

## UPDATE - MAY 2005

Shortly after filing our lawsuit in March 2005, the Corps of Engineers reconsidered their position and in a letter dated May 5, 2005 notified airport officials that they now have decided that the wetlands are jurisdictional waters. This is based on a determination that there is a connected to the Falling Water River via the nearby cave system through which the stream leaving the wetlands flows - as shown by our dye study of last year and in the photos below.

It is yet to be seen if they will now apply for a Corps 404 permit or how the state will handle their previously issued permit (401/ARAP) - and what are the ramifications for all the other similar wetlands in the area that also flow through sinks and caves, but were not covered by Corps permits since they began making "non-jurisdictional determinations following the SWANCC decision and subsequent new policy directives of less permitting, that resulted in situations like this case.



### Sparta Wetland

Next to the Sparta Airport [aka the Cookeville-Sparta airport or the Upper Cumberland Regional Airport in White County, Tennessee is a beautiful high quality wetland. Certain interests have decided this small airport needs to be expanded and the only way to do so is to fill in this wetland - destroy it completely.

The Corps of Engineers decided it is an "isolated" wetland as per a bad understanding of a recent Supreme Court case, and thus is beyond their regulatory scope - that is they don't need a permit.

The state (TDEC) decided it is regulated waters, and of high quality (Tier 2), but issued a permit anyway - apparently over the objections of various staff scientists in state and federal agencies. They also decided that they don't need to fool with the state's Antidegradation regulations - even the newly negotiated rules that came out of the settlement of the Spencer case.



So, first we decided to go see if this thing was "isolated". What we found was a stream flowing out of the wetland (through a pipe, no less - hardly an isolated body of water)



Then flowing through a small valley

...and into a cave seen below next to a local neighbor helping us on this case.

Further down the valley is the Falling Water River and various other streams, springs, sinkholes, and caves - some of which have water flowing out of them like this one



We are now working with several other groups and individuals to save this fine wetland, as well as challenge the state's position that the permit is proper (and the Antidegradation rules were not violated) - and the Corps' position that this is an isolated wetland and not subject to regulations and protection under the Clean Water Act.