

**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. All of our air quality work is also public health work, as air pollution causes asthma and other respiratory problems as well as climate change. Great Rivers is frequently involved in matters that adversely affect air quality and climate change. Measures taken by Great Rivers include commenting on proposed rules, issuing position papers about hazardous air pollutants, drafting legislation, assisting clients with negotiations with governmental agencies, and, as a last resort, handling litigation for clients seeking to protect air quality and prevent the emission of climate-change causing pollutants.

**1. Intervention in AmerenMO's Integrated Resource Plan**

On behalf of nonprofit groups—including Mid-Missouri Peaceworks, Missouri Coalition for the Environment and Sierra Club—Great Rivers intervened in 2006 in the proceedings held before the Missouri Public Service Commission (PSC) on AmerenUE's filing of its twenty-year plan. This work has been ongoing ever since.

AmerenMO filed its last Integrated Resource Plan in 2008, and its next one is due in February 2011. In the meantime Ameren is holding periodic stakeholder meetings with updates on the process. During 2010, Great Rivers participated in several stakeholder meeting with the goals of urging Ameren to see that efficiency is its best option from here on out, and opposing proposals for new fossil-fuel or nuclear generation.

Pursuant to IRS Rev. Proc. 92-59, 1992-2 C.B. 411, a public interest law firm may accept client-paid fees in an amount not to exceed the actual cost incurred in each case, viz., the salaries, overhead, and other costs fairly allocable to the litigation in question.

In 2010, our clients paid us \$2,344.97.

**2. Intervention in 2009 AmerenUE rate case**

On behalf of the Natural Resources Defense Council (NRDC), Great Rivers intervened in AmerenUE's 2009 rate increase case. NRDC seeks to influence the way Ameren is compensated for efficiency programs, to make it more profitable for Ameren and therefore more desirable. Great Rivers attended Ameren's meetings, referred to by Ameren as "settlement talks," in an effort to develop cost-recovery methods for efficiency that will satisfy all parties to the rate case. Great Rivers served as NRDC's local counsel in filing testimony and on other matters. At the end of 2009, the settlement talks had not satisfied all parties, including NRDC. Great Rivers and NRDC filed further testimony and participated in hearings in February, 2010.

In 2010, our client paid us \$1,963.10.

### **3. Litigation against Empire District Electric Company**

In 2008, Missouri voters passed Proposition C, the Renewable Energy Standard, with 66% support. The ballot initiative set renewable energy targets for the state's investor-owned utilities. In addition, the utilities are required to meet 2% of their targets with solar energy, and to offer a rebate to customers who want to install their own solar panels.

In May, 2008, Empire District Electric Company preemptively slipped a bill through the legislature declaring Empire exempt from the solar energy requirements of Prop. C. When the solar rebate went into effect at the beginning of 2010, Empire was not offering the incentive to its customers.

On March 15, 2010, Great Rivers Environmental Law Center filed suit in Cole County Circuit Court on behalf of Empire customers who wish to install solar panels on their property. During 2010, Great Rivers conducted discovery and responded to a motion to dismiss. In November, 2010, the trial court dismissed the case and Great Rivers filed an appeal.

In 2010, our clients paid us \$4,770.40.

### **4. Energy Legislation and Regulatory Matters**

#### **Proposition C**

In early 2010, the Public Service Commission issued its proposed rule to implement Proposition C, the Renewable Energy Standard. The public comment period ended April 5 and a hearing was held April 6. On behalf of the Missouri Coalition for the Environment and Renew Missouri, Great Rivers filed comments and spoke at the hearing, pressuring the PSC to implement the rule according to voters' intentions.

In 2010, our clients paid us \$8,870.80.

In 2010, the Joint Committee on Administrative Rules (JCAR) disapproved part of the Public Service Commission's rules on Proposition C, allowing utilities to purchase renewable energy credits from anywhere in the country rather than from Missouri solar and wind companies. On behalf of the Missouri Coalition for the Environment and Renew Missouri, Great Rivers advocated the voters' intent at hearings before JCAR on this proposed re-writing of the law.

In 2010, our clients paid us \$3,323.20.

In 2010, the Missouri Department of Natural Resources issued its rule implementing Prop. C. Great Rivers filed comments emphasizing concern over the number of applications to build wood-burning power plants in Missouri. Unless they are done on a suitably small scale they could result in the devastation of our forests and pollution of our air.

In 2010, our clients paid us \$3,370.10.

#### **Legislation**

Great Rivers drafted two bills dealing with energy efficiency for the 2010 legislative session, one to encourage the use of Combined Heat and Power (CHP) and the other to establish an Energy Efficiency Resource Standard. Both were introduced but did not pass in the Spring 2010 session. Great Rivers also helped revise a bill to enact a statewide building energy

efficiency code.

No attorney fees were sought and recovered for this work.

### Drafting Energy Efficiency Rules

In 2009, the Missouri legislature passed SB 376, which aims to change electric utility incentives away from generating more power and toward making it profitable for utilities to help their customers use less energy. In 2010, Great Rivers drafted rules to submit to the Public Service Commission. Also in 2010, with the Natural Resources Defense Council and Sierra Club, Great Rivers drafted comments on PSC proposals, submitted alternative language, and participated in workshops and a public hearing held at the PSC.

No attorney fees were sought and recovered for this work.

## **II. 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 individuals, citizens' groups and organizations that seek legal assistance in connection with their work to protect the public health. Our work in the Public Health Program overlaps our work in Energy and Air Quality and Water Quality Programs.

### **1. Fighting a Coal-Fired Iron-Ore Smelter Proposed for Crystal City, Missouri**

Concerned Citizens for Crystal City sought assistance from Great Rivers after citizens learned their city government had secretly agreed to lease public land to a developer who plans to construct a new coal-fired pig iron ore smelter on the property. The Citizens oppose it because it will cause further deterioration of the air quality and contribute to global warming. Crystal City is 35 miles south of St. Louis and shares in the health problems such as asthma and respiratory illnesses caused by the regions' poor air quality. The entire region remains out of compliance with EPA limits on certain air pollutants, and is not expected to be in compliance by the time the new plant is built.

In November, 2007, Great Rivers filed a lawsuit in state trial court arguing the City government had failed to comply with Missouri's Open Records law, or Sunshine Law, and other state statutes. The intervenor sought the identities of posters of messages to a forum on the web, some of which identities were anonymous. After the database administrator refused to release the identities, the trial court dismissed the case against all five plaintiffs in November, 2009. Plaintiffs appealed and, in 2010, Great Rivers filed briefs in and argued the case before the Missouri Court of Appeals, Eastern District. In October, 2010, the Court of Appeals reversed the trial court's dismissal and remanded the case to the trial court for further proceedings.

In 2010, we received no attorney fees in this case.

### **2. Cleaning Up Existing Coal Plants**

Great Rivers seeks to reduce emissions of pollutants from existing coal-fired power plants. Each year, coal-fired power plants emit thousands of tons of mercury, nitrogen oxides,

sulfur dioxide, and carbon into the air. The pollutants cause asthma, respiratory problems, cancer and contribute to climate change.

In Missouri, there are more than 20 existing power plants which are 34 to 57 years old. In 2010, Great Rivers worked to enforce laws requiring the Missouri Department of Natural Resources to issue stringent, enforceable permits and to ensure that plant operators have in place the required technologies on their plants.

No attorney fees were sought and recovered in this case.

### **III. 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. Wetlands and floodplains are vital to public health in that they affect our water supply and the quality, recharge and discharge of water; they assist in the cleansing of pollutants from waters; and they provide valuable services for flood and storm hazards, and for the controlling of sediment and erosion. In addition, they are necessary for the maintenance of natural systems, including conservation and long term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources.

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

##### **1. Protection of Endangered Species in Mississippi and Missouri Rivers**

In conjunction with the National Wildlife Federation (NWF), and on behalf of the Great Rivers Habitat Alliance (GRHA), Great Rivers Environmental Law Center is challenging the Federal Emergency Management Agency's (FEMA) implementation of the Federal Flood Insurance Program (FFIP) in Missouri. In implementing the FFIP along the Mississippi and Missouri Rivers FEMA takes various actions without consulting with the U.S. Fish and Wildlife Service on the potential effects to the endangered pallid sturgeon and interior least tern, in violation of the ESA. In 2009, we served notice of intent to file a citizen suit under the Endangered Species Act. In 2010, the parties engaged in preliminary settlement discussions.

No attorney fees sought or recovered in this case.

##### **2. Opposition to Proposed Levee in St. Peters, MO (Lakeside 370)**

The City of St. Peters had requested from FEMA a Letter of Map Revision (LOMR) to remove a tract of land from the floodplain of the Mississippi River. The request purported to be based upon a change to the floodplain due to the construction of an urban levee. The levee, according to the request, was designed to provide protection from a 0.2% annual event (500-year flood). By Letter of Map Revision issued June 13, 2008, with an effective date of October 30,

2008, FEMA granted St. Peters' request and revised the Flood Insurance Study report and Flood Insurance Rate Map within the communities of St. Charles County, Missouri, the City of St. Charles, Missouri, and the City of St. Peters, Missouri.

In 2009, Great Rivers, on behalf of the Great Rivers Habitat Alliance and the Adolphus Busch Revocable Trust, brought suit against FEMA concerning revisions to the flood insurance rate map. In July, 2009, the District Court dismissed the suit for lack of subject matter jurisdiction. We appealed to the U.S. Court of Appeals for the 8<sup>th</sup> Circuit. In 2010, we briefed and argued the case to the Appellate Court. The 8<sup>th</sup> Circuit affirmed the district court's ruling.

Great Rivers accepted \$3,370.10 from the client for this matter in 2010.

### **3. Preservation of Confluence Flood Plain**

Truman Business Center proposes to raise and develop 99 acres of vacant, formerly agricultural, land within the Confluence flood plain. The City of St. Charles determined the flood plain property to be "blighted" for reasons which include flooding and ponding of water, lack of basic infrastructure, and lack of safe ingress and egress.

On behalf of Great Rivers Habitat Alliance and the Adolphus Busch Revocable Living Trust, in 2010 Great Rivers filed suit against the City. Our clients seek a judgment declaring that the property is not "blighted" within the meaning of the Urban Development Corporations Law, and enjoining the City from proceeding further with its abatement of taxes within the development area.

In 2010, our client paid us \$375.79 for work on this case.

### **4. Floodplain Casino**

St. Louis County has approved a plan to develop a casino entertainment complex on 377 acres near the confluence of the Missouri and Mississippi rivers, immediately south of Missouri's Edward "Ted" and Pat Jones - Confluence Point State Park. The development proposes to remove a huge amount of acreage from the Confluence floodplain. Visitors to the State Park use the area to enjoy the many species of songbirds, shore birds, wading birds, waterfowl and raptors as they watch the rivers flow by. These uses are threatened by the proposed casino entertainment complex. In 2010, on behalf of an association of groups called Save the Confluence, Great Rivers worked to develop strategies to stop the proposed casino complex from going forward.

In 2010, our clients paid us \$978.20.

## **IV. 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.

## **Big Creek**

Shannon County, MO, had deposited huge amounts of sediment into Big Creek and the Current River, destroying the natural habitat of beloved Ozark Rivers. Shannon County's actions will threaten Big Creek and the Current River for years to come. On behalf of the L-A-D Foundation, Great Rivers filed suit against Shannon County in July, 2009, for Clean Water Act violations as well as damage to L-A-D property. The case is set for trial in May, 2011. During 2010, Great Rivers engaged in discovery in preparation for trial.

In 2010, our client paid us \$6,840.70.

## **V. 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.

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

#### **1. Protection of the Ozark National Scenic Riverways**

Shannon County has plowed illegal roads within the Ozark National Scenic Riverways (ONSR). Further, according to one National Park Service ("NPS") employee, one of the illegal roads has destroyed features that fall within the protections of the Archaeological Resources Protection Act. 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. In 2010, Great Rivers continued with its investigation and advocacy for enforcement of federal restrictions concerning the illegal roads.

No attorney fees were sought and recovered for this work.

#### **2. Protection of the Katy Trail State Park and Boonville Lift Bridge**

During the year 2010, Great Rivers served as a consulting party in a National Historic Preservation Act process intended to avoid or mitigate adverse impacts to the Boonville Lift Bridge.

No attorney fees were sought and recovered in this case.

## **VI. 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.

## **1. Investigation into 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 contracted corporations emit hazardous pollutants. Parents and adults worked on the site and dropped their children off at the on-site day care center without knowing that 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**, in 2010 Great Rivers investigated the state and federal agencies responsible for this reprehensible conduct.

No attorney fees were sought and recovered for this work.

## **2. 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.

No attorney fees were sought and recovered for this work.