste at West Lake Landfill***

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. The EPA held a public meeting on the waste in September 2006. On behalf of the Missouri Coalition for the Environment, Great Rivers filed comments opposing EPA's plan to leave the waste there, where it sits in the Missouri River floodplain and can leach into the River which is a source of drinking water for thousands of Missourians.