



**Friends of
Congaree
Swamp**

www.friendsofcongarree.org
Fall 2008

Advocates for Congaree National Park and its unique environment.

U.S. 601 Congaree Bridge Replacements: Conservationists win in federal court



Conservationists continue the fight to stop the U.S. 601 Bridge Replacements project as currently designed. We have sought an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act, which would properly analyze the impacts of the proposed project, so as to avoid and/or minimize adverse environmental impacts to the extent possible, and mitigate unavoidable adverse impacts.

Our federal lawsuit was filed two years ago – in September

2006 – charging that the Federal Highway Administration’s (FHWA) Environmental Assessment (EA) for the U.S. 601 Bridge Replacements project failed to comply with the National Environmental Policy Act (NEPA).

U.S. District Court Judge Margaret Seymour heard arguments September 9, 2008 in this lawsuit. Plaintiffs – Friends of Congaree Swamp, National Audubon Society (including Audubon South Carolina), and the S.C. Wildlife Federation – were represented

by attorneys Jimmy Chandler and Amy Armstrong of the S.C. Environmental Law Project. The defendant – Federal Highway Administration – was represented by the U.S. Dept. of Justice.

A key issue was the extent to which FHWA’s Environmental Assessment stated conclusions without presenting substantive documentation to support FHWA’s conclusions – that the proposed project would have minimal adverse impacts.

On September 30, 2008, Judge Seymour issued her Findings of Fact, Conclusions of Law, and Order. She wrote, “In the absence of an EIS, an inadequate EA compels the conclusion that Defendants failed to take the ‘hard look’ required under NEPA. This court makes a declaratory ruling that in its current form, the EA violates NEPA. Defendants are enjoined from further actions on the bridge program until this deficiency is resolved or a new environmental study, either a modified EA or an EIS, is submitted.”



Dr. John Grego

Floodplain Fill

10 months after a second hearing, Richland County Council passed a new ordinance for Fill in the Floodplain (Section 26-104(d)(2)(j)) as a consent item on October 7, 2008. The version that passed was crafted May 22, 2008 as a compromise amendment, though it included almost every measure that the environmental community had requested. Specifically, it recommended

- **Fill should be a method of last resort.** The amendment stated that other building methods, including elevated structures, should be considered first.
- **Fill should be minimized.** The amendment required that fill should be limited to elevating individual structures and necessary infrastructure, and that fill should not be used for landscaping purposes.
- **Fill should minimize risk to neighboring properties.** The amendment did not allow fill if it affected neighboring properties.
- **Cumulative impacts must be considered.** Watersheds deteriorate not from any single small action, but from cumulative effects of many small actions. The amendment required that the cumulative effect of ongoing projects be considered in measuring impact.
- **Compensatory storage should be used.** When fill is used, the amendment requires on-site excavation (compensatory storage) to reduce impacts to reduce flood risks to neighbors.

In addition to its environmental benefits, we feel that the new amendment will lead to lower insurance rates through FEMA's Community Rating System. This was an exciting and long-awaited outcome, and Friends would particularly note the work of Carol Kososki and the Gills Creek Watershed Association, the Richland County staff, and Congaree National Park personnel.

Stormwater Ordinances

No sooner does one contentious fight over draft ordinances end, then another commences. Richland County must amend its stormwater ordinances or face current and pending fines from the US Environmental Protection Agency (through SC DHEC) for non-compliance with NPDES (National Pollutant Discharge Elimination System) standards.

County Council has already approved staff amendments in its first reading, but on Monday, November 10, the Richland County Planning Commission (a group of appointed county citizens) passed a draft set of amendments that are quite different from the staff's amendments. As with the floodplain fill ordinance, both a county staff version and a planning commission version will be brought to County Council, which has scheduled a second hearing (with public input) for November 25.

Friends of Congaree Swamp has been active preparing action alerts, speaking at public hearings, and providing detailed comments to County Council in favor of the staff version. Changes in stormwater ordinances have much broader implications than the layperson might anticipate. In particular, the ordinances propose wider streamside and lakeside buffers than in the past.

The staff language for buffers is based on guidelines from the Center for Watershed Policy, with some modifications. Essentially, permanent rivers and streams would have a buffer of 100 feet (or the width of the floodway, whichever is greater); buffers would be narrower for lakes and intermittent streams.

Additional changes and discussion points include:

Lexington County and streamside buffers.

County staff has proposed streamside buffers that are essentially compatible with standards Lexington County Council has recently passed--unanimously. Uniform standards for water resources that do not always follow county boundaries are a responsible method for managing our water resources.

Congaree National Park and streamside buffers.

Most waters within the park are Outstanding Resource Waters, while Cedar Creek is the state's only designated Outstanding National Resource Waters. The park's water resources can only be protected if the streams flowing into the park are managed responsibly. Sensible streamside buffers are an effective and economical method for protecting the Park's waters and enforcing its Outstanding Resource Waters designation.

Gills Creek Environmental Protection

Overlay District. The new code would create an Environmental Protection Overlay district to protect and restore the impaired Gills Creek watershed. This overlay district would ensure that no variances, waivers or exemptions of stormwater ordinances would be permitted, and that no land development activity could further harm water quality in Gills Creek.

Maintaining and managing buffers. The staff ordinance creates a "no disturbance" zone along the buffer absent a buffer restoration plan, including sensible restrictions on pesticide application, disturbance of natural vegetation, and conversion of native vegetation to non-native species. At the same time, the ordinance allows appropriate uses within the buffer, including transportation and utility rights-of-way, and public access.

The planning commission's amendment drastically reduces streamside buffers for streams and rivers (such as Gills Creek and Congaree River) with wide floodplains, and creates special exceptions for almost any property that has had some land development activity in the past.

The staff version will likely require some amendments in order to pass council. A final version of the

ordinance may include additional features of the Center for Watershed Policy's recommendations, including separate buffer zones with varying levels of protection and permissible activities depending on proximity to the river. Other features allow buffer averaging (with an enforced minimum buffer width) and compensation for increased housing density; the latter feature is already part of Richland County's new "Green Code".

Cell Tower Appeal

On March 5, 2008 the Richland County Board of Zoning Appeals (BOZA) had approved a special exception for Alltel to construct a 275-foot lighted cell tower on Blackberry Road near Congaree National Park. Through our attorney Robert Guild, Friends of Congaree Swamp had filed a notice of appeal and request for judicial review with the state Court of Common Pleas. The appeal was heard on Monday, October 6 at the Richland County Courthouse by Judge John Milling. Bob Guild argued quite persuasively that Alltel failed to present evidence that (1) the tower would not harm migratory birds and (2) an antenna could not be located at Nextel's Wolfe Road tower (north of Bluff Road near the intersection of Bluff Road and South Cedar Creek Road).

Judge Milling ruled that BOZA had not supported its conclusion that the tower would not harm migratory birds and remanded the case to BOZA to amend its order. Using language provided by Alltel, BOZA amended its order on November 5 to satisfy Judge Milling's request for more documentation.

This decision, which would allow the tower to be constructed with no additional changes, will be finalized when BOZA adopts its November minutes at its December meeting, unless Friends of Congaree Swamp chooses to once again appeal BOZA's order. At the current time, we are weighing our options in consultation with Bob Guild.



Robin Carter, age 62, passed away at his home Saturday morning, November 1 in the company of his wife of 40 years, Caroline Eastman.

Friends of Congaree Swamp had presented Robin Carter with its highest award, the Order of the Cypress, during the 2008 Dawn Chorus to thank him for his contributions to Congaree National Park since he and Caroline moved to Columbia in 1985.

Robin initiated the Dawn Chorus at Congaree National Park in 2005. It remains one of only a handful of North American events held on International Dawn Chorus Day. He also started the Congaree Bluffs Hawk Watch in 2001, which over the years has accounted for many of the most important bird sightings at the park.

In addition to the chorus and hawk watch, Robin originated the Congaree Swamp Christmas Bird Count in 1994, and served as compiler for many years. Since its inception, the CBC has recorded some of the highest concentrations of over-wintering species in the country.

Robin's most important contribution to the Park was his comprehensive database on bird sightings dating to 1978, summarized in both a published species checklist and published annotated bird list.

Robin had taken an interest in sound recording, and planned to produce a CD of bird and amphibian soundscapes at the park. Robin's other contributions as a naturalist included his participation as a group leader in the North American Butterfly Association annual counts at the park.

A memorial will be held for Robin the evening of Sunday, December 28 at the Unitarian Universalist Fellowship of Columbia (2701 Heyward Street) to coincide with the Columbia Christmas Bird Count. Additional details will be announced.

Caroline Eastman, Robin's wife of 40 years, has suggested that contributions in Robin's memory can be made to Friends of Congaree Swamp.

Upcoming Field Trips & Events

Congaree Swamp Christmas Bird Count

Sunday, December 14, 2008

7:00 AM — After-hours parking lot

Each year since 1900, bird enthusiasts have been conducting Christmas Bird Counts in North America. A Christmas Bird Count (or CBC) is an all-day effort to find and identify as many wild birds as possible within a 15-mile diameter circle. This effort, which now includes over 2,000 circles and 50,000 participants annually, is sponsored by the National Audubon Society; results may be reviewed at <http://www.Audubon.org/bird/cbc>. We have a CBC for the Congaree Swamp (founded by Robin Carter) that includes most of the national park and adjacent areas, from Gadsden in Richland County to St. Matthews in Calhoun County.

We have had some interesting counts recently. In 2006, with 4 teams from the Ivory-billed Woodpecker research group helping out, we observed the largest number of Barred Owls in the country, and were second in the country for three different woodpecker species. Last year, two different parties saw a White-tailed Kite, and a huge flock of blackbirds blanketed fields in Lower Richland County.

Join us to help out. You do not have to be an expert birder, just someone who wants to help and is willing to walk a few hours on the park trails. You may stay as long as you like--many participants stay for a few hours, but some will bird all day. Meet at the after-hours parking lot at 7:00 AM on Sunday, December 14, 2008. There is a \$5.00 participation fee that goes to the National Audubon Society to help cover the costs of processing the data.

If you have any questions please contact John Grego:

Home — (803) 783-9270

Work — (803) 777-5110

Cell — (803) 331-3366

Home — jrgrego@mindspring.com

Work — Grego@stat.sc.edu

Exploring Red Bluff Road

Congaree Natinal Park:

Meet in the After-Hours Parking Lot

Saturday, January 24, 2009

from 9 AM—2 PM

Red Bluff Road runs along the northern edge of the park between South Cedar Creek Road and Griffin Creek Road. If you have traveled along the road, the habitat doesn't look very inviting, dominated as it is by early successional loblolly pines. The road is regularly intersected by jeep trails, though, that lead to attractive beech bluffs along Cedar Creek. Rather than travel along the road itself, which is not in the Park, we will hike along a firebreak cut by Park staff a couple years ago and explore Cedar Creek along the designated jeep roads. Depending on time, we may hike to the farthest jeep trail and visit Elder Lake, which you may visited paddling, but likely haven't visited on foot.

This hike will be mostly along jeep roads and fire breaks; there may be some wet spots to negotiate and you'll have to watch your footing with all the stumps on the firebreak. Participants should be in moderate physical shape. Bring water and a snack and a couple extra layers--weather is likely to be unpredictable in late January. Light hiking shoes or boots are appropriate. This hike is limited to the first 30 people to sign up. We will meet in the after-hours parking lot.

Call John Grego to register:

Home — (803) 783-9270

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Jim Elder Cypress Hike, 2008



Photo by Jerry Bright

Nearly 30 Friends and supporters had a nice Saturday morning hike on October 4 to see the Jim Elder Cypress, at 27 feet in circumference one of the largest virgin cypress in the Park. This was the same tree Jim and I found, and lost, more than 30 years ago.

We got permission for a private landowner to access an old logging road near Kingville – it's a short stretch of only a few hundred feet until we came to the Park boundary on the west side of the Norfolk-Southern Railroad. After a quarter mile or so, we turned south on another old log road that borders the edge of Tom's Creek Slough. Much of the forest we passed through was a former private in-holding that had been cut-over in the 1980s. It was recovering nicely, however, and one day should be a nice mature hardwood forest.

The narrow log road – an open corridor between two forest edges – made for ideal spider habitat and we saw a fair number of golden silk spiders as well as other species. This

large spider, sometimes called the banana spider, was, before global warming, a resident of the outer coastal plain and I don't recall seeing it in Congaree until about 8-10 years ago.

The log road eventually petered out and we continued southward on the edge of Tom's Slough. If we had been here more than 200 years ago, we could have possibly seen, of all things, a carriage going by hauling passengers or freight as we were basically following the same track to and from Huger's Ferry on the Congaree River that operated from 1787 to about 1792. We intended to do a little detour on the way back to see the old bridge abutments where the Ferry crossed Running Lake but time got a little short on us and we will have to save it for another trip.

We started bush-whacking our way southeast but the walking was easy and dry. We came to the edge of a shallow gut that was dry and eventually arrived at our destination after about 2.5 miles from the vehicles.

Our first virgin cypress, high and dry near the edge of the shallow gut, was a real beauty and nearly 25 feet in circumference. It appeared pretty solid to us and why it wasn't removed 100 years ago when most of the virgin cypress was logged in Congaree is unknown.

The Jim Elder cypress was only about 200 feet south of this one but it was in a lower area with standing water which may have accounted for the fact that it had a bigger buttress, or butt swell as the loggers call it. This virgin cypress could have possibly been a state champion except about 25 feet of the top was blown out by Hugo. We could see the young sprouts growing up from the broken top. This is not an uncommon feature in the Congaree's old cypress and points out

how windstorms shape and influence this dynamic forest.

After a rest for snacks/light lunch (one enterprising couple even had some wine), we headed back to the vehicles and got back only about 15 minutes past our announced return time of 1:00, surely a record for a John Cely hike.



Photo by Joe Kegley



Photo by David Hatfield



Photo by David Hatfield



Photo by David Hatfield

Field Trips & Events in Review

Annual Meeting Held at Dolin Hill

On October 26, the Friends of Congaree Swamp gathered at Dolin Hill on a beautiful Fall afternoon for our Annual Meeting. Our host Dick Watkins, John Cely, Andy Fiffick and Bob Render spent many hours clearing brush and mowing grass in preparation for the event.

Dick Watkins and John Cely led separate groups down the bluff to the Congaree River at the mouth of Butler's Gut Creek, passing the Dolin family's cabin along the way. On the way down to the river, John Galbary spotted a small canebrake rattlesnake camouflaged among the leaves.

At the annual meeting, our host Dick Watkins provided a brief history of the Dolin family, who settled in the area in the 1830s. We recognized our guests from the Park Service, including Superintendent Tracy Swartout, her husband Tom, and newborn son Grayson Parker Swartout, Fran and Elizabeth Rametta, John Torrence and Theresa Yednock. One-month old Grayson received a copy of *Southern Swamp Explorer* by Irene Brady, and a certificate for "future contributions" to the park.

Friends then recognized long-time Board member Eleanor Niestat, who is stepping down this year, for her contributions to the organization. Webmaster Ed Kujawski, who could not attend, was also recognized. In addition to maintaining our website, Ed monitors the Board's web forum and set up the Smart Cayce website.

Five of our current Board members agreed to put in their names for nomination for 3-year terms, including Secretary Carol Kososki, Virginia Winn, LaBruce Alexander, Treasurer Dennis Poole, and Carolyn Hudson. In addition, Marie Adams, Co-Chair of Swamp Fest and Director of SERCO (South East Rural Community Outreach) was nominated. The new

Board members were elected by acclamation.

Andy Fiffick and our caterer, Billy Mote had been hard at work grilling chicken and roasting oysters, and we settled in to a dinner of grilled chicken, roast oysters, chili, butternut squash soup, and roast vegetables. Friends Board members provided desserts. We would like to give a final thanks to Andy and Bob Render, who provided beverages and much of the set-up for dinner and the event.

Photos by Virginia Winn





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Advocates for Congaree National Park
and its unique environment.

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Yes, I would like to support conservation of Congaree Swamp for future generations. Enclosed is my tax deductible contribution of \$ _____. Please make your check payable to Friends of Congaree Swamp.

\$ 15.00 Individual \$ 50.00 Advocate \$ 500.00 Benefactor \$ 50.00 Nonprofit Org.
 \$ 35.00 Family \$ 100.00 Partner \$ 1000.00 Patron \$ 1000.00 Corporate

New Member Renewal

I would like to work on the following committee(s):

Name(s): _____
Mailing Address: _____
City: _____ State: _____ Zip: _____
Hm Phone: (____) _____ Wk Phone: (____) _____
E-mail: _____

Field Trips Fundraising
 Public Relations Membership
 Education Advocacy
 Events Newsletter
 Research Other: _____

In addition to my membership, I would like to give \$ _____ as a donation to Friends of Congaree Swamp:
In Memory of: _____
In Honor of: _____
As a Gift Membership to: _____

Please provide contact information so we can inform the person or family:
Name: _____
Address: _____
City: _____ State: _____ Zip: _____

I would like to order the following items (proceeds benefit FCS projects): \$ _____ enclosed.
 copies of the beautifully detailed **"Map of Congaree National Park and Vicinity"** @ \$12.95 each/plus \$3.50 s/h
 copies of **"Images of Congaree Swamp,"** a 64-page, full color, photographic book of the park @ \$10 each/plus \$3.50 s/h

Thank You For Supporting Friends of Congaree Swamp!
Friends of Congaree Swamp, PO Box 7746, Columbia, SC 29202-7746
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