

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

AMERICAN WHITEWATER, AMERICAN )  
CANOE ASSOCIATION, GEORGIA )  
CANOEING ASSOCIATION, ATLANTA )  
WHITEWATER CLUB, WESTERN CAROLINA )  
PADDLERS, FOOTHILLS PADDLING CLUB, )  
Joseph C. STUBBS, Kenneth L. STRICKLAND, )  
and Bruce A. HARE, )

Plaintiffs,

v.

THOMAS TIDWELL, in his official capacity as )  
Chief of the United States Forest Service; the )  
UNITED STATES FOREST SERVICE, an agency )  
of the United States Department of Agriculture; )  
ELIZABETH AGPAOA, Regional Forester, )  
Southern Region, United States Forest Service; )  
MONICA J. SCHWALBACH, Acting Forest )  
Supervisor, Francis Marion and Sumter National )  
Forests; MARISUE HILLIARD, Forest )  
Supervisor, National Forests in North Carolina; )  
GEORGE M. BAIN, Forest Supervisor, )  
Chattahoochee-Oconee National Forests; )  
THOMAS VILSACK, in his official capacity as )  
Secretary of the United States Department of )  
Agriculture; the UNITED STATES )  
DEPARTMENT OF AGRICULTURE, )

Defendants.

Civil Action No.  
8:09-cv-02665-RBH

DECLARATION  
OF  
James W. Bennett

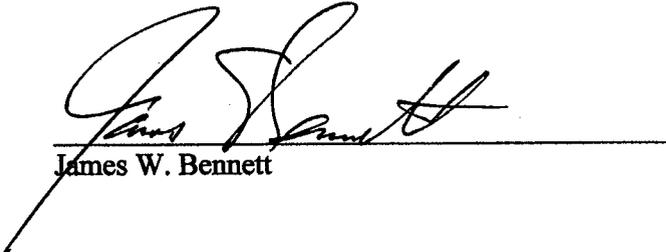
I, James W. Bennett, am employed by the United States Forest Service as Regional Appeals Coordinator. In that capacity, I have access to the documents described below and I make the following statements of my personal knowledge.

Attached hereto as Exhibit One are true and accurate copies of the three notices from the

relevant forest supervisors withdrawing the August 25, 2009, Decision Notices involving amendments to the Land and Resource Management Plans for (1) the Sumter National Forest, (2) the Chattahoochee-Oconee National Forests and (3) the Nantahala and Pisgah National Forests.

Attached hereto as Exhibit Two is a true and accurate copy of the dismissal by Ken S. Arney, Deputy Regional Forester, of all administrative appeals from the above Decision Notices based on the withdrawals of the Decision Notices.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge and belief.



James W. Bennett

December 30, 2009



Forest  
Service

Chattahoochee-Oconee  
National Forests  
Supervisor's Office

1755 Cleveland Highway  
Gainesville, GA 30501  
(770) 297-3000

File Code: 1570

Date: DEC 18 2009

Route To:

Subject: Upper Chattooga River Decision

To: Ken Arney, Reviewing Officer

On August 25, 2009 I signed a Decision Notice titled *Amendment #1 to the Chattahoochee-Oconee National Forests Revised Land and Resource Management Plan, Managing Recreation Uses on the Upper Chattooga River*. I am withdrawing the decision to allow for additional analyses to be documented in the administrative record. Withdrawal of this decision is effective immediately.

Upon completion of the additional analyses, I intend to issue a new decision. This new decision will be subject to administrative appeal pursuant to the Optional Appeal Procedures Available During the Planning Rule Transition Period (36 C.F.R. 219.35(b)).

A handwritten signature in black ink, appearing to read 'George M. Bain'.

GEORGE M. BAIN  
Forest Supervisor



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Forest  
Service

Francis Marion and  
Sumter National Forests

4931 Broad River Road  
Columbia, SC 29212  
803-561-4000

File Code: 1570-1

Date: December 18, 2009

Route To:

Subject: Withdrawal of Upper Chattooga Decision

To: Ken Arney, Reviewing Officer

On August 25, 2009 Acting Forest Supervisor, Monica J. Schwalbach, signed a Decision Notice titled *Amendment #1 to the Sumter National Forest Revised Land and Resource Management Plan, Managing Recreation Uses on the Upper Chattooga River*. I am withdrawing the decision to allow for additional analyses to be documented in the administrative record. Withdrawal of this decision is effective immediately.

Upon completion of the additional analyses, I intend to issue a new decision. This new decision will be subject to administrative appeal pursuant to the Optional Appeal Procedures Available during the Planning Rule Transition Period (36 C.F.R. 219.35(b)).

A handwritten signature in cursive script that reads 'P. Bradley'.

PAUL L. BRADLEY  
Forest Supervisor

cc: RO Appeals Coordinator



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United States  
Department of  
Agriculture

Forest  
Service

National Forests in North Carolina  
Supervisor's Office

160 ZILICOA ST STE A  
ASHEVILLE NC 28801-1082  
828-257-4200

File Code: 1920

Date: December 18, 2009

To: Ken Arney, Reviewing Officer

Subject: Withdrawal of Decision

On August 25, 2009 I signed a Decision Notice titled *Amendment #22 to the Nantahala and Pisgah National Forests Land and Resource Management Plan, Managing Recreation Uses on the Upper Chattooga River*. I am withdrawing the decision to allow for additional analyses to be documented in the administrative record. Withdrawal of this decision is effective immediately. Upon completion of the additional analyses, I intend to issue a new decision. This new decision will be subject to administrative appeal pursuant to the Optional Appeal Procedures Available During the Planning Rule Transition Period (36 C.F.R. 219.35(b)).

*Marisue J. Hilliard*  
for

MARISUE HILLIARD  
Forest Supervisor





United States  
Department of  
Agriculture

Forest  
Service

Southern Region

1720 Peachtree Rd., NW  
Atlanta, GA 30309

File Code: 1570-1

10-08-11-0013; -12-0014; -03-0015

Date: December 18, 2009

**CERTIFIED MAIL R.R.R.**

Appellants of the Upper Chattooga River Decision

Re: Appeals of Forest Supervisors George M. Bain's, Marisue Hilliard's and Paul Bradley's August 25, 2009, Decisions for Land and Resource Plan Amendments in Activities on the Upper Chattooga River

Dear Appellant:

We have received Forest Supervisor George M. Bain's (Chattahoochee Amendment #1); Acting Forest Supervisor Monica Schwalbach's (Nantahala-Pisgah Amendment #22); and Forest Supervisor Paul L. Bradley's (Sumter Amendment #1) December 18, 2009, withdrawal letters, respectively, regarding their Decisions on activities with the Upper Chattooga River Land and Resource Management Plans.

Those Decisions were the subject of your recent appeals. I am, therefore, dismissing your appeals, without review, in accordance with 36 CFR 219, Interim Appeal Regulations since the Responsible Officials (Forest Supervisors) have withdrawn their subject Decisions.

This is the final administrative determination of the Department of Agriculture.

Sincerely,

A handwritten signature in black ink that reads "Ken S. Arney".

KEN S. ARNEY  
Appeal Deciding Officer  
Deputy Regional Forester

cc: Chattahoochee-Oconee NFs  
NFs in North Carolina  
Francis Marion-Sumter NFs





United States  
Department of  
Agriculture

Forest  
Service

Southern Region

1720 Peachtree Rd., NW  
Atlanta, GA 30309

File Code: 1570-1

10-08-03-0016; -11-0017; -12-0018

Date: December 18, 2009

**CERTIFIED MAIL R.R.R.**

Appellants of the Upper Chattooga River Decision

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Sincerely,

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KEN S. ARNEY  
Appeal Deciding Officer  
Deputy Regional Forester

cc: Chattahoochee-Oconee NFs  
NFs in North Carolina  
Francis Marion-Sumter NFs





United States  
Department of  
Agriculture

Forest  
Service

Southern Region

1720 Peachtree Rd., NW  
Atlanta, GA 30309

File Code: 1570-1

10-08-03-0019; -11-0021; -12-0020

Date: December 18, 2009

**CERTIFIED MAIL R.R.R.**

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KEN S. ARNEY  
Appeal Deciding Officer  
Deputy Regional Forester

cc: Chattahoochee-Oconee NFs  
NFs in North Carolina  
Francis Marion-Sumter NFs





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Service

Southern Region

1720 Peachtree Rd., NW  
Atlanta, GA 30309

File Code: 1570-1

±0-08-03-0022; -11-0023; 12-0024

Date: December 18, 2009

**CERTIFIED MAIL R.R.R.**

Appellants of the Upper Chattooga River Decision

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This is the final administrative determination of the Department of Agriculture.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken S. Arney', written over a horizontal line.

KEN S. ARNEY  
Appeal Deciding Officer  
Deputy Regional Forester

cc: Chattahoochee-Oconee NFs  
NFs in North Carolina  
Francis Marion-Sumter NFs

