

A better copy will be emailed
to the Public Service Commission
@ psc.info@psc.mo.gov

MSSU
5:00pm Question/Answer
6:00pm Hearing
Plaster Hall *Correll Auditorium
2nd floor

Operating a corporation comes with the assumed "Corporate Responsibility" of keeping a watchful eye on their by-products NOT harming people, plants and animals. Empire District Electric Company has a record of Corporate IRRESPONSIBILITY.

Since 1908, Empire has ravaged our lands while increasing their profits and leaving a legacy of contaminated air, water and soil.

From the book "Poors Manual of Public Utilities, 1915"

EMPIRE DISTRICT ELECTRIC CO. (THE).—Incorporated in Oct., 1909, in Kansas. Acquired the Consolidated Light, Power and Ice Co. and the Joplin Light, Power and Water Company, both of Joplin, Mo.; The Galena Light and Power Co., of Galena, Kan., and 99.6 p. c. of the stock of the Spring River Power Company of Galena, Kan. Owms entire capital stock of the Webb City and Carterville Gas Company; the Carthage Gas Company and the Empire Electric Power and Supply Company, of Carthage, Mo. Supplies all the electric current for light and power in Joplin, Webb City, Carthage and Cartersville.

Witness Exhibit No. 1
Date 4-13-16 Reporter KV
File No. EB-2016-0023

Empire...Acquired....Joplin Light...Galena Light... (Missouri and Kansas)

1818

POOR'S MANUAL OF PUBLIC UTILITIES.

Mo., Galena, Kan., and in the mining, quarrying and manufacturing territory adjacent to these cities, comprising what is known as the Joplin or Empire district. Also controls the natural gas business of Webb City, Carterville and Carthage, Mo. Company now has completed a new 20,000 h.p. modern steam turbine plant, increasing the aggregate capacity of the combined plants to 33,000 h.p. Franchises, excepting three small towns, are taken as to time. Right to erect poles for transmission of current to mines surrounding the cities is unlimited under grant from county commissioners. Population served, 100,000

Also controls the

"Also controls the natural gas business in Webb City, Carterville and Carthage, MO..."

Empire owns entire capital stock of the Webb City and Carterville Gas Co., the Carthage Gas Co - Joplin Light, Galena light and Power Co and 99.6 % of stock of Spring River Power Co./Galena.

BIRTH DEFECTS:

- National Average 300 / 10,000 births
 - Missouri 591 birth defects / 10,000 births
 - Jasper County 673 birth defects / 10,000 births
 - Newton County 722 birth defects / 10,000 births (2010 Mo Health Dept)
 - Joplin 755 birth defects / 10,000 births
- more than double the national Average
Statistics from the Mo Dept of Health & Sr. Services
United Steelworker Report, 2008

CITIES SERVICE COMPANY.

History.—Incorporated September 2, 1910, in Delaware, as a holding company to control gas, electric power, traction and kindred properties in various cities of the United States. Organized by Henry L. Doherty & Co., of New York, N. Y. Acquired 96.7% of the total stock of The Denver Gas and Electric Light Co., of Denver, Colo. all of the common stock of the Empire District Electric Co., of Joplin, Mo., and all of the stocks of the Brush Electric Co., of Galveston, Tex. (successor to Brush Electric Light and Power Co.). The basis of exchange on which the Cities Service Co. acquired the capital stock of these companies is outlined in the Manual of Industrials for 1911, page 98. On February 28, 1913, the company was authorized to acquire a majority of the stocks of the Joseph Railway, Light, Heat and Power Co., the Danbury and Bethel Gas and Electric Company and the Empire District Gas Company, which in turn owns a majority of the stocks of the Quapaw Gas Co., the Wichita Natural Gas Co., and the Reserve Gas Co. In payment for the above, the Cities Service Co. delivered \$2,500,000 of its preferred stock and \$2,320,000 of its common stock, together with its holdings in the stock of the Spirit Fuel Co., to the Utilities Improvement Co., in addition to \$232,000 common stock of the Securities Co.

(X) Empire District...which in turn owns a majority of the stocks of the Quapaw Gas Co." (OK)

WEBB CITY AND CARTERVILLE GAS CO.—Incorporated March 9, 1906, in Missouri. Controls all the gas business in Webb City and Cartersville, Mo., and furnishes natural gas for light, fuel and power. Franchise extends to May, 1925. Natural gas purchased from the Quapaw Gas Co. under a contract securing the company the exclusive privilege of selling natural gas in Webb City and Cartersville for twenty years. Number of meters, 2,692. Sales, 1,491,036,100 cu. ft. Population served, 18,000.

Control.—Controlled by The Empire District Electric Co. through ownership of entire capital stock and operated by Doherty organization.

Capital Stock.—Authorized and outstanding, \$300,000, all owned by Empire District Electric Co. Shares, \$100. Transfer agents, H. L. Doherty & Co., New York, N. Y. Annual meeting, fourth Wednesday in February.

furnishes
Quapaw of
Controlled by
Empire

<https://books.google.com/books?id=QqsqAQAAMAAJ&pg=PA1820&lpg=PA1820&dq=MANUFACTURED+GAS+PLANT,+JOPLIN,+WEBB+CITY,+EMPIRE+DISTRICT&source=bl&ots=0aAMRF2DDJ&sig=9oGCjBlxOXpHXbDC3vgnh97iZ2A&hl=en&sa=X&ved=0ahUKEwio1MfszYnMAHXlslMKHTWpAiEQ6AEIMzAE#v=onepage&q=Webb%20City&f=false>

This seems to be the beginning of the "Tri-State Mining District Superfund Site", yet Empire District was never fined for environmental damages for mining coal and gas, as were the other mining companies like Eagle Picher and Doe Run and Arsarco.

Seemingly, as this public utility company, Empire, was enmeshed in 3 states the "Tri-States", it was advantageous to the leaders of these three states to keep their harms quiet.

A "Confidentiality Agreement" was signed by our Governor, Jay Nixon, who was the acting Attorney General of Missouri, as the time.

CONFIDENTIALITY AGREEMENT
for the
TRI-STATE MINING DISTRICT NATURAL RESOURCE RESTORATION
INTER-GOVERNMENTAL PARTNERSHIP

I. INTRODUCTION

This Agreement is by and between: the State of Kansas; the State of Missouri; the State of Oklahoma; the Eastern Shawnee Tribe of Oklahoma; the Miami Tribe of Oklahoma; the Modoc Tribe of Oklahoma; the Ottawa Tribe of Oklahoma; the Peoria Tribe of Indians of Oklahoma; the Quapaw Tribe of Oklahoma; the Seneca-Cayuga Tribe of Oklahoma, the Wyandotte Tribe of Oklahoma; and the U.S. Department of Interior (hereinafter referred to as the Department and including the U.S. Fish and Wildlife Service and Bureau of Indian Affairs) (collectively referred to herein as Partners). The Partners enter into this Agreement to assist and ensure the communication, coordination and cooperation of the Partners, in their individual and collective activities as Natural Resource Trustees, as they pursue restoration of, and compensation for, natural resources injured by releases of hazardous substances in the Tri-State Mining District.

Kansas
Missouri
Oklahoma
Eastern Shawnee Tribe
Miami Tribe
Ottawa Tribe
Peoria Tribe
Quapaw Tribe
Seneca-Cayuga Tribe
Wyandotte Tribe
Dept of Interior

II. AUTHORITIES

Pursuant to 33 U.S.C. §§ 2702 and 2706, section 311(f) of the Clean Water Act (CWA), 33 U.S.C. § 1321(f), and sections 107(a)(4)(C) and 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), including sections 101, 104, 107, and 120, 42 U.S.C. §§ 9607(a)(4)(C) and 9607(f), the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR Part 300; the Natural Resource Damage Assessment Regulations, 43 CFR Part 11 and 15 CFR Part 990) and Executive Order 12580 as amended; Surface Water Quality Standards, Kansas Administrative Regulations (K.A.R.) 28-16-28 (b) through (f), Kansas Nongame and Endangered Species Conservation Act, KSA 32-957 et seq., as amended, KSA 65-171u; Section 644.096 RSMo and Section 640.220, et. seq., RSMo.; 27A Ok. Stat. Supp.1998, Sections 1-1-202 & 1-2-101, & 1-3-101 and applicable Tribal authorities; Trustees for natural resources may recover damages for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance or the discharge of oil. Such damage awards must be used to restore, replace, rehabilitate, or acquire the equivalent of the injured natural resources.

< Nothing about citizens harmed >

111. PURPOSE

The Partners agree that the free and open exchange of information and sharing of ideas and opinions with other Partners is crucial to achieving each Partner's common and individual

goals. The Partners also recognize that all written or verbal communications related to the assessment and recovery of damages for injury to natural resources or recovery of damages are being undertaken in anticipation of litigation. This Agreement is intended to provide for the protection and maintenance of confidentiality by, between, and among the Partners, to the extent permitted by law. (Laws that Attorney General Jay Nixon may have written) or AS Attorney Gen Shelley A. Woods

VII. EFFECTIVE DATE, AMENDMENT WITHDRAWAL AND TERMINATION:

This Agreement shall be effective as to each Partner upon the date the Partner executes this Agreement. This Agreement may not be amended except by written agreement of all the Partners. This Agreement may be executed in one or more counterparts, each of which will be considered an original document. Any Partner may terminate its participation in the Agreement upon giving thirty (30) days written notice to all of the partners or as otherwise provided herein. However, this Agreement shall continue in effect as to each Partner, regardless of withdrawal, until terminated by written agreement of all the partners. The withdrawal of any Partner to this Agreement for whatever reason, shall not affect the validity of this Agreement among the remaining Partners. If a court of law holds any part of this Agreement void, illegal or unconstitutional, that part may be severable and the remainder of the Agreement may be enforced. The signers of this confidentiality agreement:

<p>Jeremiah W. (Jay) Nixon, Attorney General State of Missouri</p> <p><i>Shelley A. Woods</i> Shelley A. Woods Assistant Attorney General</p> <p>By: Clyde D. Graber, Secretary Kansas Department of Health and Environment</p> <p><i>Clyde D. Graber</i> Signature Date: 9/26/99</p> <p>OTTAWA TRIBE OF OKLAHOMA</p> <p>By: <i>Margie Kuhn</i> Title and Name of Authorized Official</p> <p><i>Margie Kuhn</i> Signature Date: 9-14-99</p> <p>EASTERN SHAWNEE TRIBE OF OKLAHOMA</p> <p>By: Chief Charles Enyart</p> <p><i>Charles Enyart</i> Signature</p> <p>MIAMI TRIBE OF OKLAHOMA</p> <p>By: Les Cusher, Executive Director</p> <p><i>Les Cusher</i> Signature</p>	<p>By: Stephen Mahfood, Director Department of Natural Resources</p> <p>Original Signed by Stephen Mahfood Signature</p> <p>U.S. DEPARTMENT OF INTERIOR</p> <p>By: Nancy Kaufman, Regional Director, United States Fish and Wildlife Service</p> <p><i>Jeffrey S. Carlisle</i> ACTING Regional Director Signature</p> <p>QUAPAW TRIBE OF OKLAHOMA</p> <p>By: Ed Rodgers, Tribal Chairman</p> <p><i>Ed Rodgers</i> Signature Date: 10/27/99</p> <p>Environmental Director <i>MARWIN R. SIZEMORE</i> Title and Name of Authorized Official</p> <p><i>Marwin R. Sizemore</i> Signature Date: 10/27/99</p> <p>By: Brian C. Griffin, Oklahoma Secretary of Environment</p> <p><i>Brian C. Griffin</i> Signature Date: 10/25/99</p>
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The state of Arkansas did not sign - nor did the Cherokee Nation - Both being effected by the toxins emitted here but not contributing to the damages by coal / manufactured gas / or oil.

This Confidentiality Agreement occurred in 1999

(about the same time as the EPA's Carol Browner and Dennis Grams were "stone walling".)

The Non Disclosure Agreement was signed by MO, KS and OK and the local Native tribes (like Quapaw Gas Co of the Quapaw Tribe), regarding the Tri-State Mining Districts "Confidentiality Agreement" <http://www.dnr.mo.gov/env/hwp/news/confidential-agreement.pdf>

These three states and the Quapaw tribe (possibly others), through Empire, are all profiting from our illnesses and impaired children. And now Empire wants to ask for increases in the utility bills, again...as the citizens struggle to care for themselves, their parents or their children living with chronic health issues. This is unthinkable.

In the (now expired) MDNR permit given to the Asbury location of Empire District Electric Company, it states Page 38:

<http://dnr.mo.gov/env/apcp/permits/docs/empire-asbury2010op.pdf>



**PART 70
PERMIT TO OPERATE**

Under the authority of RSMo 641 and the Federal Clean Air Act the applicant is authorized to operate the air contaminant source(s) described below, in accordance with the laws, rules, and conditions set forth herein

Operating Permit Number: OP2010-082
Expiration Date: JUL 18 2015
Installation ID: 097-0001
Project Number: 2004-02-061



Expired July 18, 2015
They (MDNR) DO NOT TAKE their
JOB seriously.

Installation Name and Address
The Empire District Electric Co. (EDEC)
Asbury Power Plant
21133 Uphill Lane
Asbury, MO 64382
Jasper County

Parent Company's Name and Address
The Empire District Electric Company
P.O. Box 127
Joplin, MO 64802

THIS PERMIT EXPIRED IN JULY, 2015

This permit begins by stating Asbury burns bituminous + sub bituminous coal - but seemingly the MDNR forgot about it by page 38 (ACID RAIN PERMIT)

TITLE IV: ACID RAIN PERMIT

In accordance with Titles IV and V of the Clean Air Act and Missouri State Rule 10 CSR 10-6.270, *Acid Rain Source Permits Required*, the State of Missouri issues this Acid Rain Permit

Installation Name: The Empire District Electric Co. (EDEC) Asbury Power Plant
ORIS Code: 2076
Project Number: 2006-03-066041, Permit Number: OP2010-082
Unit IDs: 1
Effective Dates: through

The permit application submitted for this source, as corrected by the State of Missouri Department of Natural Resources (MDNR), Air Pollution Control Program (APCP), Operating Permit Section, is attached. The owners and operators of this source must comply with the standard requirements and special provisions set forth in this application.

The number of allowances actually held by an affected source in a unit account may differ from the number allocated by the United States Environmental Protection Agency. Pursuant to 40 CFR 72.84, *Automatic permit amendment*, this does not necessitate a revision to any unit SO₂ allowance allocations identified in this permit.

→ These units have **never** burned coal, and are therefore not subject to the Nitrogen Oxides Emissions Reduction Program of the Acid Rain Program.

This acid rain permit is effective for the five-year period shown above, per 40 CFR 72.69, *Issuance and effective date of acid rain permits*. The designated representative must submit an application for renewal of this permit no later than , per 40 CFR 72.30, *Requirement to apply*, and in conjunction with the operating permit renewal application.

Asbury has Always used COAL, including "Dirtier" local COAL.

_____ Date

_____ Director or Designee,
Department of Natural Resources

II. Plant Wide Emission Limitations

The installation shall comply with each of the following emission limitations. Consult the appropriate sections in the Code of Federal Regulations (CFR) and Code of State Regulations (CSR) for the full text of the applicable requirements. All citations, unless otherwise noted, are to the regulations in effect as of the date that this permit is issued.

There are no plant-wide emission limitations that apply to this facility.

?! ("THERE ARE NO PLANT-WIDE EMISSION LIMITATIONS THAT APPLY TO THIS FACILITY".) ?!

Seemingly there is no oversight for our exposure to the Dirty Missouri Coal and Wyoming Coal blend coming out of Empire Asbury, indeed, they state:

"These units have NEVER burned coal and are therefore NOT SUBJECT to the NITROGEN OXIDES EMISSIONS REDUCTION PROGRAM OF THE ACID RAIN PROGRAM". How can the MDNR say this? How are no tests for emissions occurring? Indeed, the only 'testing' is performed by a "Trained Observer".

From Empire Electric's web page:

"Asbury was designed as a "mine-mouth" plant to burn coal from the Empire Mine located just north of the plant. Total plant capacity is approximately 210

megawatts. Unit One is rated at 193 megawatts. Unit Two, completed in 1986, generates 17 megawatts of energy from the excess boiler capacity of Unit One (in 1990, the plant was converted to use a blend of low-sulfur Wyoming coal and native coal (FROM MISSOURI) to comply with new clean air standards. Further environmental upgrades were instituted in 2007 with the investment in a \$37 million selective catalytic reduction (SCR) system to the

I SUGGEST THAT EMPIRE WAS/IS BURNING (LOCAL DIRTY COAL) AND COAL ABOVE 25 TONS OF SO2 AND ABOVE 50 TONS NOX ANNUALLY AND EVEN WITH THE PROSCRIBED BLENDED 'CLEANER COAL' - MANDATED BY THE FEDERAL GOVERNMENT - THEY ARE STILL EMITTING ABOVE FEDERAL REGULATIONS WITH A FRAUDULANT AND EXPIRED MDNR PERMIT (IN NON COMPLIANCE OF FEDERAL LAWS) AND THEY WERE NOT ISSUED THE APPROPRIATE PERMIT MEANT FOR THE OPERATIONS AS A COAL BURNING PLANT. THEY ARE HARMING US WITH SO2 AND NOX (AND HEAVY METALS) ABOVE FEDERAL REGULATIONS, WHICH STATES THE FOLLOWING:

The Code of Federal Regulations of the United States of America (JULY 1, 2001)

"Any actual or projected annual emissions must demonstrate to the satisfaction of the Administrator that the unit will emit less than 25 tons of SO2 and less than 50 tons of NOx, annually."

Doesnt this apply to Missouri + Kansas?
And what if they are less than 30 miles from one another?
We are still impacted from All sides.

COAL



NO
smoke
stack
2012

About 7/13/2012 the smoke stack was put low and below 11 ft. **TOXIC PONDS**



Smoke
stack
finally
put up
in 2013

TOXIC EMISSIONS
smoke
from the
stack
clearly visible.

<http://dnr.mo.gov/env/apcp/permits/docs/empire-asbury2012cp.pdf>

The MDNR issued a **special permit** to Empire- Asbury, with emissions "monitored" by "TRAINED OBSERVERS: as follows:

SPECIAL CONDITIONS: <http://dnr.mo.gov/env/apcp/permits/docs/empire-asbury2012cp.pdf>

The permittee is authorized to construct and operate subject to the following special conditions:

The special conditions listed in this permit were included based on the authority granted the Missouri Air Pollution Control Program by the Missouri Air Conservation Law (specifically 643.075) and by the Missouri Rules listed in Title 10, Division 10 of the Code of State Regulations (specifically 10 CSR 10-6.060). {MISSOURI 'LAWS' ARE NOT AS STRINGENT OR PROTECTIVE AS THE FEDERAL REGULATIONS} For specific details regarding conditions, see 10 CSR 10-6.060 paragraph (12)(A)10. "Conditions required by permitting authority."

Asbury Power Plant Jasper County, S17, T30N, R33W

1. FGD/PAC Byproduct and Fly Ash Watering

A. Asbury Power Plant shall wet the FGD/PAC byproduct and fly ash at the pugmill (EP-18) sufficient to maintain **no visible emissions from EP-18.** ~~WHAT TOXIC SMOKE NEVER VISIBLE,~~

~~ABOVE, 2013 PHOTO}~~

many toxins cannot be seen by the human eye.

*- Blackberry Creek
303(d) impaired
drains in Spring
Riv. -
Also -
303(d)
impaired*

B. Observations will be made using a USEPA Method 22 trained observer and USEPA Method 22 procedures. {I GUESS IT WAS AN "UNTRAINED OBSERVER" WORKING THAT DAY IN

2013, Asbury Empire photo}

1) Frequency:

a. The permittee shall conduct weekly observations for a minimum of eight consecutive weeks after permit issuance.

b. Should the permittee observe no violations of this regulation during this period then,

i. The permittee may observe once every two weeks for a period of eight weeks.

ii. If a violation is noted, monitoring reverts to weekly. (BUT WHAT CORRECTIVE ACTIONS?)

iii. Should no violation of this regulation be observed during this period then,

a) The permittee may observe once per month.

b) If a violation is noted, monitoring reverts to weekly. (STILL NO INSTITUTED CONTROLS MENTIONED)

c. If the source reverts to weekly monitoring at any time, monitoring frequency will progress in an identical manner from the initial monitoring frequency.

2) Duration:

The duration of the observation shall not be less than six minutes.

6 minutes?

3) Threshold:

a. The observation of visible emissions from this emission unit will be considered an excursion and corrective actions shall be implemented within a reasonable period. An excursion does not necessarily indicate a violation of the applicable requirement.

SPECIAL CONDITIONS:

The permittee is authorized to construct and operate subject to the following special conditions:

b. When the level of excursions exceed three percent of the total number of observations in a six month period and corrective actions fail to return the emission unit to a no visible emission condition, then the permittee shall conduct source testing within 90 days of the last excursion to demonstrate compliance with 10 CSR 10-6.400.

c. If the test demonstrates noncompliance with the above emission limitation the permittee shall propose a schedule to implement further corrective actions to bring the source into compliance and demonstrate that compliance. (I read nothing about what 'if any' corrective actions they would take.)

<http://dnr.mo.gov/env/apcp/permits/docs/empire-asbury2012cp.pdf>

**Blackberry Creek is a "LOSING STREAM" and 303(d) "IMPAIRED"
(Toxic)**

Empire Asbury drains into Blackberry Creek, allowing toxins to enter Spring River ~~if it's a heavy enough flow (like flooding)~~, but **MUCH** OF THE TOXINS will seep through the tiny cracks of Blackberry Creek (seemingly linked to the "mine-mouth" from coal mining... and into our AQUIFER, making drinking water toxic.

Pittsburg & Midway coal mined
in Missouri and Kansas

DEPARTMENT OF NATURAL RESOURCES

MISSOURI CLEAN WATER COMMISSION

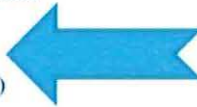


MISSOURI STATE OPERATING PERMIT

In compliance with the Missouri Clean Water Law, (Chapter 644 R.S. Mo. as amended, hereinafter, the Law), and the Federal Water Pollution Control Act (Public Law 92-500, 92nd Congress) as amended,

Permit No.: MO-0095362
 Owner: Empire District Electric Company
 Address: PO Box 127, Joplin, MO 64802

Receiving Stream: Blackberry Creek (U)
 First Classified Stream and ID: Blackberry Creek (C)(03184)
 USGS Basin & Sub-watershed No.: (11070207-140003)



**Blackberry Creek:
 "Receiving Stream"
 for CCW WASTE**

is authorized to discharge from the facility described herein, in accordance with the effluent limitations and monitoring requirements as set forth herein:

FACILITY DESCRIPTION

Asbury Power Plant

Impaired Waters List			
(From MDNR Proposed 2010 Missouri 303(d) List)			
Waterbody Name	Pollutant(s)	Source	U/D County
Blackberry Cr.	Chloride, Sulfate Chloride	Asbury PP	Jasper
Center Cr.	Cadmium, Lead, Zinc, Bacteria	Mill Tailings (Aban.), Rural NPS	Jasper
Center Cr.	Bacteria	Rural NPS	Jasper/Newton
Clear Cr.	Bacteria	Rural NPS	Newton
Clear Cr.	Nutrients, Low D.O.	Monett WWTP	Newton
Dry Branch	Bacteria	Rural NPS	Jasper
Hickory Cr.	Bacteria	Rural NPS	Newton
Indian Cr.	Bacteria	Rural NPS	Newton
Little Lost Cr.	Bacteria	Rural NPS	Newton
Lone Elm Hollow	Metals	Mill Tailings (Aban.)	Jasper
Lost Cr.	Bacteria	Rural NPS	Newton
Middle Indian Cr	Bacteria	Rural NPS	Newton
North Fk Spring R.	Low D.O., Bacteria	Lamar WWTP, Rural NPS	Jasper
North Indian Cr.	Bacteria	Rural NPS	Newton
Shoal Cr.	Bacteria	Rural NPS	Newton
South Indian Cr.	Bacteria	Rural NPS	Newton
Spring River	Bacteria	Rural NPS	Jasper
Turkey Cr.	Cadmium, Lead, Zinc, Bacteria	Mill Tailings (Aban.), Rural NPS	Jasper
Willow Br.	Bacteria	Rural NPS	Newton

PERHAPS SHORT CREEK AND BLACKBERRY CREEK ARE 'LOSING STREAMS' FROM FORMER COAL MINING FROM EMPIRE DISTRICT ELECTRIC COMPANY

Pittsburg & Midway Coal - for Empire.

Why are Blackberry Creek and Spring River on the Impaired Waters List?

<http://www.epa.gov/osw/nonhaz/industrial/special/fossil/surveys2/empire-asbury-draft.pdf>

Summary: GEI was contracted by the EPA in reference to FEMA's guidelines for dam safety.

Contract No. EP09W001698, Order No. EP-B10S-00018 between EPA and GEI, dated **September 23, 2010.**

Tray list:

The Upper Pond (17.6 acres) was constructed in 1970,

The Lower Pond (63 acres) was constructed in 1974

The South Pond (10.2 acres) was added in 1978.

In 1987, the Empire District contracted with Black and Veatch Engineers...(who) designed an impermeable clay barrier for the Lower Pond that was excavated and "keyed" into the underlying clay downstream of the existing crest. (Not the other 2 ponds that may leach into the aquifer?)

(The toxic "63 acre lower pond" with a volume of approximately 500 ac-ft ...SEEPED from 1974-1987 into Blackberry Creek, etching out a WELL DEFINED DITCH AND NO 3RD PARTY INSPECTIONS OF THE IMPOUNDMENTS HAVE BEEN PERFORMED...OPERATION AND MAINTENANCE MANUAL DOES NOT EXIST FOR THE CCW FACILITIES.)

*MDNR
What do you do?*

RECOMMENDATION OF GEI CONTRACTED BY THE EPA, Empire Asbury is a:

"SIGNIFICANT HAZARD" in accordance with the Federal Guidelines for Dam Safety.

<http://www.epa.gov/osw/nonhaz/industrial/special/fossil/surveys2/empire-asbury-draft.pdf>

DNR states: Background information and water quality data

"The Asbury Power Plant is a coal-fired, electricity-generating station operated by Empire District Electric Company, or EEC, located about 20 miles north of Joplin, Missouri. It started operations in 1970 as a "mine-mouth" plant that got its coal supply from Pittsburg & Midway Coal Mining Co. **The problem impairing Blackberry Creek stems from the power plant's fly ash pond.** Both sulfate and chloride are by-products of burning coal and end up in this pond. In addition, according to the department's Division of

*P&M
COAL
owned
by
Kenneth A.*

*Spencer
Spencer Chemical*

of Blackberry Creek from Asbury Power Plant

Geology and Land Survey, the area contains considerable spoil from coal mining, and this particular spoil is naturally high in chloride."

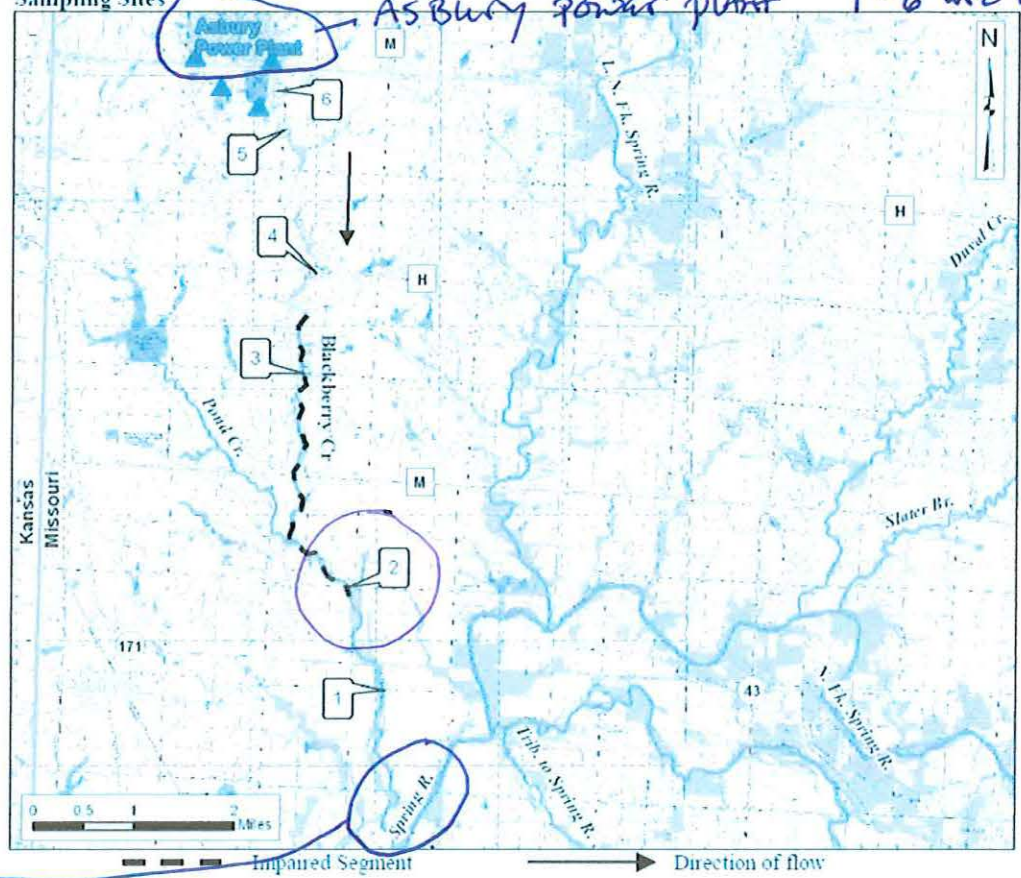
Water Quality Data for Blackberry Creek, 2006-2008

Site	Site Name	Date	SO4 (mg/L)	Cl (mg/L)	SO4 + Cl
4	Blackberry Cr. 2 mi.bl. Asbury PP ash pond	8/8/2006	1200	790	1990
2	Blackberry Cr. 5.6 mi.bl. Asbury PP ash pond	8/8/2006	854	533	887
3	Blackberry Cr. 3.2 mi.bl. Asbury PP	10/19/2006	1940	742	2682
2	Blackberry Cr. 5.6 mi.bl. Asbury PP ash pond	10/19/2006	2560	929	3489
2	Blackberry Cr. 5.6 mi.bl. Asbury PP ash pond	10/25/2006	2640	962	3602
3	Blackberry Cr. 3.2 mi.bl. Asbury PP	5/18/2007	529	197	726
1	Blackberry Cr. 6.9 mi.bl. Asbury PP ash pond	5/18/2007	60	45	105
6	Blackberry Cr. ab. Asbury PP ash pond	9/27/2007	551	4	555
3	Blackberry Cr. 3.2 mi.bl. Asbury PP	9/27/2007	862	619	1481
1	Blackberry Cr. 6.9 mi.bl. Asbury PP ash pond	9/27/2007	402	136	538
3	Blackberry Cr. 3.2 mi.bl. Asbury PP	10/2/2008	1000	420	1420
2	Blackberry Cr. 5.6 mi.bl. Asbury PP ash pond	10/2/2008	361	72	1133
1	Blackberry Cr. 6.9 mi.bl. Asbury PP ash pond	10/2/2008	324	63	987

Source: The Missouri Department of Natural Resources

Notes: SO4 = sulfate; Cl = chloride. Shaded cells indicate exceedance of SO4+Cl water quality criteria.

Map Showing the Impaired Segment of Blackberry Creek in Jasper County, Mo., and the Sampling Sites



1-6 are references to Blackberry Creek where it drains into Spring River.

2 Blackberry Creek had many of the highest levels. Between 2-6 fell "between the cracks" into the aquifer?

Spring River

<http://dnr.mo.gov/env/wpp/tmdl/info/docs/3184-blackberry-ck-info.pdf>

Empire cites project aimed at reducing emissions from Asbury Power Plant

— 2014
finally

Posted: Wednesday, March 26, 2014 9:29 am

By Andra Bryan Stefanoni
astefanoni@joplinglobe.com

For the third time in its history, a multimillion-dollar construction project is under way at the Asbury Power Plant to reduce emissions...

When the Asbury Power Plant came on line in 1970, it was built as a mine-mouth plant: It accepted truckloads of coal from nearby mines, and burned it to heat water and create steam, which turned a turbine and generated electricity.

In 1990, Empire spent \$30 million to convert the plant to allow it to accept rail cars of coal from Wyoming's Powder River region — coal that has less sulfur than the coal of Southeast Kansas and Southwest Missouri.

As a result, the plant reduced emissions by more than 80 percent.

Yet, they still use a "blend" of "local coal" that has more ill-health effects.

Posted: Tuesday, March 25, 2014 3:48 pm

By Andra Bryan Stefanoni
news@joplinglobe.com

Empire Asbury began in 1970 - only 44 years later did Empire begin to Reduce Emissions. (Made to Reduce Emissions)

Officials with The Empire District Electric Co. provided an update and tour today on a nearly \$130 million construction project underway at the Asbury Power Plant designed to reduce emissions.

The current project, started in Spring 2012, must be complete by Spring 2015 in order to bring the plant into compliance with mandates by the Environmental Protection Agency.

(Not because they wanted to protect people)

The upgrade consists of three elements of an air quality control system: a scrubber, which will reduce sulfur emissions by 95 percent; a "baghouse," which will remove up to 99 percent of particulate matter; and a carbon injection system, which will remove mercury up to 85 percent, according to Blake Mertens, vice president of energy supply for the Joplin utility.

http://www.joplinglobe.com/news/empire-officials-provide-look-at-power-plant-s-construction-project/article_658177a5-5487-5411-b0fa-6735e29efd78.html

Asbury Generating Station

Pollutants Details By Year for Empire District Electric Co. Asbury Generating Station

- 2014
- 2013
- 2012
- 2011
- 2010
- 2009
- 2008
- 2007
- 2006
- 2005

2014 Pollutants
Total Amount Released

Pollutant	Volume	Into
MANGANESE COMPOUNDS <i>Manganese compounds</i>	11,615 lbs	Air Land
HYDROCHLORIC ACID (1995 AND AFTER ACID AEROSOLS* ONLY)*	77,402 lbs	Air
SULFURIC ACID (1994 AND AFTER ACID AEROSOLS* ONLY)* <i>Sulfuric Acid Aerosols only</i>	133,675 lbs	Air
ZINC (FUME OR DUST)	44,435 lbs	Air Land
AMMONIA	6,808 lbs	Air Land

More than 25 tons (50,000 pounds) of Sulfuric Acid SO2 is permissible.

Which brings us to Cecil Floyd

Manganese and Sulfuric were two of the known toxins at Cecil Floyd Elementary.

If Asbury releases 11,615 pounds of manganese and 133,675 pounds of Sulfuric Acid/year

"ALMOST" THE WORST AIR IN AMERICA? "1ST" WOULD BE "THE WORST", WE ARE 6TH.

CECIL FLOYD IS DOWNWIND FROM RIVERTON'S EMPIRE DISTRICT AND ALSO WITHIN 30 MILES OF ASBURY'S EMPIRE DIST. COMPANY

National Rank 6th percentile
5,007 of 127,509 schools have worse air

Exposure to cancer-causing toxics
WORST

Exposure to other toxic chemicals
WORST

[Handwritten scribbles]

What else might Empire be releasing into the air, water and soils with their smoke stacks, fluid emissions and standing ponds of toxic waste (into the aquifer)? Does it include Chromium VI, as seen in the coal fired plant PG&E? (Erin Brockovich movie) Lets look at Cecil Floyd Elementary's noted toxins; directly

downwind and 11 miles from Empire in Riverton, KS and 20 miles south of Empire Asbury:

Chemicals most responsible for the toxicity outside this school

▶ **Chromium and chromium compounds**
47% of overall toxicity

Hexavalent Chromium (Chromium VI)
WAS the cancer causing toxin from
PG&E coal fired Plant in Calif.
(See Erin Brodovich movie)

→ ▶ **Manganese and manganese compounds**
26% of overall toxicity

▶ **Nickel and nickel compounds**
22% of overall toxicity

→ ▶ **Sulfuric acid**
2% of overall toxicity

Diisocyanates
1% of overall toxicity

THESE TOXINS MAKE THEIR WAY INTO OUR WATER.

JOPLIN WATER REPORT PWS ID:MO 5010413 (BELOW):

FINDINGS: Chromium-6, Strontium, Vanadium

They are "unregulated" by EPA, yet, chromium 6 (hexavalent chromium) was the cause of cancers, spinal degeneration and other illnesses from PG&E fly ash waste, prosecuted by Erin Brocovich & Ed Masry. What's with the EPA not 'regulating' these toxins? Could it be utility companies are big donors to politicians?

Unregulated Substances (In the Distribution System)

Substance (units)	Year Sampled	Results	Range Low/High	Typical Source
Chromium - 6 (ppb)	2013	0.2	0.2 - 0.3	Naturally occurring element; used in making steel and other alloys; chromium 3 or 6 forms are used for chrome plating, dyes and pigments, leather tanning, and wood preservation
Chromium - Total (ppb)	2013	0.5	0.3 - 0.9	Discharge from steel and pulp mills; Erosion of natural deposits
Strontium (ppb)	2013	60	59 - 64	Naturally occurring element; historically, commercial use of strontium has been in the faceplate glass of cathode-ray tube televisions to block x-ray emissions
Vanadium (ppb)	2013	0.7	0.4 - 1.1	Naturally occurring elemental metal; used as vanadium pentoxide which is a chemical intermediate and a catalyst

Chromium VI
Chromium
Strontium
Vanadium

CHROMIUM VI, CHROMIUM, (LISTED AS CECIL FLOYD ELEMENTARY TOXINS) BUT ALSO STRONTIUM AND VANADIUM...WHICH ARE ALL UNREGULATED BY THE EPA!

Carl Junction

Jasper Co Pwsd #1

Carl Junction, Missouri Serves 4,750 people

View State...

CHART KEY: 1 or more tests taken in this month, 1 or more positive detections, 1 or more tests above health limit, 1 or more tests above legal limit

5 contaminants below legal limits, but above health guidelines

In some states a small percentage of tests were performed before water was treated, and some contaminants were subsequently removed or diluted. As a result, some reported levels of contamination may be higher than were present at the tap.

Contaminant	Average result	Maximum result	Health limit	Legal limit	NUMBER OF TESTS		MONTHLY TESTING HISTORY							EPA regulated		
					Total #	Positive result	2004	2005	2006	2007	2008	2009				
Alpha particle activity	5.03 pCi/L	6.60	-	15	11	11										Yes
Combined Radium (-226 & -228)	1.53 pCi/L	1.00	-	5	6	6										Yes
Lead (total)	0.18 ppb	5.32	0.20	15	9	9										Yes
Radium-226	1.55 pCi/L	2.10	0.05	5	12	12										Yes
Radium-228	0.03 pCi/L	0.00	0.02	5	12	1										Yes

11 positive results Above Health levels Alpha Particle
6+ for Radium 226/228
9 for lead
12 for Radium 226
1 for Radium 228

Jasper Co Pwsd #2

Webb City, Missouri Serves 3,330 people

View State...

CHART KEY: 1 or more tests taken in this month, 1 or more positive detections, 1 or more tests above health limit, 1 or more tests above legal limit

4 contaminants below legal limits, but above health guidelines

In some states a small percentage of tests were performed before water was treated, and some contaminants were subsequently removed or diluted. As a result, some reported levels of contamination may be higher than were present at the tap.

Contaminant	Average result	Maximum result	Health limit	Legal limit	NUMBER OF TESTS		MONTHLY TESTING HISTORY							EPA regulated		
					Total #	Positive result	2004	2005	2006	2007	2008	2009				
Alpha particle activity	6.57 pCi/L	10.70	-	15	7	6										Yes
Lead (total)	2.49 ppb	9.71	0.20	15	9	5										Yes
Radium-226	0.89 pCi/L	2.10	0.05	5	7	5										Yes
Radium-228	0.36 pCi/L	1	0.02	5	7	3										Yes

Above, yellow dots are "above health levels" of radiation and lead in drinking water.

Somehow, the EPA neglected to list Empire District as a likely polluter for this school's main toxins.



Visual Emissions from Riverton KS

Distance between Joplin, MO and Riverton, KS

(37.0842313, -94.513485) to (37.0749458, -94.7045859)

How many miles? 11 miles / 17 Km

How many hours? This takes 14 minutes

Riverton Empire 1.30.2015 as seen from Galena's "Premiere Hospital" parking lot.



Visual Emissions

RIVERTON, KS EMPIRE, CLOSE UP

This is the MDNR link about the Joplin/Galena ("State Line") Empire District site on Short Creek. Short Creek is impaired 303(d), and it is a 'losing stream' (from mining) and this allows contaminants to enter the aquifer(s). Many mining companies were sued by the EPA, but not EMPIRE DISTRICT-and they mined for coal and 'natural gas' based on the FMGP's they are linked to by the MDNR

<http://dnr.mo.gov/env/wpp/permits/issued/docs/0126713.pdf> Short Creek empties into Spring River. Also of note are the potential and or actual PCB's released at the Joplin/Galena station entering our 'SHARED AQUIFER': From Empire's webpage, it states:

Also

"In the early 1960's, the need for more automation in Empire's operations was apparent. This realization brought about the construction of an operations and communications center in Joplin. System Operations was completed in 1964. Equipped with the latest design in electronic technology, this nerve center monitors and controls the production and power flow throughout the entire Empire system. "

But this location has had and continues to have PCB issues:

January 22 - Meeting before Kansas Senate Utilities Committee / Empire

Question #1 - "The extent which PCB transformers can be identified and their location: Beginning in January 1982, The Empire District Electric Company has tested all major oil containing electric components in our substations to include power transformers, voltage regulators, and oil circuit breakers. A total of 10 substations are located in the State of Kansas, of these, two have in service oil filled equipment that is PCB Contaminated greater than 50 ppm. Kansas locations with PCB contaminated transformers & voltage regulators remaining in service are listed below:

Substation # 278 - 1601 East Front Street, - Galena - Cherokee County 2299 State Line Rd.

(also one in Chetopa, KS)

↑ So, is this in Galena or Joplin on State Line Road?

Question # 2 - The number of known transformers / voltage regulators in the Kansas distribution system which contain PCB's: PCB Contaminated Transformers Location Serial Number Gallons of Oil PPM Sub # 278 - Galena, KS # RBP - 17791 4,281 gallons 170 ppm LTC 360 gallons 270 ppm

Definitely Above 50 PPM for PCB's.

Chetopa, KS is mentioned again, as well.

"Because contaminated transformers are not externally marked the actual PCB status of any Pre-1979 distribution pole mounted and commercial pad mount transformers can not be known unless first taken out of service, opened, and tested by drawing a small vial of oil for laboratory analysis. In 2003, The Empire District Electric Company took 765 oil samples of unlabeled Pre-1979 manufactured transformers that had been removed from service in all the states of our distribution territory. A total of 35 of these Pre-1979 transformers or only about 5% tested positive for PCB contamination > 50 ppm. {PCB CONTAMINATION ABOVE 50 PARTS PER MILLION} Total PCB contamination positive results for pole mounted transformers, including all years of manufacture, is about 1%. This percentage is steadily decreasing."

"In 2002 all large PCB capacitors, a total of 304 including 6 in Kansas, were removed from active service and replaced with Non-PCB capacitors as part of an environmental improvement project. These capacitors contained very high concentrated amounts of PCB's... During the last 10 years... Empire to routinely test, retro fill, or dispose of PCB contaminated electrical equipment, drained oil, or contaminated soil debris throughout our service territory in Kansas, Missouri, Oklahoma, and Arkansas."

"Empire will continue it(s) current program or (sic) testing and disposal of PCB transformers, equipment, oil, and debris."

Their PCB's will harm us, also.

ABOUT SHORT CREEK, NEAR THE GALENA/JOPLIN EMPIRE "STATE LINE" SITE:

Beginning over two decades ago, the U.S. Environmental Protection Agency (EPA) began to evaluate threats posed to human health and the environment by mining-related releases of hazardous substances, particularly metals, in the Tri-State Mining District. Based on this evaluation, the EPA placed each state's portion of the Tri-State Mining District on its National Priorities List (NPL), and each state's portion of the district became one or more distinct Superfund sites.³ The resulting Superfund sites are: the Oronogo-Duenweg Mining Belt Superfund Site (Jasper County, MO), the Newton County Superfund Site (Newton County, MO), the Cherokee County Superfund Site (referred to hereafter as the Cherokee County Site), and the Tar Creek Superfund Site (Ottawa County, OK). The Cherokee County Site was added to the NPL in 1983.

EPA has divided the Cherokee County Site into a number of subsites, and into different operable units (OUs).⁴ These divisions facilitate the identification, selection, and implementation of remedial activities at the sites. Figure 1 shows the seven subsites within the Cherokee County Site. EPA has conducted cleanups at some of the identified OUs, while cleanup actions for others are in progress. This Assessment Plan addresses proposed assessments of trust resources for the entire Cherokee County Site.

³ The NPL is a list of the worst hazardous waste sites that have been identified by EPA. The list is primarily an information resource that identifies sites that may warrant cleanup. The NPL is operated under the auspices of EPA's Superfund Program, the Federal government's CERCLA-authorized program to clean up the nation's uncontrolled hazardous waste sites.

⁴ A subsite is a geographically distinct portion of a Superfund site. An operable unit is a term for each of a number of separate activities undertaken as part of a Superfund site cleanup. For example, the Galena subsite in Cherokee County has several operable units, including residential soils, ground water/surface water, and alternate water supply.

This Plan focuses on the Cherokee County portion of the Tri-State Mining District. It does not address assessing the potential for injuries to natural resources beyond the State of Kansas, although it does include natural resource damages resulting from mining-related releases of hazardous substances in adjacent areas (for instance, Missouri) that migrate into, and contribute to, natural resource injuries within Cherokee County. For natural resource injuries in Oklahoma and Missouri, equivalent documentation is to be developed by the relevant Trustees for those states.

⁷ The DOI regulations allow an Assessment Plan to "be modified at any stage of the assessment as new information becomes available" 43 CFR §11.32(e). Any significant modifications "shall be made available for review by any identified potentially responsible party, any other affected natural resource trustees, other affected Federal or State agencies or Indian tribes, and any other interested member of the public for at least 30 calendar days, with reasonable extensions granted as appropriate, before tasks called for in the modified plan are begun" (43 CFR §11.32(e)(2)(i)).

This needs to be modified to include Empire District
AS a responsible party for their damages
But NOT part to the EPA, It should take care of human health for those affected

Natural Resources in Cherokee County

Cherokee County lies within the geological provinces of the Ozark Plateau and Cherokee Lowlands. The county supports a variety of natural resources potentially affected by mining-related contamination, including rivers and lakes, ground water, and geologic/terrestrial resources. These habitats support a wide variety of fish, birds, and other wildlife. A number of species present in Cherokee County are included on state or Federal threatened and endangered (T&E) species lists or are otherwise of special concern (see Appendix A). The following paragraphs briefly summarize key features of the county's natural resources, including information about what makes the area unique, and also available information about the threat posed to these resources by mining-related and other contamination.

Surface Water Resources: Rivers, Lakes, Streams

Surface water resources in the Cherokee County Site include the Spring River, its tributaries, and Empire Lake. Tar Creek is another significant surface water resource: it joins the Neosho River⁸ near Miami, Oklahoma upstream of the Neosho's confluence with the Spring River.

Surface Water Resources: Rivers, Lakes, Streams

Surface water resources in the Cherokee County Site include the Spring River, its tributaries, and **Empire** Lake. Tar Creek is another significant surface water resource; it joins the Neosho River⁸ near Miami, Oklahoma upstream of the Neosho's confluence with the Spring River.

Spring River

The Spring River flows southwest into the state from Missouri, entering Cherokee County about ten miles north of Galena (Figure 1). It exits southward into Oklahoma, where it converges with the Neosho River to form the Grand River. In Kansas, the Spring River drains 500 square miles and flows through, near, or adjacent to areas heavily impacted by mining, including the Lawton, Badger, Galena, Baxter Springs, Waco, and Crestline Superfund subsites (KDHE 1980).

The Spring River is one of the state's most valued surface water resources. It ranks fifth in annual average flow and third-highest in critical low flow (United States Geological Survey (USGS) WATSTORE database). Upstream of the confluence with Center Creek, the river supports at least 74 fish and 23 mussel species, including the federally and state-threatened Neosho madtom (*Noturus placidus*). Ten other resident fish and shellfish species are listed as threatened or endangered in the State of Kansas, and 35 species are designated as in need of

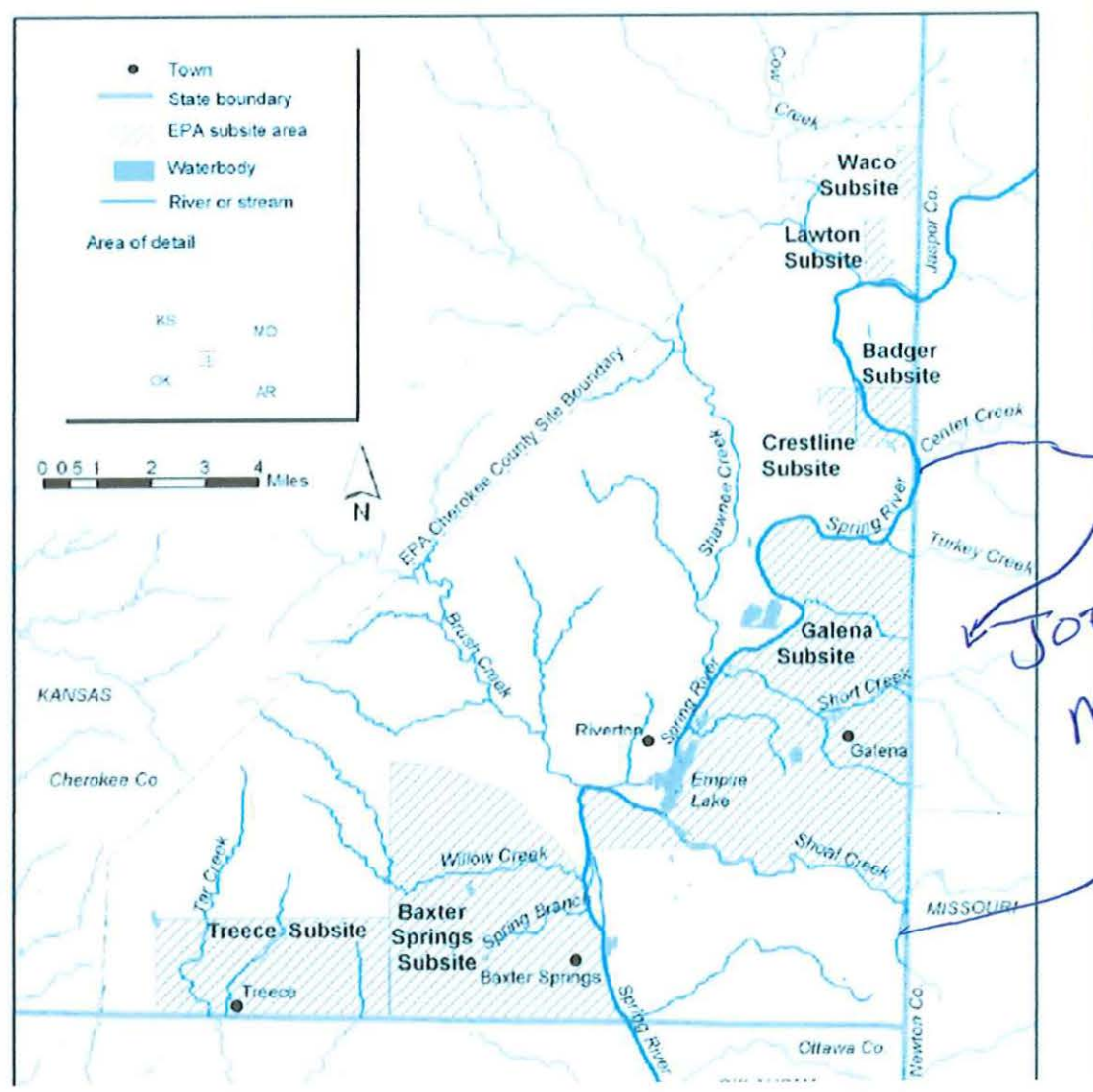
↑
Then why is it treated like a toilet

⁸ The Neosho River is a major Kansas river, located west of Cherokee County. It flows southward through Kansas and enters Oklahoma.

conservation (Appendix A). As shown in Figure 2, some reaches support high-quality riparian corridor habitat.

The Spring River's importance as a natural resource has been recognized by a number of organizations. KDHE classifies the river as an exceptional state water and a special aquatic life use water (KDHE 2003). The Kansas Department of Wildlife and Parks (KDWP) classifies the Spring River as critical habitat for numerous threatened and endangered species (for example Neosho madtom) and as a highest-valued fishery resource (Moss and Brunson 1981). The National Parks Service classifies the river as an outstandingly remarkable stream for scenic, recreational, fishing, and wildlife attributes (NPS 1982).

Figure 1
Cherokee County Superfund Site



Short Creek in MO
 Joplin MO

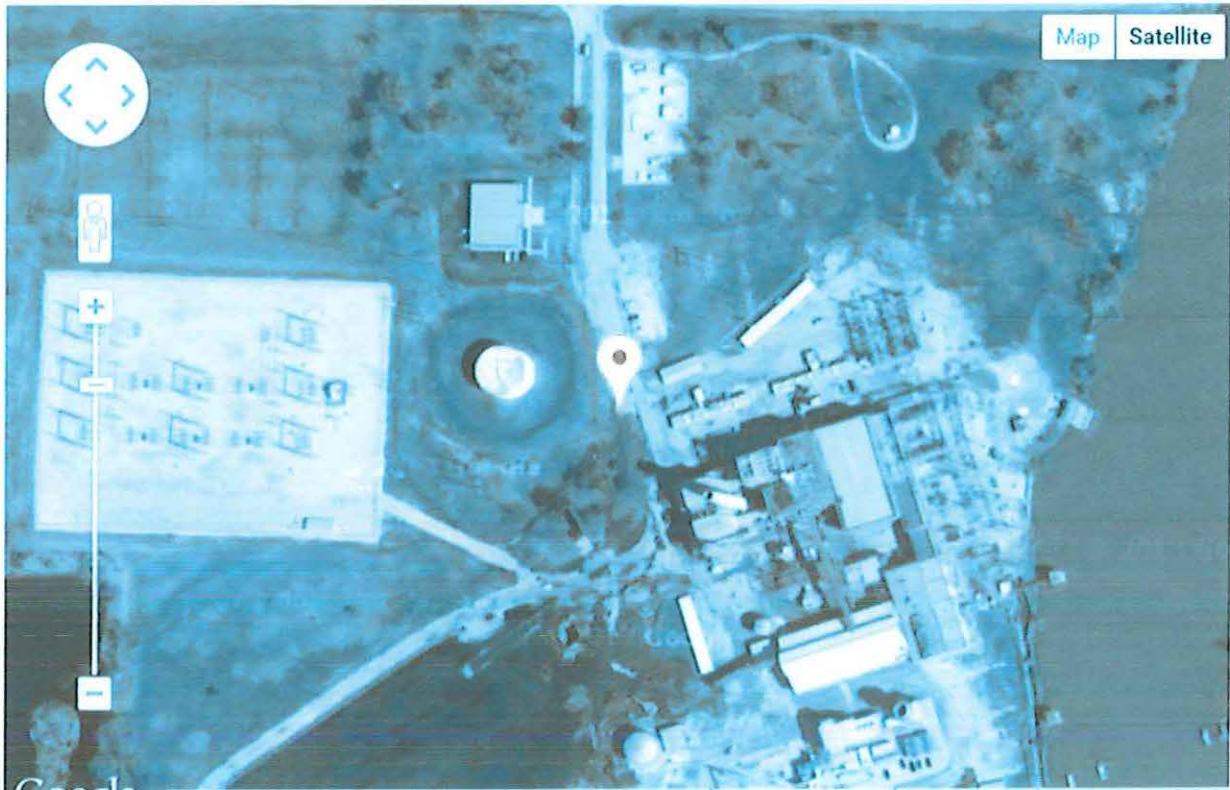
continuous emissions



Riverton Empire Plant, close up

Riverton Power Plant Landfill Unit

Riverton Power Plant Landfill Unit is a coal ash disposal site associated with Riverton Power Plant, owned by the District Electric Company near Riverton, Kansas.



Spring River, especially in its more downstream reaches, has elevated metals levels (CH2M Hill 1987). KDHE's 2004 303(d) list indicates that the lower river is impaired by lead.

SPRING RIVER

⁹ Riparian corridors are low-lying natural lands within a certain distance of rivers or streams. Healthy riparian corridors are extremely important to the health of the surface waters they surround. They help reduce both erosion and nutrient pollution (for example, from fertilizer runoff), provide habitat for aquatic-associated animals (for example, nesting locations for birds and den locations for mink) and also provide continuous corridors of habitat that allow fauna to travel from one location to another. High-quality riparian corridors often support many different species of plants.

6

many of us are like the Neosho MadToms - becoming extinct.

DRAFT

copper, and zinc.¹⁰ Elevated metals concentrations appear to be impacting the river's aquatic life. Wildhaber *et al.* (2000) investigated fish populations in the Spring River and concluded that these fish, especially Neosho madtoms, are limited in part by the presence of metals in the water. Mussel populations also appear to have been impacted: Obermeyer *et al.* (1995) reported that only the portion of the river upstream of Center Creek is rich with these organisms. Cope (1985) found that "[d]rainage from mines and mine tailings along Center, Turkey, and Short creeks... probably contribute pollutants that are toxic to naiads [mussels]."

"and Short Creek"...I suggest that those of us living between Empire "Riverton", Empire "Asbury", Empire "State-Line", and Empire La Russell have been exposed to toxins from Empire's Air Emissions, Water Effluents and thus contaminated our soil. They have only just recently (under duress) begun to place filtrations systems on their smoke stacks, or added smoke stacks, or built up their dams or secured their ponds from leaching into the aquifers that provide our drinking water. As Empire had manufactured gas plants in Webb City, Carthage, Carterville, etc, it is no surprise that all of our creeks and rivers are impaired.

¹⁰ Section 303(d) of the Federal Clean Water Act requires states to periodically prepare a list (referred to as a 303(d) list) of all surface waters in the state with pollutant concentrations that exceed water quality standards. These waters are considered to be impaired with respect to specific beneficial uses associated with the water quality standards, such as drinking, recreation, aquatic habitat, and/or industrial use. Kansas's 2004 303(d) list is available at <http://www.kdhe.state.ks.us/tmdl/NE2004.html> (visited 5/19/04).

[http://www.fws.gov/mountain-prairie/nrda/CherCO_KS/CherCo%20pdf/CherokeeCountyAP\(6-28-04\).pdf](http://www.fws.gov/mountain-prairie/nrda/CherCO_KS/CherCo%20pdf/CherokeeCountyAP(6-28-04).pdf)

The footnote (¹⁰ above) refers to the Federal Clean Water Act. Sadly, the EPA "Stone-Walled" listing these "impaired" waters for such a long time that the EPA heads (Carol Browner and

Dennis Grams) had to be removed from their positions by a judge, while the judge had to appoint other EPA leaders to list our Impaired Waters by 2009.

<http://www.dnr.mo.gov/env/wpp/tmdl/tmdl-consent-decree.pdf>

WHEREAS, in order to resolve this lawsuit, Plaintiffs and EPA also have entered into a Settlement Agreement and EPA has issued a letter setting forth certain commitments with respect to review of some National Pollutant Discharge Elimination System permits in Missouri that have been filed separately with the Court for informational purposes only, the terms of which are not incorporated into this Consent Decree and are not enforceable orders of this Court;

WHEREAS, Plaintiffs and EPA have agreed to a settlement of this action without any admission of fact or law, which they consider to be just, fair, adequate and equitable resolution of the claims raised in this action;

I. PARTIES

1. The parties to this Consent Decree are Plaintiffs and EPA. The parties understand that (a) Carol Browner and Dennis Grams were sued in their official capacities as Administrator of the United States Environmental Protection Agency and Regional Administrator of United States EPA, Region VII, respectively and (b) the obligations arising under this Consent Decree are to be performed by EPA and not by Carol Browner or Dennis Grams in their individual capacities.

NOT by Carol Browner or Dennis Grams

<http://www.americancanoe.org/general/?type=CONTACT>

★ ¹When we have EXPIRED PERMITS from the MDNR stating Asbury Empire is NOT nor has NEVER been a coal burning plant (while using toxic "local" coal from the TRI-STATE Area)...

★ ²and the EPA is hiding the fact that our waters are impaired (as are our PEOPLE), *-impaired*

★ ³and Three States and the Tribal Politicians (Tri-State) are signing their "CONFIDENTIALITY AGREEMENT"...one must ask how this can be allowed to happen. Is it solely to conceal the harms by a utility company and their fuel supplier known as "Pittsburg & Midway Coal Company" or is it to conceal and protect ALL TRI-STATE Energy related groups; those mining coal, fracking coal, making their 'pesticides' and 'fertilizers' at these oil and gas and coal mining locations? How many politicians and stock holders does the TRI-STATE REGION affect? We are not harmed solely from former mining of lead, zinc and cadmium, as "they" would have us believe. We are STILL being harmed while the EPA COLLECTS "FINES", such as the 5 billion

dollars from Kerr McGee, (Robert S. Kerr being the Oklahoma Governor in the 40's when Pittsburg and Midway Coal Company was tearing up our lands) and Kerr-McGee purchased the Nuclear Energies from Spencer Chemical September 3rd, 1962 where Gulf Oil and Chevron later occupied at the "Galena Subsite". and yet, no testing of our citizens for the radiation from Empire District Electric, Empire Electric Gas, the radiation from the Spencer Chemical Company (who OWNED PITTSBURG AND MIDWAY COAL COMPANY), no testing and offers of financially helping our citizens to detoxify our bodies of these "HEAVY METALS" that are NOT just "zinc, lead and cadmium." We are 'provided' free Lead testing. Our soils are only tested for Lead "IF" we live "within the tornado zone" for free. WAS it the tornado that brought in the 'new lead'? Or more likely, is it the continued emissions from Empire District, burning dirty coal, or the 'settled' old emissions that continuously blow about the Tri-States winds along with the Mercury and Arsenic and Uranium and Thorium, and other toxic metals?

I strongly object to any rate increases to our electric bills until or unless ALL of our rivers and streams are OFF the 303(d) impaired water list.

I strongly object to any rate increases to our electric bills until or unless ALL of our citizens are given free "heavy metal testing" of ALL heavy metals (including Radioactive metals) and free medical care is provided, as it was for the former employees of Spencer Chemical.

The Energy Department, the Department of the Interior and the Department of Natural Resources are all complicit in obfuscating the actual harms found in our region, to prevent lawsuits to them, to Empire District Electric Company and to all of the "Energy" related companies around us.

<http://dnr.mo.gov/geology/geosrv/geores/mine-maps/> MDNR's info about coal in Missouri:

"During federal fiscal years 2006, 2007 and 2009, the division – working under cooperative agreement with the U.S. Department of the Interior's Office of Surface Mining (OSM) – inventoried, electronically scanned and archived 1,151 underground mine maps, of which **387 are for coal mines** and **764 are for noncoal mines**. During federal fiscal year 2010 the division, under similar cooperative agreement, actively acquired additional copies of maps of underground coal mines from private collections, city halls, county courthouses, historical societies, libraries and other sources. Continued OSM funding in federal fiscal years 2011 and 2012 enabled the division to make the Mine Map Repository information more accessible to the citizens of Missouri."

(About 1/3 of the mining performed in Missouri was for coal, yet it is never spoken about.)

From the book entitled "Labor Age, Volumes 8-10"

https://books.google.com/books?id=vWqvAQAAMAAJ&pg=PA90&lpg=PA90&dq=The+US+Government+took+over+Coal+Mines,+Missouri&source=bl&ots=Fq0_PDKlka&sig=yvRY4SfloWO4S5at4oDyuomJGYw&hl=en&sa

has not”!³ North Dakota Legislature replied to this action by passing a law effective July 1, 1920, authorizing the Governor to “take over and operate any coal mine or other utility in any emergency when necessary for the protection of life and property.” Missouri and Kansas also took over their mines, Gov. Gardner of Missouri using drastic martial law, making his coal fields a “big military camp” where no public meetings were allowed and no members of the public permitted to visit the quarters of the working miners.

1920 MO + KS
Took over their
(coal) mines

“Missouri and Kansas also took over their mines, Gov. Gardner of Missouri using drastic martial law, making his coal fields a “big military camp” where no public meetings were allowed and no members of the public permitted to visit the quarters of the working miners.”

Regulating Active Mines (since 1977?)

The Office of Surface Mining is responsible for the enforcement of the [Surface Mining Control and Reclamation Act of 1977](#); this includes setting regulatory guidelines. The actual regulation of mines is primarily done on a [state](#) level and [tribal](#) level, but OSM is charged with inspection of the state programs to meet the standard of quality. OSM regularly inspects state programs to make sure they are meeting the required standards; if they do not meet the required standards the OSM can take over. For example, when in the fiscal year of 2003 [Missouri](#) was unable to meet the federal requirements due to a lack of funding, OSM stepped in to assume partial control of the state program.

OSM took control of the following in Missouri:

- Training, examination, and certification of blasters
- Areas unsuitable for mining
- Small Operator Assistance

OSM continued to run the above parts of Missouri's mining program until Missouri improved its program, which took place on Feb. 1, 2006. Missouri now receives federal funding.¹⁸¹ OSM, MDNR, EPA : Wasted money

https://en.wikipedia.org/wiki/Office_of_Surface_Mining

(And yet, Asbury only had its first official inspection by GEL in 2010 (40 years after Asbury began operations). 40 years of contaminating us via the wind, soil and waters. As a former restaurant owner, we had yearly 'surprise visits' from the Health Department to protect citizens from unhealthy operations. Yet this toxic coal mining/coal burning site had NO OVERSIGHT?

Neither did Riverton!

**RIVERTON'S COAL FIRED NATURAL GAS AND FUEL OIL POWER PLANT
"NEITHER STATE NOR FEDERAL REGULATORY
OFFICIALS HAVE INSPECTED ...(IN) THE LAST 5
YEARS"**

1.7 Prior Inspections

Anderson Engineering, Inc. performed a Preliminary Visual Slope Stability Assessment of the embankments in April 2009; however neither state nor federal regulatory officials have inspected the embankments within the last five years. Riverton Station employees perform visual inspections, however not on an established schedule.

2.0 Description of Project Facilities

2.1 General

The Riverton Station is a coal-fired, natural gas and fuel oil power plant consisting of six units that generate about 286 megawatts (MW) combined. The power plant is located just southeast of the town of Riverton in Cherokee County, Kansas (see Figure 1). The generating units are owned and operated by EDE. The first unit went online in 1905. The CCW impoundment is located south and southwest of the power plant. The CCW impoundment contains two cells; the original West Cell constructed in 1951, and the expansion East Cell constructed in 1985.

*And when the
State did -
they seemingly
saw no problems*

Does their "Poor" rating surprise anyone?

RIVERTON, KS ASSESSMENT: POOR

12.6 Acknowledgement of Assessment

I acknowledge that the management unit(s) referenced herein was personally inspected by me and was found to be in the following condition (select one only):

SATISFACTORY

FAIR

POOR

UNSATISFACTORY

I acknowledge that the management unit referenced herein:

Has been assessed on September 23, 2010 (date)

List of Participants:

Steven R. Townsley, P.E.	Senior Project Engineer/Task Leader, GEI Consultants, Inc.
Ken L. Hardesty, P.E.	Project Engineer, GEI Consultants, Inc.
Duane Zerr,	Plant Manager, Empire District Electric
Cory Larson,	Operations Manager, Empire District Electric
Kavan Stull,	Environmental Safety Services, Empire District Electric

Cory Larson
KAVAN STULL
(over paid)

POOR:

A management unit safety deficiency is recognized for any required loading condition (static, hydrologic, seismic) in accordance with the applicable dam safety regulatory criteria. Remedial action is necessary. POOR also applies when further critical studies or investigations are needed to identify any potential dam safety deficiencies.

State Line Empire District (Galena/Joplin) MDNR PERMIT (EXPIRED)

PERMIT TO OPERATE

Under the authority of RSMo 643 and the Federal Clean Air Act the applicant is authorized to operate the air contaminant source(s) described below, in accordance with the laws, rules, and conditions set forth herein.

Operating Permit Number: OP2010-081

Expiration Date: JUL 18 2015

Installation ID: 097-0104

Project Number: 2002-06-106

— expired

Installation Name and Address

The Empire District Electric Company
State Line Power Plant
2299 S. State Line Ave.
Joplin, MO 64804
Jasper County

Parent Company's Name and Address

The Empire District Electric Company
P.O. Box 127
Joplin MO, 64802

Installation Description:

The Empire District Electric Company (Empire District) – State Line Power Plant (State Line) is an electric generating facility. The combined cycle portion of the facility is jointly owned by Empire District and Westar Energy, Inc., and is operated by Empire District. The simple cycle portion of the facility is owned and operated by Empire District. Electricity is generated from one simple-cycle stationary combustion turbine and two combined-cycle stationary combustion turbines. The combustion turbines use natural gas as their primary fuel. The simple-cycle combustion turbine may also use distillate fuel oil (Number 1, Number 2, or Jet A). Total plant output is a nominal six hundred (600) megawatts. Other stationary sources of emissions include parts washing, storage tanks, emergency generator and fire pump engine.

JUL 19 2010

Effective Date

James L. Kawonauk
 Director or Designee
 Department of Natural Resources

Reported Air Pollutant Emissions, tons per year

Year	Particulate Matter ≤ Ten Microns (PM-10)	Particulate Matter ≤ 2.5 Microns (PM-2.5)	Sulfur Oxides (SO _x)	Nitrogen Oxides (NO _x)	Volatile Organic Compounds (VOC)	Carbon Monoxide (CO)	Lead (Pb)	Hazardous Air Pollutants (HAPs)	Ammonia (NH ₃)
2008	52.37	52.37	4.8	113.99	63.49	650.53	0.00	0.00	70.51
2007	47.81	47.81	5.06	109.67	59.33	593.3	0.00	7.47	64.16
2006	36.77	36.76	3.59	60.56	47.39	455.71	0.00	5.8	49.17
2005	46.21	46.21	4.3	77.85	58.87	574.18	0.00	7.29	61.91
2004	29.63	29.63	2.7	78.52	36.96	368.14	0.00	4.59	39.47

not a coal burning plant but still Toxic

TITLE IV: ACID RAIN PERMIT

In accordance with Titles IV and V of the Clean Air Act and Missouri State Rule 10 CSR 10-6.270, *Acid Rain Source Permits Required*, the State of Missouri issues this Acid Rain Permit.

Installation Name: Empire District, State Line Power Plant
ORIS Code: 7296
Project Number: 2006-03-066, **Permit Number:** OP2010-081
Unit IDs: 1, 2-1, and 2-2
Effective Dates: through

The permit application submitted for this source, as corrected by the State of Missouri Department of Natural Resources (MDNR), Air Pollution Control Program (APCP), Operating Permit Section, is attached. The owners and operators of this source must comply with the standard requirements and special provisions set forth in this application.

The number of allowances actually held by an affected source in a unit account may differ from the number allocated by the United States Environmental Protection Agency. Pursuant to 40 CFR 72.84, *Automatic permit amendment*, this does not necessitate a revision to any unit SO₂ allowance allocations identified in this permit.

These units have never burned coal, and are therefore not subject to the Nitrogen Oxides Emissions Reduction Program of the Acid Rain Program.

Other Air Regulations Determined Not to Apply to the Operating Permit

The Air Pollution Control Program has determined the following requirements to not be applicable to this installation at this time for the reasons stated.

1) 10 CSR 10-3.080, Restriction of Emission of Visible Air Contaminants, was checked as applicable on the permit application. However, this regulation was rescinded on May 30, 2000.

2) 10 CSR 10-3.100, Restriction of Emission of Sulfur Compounds, was checked as applicable on the permit application. However, this regulation was rescinded on July 30, 1997.

3) 10 CSR 10-6.100, Alternate Emission Limits, is not applicable because the installation is in an ozone attainment area.

4) 10 CSR 10-6.220, Restriction on Visible Air Contaminants, was listed as applicable to the Combustion Turbines (EP03, EP05, & EP 06) on Form OP-D04 of the permit application. However, this regulation is not applicable to the turbines because per §(1)(A), all internal combustion engines operated outside the Kansas City or St. Louis metropolitan areas are exempt. In addition, the duct burners are exempt because per §(1)(H), emission sources regulated by 40 CFR Part 60 and 10 CSR 10-6.070 are exempt.

THE PERMIT APPLICATION SUBMITTED FOR THIS SOURCE, AS CORRECTED BY THE STATE OF MISSOURI DEPARTMENT OF NATURAL RESOURCES (MDNR), AIR POLLUTION CONTROL....

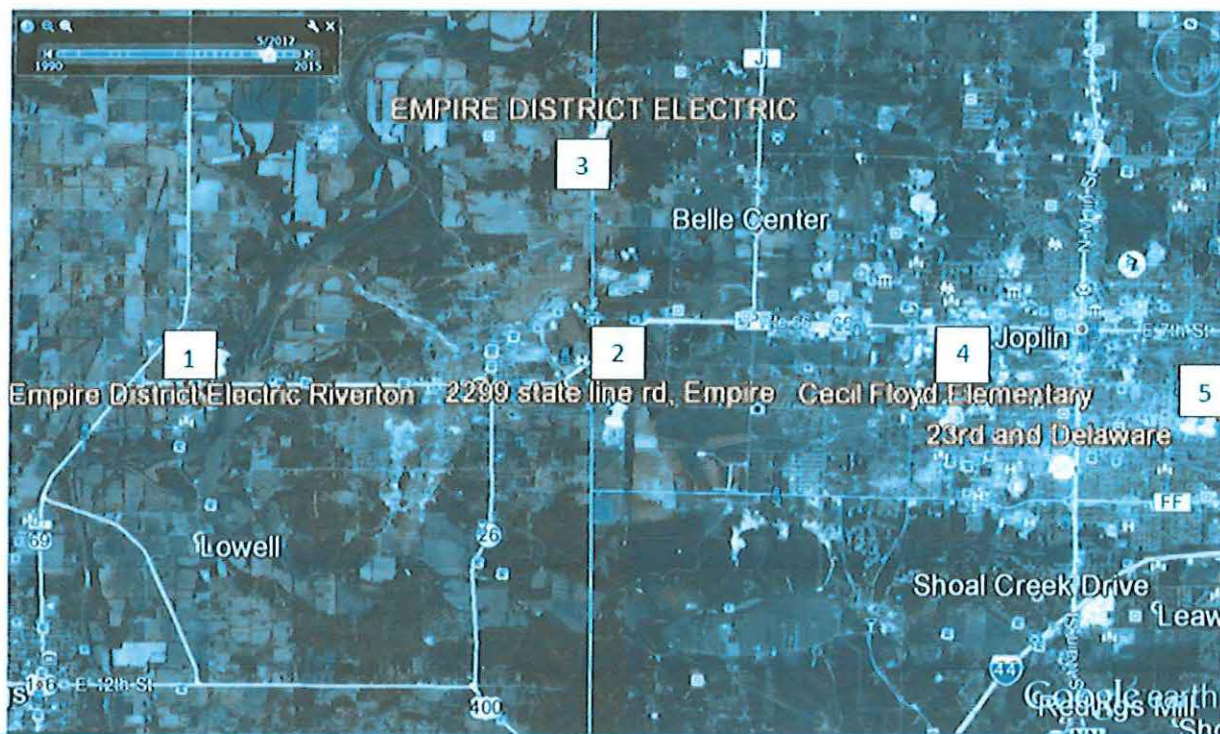
WHY DOES THE MDNR HAVE THE RIGHT TO 'CORRECT' THE PERMITS RATHER THAN FOLLOW THE CLEAN AIR AND WATER ACTS IN THEIR ENTIRETY? (WITH THEIR EXPIRED PERMITS)...

Coal ash overview

The 1.05 billion tons of coal burned each year in the United States contain 109 tons of mercury, 7884 tons of arsenic, 1167 tons of beryllium, 750 tons of cadmium, 8810 tons of chromium, 9339 tons of nickel, and 2587 tons of selenium. On top of emitting 1.9 billion tons of carbon dioxide each year, coal-fired power plants in the United States also create 120 million tons of toxic waste. That means each of the nation's 500 coal-fired power plants produces an average 240,000 tons of toxic waste each year. A power plant that operates for 40 years will leave behind 9.6 million tons of toxic waste.[5] This coal combustion waste (CCW) constitutes the nation's second largest waste stream after municipal solid waste.[6]

http://www.sourcewatch.org/index.php/Fly_ash

The proximity of Cecil Floyd Elementary, in Joplin, MO, is about 5 miles to Empire-Joplin, about 10 miles away from Empire-Riverton and about 15 miles away from Empire Asbury, with the 6th worst air in the USA, according to USATODAY:



¹Empire Asbury, ²Empire Riverton and ³Empire Joplin (on State Line Road KS/MO border).

High Chromium and Manganese were noted as the major pollutants at Cecil Floyd Elementary making ⁴Cecil Floyd's air the 6th WORST in AMERICA, according to USATODAY. ⁵I live a short distance further 'downwind' near 23rd and Delaware. There is another Empire plant in La Russel, MO, 20 miles east of Joplin!

Power for Empire was first produced from generation at the Lowell and Redings Mill hydroelectric plants.

{THESE TWO CITIES ARE ALSO WITHIN 20 MILES OF JOPLIN}

STATE LINE EMPIRE

- TOTAL REPORTED DIRECT EMISSIONS: 769,218.42
- CO2 NON BIOGENIC: 768476.9
- METHANE CH4 EMISSIONS 299.46
- NITROUS OXIDE N2O EMISSIONS: 442.06

And even though Empire is being made to become "cleaner", their contaminant will remain forever - still affecting our health.

RIVERTON, KS 7240 SE HWY 66

- **TOTAL REPORTED DIRECT EMISSION: 434,095.73**
- **CO2 NON BIOGENIC: 431614.2**
- **METHANE CH4 EMISSIONS: 792.96**
- **NITROUS OXIDE N2O EMISSIONS: 1688.57**

ASBURY, MO 21133 UPHILL LANE

- **TOTAL REPORTED DIRECT EMISSION: 1,315,016.11**
- **CO2 NON BIOGENIC: 1,305,034.5**
- **METHANE CH4 EMISSIONS: 3,171.84**
- **NITROUS OXIDE N2O EMISSIONS: 6,809.77**

How are biogenic CO2 emissions accounted for in facility totals? Facilities that burn biogenic materials such as wood are required to report total GHG emissions associated with the combustion of those biogenic materials. This file contains the total biogenic CO2 emissions reported by each facility.

Biogenic emissions are NOT included in the facility's total emissions or in the total emissions by process. Biogenic emissions were most commonly reported by electricity generation units, pulp and paper mills, landfills and other facilities combusting large amounts of fuel.

[\[xls\] Summary GHG Data 2011 \(as of January 16, 2013\)](#)

<https://www.epa.gov/.../sum...>

[United States Environmental Protection Agency](#)

(as reported under Subpart G or S), Is some CO2 reported as emissions from the ...
Gas and Electric Corporation, Poughkeepsie, NY, 12601, 284 [South Avenue](#) 938,
1001111, [110017996873](#), [State Line](#) (MO), JOPLIN, MO, 64804, [2299 S](#) ...

Empire does NOT deserve a rate increase. Indeed, they should be PAYING for the health care of many.