

Dear Reviewing Officer

Michael Bamford hereby submits this request to intervene into the Chattooga Conservancy Appeal (CC) appeal, dated posted October 19, 2009, of the following three recent decisions:

- Decision Notice and Finding of No Significant Impact for Amendment #22 to the Nantahala and Pisgah National Forests Land and Resource Management Plan. Managing Recreation Uses on the Upper Chattooga River. USDA Forest Service. Nantahala and Pisgah National Forests. August 2009. File Code 1900. Deciding Officer: Marisue Hilliard.
- Decision Notice and Finding of No Significant Impact for Amendment #1 to the Sumter National Forest Revised Land and Resource Management Plan. Managing Recreation Uses on the Upper Chattooga River. USDA Forest Service. Sumter National Forests. August 2009. File Code 1900. Deciding Officer: Monica J. Schwalbach.
- Decision Notice and Finding of No Significant Impact for Amendment #1 to the Chattahoochee-Oconee National Forests Revised Land and Resource Management Plan. Managing Recreation Uses on the Upper Chattooga River. USDA Forest Service. Chattahoochee-Oconee National Forests. August 2009. File Code 1900. Deciding Officer: George Bain.

This request was submitted electronically to the reviewing officer and to Buzz Williams from the Chattooga Conservancy.

Sincerely,

Michael Bamford

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The Chattooga Conservancy has probably done more work toward attempting to broker a reasonable compromise between the kayak lobby and the other affected parties, than any other organization. In 2006, the Conservancy proposed that boat access to the headwater be limited by overall numbers per day, to the river below Bull Pen, and when flows were over 2.8' (700cfs). If accepted by the kayak access lobby in 2006, this would have reduced the resources applied to this process over the past three years. In 2006, Mr. Williams went to American Whitewater with this olive branch in order to avoid the huge waste of resources being expended on the "upper Chattooga study"; the compromise was scornfully rejected by AW officers.

The Chattooga Conservancy's 2009 appeal alters their originally proposed water level to 450cfs, but has mostly remained unchanged since 2006. The Conservancy proposal offers some excellent suggestions that should at least be considered, before publishing a final agency decision.

The Conservancy's proposal reevaluates some of the variable used to define the current set of alternatives. These include allowing additional boat access based on, flow level, location, season and user limits. Since a limiting threshold, based on any single variable, offers no workable solution, a combination of thresholds for each of these variables have been adjusted. The Conservancy alternative in their appeal provides a unique combination of these variables.

This *Request to Intervene* provides comments on each variable within the proposed Conservancy alternative.

1) Quantity limits.

The Conservancy alternative proposes that limits on the total number of boats¹ allowed per day will sufficiently reduce the environmental impacts, it also allows the

¹ Restriction on the boat (which is not a legal entity and therefore has no legal rights), similar to the language the USFS has used to limit bikes, ATVs 4x4s etc, might help clarify that the activity not the visitor is restricted.

USFS to better monitor and evaluate the impact boats will have on the social and biological environment. Obviously, more boats create greater impact on the ecosystem and will increase the number of encounters. However, the increase in encounters associated with expanding boating to the upper Chattooga is not a simple linear equation based solely on the number of boats visiting; encounters levels with boats grows exponentially based on the number of “other” dispersed visitors on the Chattooga, whenever the USFS declares a boatable day.

Since boaters utilize the river as a pathway (water trail), they will increase encounters along the river far more rapidly than by just adding one more hiker to the resource. If the goal is to reduce encounters, the best policy of zoning is already in place. One floating group traveling down the stream will encounter all other visitors at the river. Conversely, dispersed visitors enjoying the river utilize the dispersed trails system to visit the numerous sites along the river and because of the vast trail system, are less likely to encounter other dispersed visitors.

A parade analogy might best explain my point. Assume that the boaters are *floats* in the parade, and that dispersed visitors are the parade *spectators*. Both spectators, and floats, move to, and through, the parade route uniquely. From numerous side streets, spectators stop along the route, while floats travel one-way down the route. The parade is designed to maximize opportunities for spectators to view passing floats. Dispersed spectators can view every passing float, but they will encounter only a small fraction of all other spectators.

Similar to the parade, turning the Chattooga into a paddle route, will increase the encounter rate significantly quicker, than would adding one more dispersed visitor into the corridor. However, unlike the parade, maximizing wilderness encounters is not the desired effect.

Paddlers have long lobbied for resource managers to reduce riverside trails access in order to provide a better wilderness experience for paddlers. It is time river managers acknowledge the converse is also true, that fewer paddlers can improve the wilderness experience for dispersed visitors to a Wild and Scenic River. Since 1976,

the management of the upper Chattooga has maximized the opportunities for remoteness and protected the value of solitude and remoteness for the dispersed visitors, this should continue.

Although the limits on overall number of floaters per day would help ecological impacts, a zoning policy which separates boaters from dispersed visitors would best minimize the overall number of encounters. Once the benefits of the current Chattooga River zoning policy is documented (similar to land-based policies), the separation of these two forms of recreation will indicate that the best solution is already in place.

The USFS selected alternative (#4) which only allows boating in the Winter, when the fewest dispersed visitors are in the corridor. A Winter-only alternative will likely result in far fewer encounters, than the Conservancy proposal because fewer hikers are visiting the river during the winter months as outlined in the car-count visitor data collected during the 2007 VAC.

Limits on the number of boats alone may not result in the ideal policy, the time and location of non-angling dispersed visitors must first be considered. Although I agree with the Conservancy that the overall number of boats per day should be managed, I disagree that those limits alone will result in the best policy for dispersed visitors.

2) No Boats above Bull Pen on the Chattooga Cliffs gorge.

I agree 100% with the conservancy appeal; Bull Pen would be a far better canoe launch site. Below are some points not included in the Conservancy Appeal.

- a) The Recreation Plan- within the 1971 Chattooga Wild and Scenic River Study- indicate that "bull pen" would be the upper most *launch site* associated with the Chattooga River. Since the Recreation Plan submitted to congress, did not to include Grimshawes Bridge as a launch site, congressional intent could NOT

have included the area above the Chattooga Cliffs for boating. (see attached 1971 Recreation Plan, Appendix I)

The paddlers have erroneously claimed in their administrative and judicial appeal, that Appendix I from the 1971 study suggests boating start at Grimshawes bridge.ⁱ

- b) The number of new trails for portaging, and impacts with the stream bed, were at first reported in the 2007 expert panel report² outsourced analysis and then ignored in the 2009 Environmental Assessment. The expert panel reported that some boaters impacted the river over 40 times during the two-mile Chattooga Cliffs stretch and some boaters reported too many impact with the riverbed to count.

The 2009 AW et al. Administrative Appeal (Paddler Appeal) cites the designation literature which notes that "*many dangerous portions must be portaged*" (id at 19) & "*requires frequent portages around difficult cascades and narrow sluices.*" (id at 17).

The designation literature also noted that "*two-thirds of a day are required to raft the first 2 ½ miles of this section[Chattooga Cliffs Gorge] because of the many portages*"³

The designation literature indicates extensive use of the riparian zone in the Chattooga Cliffs; this is far more impact than what was considered in the EA. Given the rare-species inventoried in this section, it appears unwise to allow paddling at any time within the Chattooga Cliffs Gorge.

- c) Section 10 of the Wild and Scenic River Act helps prioritize dilemmas between conflicting goals associated with the numerous Outstanding and Remarkable Values. The Act mandates that a *primary emphasis* should be placed on

² 2007 Expert Panel Study Report Pg 29, paddlers required as many as 5 portages and 7 incidents of scouting on the Chattooga Cliffs reach.

³ Pg 9, 1970 Chattooga WSR proposal.

protecting the scientific, historic scenic and esthetics values, over demand for recreation.

The 2009 EA evaluates each of the proposed alternatives for ecological impacts. The Chattooga Cliffs stretch includes all five of the five rare species found in the sensitive headwaters reach, four of the five rare species were found nowhere else in the watershed. The protection of rare plants supersedes recreational whims under the governing WSR statutes.

While citing the designation literature the Paddler Appeal argues that only boats could possibly access remote stretches in Chattooga Cliffs. The kayakers reference designation literature that *"Many of the pools and canyon-enclosed sections are 10-20 feet deep and impossible to wade by hikers and fishermen."* (id at pg 18). Given that the only possible access into the sections -where rare flora species were found- is by paddling, than only paddling could possibly impact this currently undisturbed habitat. Both the lack of boat access, and the area's topography, has protected the sensitive spray zone habitat, altering the paddling restrictions will remove the habitat protection.

Protecting the Chattooga Cliffs by avoiding new access by boat, or by encouraging greater access by foot via new trails, is an excellent suggestion from the Chattooga Conservancy.

3) Year-round v. Seasonal restrictions

Much of the argument against seasonal restrictions is covered in section 1) above.

The Conservancy alternative eliminates all season restriction from the selected alternative and relies solely on the flow level limits and limits on the number of overall users to minimize overall impact. By looking only at the 2009 Environmental Assessment, this would appear to be an equitable premise for an additional alternative. However, the EA does not provided some key details regarding the benefits associated with seasonal restriction. These details include....

- a. The 2007 Hydrology Report pointed out that ***"In the Summer period, a boater might require a starting flow of closer to 450cfs to assure at least 225cfs remains in the channel as the hydrograph descends."***⁴ The abrupt changes in flows during the growing season would not separate anglers from boaters on the Chattooga North Fork.
- b. The Conservancy points out the numerous other visitors enjoying the experience will be affected by any boating during all flow levels. One Chattooga Capacity report agrees and notes that *"activities such as hiking, camping, walking, biking, wildlife observation, photography and similar riverside recreation can often occur along a river regardless of the flow, but flows may enrich the experience with aesthetic benefits"*.⁵ The higher flows do not deter hiking visitors as it does for anglers.

The USFS published car counts at key access points as part of the capacity study⁶. The vehicle use data for Bull pen and Fish Hatchery/Cherry Hill Area indicated that fewer people visited the Chattooga during the winter but March through November had a significant number of visitors. The car counts indicate most dispersed use (over 95%) happens outside of the winter season.

Seasonal restrictions help minimize encounters with hikers, swimmers and other dispersed visitors whom are least likely to visit during the Winter. For this reason, I disagree with the Conservancy appeal assertion that flows and limits on the number of boaters alone would best *protect and enhance* the experience of dispersed visitors.

4) Flow levels threshold of 450cfs

The Conservancy is correct that 'nothing within the 2009 published EA supports the premise that the angling experience above 450cfs requires protection.

⁴ p. 11, *North Fork Chattooga River; Streamflow Character*. Hansen 2007

⁵ Pg 29 *Chattooga River Capacity Analysis; Literature Review Report*, Lois Berger group 2007 USFS]

⁶ http://www.fs.fed.us/r8/fms/sumter/resources/documents/chattooga_vehicle_use_data_0906_0807.pdf

However, the Conservancy also points out that the EA is biased (id pg 2 CC appeal), therefore the lack of justification in the EA alone, should not be used to assess the validity of the 450cfs threshold of boating in the agencies selected alternative.

The 2004 Sumter FEIS assessed one alternative that would have allowed boating *below-Burrells-Ford only when flows above 450cfs* (see appendix H). The 2004 FEIS presented angling data from two DNR surveys in a simple matrix. The data indicates that fishing remains very popular up to the 450cfs water level, but then drops off above the 450cfs level. Some anglers were surveyed fishing the Chattooga North Fork up to 700cfs, but fewer anglers were present on the above the 450cfs level. The study was conducted below and around Burrell's Ford bridge.

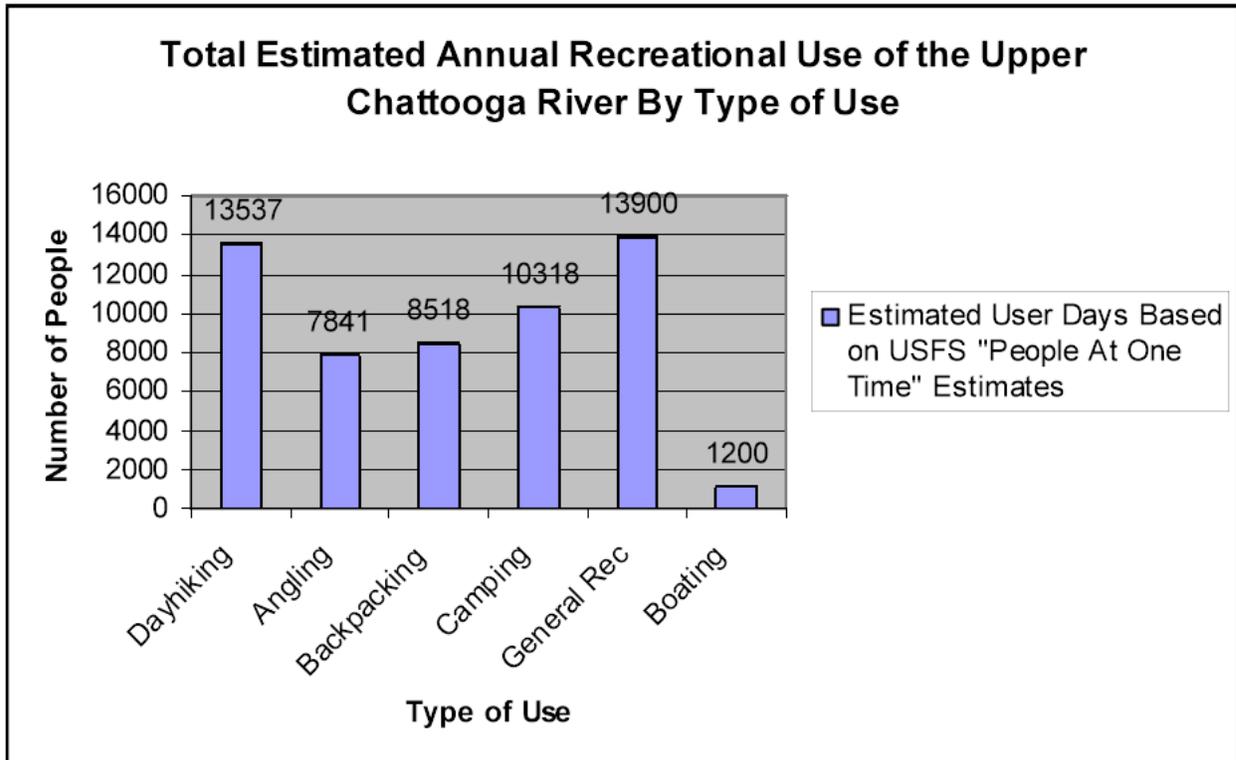
Although the DNR reports indicate far fewer anglers above the 450cfs flow levels, it does indicate that some anglers still visit above 450cfs and does not suggest other dispersed visitors are not present at the Chattooga above 450cfs.

Visitor Capacity is not just about anglers and boaters at various flow levels, yet this is the focus of the 2007 study and most of the visitor debate. One of the Chattooga Reports found that "*[A]ctivities such as hiking, camping, walking, biking, wildlife observation, photography and similar riverside recreation can often occur along a river regardless of the flow, but flows may enrich the experience with aesthetic benefits*".⁷ Regardless of what the DNR or VAC angler data indicates, many other visitors are still visiting the Chattooga regardless of flows.

Page 134 of the Paddler Appeal provides a graph depicting that neither anglers nor boaters represent the majority of visitors, yet these two groups were the focus of the Capacity Study, the Environmental Assessment and still overshadows the capacity debate.

⁷ Pg 29 *Chattooga River Capacity Analysis; Literature Review Report*, Lois Berger group 2007 USFS]

Chart source: pg 134 of the AW et al., 2009 Appeal.



*Note that the number of boaters is estimated user days, not estimated PAOT.

According to this graph, establishing a policy to placate the whims of either boaters or anglers should not take precedence over establishing a policy that would *protect and enhance the values* associated with experience for day hiking and general recreation. For the Chattooga, these values were published as follows *"Currently, existing users are able to experience their desired recreation opportunity on the upper Chattooga whether they seek solitude, campsites near the water, a variety of hiking trails, fishing opportunities, or just an opportunity to enjoy the river environment, all without the possible interference from boats."*⁸ The graph highlights that establishing policy which would disrupt 95% of the North Fork visitors, in order to placate the whims of under 5% of the visitors - whom already have unlimited access to the river just a few miles downstream- is not an equitable premise for setting policy for the Chattooga North Fork.

⁸ Pg 129 of the 2009 Upper Chattooga Environmental Assessment.

Once the visitor capacity for the entire river, and all visitors, are considered, it will become clear that any policy which benefit boating (the activity representing the fewest number of people) or just angling (the second fewest), would result in a suboptimal balance of recreational allocation for the Chattooga.

Conclusion:

The Conservancy proposal offers some excellent points regarding limiting boating to below Bull Pen and limiting the daily quantity of boats allowed per day. However, eliminating seasonal restrictions would likely have a larger impact on opportunities for solitude currently available to Chattooga dispersed visitors. Once the capacity review is adjusted to consider the lower Chattooga and all visitors types, the Conservancy proposal should be revisited, or we may find that the best alternative all along has been the previous policy that zones boating to the river below Highway 28.

ⁱ Appendix I from 1971 study.

CHATTOOGA RIVER

Potential Recreation Development Plan
Summary

River Mile and Location	Proposed Classification	State	Type of Development - Proposed					
			Access Road Miles	Parking Lot Cars	Portage Each	Launch Site	Trail Miles	Campsite
53.6 Silver Slipper Falls	Scenic	N C	0.4 ¹	X				
51.5 Grimshaws	Scenic	N C		X				
48.9 Monroe House	Scenic	N C						X
46.0 Bull Pen	Wild	N C		X		X		
42.5 East Fork	Wild	S C						X
40.3 Burrells Ford	Wild	S C		X		X		X
29.1 West Fork	Rec	S C		X		X		
25.6	Wild	Ga			1			
25.4 Big Shoals	Wild	Ga						X
25.3 Piney Knob	Wild	S C						X
24.1	Wild	Ga			1			
22.4 Earls Ford	Wild	Ga		X		X	0.5	
	Wild	S C		X		X	0.2	
21.8	Wild	S C			1			
19.6 Dicks Creek	Wild	Ga			1		0.8	
19.1 Sandy Ford	Wild	Ga	1.0 ¹	X		X	0.2	
18.5 Narrows	Wild	Ga						X
18.2	Wild	Ga			1			
16.3 Buckeye Branch	Wild	Ga						X
15.5 Licklog	Wild	Ga		X		X	0.3	
14.7 Rhile Bend	Wild	S C						X
10.8 Bull Sluice	Wild	Ga						X
10.2	Wild	Ga			1			
10.0 Highway 76	Wild	Ga		X				
	Wild	S C		X		X		

Continued