

**National Forest: Sumter**  
**Appeal: 10-08-12-0024**  
**Appellant: American Whitewater**

Numbered Item in Appeal	Issue or Sub issue	Alleged Violation of Law, Regulation, or Policy	Record Citation
105	Violation of Wild and Scenic Rivers Act by implementing a ban on boating on two of three sections of the Upper Chattooga.	Wild and Scenic Rivers Act	<p>WSRA, Section 10 (a);</p> <p>Environmental Assessment Chapter 1, Decision Notice Sect 4.0</p> <p>1971 W&amp;S River Study Report, p.22, p.49 Section C pp. 66-67, p.86-86, p. 108, Appendix F pp. 148-152, p.167</p> <p>1976 Development Plan Chattooga W&amp;S, Recreation p.11850 Nicholson Fields (Recreation), p. 11852</p> <p>Response to Comments, #s 487, 491, 506, 507</p>
106	Violation of Wild and Scenic Rivers Act by refusing to manage the ± two miles of Wild and Scenic River downstream of Grimshawes Bridge flanked by private property.	Wild and Scenic Rivers Act	<p>Environmental Assessment, Sect 1.5, Issue 5</p> <p>Jerome Thomas’s letter dated 9/26/2007 “Direction regarding alternatives”</p> <p>WSRA, Section 6 (b)</p> <p>1976 Development Plan Chattooga W&amp;S, Acquisition p.11850</p> <p>Response to Comments, #s 58, 92, 199-203,260, 330, 331, 428, 491</p>
107-108	There was no legally valid user capacity analysis conducted prior to issuing the 2009 Amendment to the 2004 plan, yet floating was banned on two of three sections of the upper Chattooga and virtually banned in the middle section.	Wild and Scenic Rivers Act, Appeal Decision	<p>Response to comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503.</p> <p>Environmental Assessment Chapter 2,</p> <p>Environmental Assessment Chapter 3 – Section 3.3.1, pp. 119-153.</p>
109, 112	Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which	Section 1281 of the WSRA	<p>Environmental Assessment Chapter 1,</p> <p>Decision Notice, Sect 4.0 &amp; Sect 6.0</p> <p>1971 W&amp;S River Study Report, p.22, p.49</p>

	caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. Boating does not substantially interfere with public use and enjoyment of river values, and therefore its use should not be limited.		<p>Section C pp. 66-67, p.86-86, p. 108, Appendix F pp. 148-152, p.167</p> <p>1976 Development Plan Chattooga W&amp;S, Recreation p.11850 Nicholson Fields (Recreation), p. 11852</p> <p><i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996</i>, pp 9-10</p> <p>Response to Comments, #s 138, 337, 401, 420, 523, 532</p>
110	The USFS failed to analyze, protect, manage, or enhance even a single Outstanding Remarkable Value (ORV) on the reach of the river flowing through private lands,	Wild and Scenic Rivers Act	<p>Jerome Thomas’s letter dated 9/26/2007 “Direction regarding alternatives”,</p> <p>Response to Comments, #s 58, 331, 357,427,428,491</p> <p>WSRA, Section 6 (b)</p> <p>1976 Development Plan Chattooga W&amp;S, Acquisition p.11850</p>
111,113, 114	Whitewater boating is one of the values that prompted Congress to designate the upper Chattooga River as a WSR. It therefore must be protected and enhanced, not banned. Floating must be protected and enhanced because in addition to itself being a stand alone value, it is also a fundamental component, one of the outstandingly remarkable values that caused the Chattooga to be included in the WSR system. Banning floating on over one-third of the Chattooga WSR—particularly on the cherished wilderness portions—destroys, rather than protects and enhances, this important value.	Wild and Scenic Rivers Act	<p>Environmental Assessment, Sect 1.1 &amp;1.3</p> <p>Environmental Assessment, Sect 3.3.1</p> <p>Environmental Assessment, Appendix A,</p> <p>Environmental Assessment, Appendix C</p> <p>Decision Notice Sect 4.0</p> <p><i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996</i>, pp 9-10</p> <p>Response to Comments, #s 487, 491, 506, 507</p>

<p><b>116</b></p>	<p>By banning floating on the upper Chattooga (with the de minimis possible exception of a few days in the winter on the middle section), violates the de minimis possible exception of a few days in the winter on the middle section), violates the Wilderness Act by imposing a virtual moratorium on a form of primitive wilderness recreation that the Forest Service is required to protect and enhance.</p>	<p>Wilderness Act</p>	<p>Environmental Assessment, Chapter 1, p. 3 , p. 5</p> <p>Environmental Assessment, Chapter 2, p.8</p> <p>Environmental Assessment, Appendix C</p> <p>Environmental Assessment, Appendix D</p> <p>Decision Notice Sect 4.0</p> <p>Response to Comments, #s 425,468,487, 491, 506, 507</p>
<p><b>117, 300, 307, 330</b></p>	<p>By banning floating on the upper Chattooga (with the de minimis possible exception of a few days in the winter on the middle section), results in an allocation of uses in the Ellicott Rock Wilderness that violates the Wilderness Act and regulations by promoting higher-impact uses over lower-impact uses</p>	<p>Wilderness Act , Forest Service Regulations</p>	<p>Environmental Assessment, Chapter 1, p. 3 , p. 5</p> <p>Environmental Assessment, Chapter 2, p.8,</p> <p>Environmental Assessment Chapter 3, PP. 120-123, 127</p> <p>Decision Notice Sect 2.0 &amp; 4.0</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> P.57 bullets 1, 3, &amp; 4</p> <p>Response to Comments, # 100, 176, 367, 410, 476.</p>
<p><b>118-125</b></p>	<p>Primitive recreation opportunities, powered kayaking and canoeing are wholly consistent with, and actually incorporated into, the Wilderness Act’s definition of wilderness</p>	<p>Wilderness Act</p>	<p>Environmental Assessment, Chapter 1, pp. 3-5</p> <p>Environmental Assessment, Chapter 2, p.8</p> <p>Decision Notice Sect 4.0</p> <p>Response to Comments, #s 318, 410, 487, 502</p>
<p><b>126</b></p>	<p>Defendant’s own regulations implementing and giving effect to the statutory requirements of the Wilderness Act define hand-powered canoeing and kayaking as wilderness complaint uses.</p>	<p>USFS Manual 2320.5.3</p>	<p>Environmental Assessment, Sect 1.1</p> <p>Environmental Assessment, Chapter 2, p.8</p> <p>Environmental Assessment, Sect 3.3.1</p> <p>Decision Notice Sect 4.0</p> <p>Response to Comments, #s 318, 410, 487, 502</p>

<p><b>127-134, 297, 301, 306, 317, 323</b></p>	<p>Congress protected wilderness areas for the “use and enjoyment of the American people,” not for the use and enjoyment of particular user groups to the exclusion of others.</p>	<p>Wilderness Act, 16 U.S.C. § 1133(b), 16 U.S.C. § 1131(c)</p>	<p>Environmental Assessment, Chapter 1, pp.3-5 Environmental Assessment, Chapter 2, p.8 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix D Decision Notice Sect 4.0 Decision Notice, Sect 6.0 Response to Comments, #s 408, 409,410, 413, 419, 420, 443, 451</p>
<p><b>136- 142,399</b></p>	<p>The Forest Service failed to attribute the appropriate “value” to boating the upper Chattooga and therefore could not possibly have properly balanced the mix of uses adequately.</p>	<p>MUSYA, 16 U.S.C. § 528 (1988)</p>	<p>Environmental Assessment, Chapter 1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix C Environmental Assessment, Appendix D Decision Notice Sect 4.0 Decision Notice, Sect 6.0 Response to Comments, #s 185, 186</p>
<p><b>143-148</b></p>	<p>Because Congress fixed the value of river recreation on the Chattooga WSR as “outstanding” and “remarkable,” the USFS should have accorded river recreation that same value, and should have given substantial value to the importance of preserving boating recreation. USFS has not attributed any value to floating on the Headwaters, by setting the amount of floating at zero while not limiting other uses. Therefore, the USFS has not given due consideration to the relative values in violation of the MUSYA.</p>	<p>MUSYA, 16 U.S.C. § 528 (1988)</p>	<p>Environmental Assessment, Sect 1.1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix C Environmental Assessment, Appendix D Decision Notice Sect 4.0 &amp; Sect 6.0 Response to Comments, #s 185, 186</p>

<p><b>150-157</b></p>	<p>The USFS did not adequately provide for multiple use of resources—specifically with respect to outdoor recreation. The USFS’s programming statement of intent that establishes planning guidelines basically bans all boating on the Headwaters, which constitutes more than 40% of the Chattooga River.</p>	<p>NFMA, 16 U.S.C.§ 1604(e)</p>	<p>Environmental Assessment, Sect 1.1  Environmental Assessment, Chapter 2  Environmental Assessment, Sect 3.3.1  Environmental Assessment, Appendix B  Environmental Assessment, Appendix C  Environmental Assessment, Appendix D  Decision Notice Sect 4.0  Response to Comments, #s 487, 491, 506, 507</p>
<p><b>159</b></p>	<p>The USFS failure to consider the outstandingly remarkable value of river recreation violates MUSYA. Therefore it also violates RPA and NFMA, which require the USFS to comply with MUSYA when managing the National Forests.</p>	<p>NFMA</p>	<p>Environmental Assessment, Appendix A  Environmental Assessment, Chapter 1 Purpose and Need pages 1-3  Environmental Assessment, Chapter 2, p.8, first paragraph  Environmental Assessment, Chapter 3, Section 3.3.1 pages 116, 120, 127, 130,133, 136, 139, 145, 148, 152, 185, 186  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> Recreational Opportunities pages 18 – 25  Decision Notice, Sect 4.0 Rationale for the Decision  CONF Forest Plan Ch. 2 page 43, Ch. 3 pages 19 to 31; EIS Ch. 3 pages 516-517  Revised Land and Resource Management Plan, Sumter National Forest  North Carolina Amendment #5</p>
<p><b>161-174</b></p>	<p>The floating ban violates the Due Process Clause of the Fifth Amendment to the United States Constitution. The ban violates the equal protection clause of the Fifth Amendment</p>	<p>Fifth Amendment to the US Constitution</p>	<p>Environmental Assessment, Chapter 2 Alternatives pages 8 -18  Decision Notice, Sect 4.0 Rationale for the Decision</p>

	by unconstitutionally singling out primitive boaters for adverse treatment without a rational basis.		Response to Comments, # 228, 299, 259, 268, 278, 354, 432,4 43
<b>176-182</b>	When an agency fails to follow its own regulations and procedures. When an Agency fails to follow its own regulations and procedures, its actions are arbitrary, capricious, an abuse of discretion and otherwise not in accordance with the law. The ban stands in direct oppositions to the requirements that the Forest Service promote and perpetuate recreational use, and that wilderness is to be made available to the “optimum extent” consistent with wilderness preservation.	APA, 5 U.S.C. § 706(2)(A)	Environmental Assessment, Chapter 1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix C Environmental Assessment, Appendix D Decision Notice Sect 4.0 & Sect 6.0 Response to Comments, #s 176, 410, 487, 502 <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>184-187</b>	Banning a use is the most extreme action that the USFS has at its disposal for limiting use of a resource. The USFS Manual recommends that managers of Wild and Scenic Rivers “apply indirect techniques for regulation of use before taking more direct action.”	APA, 5 U.S.C. § 706(2)(A), FSM 2320, FSM 2323	Environmental Assessment, Chapter 1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Decision Notice Sect 4.0 & Sect 6.0 Response to Comments, #s411, 441, 487, 490
<b>189,190, 481</b>	By banning floating on the Headwaters of the Chattooga, while allowing all other uses to occur without limits, the USFS is not providing paddlers a fair and equitable chance to obtain access to the river.	APA, 5 U.S.C. § 706(2)(A), FSM 2320, FSM 2323	Environmental Assessment, Chapter 1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Decision Notice, Sect 4.0

			Response to Comments, #s 408, 488
<b>191-197,412</b>	If use is to be limited, <i>all</i> users should be limited, not just one. By banning only one use, the USFS is being arbitrary and capricious, abusing its discretion and otherwise not in compliance with the law.	APA	Environmental Assessment, Chapter 1 Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Decision Notice, Sect 4.0 & Sect 6.0 Response to Comments, #s 408, 444, 488
<b>199-200</b>	The USFS offers no estimates of user capacity for anglers, boaters, or other dispersed recreationists in the Ellicott Rock Wilderness Area, yet takes the most extreme use limitation measure available: virtually banning a use.	Wild and Scenic Rivers Act, Appeal Decision	Response to Comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503. Environmental Assessment Ch. 1, Ch. 2, Ch. 3 – Sect 3.3.1, PP. 119-153; Environmental Assessment, Appendix D Decision Notice, Sect 6.0 <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>203-204</b>	The Regional Forester and Forest Supervisors failed to comply with the Chief’s decision. That failure renders the 2009 Amendment arbitrary and capricious, an abuse of discretion and otherwise not in accordance with law.	APA, 5 U.S.C. § 706(2)(A), Appeal Decision	Environmental Assessment, Sect 1.1.1, page 2 Environmental Assessment, Chapter 2, p. 8 Decision Notice/FONSI Response to Comments, #59,183, 443, 486
<b>206</b>	The USFS failed to analyze the entire length of river required by the Decision. The USFS does not analyze the over 2 mile section of river at and immediately downstream of Grimshaws Bridge.	WO Appeal Decision	Jerome Thomas’s letter dated 9/26/2007 “Direction regarding alternatives”, <i>Decision for Appeal 04/28/05</i> , page 3, paragraph 3, page 4, paragraph 4, page 5, paragraph 4, page 7 paragraphs 1-2

<p><b>207, 454, 455, 456, 457, 458, 459</b></p>	<p>The USFS, with very little analysis, makes new, extreme, management decisions related to Chattooga River tributaries, claiming that such tributaries are outside the scope of the ROD. Several of these tributary streams are viable paddling resources, albeit rarely available based on the high flows required for recreational enjoyment. Banning a recreational use is a major federal action requiring analysis under NEPA and compliance with the APA.</p>	<p>NEPA APA</p>	<p>Environmental Assessment, Sect 1.5, p. 6 Environmental Assessment, Sect.2.2, pp. 17-18 Response to Comments, # 429</p>
<p><b>209,210, 344,346, 347, 401, 402, 403, 408, 423, 433</b></p>	<p>The 2009 Amendment does not ensure that all potential users have a fair and equitable chance to obtain access to the river. On the contrary, the USFS does not treat all users equitably.</p>	<p>APA</p>	<p>Response to Comments, #s 408, 451, 453, 488 Environmental Assessment, Chapter 1, Sect.1.1 &amp; Sect 1.4 Environmental Assessment, Chapter 2, p. 8 Decision Notice, Sect 4.0 &amp; Sect 6.0</p>
<p><b>212, 451</b></p>	<p>The 2009 Amendment does not meet this mandate. Encounter standards as well as the causes of existing biophysical impacts are left unmitigated in the proposed alternative.</p>	<p>NEPA</p>	<p>Decision Notice Sect 3.0. &amp; Table 1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Response to Comments, #s 192, 231, 253, 409</p>
<p><b>214</b></p>	<p>The 2009 Amendment does not optimize floating. It bans floating and allows all other WSR uses in unlimited amounts at all times.</p>	<p>WSRA</p>	<p>Environmental Assessment Sect 1.1 Environmental Assessment, Chapter 2, p. 8 Environmental Assessment, Sect 3.3.1 Decision Notice, Sect 3.0-4.0 Response to Comments, #s 408, 425,468,487, 491, 506, 507</p>
<p><b>215,216</b></p>	<p>The Decision orders that the USFS ensure that “direct controls and restrictions” be minimized, and that controls</p>	<p>Wilderness Act FSM 2323.12</p>	<p>Environmental Assessment Chapter 1, Environmental Assessment, Chapter 2, p. 8</p>

	are to be applied only as necessary to protect the wilderness resource after indirect measures have failed (FSM 2323.12).”		Environmental Assessment, Sect 3.3.1 Decision Notice, Sect 3.0-4.0 Response to Comments, #s 411,446, 487
<b>218, 382</b>	The EA for the 2009 Amendment does not contain a user capacity analysis that meets the standards for such an analysis. At most it addresses past and current use, with no consideration of capacity. In addition, the EA is limited in scope to addressing the capacity of paddlers – not all WSR users as directed by the Decision.	WO appeal decision	Response to Comments, # 190,192-194, ,253, 256, 257, 271, 324, 356, 361,  Environmental Assessment Chapter 3 – Sect 3.3.1,  Environmental Assessment, Chapter 1,pages 1-4 Environmental Assessment, Appendix B Environmental Assessment, Appendix D,  Decision Notice, Sect 6.0  <i>Capacity &amp; Conflict on the Upper Chattooga River, Social Impacts, pages 58 - 65</i>
<b>219</b>	The Decision found that the RLRMP was “deficient in substantiating the need to continue the ban on boating to protect recreation as an ORV or to protect the wilderness resource.”	NFMA	Environmental Assessment, Sect. 3.3.1  Decision Notice/FONSI  Response to Comments, #s 413, 467, 476, 486, 487, 492  <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>225</b>	In all alternatives, the USFS would unlawfully ban floating on this section of the Headwaters. (private lands)	APA, 5 U.S.C. § 706(2)(A), Wild and Scenic Rivers Act NEPA	Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”  Environmental Assessment, Sect 1.6, #5  Response to Comments, #s 330, 331,425,427, 428, 491
<b>226,227, 242</b>	The USFS failed to analyze, protect, manage, or enhance even a single Outstanding Remarkable Value (ORV) on the reach of the river flowing though private lands, in direct violation of the WSRA.	WSRA	Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”  Environmental Assessment, Sect 1.6, #5  Response to Comments, #s 330, 331,425,427, 428, 491

<p><b>228, 231, 233, 234, 241, 247, 248</b></p>	<p>The consideration of paddling the upper half of the Chattooga Cliffs reach is simply discounted by the USFS as “out of scope” in the EA’s “Other Concerns” section.</p>	<p>WSRA NEPA</p>	<p>Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”</p> <p>Environmental Assessment, Sect 1.6, #5</p> <p>Response to Comments, #s 330, 331,425,427, 428, 491</p>
<p><b>240</b></p>	<p>The Forest Service Manual is clear: the Forest Service retains authority to regulate the use of a river and the National Forest lands on the shorelines whether it is navigable or nonnavigable. Failure to do so is arbitrary and capricious, an abuse of authority and otherwise contrary to law. A 2003 GAO Report titled: <i>FRESHWATER SUPPLY: States’ Views of How Federal Agencies Could Help Them Meet the Challenges of Expected Shortages</i> reached a similar conclusion:</p>	<p>FSM APA</p>	<p>Response to Comments, #s 330, 331,425,427, 428, 491</p> <p>Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”</p>
<p><b>242, 244,245,</b></p>	<p>All alternatives addressed in the EA propose a ban on the upper half of the Wild and Scenic Chattooga Cliffs reach without any rationale, analysis, or justification. There is no discussion of the basis for the agency’s failure to consider alternatives other than banning paddling, except a single sentence claiming the reach is “outside the scope of this proposal.”</p>	<p>NEPA</p>	<p>Response to Comments, #s 330, 331,425,427, 428, 491</p> <p>Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”</p>
<p><b>246, 251</b></p>	<p>Banning floating on this reach is without a legal or rational basis and is a significant federal action limiting the public’s legal rights.</p>	<p>WSRA</p>	<p>Response to Comments, #s 330, 331,425,427, 428, 491</p> <p>Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”</p>
<p><b>249,250</b></p>	<p>The USFS claims it could not study a federally protected river because adjoining private property landowners would not grant the USFS access. Yet, no</p>	<p>NEPA</p>	<p>Response to Comments, #s 330, 331,425,427, 428, 491</p> <p>Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives”</p>

	permissions or access is required.		
253	Furthermore, every whitewater river and stream in the entire region is open to kayaking and canoeing without any limits thereon. The USFS assumption that in this case the default management of the river should include a complete paddling prohibition is wholly inconsistent with normal management.	APA WSRA	Environmental Assessment, Section 1.1, pp 1-3; Environmental Assessment, Chapter 2, Alternatives  Decision Notice Sect 4.0, Rationale for the Decision;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> – pp 7-11, Section 2 and pp 11-14;  Environmental Assessment, Chapter 3;  Response to Comments, #s 420, 421
254	The Upper Chattooga River should be open to paddling unless there is a compelling reason to limit it. In this case, the USFS has failed to produce any such rationale. Because no rational basis is provided, this decision is arbitrary and capricious.	APA	Decision Notice Sect 4.0,  Decision Notice, Sect 6.0  Environmental Assessment Chapter 1  Environmental Assessment, Sect 3.3.1  Response to Comments, #s 176, 410, 487, 502  <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
261	Because whitewater boating is an ORV, it cannot substantially interfere with itself, and therefore it cannot be limited (unless some form of limitation would actually protect and enhance the whitewater boating value), unless all other ORVs are limited equitably.	APA, 5 U.S.C. § 706(2)(A), Section 1281 of the WSRA	<i>Decision for Appeal 04/28/05</i> , pp 4-5, last paragraph and first full paragraph on page 5  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , page 8, first bullet;  Environmental Assessment, Chapter 1, Section 1.1, Need for the Proposed Action, pp1-3, Appendix A  Decision Notice, Rationale for the Decision, pp 2-5  <i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996</i> , pp 9-10

<p><b>263, 270, 339, 435, 439, 443, 483</b></p>	<p>While the USFS makes vague references to the possibility of some conflict between boaters and anglers or hikers, the record demonstrates that there will be no conflict between such uses, much less ‘substantial interference.’</p>	<p>NEPA</p>	<p>Environmental Assessment, Chapter 1, Issues 2 &amp; 5; Environmental Assessment Chapter 3, Section 3.3.1, pp.111-113, p.118 paragraph #2, p.119, pp.124-153;</p> <p>Decision Notice/Amendment Section 4.0 &amp; 6.0; Section 9.0, p.11 bullet #1, Appendix A, p.A-3;</p> <p>Response to Comments, # 62, 65, 70-72, 83, 86, 106, 108, 112, 122, 125, 221, 255-256, 264-266, 376, 472-473, 547-548, 572, 580, 584;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> p. 12 last bullet (N. Umpqua); p. 15 bullets 3, 4 and last, p.16 1<sup>st</sup> paragraph and bullets 2 &amp; 3, pp. 58-59, pp. 62-63 encounters between anglers and boaters, pp. 67-69, p.79 last bullet, p.83 paragraph 3, p.85, pp. 86-89, and pp. 95-97.</p>
<p><b>264, 271, 272</b></p>	<p>Unless there is clear evidence that floating ‘substantially interferes’ with outstanding river values, the USFS cannot even <i>limit</i> boating—much less ban it.</p>	<p>WSRA</p>	<p>Environmental Assessment, Ch. 1, Sect 1.4 Significant Issues 2 &amp; 5;</p> <p>Decision Notice Sect 4.0 &amp; Sect 6.0</p> <p>Environmental Assessment, Ch. 3, Sect 3.3.1</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> P. 59, bullet # 2; PP. 62-63; PP. 67-69; P.87, bullet # 6; P. 72, next to last bullet;</p> <p>Response to Comments, # 336 and 356.</p>
<p><b>265, 266, 268,269, 322, 323</b></p>	<p>The reason the USFS attempts to designate whitewater boaters as a “new” user group is because the two prior (1976 and 1985) LRMPs also banned whitewater boating in violation of section 1281.</p>	<p>APA WSRA</p>	<p>Environmental Assessment, Chapter 1</p> <p>Environmental Assessment, Chapter 2, p. 8</p> <p>Environmental Assessment, Section 3.3.1</p> <p>Environmental Assessment, Appendix A</p> <p>Environmental Assessment, Appendix D</p> <p>Decision Notice Sect 4.0 &amp; Sect 6.0</p> <p>Response to Comments, #s 176, 410, 412, 413, 417, 421 487, 502, 523</p>

			<i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>274-278, 293-295</b>	The EA and 2009 Amendment do not state a total recreational capacity for the Upper Chattooga River, or capacities for individual types of use. Therefore, it is not a user capacity analysis. <i>See</i> Haas Declaration. The Haas Declaration is incorporated here in.	WO Appeal Decision, NFMA	Response to Comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503.  Environmental Assessment Chapter 2,  Environmental Assessment Chapter 3 – Sect 3.3.1, pp. 119-153.  Environmental Assessment, Appendix D  Decision Notice, Sect 6.0
<b>279,280, 283, 285</b>	The National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas (the “Secretarial Guidelines”) addressed user carrying capacity. 47 Fed. Reg. 39,454 (Sept. 7, 1982).	47 Fed. Reg. 39,454 (Sept. 7, 1982).	Environmental Assessment, Section 3.3.1, p 119;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , p 8 – 2 <sup>nd</sup> bullet, pp 27 and 86, references: p 106 - 12 <sup>th</sup> citation, p 108 – 3 <sup>rd</sup> citation, p 109 – 12 <sup>th</sup> & 13 <sup>th</sup> citation; Decision Notice, Sect 6.0;  <i>Upper Chattooga River Visitor Capacity Analysis</i> , October, 2006;  Response to Comments, #s 416, 417, 486
<b>286, 287</b>	In the EA, the USFS, in addressing boating capacity, was inconsistent, illogical, erratic, incomplete, and incongruous in all of the eight alternatives, and failed completely to address capacities for the other significant recreation activities identified in the EA in any of the eight alternatives;	APA, 47 Fed. Reg. 39,454 (Sept. 7, 1982), Appeal Decision	Response to comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503.  Environmental Assessment Chapter 2,  Environmental Assessment Chapter 3 – Section 3.3.1, pp. 119-153.  Environmental Assessment, Appendix D
<b>319</b>	The USFS suggests that boating should not be permitted in the Ellicott Rock Wilderness because it might disturb anglers.	Wilderness Act, APA	Environmental Assessment, Sect 1.1, pages 1-4  Environmental Assessment, Sect. 1.4, Significant Issue 2, page 5  Environmental Assessment, Chapter 2.1.4,

			<p>page 12</p> <p>Environmental Assessment, Chapter 2.3, page 19</p> <p>Environmental Assessment, Sect 3.3.1, p118 – 127</p> <p>Decision Notice, Table 1, page 3 Decision Notice, Sect 4.0</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River pages 58 – 65</i></p> <p>Response to Comments, #103</p>
<b>320, 482</b>	Unless a documented need for wilderness preservation is the basis, discriminating against user groups runs contrary to Congress’s intent to protect these treasured areas for the benefit of all wilderness compliant forms of recreation.	APA, Wilderness Act	<p>Environmental Assessment, Sect 1.1,</p> <p>Environmental Assessment, Sect. 1.4,</p> <p>Environmental Assessment, Chapter 2, p.8,</p> <p>Decision Notice, Sect 4.0 &amp; Sect 6.0</p> <p>Response to comments, #s 21, 328</p>
<b>335</b>	While nominally addressing encounter standards and use limits, the USFS’s preferred alternative <i>artificially increases</i> recreational use by supporting the stocking of trout adjacent to a Wilderness area and in a Wild and Scenic River, while banning natural floating use.	WSRA	<p>Environmental Assessment, Sect 1.3,</p> <p>Environmental Assessment, Chapter 2, p.8,</p> <p>Environmental Assessment, Section 3.3.1</p> <p>Environmental Assessment, Appendix D</p> <p>Decision Notice/FONSI</p> <p>Response to Comments, #s 416 446,452, 466, 467, 478, 508</p> <p><i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996, p. 7</i></p> <p>WSRA, Section 13</p> <p>FSM 2323.34, Fisheries Management</p>

<p><b>360</b></p>	<p>The USFS did not collect, refer to or rely on any scientific or empirical data to demonstrate that flow rates of 450 cfs and above provide a suitable floating experience. No such data exists.</p>	<p>APA, Wilderness Act, 16 U.S.C. § 1131(a), 16 U.S.C. § 1133(b), 16 U.S.C. § 1131(c)</p>	<p>Environmental Assessment Ch 1, Sect 1.1.1;  Environmental Assessment Ch 3, Section 3.1.1 pp.28-30; Section 3.3.1, Table 3.3-2, pp.117-119, 134-138;  Decision Notice, Section 4.0; <i>Capacity &amp; Conflict on the Upper Chattooga River</i> pp. 73-85;  Expert Panel Field Assessment Report (Berger Group, 2007);  Response to Comments, #'s 4-7, 11-12, 17, 196, 346, 535, and 576.</p>
<p><b>364,365, 367,368, 369,370, 371</b></p>	<p>The chance that a significant number of paddlers will descend the river in a single day and possibly inadvertently violate standards is greatly increased by this arbitrary and capricious and illegal management choice. The USFS confirms that: However, alternatives 4 and 8 propose an “adaptive management” component that could use registration, monitoring or surveys to determine the need for implementation of additional use restrictions.</p>	<p>APA</p>	<p>Environmental Assessment, Chapter 2  Environmental Assessment, Sect. 3.3.1  Environmental Assessment, Appendix B  Environmental Assessment, Appendix D  Decision Notice Sect 4.0  Decision Notice, Sect 6.0  Response to Comments, #s 176, 410, 487, 502  <i>Capacity &amp; Conflict on the Upper Chattooga River</i></p>
<p><b>372, 374,</b></p>	<p>Judging paddlers by different standards is not equitable, especially when the standards that could lead to elimination of paddling are based on nothing more than the opinions of existing user groups that vehemently oppose paddling access.</p>	<p>APA</p>	<p>Environmental Assessment, Section 1.1 ,  Environmental Assessment, Sect 1.4, Issue 4,  Decision Notice Sect 4.0 &amp; Sect 6  Environmental Assessment, Chapter 2, p.8  Environmental Assessment, Sect 3.3.1  Environmental Assessment, Appendix D  Decision Notice, Sect 4.0 &amp; 6.0  Response to Comments #s 66,229, 408, 419,</p>

			420, 421, 443, 451, 488, 495 <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>375, 376, 378, 379, 380, 381</b>	By managing the similar impacts for different user groups in different ways that are discriminatory towards one group, the USFS has failed to act equitably and its actions are arbitrary and capricious.	APA	Environmental Assessment, Section 1.1 Environmental Assessment, Sect. 1.4, Decision Notice Sect 4.0 & Sect 6.0 Environmental Assessment, Chapter 2, p.8 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Response to Comments #s 66,229, 408, 419, 420, 421, 443, 451, 488, 495 <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>385, 386, 387</b>	The USFS has never explained why the simplest, cheapest, fairest, most common, and easiest to manage solution – allowing flows alone to passively separate uses – is not acceptable. Flows alone support high quality angling and paddling, and adequately separate uses.	NEPA	Environmental Assessment, Section 1.1 Environmental Assessment, Sect. 1.4 Decision Notice Sect 4.0 - 6 Environmental Assessment, Chapter 2, p.8 Environmental Assessment, Chapter 3, Sect 3.3.1 Recreation Environmental Assessment, Appendices B-D <i>Capacity &amp; Conflict on the Upper Chattooga River</i> Response to Comments #s18, 272, 292, 299, 346, 465, 469,
<b>388</b>	The USFS clearly finds that encounter standards are already exceeded by existing users yet proposed no mitigation for these impacts.	NEPA	Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Response to Comments #s 259, 409, 457

			<i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>389, 390, 391</b>	To ban paddling, which has virtually no effects on encounter standard violations when allowed in unlimited numbers (like all other uses), while allowing uses with significant encounter standard violations to remain unlimited is absolutely inequitable and capricious.	APA	Environmental Assessment, Chapter 2 Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix B Environmental Assessment, Appendix D Decision Notice, Sections 3.0-6.0 Response to Comments #s 432, 458, 459
<b>392, 393</b>	The USFS has instituted paddling limitations as the sole direct management tool, while all other larger and more damaging uses are allowed in every location, in every time, in unlimited numbers, in every alternative that allows paddling.	NEPA	Environmental Assessment, Chapter 2 Environmental Assessment, Chapter 3 Decision Notice/FONSI Response to Comments #s 421, 443
<b>394</b>	The EA fails to document a single impact of paddling on the river resource.	NEPA	Environmental Assessment, Chapter 3 Response to Comments #s 159, 249, 258, 434-436
<b>404, 405</b>	The agency has elected to limit floating to protect anglers' solitude when an alternative with no paddling limits (on the sections considered by the USFS) was found to maintain outstanding opportunities for solitude. Both of these aspects of the USFS decision are arbitrary and capricious.	APA	Environmental Assessment, Sect 1.1 Environmental Assessment Sect 1.4 Environmental Assessment, Chapter 2, p. 8 Environmental Assessment, Chapter 3, Sect 3.3.1 Decision Notice/FONSI Response to Comments #s -207 451, 453, 480, 488, 491, 495, 508

406, 407	The EA suggests that the USFS rejected the potential permit system in alternative 2 (which proposed permits for all users) because use limit systems require administrative effort, require users to plan ahead and compete for limited permits, and would displace some proportion of existing use on high use days.	NEPA	Environmental Assessment, Sect 1.1, 1.3;  Environmental Assessment, Chapter 2; p12, Alternative 4-Monitoing, 4 <sup>th</sup> bullet;  Environmental Assessment Appendix B, pp168-171(emphasis) Table B-1;  Decision Notice, Sect 4.0;  Response to Comments, # 460
409	The USFS has never banned boating to benefit anglers – except on the Chattooga.	APA	Response to Comments, # 64;  Environmental Assessment, Section 1.1;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , Chapter 2, pp 7-9, 13-14; Chapter 8, p100;  Decision Notice, Section 4
413, 416, 418	Angling use on the Headwaters is largely artificial, but the USFS has arbitrarily selected angling as the exclusive use to protect and enhance on the upper Chattooga.	APA WSRA	Environmental Assessment, Sect 1.1, p 1;  Environmental Assessment, Chapter 2, p.8 – first 4 paragraphs;  Environmental Assessment, Sect. 3.3.1, pp 111-113;  Decision Notice Sect. 4.0;  Response to Comments document, # 64;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , Chapter 2, pp 7-9, 13-14; Chapter 8, p100;
415	Stocking of non-indigenous fish has a detrimental effect on indigenous fish. <i>See</i> Bain Declaration filed with Motion for Temporary Restraining Order. The Bain Declaration is incorporated herein.	NEPA	Environmental Assessment, Section 3.2.3, page 99, 2 <sup>nd</sup> sentence below table – based on Reference: Tab 238-SCDNR unpublished data.
424, 425, 426, 427, 428	Equitable, indirect, means of reducing fishing exist and should be used before a ban on floating can legally occur.	NEPA APA	Environmental Assessment Chapter 1,  Environmental Assessment, Chapter 2, p. 8

			Decision Notice Sect 4.0 Response to Comments, # 408, 451, 453, 488
<b>429</b>	USFS has ignored the massive impacts of industrial scale stocking and fish rearing on the upper Chattooga River, yet has banned floating. While the USFS makes much of the “high quality angling experience,” they clearly fail to describe or value the high quality paddling experience that the upper Chattooga provides.	MUSYA	Environmental Assessment Chapter 1, Environmental Assessment, Sect 3.3.1 Decision Notice Sect 4.0 – 6.0 Response to Comments, #s 420, 421, 441, 466, 467 <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>436, 437, 438</b>	USFS failed to show how flow, season, or reach restrictions on floating are needed to maintain high quality trout fishing.	APA	Environmental Assessment, Sect 3.3.1 Environmental Assessment, Appendix C Environmental Assessment, Appendix D Response to Comments, #7, 11, 15, 17, 18, 141,185, 462, 469, <i>Capacity &amp; Conflict on the Upper Chattooga River</i>
<b>452</b>	Boaters are the only user group that travels through the river corridor on the river itself. All other user groups travel primarily on trails and therefore interact with each other far more than they would interact with boaters.	NEPA	Environmental Assessment, Chapters 1 & 2; Chapter 3, Section 3.3.1; Appendix B, pp. 170-171; and Appendix D; Response to Comments, # 2, 11, 14, 61-64, 83, 124, 127-129, 182, 193, 194, 197, 228, 250, 255, 259, 265, 266, 321, 354, 431-433, 448, 458, 470, 472, 544, 547-548, 569, 584; Decision Notice/Amendment Sect 3.0-5.0 and Appendix A; <i>Capacity &amp; Conflict on the Upper Chattooga River</i> P. 59, bullet # 2; PP. 62-63; PP. 67-69; P.87, bullet # 6; P. 72, next to last bullet;
<b>461-468</b>	The 2009 Amendment in the EA bans boating on several reaches and only allows boating on one reach if flows are above 450 cfs. There is no rational	APA	Environmental Assessment Ch 1, Sect 1.1.1; Environmental Assessment Ch 3, Section 3.1.1 pp. 28-30; Section 3.3.1 Table 3.3-2, pp.117-119, 134-138;

	nor articulated basis for the selection of that flow.		<p>Decision Notice, Section 4.0;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> pp. 73-85;</p> <p>Expert Panel Field Assessment Report (Berger Group, 2007);</p> <p>Response to Comments, #s 4-7, 11-12, 17, 196, 346, 535, and 576.</p>
469	Even when suggesting an alternative that would provide a miniscule amount of time where boating can occur, the Forest Service has unlawfully treated paddlers unequally by selecting a flow rate that is at the highest end of the range where fishing can comfortably take place, yet well above the low end of the flow rate where optimal boating can occur.	APA	<p>Environmental Assessment Ch 1, Sect 1.1.1;</p> <p>Environmental Assessment Ch 3, Section 3.1.1 pp. 28-30; Section 3.3.1, Table 3.3-2, pp.117-119, 134-138;</p> <p>Decision Notice, Section 4.0;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> pp. 73-85;</p> <p>Expert Panel Field Assessment Report (Berger Group, 2007);</p> <p>Response to Comments, #s 4-7, 11-12, 17, 196, 346, 535, and 576.</p>
470, 471	The USFS acknowledges that the procedure for allowing the minimum boating on one stretch depends on their staff somehow predicting a boatable day that will then be made available for paddling use. The USFS States: “A new gauge at Burrells Ford would be used to help the Forest Service to declare a boatable day. (See Appendix C).” EA 29. The notion that one or more USFS officials will have the job of watching weather reports and stream gauges and then announcing a legal day of paddling is unrealistic.	NEPA	<p>Environmental Assessment, Sect. 3.1.1 PP. 28-30; Sect. 3.3.1 p.121, PP. 134-153; App C;</p> <p>Decision Notice/Amendment Appendix A, PP. A-1, A-3;</p> <p>Response to Comments, # 89, 116, 345, 350, 469, 485, 566, 567</p>

<p><b>473, 477, 478, 479</b></p>	<p>On no Headwater stream in the entire region does the USFS impose any limit whatsoever on noncommercial floating. This is simply because floating steep Headwater streams is a small and low-impact use that the agency supports everywhere but the Chattooga.</p>	<p>APA</p>	<p>Environmental Assessment, Chapter 1, section 1.1 Purpose and Need, 1.3 Decisions to be Made;</p> <p>Chapter 2, Alternatives</p> <p>Decision Notices 4.0, Rationale for the Decision</p> <p>Response to Comments, #s 434, 435, 436</p>
<p><b>485-486</b></p>	<p>The EA offers no rationale or justification for allowing paddling only in the winter in certain alternatives. Winter days are shorter and colder, making them less desirable for paddling trips. The EA finds that:</p>	<p>APA</p>	<p>Environmental Assessment Chapter 1, pp.1-7;</p> <p>Environmental Assessment Chapter 2, p.8, p.12 paragraph 1;</p> <p>Environmental Assessment, Ch. 3, Sect. 3.3.1, pp. 119-127, p.134 – Alt. 4, 1<sup>st</sup> paragraph;</p> <p>Decision Notice, Sect 4.0, bottom of p.4 and p.5;</p> <p>Response to Comments, # 17, 18, 347, 354, 465, 523.</p>
<p><b>488, 490, 492, 493, 494</b></p>	<p>Under NEPA, the court must ensure that agency decision makers have taken the requisite “hard look” at the environmental consequences of its proposed action and that the agency decision is founded on a reasoned evaluation of the relevant factors.</p>	<p>NEPA</p>	<p>Decision Notice/FONSI and Environmental Assessment</p>
<p><b>495, 496, 497</b></p>	<p>In addition, the NEPA’s implementing regulations require agencies to <i>rigorously explore</i> and <i>objectively evaluate</i> all reasonable alternatives.</p>	<p>NEPA</p>	<p>Environmental Assessment, Sect 1.3 - 1.4</p> <p>Environmental Assessment, Chapter 2</p> <p>Decision Notice, Sect 5.0</p> <p>Response to Comments, #s 422, 423, 443, 453, 490, 495, 499</p>
<p><b>Exhibit I Issue 1 See AW</b></p>	<p>Non-commercial paddling is limited on no other river or stream in the region for biophysical reasons and the USFS offers no evidence of significant impacts where</p>	<p>NEPA, APA</p>	<p>Environmental Assessment, Chapter 1, section 1.1 Purpose and Need, 1.3 Decisions to be Made;</p> <p>Environmental Assessment, Chapter 3, pp 26-110;</p>

<p><b>473, 477, 478, 479</b></p>	<p>paddling use regularly occurs.</p>		<p>Decision Notice, sect. 4.0, FONSI 7.0</p> <p>Response to Comments Document, #s 434, 435, 436</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i>, pp 41-57</p>
<p><b>Exhibit I Issue 2</b></p>	<p>Impacts from Hemlock Woolly Adelgid could indirectly increase the number of portage trails with the prohibition on removal of dead hemlock from the river. The USFS must protect and enhance the Wild and Scenic Chattooga River's ORVs. Allowing an exotic species to directly impact the river and its recreational use is not compliant with the WSRA. The Agency should have considered removal of large woody debris in its analysis in order to limit the additional impacts of portage trails.</p>	<p>WSRA, NEPA</p>	<p>Response to Comments Document, #37, 54, 101, 248, 310, 395;</p> <p>Environmental Assessment, Chapter 3, Sect. 3.1.1, pp 31 &amp; 32;</p> <p>Environmental Assessment, Chapter 3, Sect. 3.2.1, p 75 and 3.2.2, pp 88 &amp; 89;</p> <p>Environmental Assessment, Appendix B, Monitoring, pp 169 &amp; 170.</p>
<p><b>Exhibit I Issue 3</b></p>	<p>The USFS accepts that this stocking program significantly increases recreational use and impacts on the upper Chattooga River, but the agency fails to consider that there are ecological and social impacts of the stocking program itself.</p>	<p>NEPA</p>	<p>Environmental Assessment, Chapter 3, pp 27-28, Water Quality;</p> <p>Environmental Assessment, Chapter 3, Section 3.2.3, pp 95-110;</p> <p>Environmental Assessment, Chapter 3.3.1, pp 111, 113, 114 - Table 3.3-1, 117, 118, 123, and 124;</p> <p>Response to Comments Document, # 41, 43, 91, 134, 241, 335, 351, 352, 442, 478, 539;</p> <p>Report, <i>Capacity &amp; Conflict on the Upper Chattooga River</i>, Chapter 5 and 6.</p>
<p><b>Exhibit I Issue 4</b></p>	<p>The USFS bond with this artificial fishery is so strong that the USFS did not consider a single alternative to the stocking program, or an immediate and direct limitation</p>	<p>NEPA</p>	<p>Environmental Assessment, Chapter 1 – sections 1.1, 1.3, 1.4;</p> <p>Environmental Assessment, Chapter 2 – pp 8-18 – encounters, group size, monitoring;</p>

	on access for anglers.		Environmental Assessment, Appendix B – Implementation Strategy and Monitoring Questions;  Response to Comments Document , # 41, 443;
<b>Exhibit I Issue 5</b>	The EA failed to consider the impacts associated with fish stocking. It is widely accepted that the replacement of native brook trout by non-native rainbow trout in the majority of their historic habitat in the Southern Appalachians is caused in large part by the stocking of rainbow trout. Removing rainbow trout from streams results in increases in brook trout numbers. USFS officials acknowledge these facts and have poisoned streams to remove rainbow trout for the purpose of protecting brook trout. The USFS decision to limit floating based on unfounded concerns about hypothetical, miniscule impacts to brook trout, and to ignore the obvious and significant impacts of the USFS sanctioned fish stocking program, is arbitrary and capricious.	APA NEPA	Environmental Assessment Reference, p 193 - NatureServe. 2009. NatureServe Explorer: An online encyclopedia of life (web application). Version 6.1; NatureServe, Arlington, Virginia. Available <a href="http://www.natureserve.org/explorer">www.natureserve.org/explorer</a> . (Accessed April 23, 2009);  Environmental Assessment, Section 3.2.3, Table 3.2-22, p 98 and text below table; Chapter 2, section 2.2;  Environmental Assessment, Chapter 3, section 3.2.3, p 98 – 110  Response to Comments Document, # 43;  Decision Notices 4.0, Rationale for the Decision
<b>Exhibit I Issue 6</b>	The USFS raised numerous unfounded concerns that paddling may effect rare species – an effect that is mentioned nowhere in the literature, and that was never documented during the four year analysis period.	NEPA	Environmental Assessment , Chapter 3, Section 3.2.3, p 105, 3 <sup>rd</sup> paragraph – sediment and p-106, 2 <sup>nd</sup> paragraph;  Section 3.1.1, pages 32-46;  Section 3.2.1, pages 56-94,  Section 3.2.2 pages 78-94, Appendix B Monitoring;  Biological Evaluation - Section VI and VII;  Biological Assessment - Section IV;

			Decision Notice, Section 7.0 FONSI; Response to Comments #s 27, 35, 37.
<b>Exhibit I Issue 7</b>	The USFS voiced unfounded concerns about the potential impacts of paddling on water quality, but it supports the operation of a large scale fish hatchery in the watershed and fails to consider the likely impacts of this hatchery on the river's water quality.	NEPA	Response to Comments, #44;  Environmental Assessment, Chapter 3, pp 27-28;  Environmental Assessment, Chapter 3, p 43, first paragraph, p 44, last two paragraphs, p 46, last two paragraphs.
<b>Exhibit I Issue 8</b>	Unlimited numbers of anglers fishing the Upper Chattooga River and its tributaries are allowed to catch and kill four brook trout each per day based on state regulations and USFS management while the USFS bans paddling in part because of unproven concerns related to brook trout.	NEPA	Environmental Assessment Reference - NatureServe. 2009. NatureServe Explorer: An online encyclopedia of life (web application). Version 6.1; NatureServe, Arlington, Virginia. Available <a href="http://www.natureserve.org/explorerer">www.natureserve.org/explorerer</a> . (Accessed April 23, 2009);  Environmental Assessment, Section 3.2.3, Table 3.2-22, p 98 and text below table;
<b>Exhibit I Issue 9</b>	The large mileage of user-created trails within 100 feet, and 20 feet of the river in the Nicholson Fields reach, where use is predominantly angling, is evidence of the unique biophysical impacts of angling. These impacts are directly correlated to fish stocking.	NEPA	Environmental Assessment, Chapter 2, page 5 #1;  Environmental Assessment, Chapter 3 pp 26-110  Environmental Assessment, Appendix B, p 168, Implementation  Report, <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , p 32.
<b>Exhibit I Issue 10</b>	Boating has no significant and/or cumulative biophysical impacts on plants, animals, woody debris, erosion, and riparian areas. The USFS opines about potential biophysical impacts associated with allowing unlimited paddling to occur, it proposes mitigation measures that render these unlikely impacts moot. The USFS proposes to monitor woody	NEPA	Environmental Assessment, Chapter 3, pp 26-110  Environmental Assessment, Appendix B, pp 168-171;  Decision Notice, section 7.0 FONSI  Biological Evaluation;  Biological Assessment;  Environmental Assessment, Chapter 3, Section

	debris and rare plants, and to create any trails needed at USFS standards. Even if these unfounded opinions that some impacts may occur with paddling are accepted, the USFS acknowledges that these impacts can be minimized and mitigated through common land and river management practices.		3.2.3, pp 105-106, “Effects of Alternatives on Aquatic Species and Habitat”
<b>Exhibit I Issue 11</b>	The EA and the 2009 Forest Supervisors’ Decisions do not contain sufficient biophysical information to directly limit boating.	NEPA	Environmental Assessment, Chapter 1, section 1.1, 1.3;  Environmental Assessment, Chapter 3, pp 26-110;  Decision Notices 4.0, Rationale for the Decision;  FONSI 7.0;  Response to Comments Document, #s 434, 435, 436;  Report, <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , pp 41-57.
<b>Exhibit I Issue 12</b>	The USFS chose to collect inadequate data. The USFS did not conduct surveys, require permits, conduct robust user counts, study user conflicts, or collect encounter data.	NEPA APA	Response to Comments, # 117, 424, 431.  Data collection process – May 25, 2006 Upper Chattooga River Visitor Use Capacity Analysis Plan-June 5, 2006  <i>Expert Panel Field Assessment Report</i> , Feb. 2007  <i>Implementation Plan for Data Collection Methods</i> , Oct. 2006  LWD data and report – Tab 237
<b>Exhibit I Issue 13 See AW 107, 108</b>	The agency missed an opportunity to conduct a meaningful user capacity analysis.	NEPA, APA	Response to comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503.  Environmental Assessment Chapter 2,

			Environmental Assessment Chapter 3 – Section 3.3.1, PP. 119-153.
<b>Exhibit I Issue 14</b>	The analysis was biased against paddling in a manner that exaggerates potential social impacts of paddling.	NEPA, APA	Environmental Assessment Ch. 1, Ch. 2, Ch. Section 3.3.1 and Appendix D;  Response to Comments, # 163, 193, 197, 420, 432, 437, 443, 448, 449, 454, 486, 495.
<b>Exhibit I Issue 15 See AW Issue 335</b>	<p>The USFS is clear: They are banning nature-based paddling opportunities to benefit an elite community of anglers that pursue stocked exotic trout.</p> <p>The USFS has arbitrarily and capriciously elected to appease one small intolerant user group. The USFS and their partners in the state agencies stock damaging exotic fish to attract the anglers, which creates an expectation among the anglers that the river is theirs alone, and the agencies exclude another user group to meet the demands of the anglers. There is no basis for managing a Wild and Scenic River to maximize one use and eliminate another.</p>	APA WSRA	Environmental Assessment, Sect 1.3,  Environmental Assessment, Chapter 2, p.8,  Environmental Assessment, Section 3.3.1  Environmental Assessment, Appendix D  Decision Notice/FONSI  Response to Comments, #s 416 446,452, 466, 467, 478, 508  <i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996, p. 7</i>  WSRA, Section 13  FSM 2323.34, Fisheries Management
<b>Exhibit I Issue 16</b>	<p>The USFS alternatives exaggerate potential social paddling impacts, and hide the fact that boating has no encounter impacts. Thus, the seasonal, reach, and flow restrictions that the USFS claims are needed to minimize the violation of their standards have no effect on encounter standard violations.</p> <p>The USFS has constructed the alternatives to mask the real effect of unlimited floating on encounter data: none.</p>	NEPA	Environmental Assessment, Chapters 1 & 2;  Chapter 3, Section 3.3.1; Appendix B, pp. 170-171; and Appendix D;  Response to Comments,# 2, 11, 14, 61-64, 83, 124, 127-129, 182, 193, 194, 197, 228, 250, 255, 259, 265, 266, 321, 354, 431-433, 448, 458, 470, 472, 544, 547-548, 569, 584;  Decision Notice/Amendment Sect 3.0-5.0 and Appendix A;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> P. 59, bullet # 2; PP. 62-63; PP. 67-69; P.87, bullet # 6; P. 72, next to last bullet;

<p><b>Exhibit I Issue 17</b></p>	<p>The EA, by focusing on boating as the only management variable, does not consider a full range of alternatives and introduces inherent inequity.</p> <p>The USFS alternatives were designed with an inherent bias against paddling.</p> <p>The EA, by considering a skewed range of boating alternatives, does not consider a full range of alternatives and introduces inherent inequity.</p> <p>USFS considered Alternative 8 as a throwaway, and only gave serious consideration to extremely small amounts of paddling. By limiting analysis in such a skewed manner, the USFS has biased the EA and violated NEPA.</p>	<p>NEPA, APA</p>	<p>Environmental Assessment, Chapter 1, section 1.4 pp 4-7;</p> <p>Environmental Assessment, Chapter 2, Alternatives;</p> <p>Response to Comments Document, #s 443, 453,480, 491, 492, 494, 485, 499, then 143, 190, 197, 228, 278;</p> <p>Decision Notice, Section 5.0, Other Alternatives Considered, p6, Alternative 8.</p>
<p><b>Exhibit I Issue 18</b></p>	<p>The USFS attributes encounters caused by a user group that does not exist (scenic floaters) to paddlers the USFS fails to consider the simple option of not allowing river access at the top of Nicholson Fields and thus requiring paddlers to float the entire challenging Rock Gorge reach if they wish to float through Nicholson Fields. Indeed, this is what virtually all whitewater paddlers would prefer regardless. No user group has ever requested river access at the top of the Nicholson Fields reach. The USFS abused its discretion when it created a user group, created a problem, and arbitrarily and capriciously limit paddling based on</p>	<p>NEPA, APA</p>	<p>Environmental Assessment, Chapter 3, Section 3.3.1, Table 3.3-2 on p.116, p.117 last bullet, p.142-147;</p> <p>Response to Comments, # 292, 301, 520;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> pp. 22-24, p.37, p.40, p.49 bullet # 5, p.69 paragraph # 3, p.79 bullet #3, pp.81-82, p.93 paragraph #2, p.96 bullet #2.</p>

	imaginary impacts.		
<b>Exhibit I Issue 19 See AW Issue 335</b>	The EA and Forest Supervisors' Decisions overlook massive social impacts of other uses that make any paddling impacts pale in comparison ie. stocking of fish and associated angling, increased use and encounter standards violations and helicopter flyovers.	NEPA	Environmental Assessment, Sect 1.3, Environmental Assessment, Chapter 2, p.8, Environmental Assessment, Section 3.3.1 Environmental Assessment, Appendix D  Decision Notice/FONSI  Response to Comments, #s 416 446,452, 466, 467, 478, 508  <i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996, p. 7</i>  WSRA, Section 13  FSM 2323.34, Fisheries Management
<b>Exhibit I Issue 20</b>	There are no user conflicts on the Chattooga River in need of management. The decision to ban paddling to prevent user conflicts that are not occurring, have never occurred, occur nowhere else, and are not likely to occur is arbitrary and capricious. History and precedent show no user conflicts.	APA	Environmental Assessment, Chapter 1, Issues 2 & 5; Environmental Assessment Chapter 3, Section 3.3.1, pp.111-113, p.118 paragraph #2, p.119, pp.124-153;  Decision Notice/Amendment Section 4.0 & 6.0; Section 9.0, p.11 bullet #1, Appendix A, p.A-3;  Response to Comments, # 62, 65, 70-72, 83, 86, 106, 108, 112, 122, 125, 221, 255-256, 264-266, 376, 472-473, 547-548, 572, 580, 584;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> p. 12 last bullet (N. Umpqua); p. 15 bullets 3, 4 and last, p.16 1 <sup>st</sup> paragraph and bullets 2 & 3, pp. 58-59, pp. 62-63 encounters between anglers and boaters, pp. 67-69, p.79 last bullet, p.83 paragraph 3, p.85, pp. 86-89, and pp. 95-97.
<b>Exhibit I Issue 21</b>	Boating will not impact the solitude provided by the upper Chattooga River. The EA infers that boating has some relationship to the solitude of the area, but	WSRA, NEPA	Environmental Assessment Chapter 1;  Environmental Assessment Ch. 2, p.8 paragraph 3, p.10 paragraph 1, and Table 2.3-1.  Environmental Assessment, Chapter 3, p.111

	<p>inexplicably ignores that relationship by stating that all of their alternatives protect solitude.</p>		<p>paragraph 2, p.113 paragraph 4, p.116 paragraph 2, p.119 bullet 1, p.120, especially last sentence paragraph 3, p.122 paragraph 3, p.126 paragraph 3, p.127 bottom paragraph, p.129 especially paragraph 1 &amp; 2, pp.130-153, p.154 Fig 3.3-7 and p.155 Fig 3.3-8.</p> <p>Decision Notice Sections 2.0, 4.0 &amp; 5.0; App. A, Amend #1- p. A-3 Question # 21; Response to Comments, #71, 106, 129, 138, 143, 212, 266, 354, 362, 523, 544.</p> <p><i>Capacity and Conflict on the Upper Chattooga</i> p 20 bullet 3, p.23 bullet 5, p.58 bullet 3, p.59 last bullet, p.62 bullet 6, p.67 paragraph 3.</p>
<p><b>Exhibit I Issue 22</b></p>	<p>The USFS implies that conflict will occur between anglers and paddlers if access is restored to paddlers. This conclusion is not supported by any study or in practice. The ban on paddling is an artificial and unnecessary separation of two compatible user groups. In reality, boating and angling are complimentary uses because flows largely separate the recreational uses. Boaters prefer to float the deepest and swiftest channels of water, while anglers prefer to cast from the bank or from a place in the streambed where the current is not overly forceful.</p>	<p>APA</p>	<p>Environmental Assessment, Chapter 1, Issues 2 &amp; 5; Environmental Assessment Chapter 3, Section 3.3.1, pp.111-113, p.118 paragraph #2, p.119, pp.124-153;</p> <p>Decision Notice/Amendment Section 4.0 &amp; 6.0;</p> <p>Section 9.0, p.11 bullet #1, Appendix A, p.A-3;</p> <p>Response to Comments, # 62, 65, 70-72, 83, 86, 106, 108, 112, 122, 125, 221, 255-256, 264-266, 376, 472-473, 547-548, 572, 580, 584;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> p. 12 last bullet (N. Umpqua); p. 15 bullets 3, 4 and last, p.16 1st paragraph and bullets 2 &amp; 3, pp. 58-59, pp. 62-63 encounters between anglers and boaters, pp. 67-69, p.79 last bullet, p.83 paragraph 3, p.85, pp. 86-89, and pp. 95-97.</p>
<p><b>Exhibit I Issue 23</b></p>	<p>The EA and Forest Supervisors' Decisions are not based on a complete or defensible use estimation system. American Whitewater submitted comments on the failure of the USFS to conduct a valid user capacity study.</p> <p>Furthermore, the EA falls into the exact trap warned against</p>	<p>NEPA Wilderness Act</p>	<p>Response to Comments, #s 137, 192, 253, 257, 356, 412, 415-418, 426, 443, 450, 486, 490, 498, 503.</p> <p>Environmental Assessment Chapter 2,</p> <p>Environmental Assessment Chapter 3 – Section 3.3.1, pp. 119-153.</p> <p>Response to Comments, # 61, 112, 182, 189, 193, 424, 431, 458, 470, 540.</p>

	<p>by the authors of the USFS Technical Report on Wilderness user capacity. In the preparation of their analysis, the USFS has collected barely a shred of actual user data, and have instead relied upon the very type of “authoritative opinions” that Cole concludes are inadequate.</p> <p>Use estimates for boating and other uses is not based on hard data, and is thus unreliable for decision making.</p>		
<b>Exhibit I Issue 24</b>	<p>The USFS banned paddling based on a misunderstanding or misapplication of its own policy on zoning as it relates to the literature on conflict. This research also shows that education, not zoning, is the most efficacious means of reducing conflict.</p>	<p>APA Forest Service Policy</p>	<p>Environmental Assessment, Chapter 1, Issues 2 &amp; 5; Environmental Assessment Chapter 3, Section 3.3.1, pp.111-113, p.118 paragraph #2, p.119, pp.124-153;</p> <p>Decision Notice/Amendment Section 4.0 &amp; 6.0; Section 9.0, p.11 bullet #1, Appendix A, p.A-3;</p> <p>Response to Comments, # 62, 65, 70-72, 83, 86, 106, 108, 112, 122, 125, 221, 255-256, 264-266, 376, 472-473, 547-548, 572, 580, 584;</p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River</i> p. 12 last bullet (N. Umpqua); p. 15 bullets 3, 4 and last, p.16 1st paragraph and bullets 2 &amp; 3, pp. 58-59, pp. 62-63 encounters between anglers and boaters, pp. 67-69, p.79 last bullet, p.83 paragraph 3, p.85, pp. 86-89, and pp. 95-97.</p>
<b>Exhibit I Issue 25</b>	<p>The EA states and then ignores the fact that flows alone adequately separate uses.</p>	<p>NEPA, APA</p>	<p>Environmental Assessment, Chapter 2 pp 14-15 - Alternative 8;</p> <p>Environmental Assessment, Section 3.3.1, pp 116-122;</p> <p>Response to Comments Document, #s 17, 19, 20, 71, 108, 443;</p> <p><i>Capacity and Conflict on the Upper Chattooga</i>, p 85, Flow issue conclusions;</p>

			Decision Notices 4.0, Rationale for the Decision
<b>Exhibit I Issue 26</b>	The USFS solution, allows recreational uses that already exceed its encounter standards to continue unabated, while the agency imposes absolute limits on the less impactful use of boating.	APA NEPA	Environmental Assessment, Ch. 1 Ch. 2, Ch. 3 - Section 3.3.1, Appendix B, pp. 170-171, and Appendix D;  Response to Comments, # 2, 11, 14, 61-64, 83, 124, 127-129, 182, 193, 194, 197, 228, 250, 255, 259, 265, 266, 321, 354, 431-433, 448, 458, 470, 472, 544, 547-548, 569, 584;  Decision Notice/Amendment Sect 3.0-5.0 and Appendix A;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> P. 59, bullet # 2; PP. 62-63; PP. 67-69; P.87, bullet # 6; P. 72, next to last bullet;
<b>Exhibit I Issue 27</b>	The USFS inequitably weighs the solitude and place based experiences of anglers higher than paddlers.	APA	Environmental Assessment, Chapter 1, Section 1.1, p 5 – Issues 2 & 3;  Environmental Assessment, Chapter 2, p 8 first 4 paragraphs;  Environmental Assessment, Chapter 3, Section 3.3.1 p 113 – 4 <sup>th</sup> & 5 <sup>th</sup> paragraphs, p 114 – table 3.3-1pp 116-127;  Response to Comments Document, #s 409, 480, 486, 487;
<b>Exhibit I Issue 28</b>	The EA inequitably and explicitly rules out immediate direct use limits for existing users while mandating them for paddlers.	APA	Environmental Assessment, Chapter 2, Alternatives, pp 8-25;  Environmental Assessment, Appendix B;  Decision Notice, p 2 – bullet items, p. 3 – Monitoring;  Response to Comments Document, #s 13, 229, 421;
<b>Exhibit I Issue 29 See AW 461-468</b>	The EA offers no basis for selecting 450 cfs as a management trigger.	APA, NEPA	Environmental Assessment Ch 1, Sect 1.1.1;  Environmental Assessment Ch 3, Section 3.1.1 pp. 28-30; Section 3.3.1 Table 3.3-2, pp.117-119, 134-138;

			<p>Decision Notice, Section 4.0; <i>Capacity &amp; Conflict on the Upper Chattooga River</i> pp. 73-85;</p> <p>Expert Panel Field Assessment Report (Berger Group, 2007);</p> <p>Response to Comments, #s 4-7, 11-12, 17, 196, 346, 535, and 576.</p>
<b>Exhibit I Issue 30 See AW 485-486</b>	The EA offers no rationale for allowing boating only in the winter.	APA, NEPA	<p>Environmental Assessment Chapter 1, pp.1-7;</p> <p>Environmental Assessment Chapter 2, p.8, p.12 paragraph 1;</p> <p>Environmental Assessment, Ch. 3, Sect. 3.3.1, pp. 119-127, p.134 – Alt. 4, 1<sup>st</sup> paragraph;</p> <p>Decision Notice, Sect 4.0, bottom of p.4 and p.5;</p> <p>Response to Comments, #17, 18, 347, 354, 465, 523.</p>
<b>Exhibit I Issue 31</b>	The USFS preferred alternative artificially increases demand in a Wilderness Area by supporting the stocking of trout adjacent to the Wilderness.	Wilderness Act	<p><i>Upper Chattooga River Visitor Capacity Analysis Data Collection Reports - Workshop - 02/20/2007;</i></p> <p><i>Capacity &amp; Conflict on the Upper Chattooga River - p10, paragraph 2;</i></p> <p>Response to Comments Document , # 441;</p>
<b>Exhibit I Issue 32</b>	No rationale is given for overlapping limits (season, flow, reach) in the preferred alternative. The USFS offers no rationale for why paddling should not be allowed during flow conditions when other in-stream recreation is not occurring or optimal.	APA	<p>Environmental Assessment Chapter 1, pp.1-7;</p> <p>Environmental Assessment Chapter 2, p.8, p.12 paragraph 1;</p> <p>Environmental Assessment, Ch. 3, Sect. 3.3.1, pp. 119-127, p.134 – Alt. 4, 1<sup>st</sup> paragraph;</p> <p>Decision Notice, Sect 4.0, bottom of p.4 and p.5;</p> <p>Response to Comments, #17, 18, 29, 68, 71, 124, 126, 129, 266, 354, 362, 584.</p>
<b>Exhibit I Issue 33</b>	The USFS offers no rationale for the complete ban of paddling on the Rock Gorge	APA NEPA	<p>Environmental Assessment, Chapter 2, p 25, Alt 8 &amp;10, Zone;</p>

	section of the upper Chattooga. Their analysis shows that interactions with anglers are unlikely to occur, that if they do occur will not cause interference, and that hemlock mortality is not an issue there.		Response to Comments Document, # 71, 224, 507;  EA, Chapter 3, Section 3.3.1, pp 119-127, p 134 – Alternative 4, 1 <sup>st</sup> paragraph;  Decision Notice, 4.0 Rationale for Decision;
<b>Exhibit I Issue 34</b>	The USFS failed to consider and incorporate the comments of American Whitewater on the studies and reports that were ultimately addressed in the EA.	NEPA	Response to Comments Document, #s 408-511;  Analysis of comments in project record - #898, 08/18/2008;  Decision Notice, Section 6 Summary of Public Input;
<b>Exhibit I Issue 35 See AW 473, 477, 478, 479</b>	The USFS proposed management is inconsistent with management of all other rivers in the system.	FS POLICY (no specific reference)	Environmental Assessment, Chapter 1, Section 1.1 Purpose and Need;  Decision Notices 4.0, Rationale for the Decision;  FONSI 7.0;  Response to Comments Document, #s 177, 489, 499;  <i>Capacity &amp; Conflict on the Upper Chattooga River</i> , pp 12-13;  <i>Upper Chattooga River Visitor Capacity Analysis Data Collection Reports, Case Studies</i> ,
<b>Exhibit I Issue 36 See AW Issue 335</b>	The USFS should not manage for an artificial, intolerant, high-impact use over a nature-based, tolerant, low-impact use.	Wilderness Act, WSRA NEPA	Environmental Assessment, Sect 1.3,  Environmental Assessment, Chapter 2, p.8,  Environmental Assessment, Section 3.3.1  Environmental Assessment, Appendix D  Decision Notice/FONSI  Response to Comments, #s 416 446,452, 466, 467, 478, 508  <i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996</i> , p. 7

			WSRA, Section 13  FSM 2323.34, Fisheries Management
<b>Exhibit I Issue 37</b>	If uses are to be banned, boating should be last rather than first.	NEPA APA	Environmental Assessment, Section 1.1  Response to Comments Document, #s 408, 413, 420, 421;  Decision Notice, Alternative 4 selected, Section 4, Rationale for the Decision
<b>Exhibit I Issue 38 See AW 189, 190, 481</b>	All primitive recreationists should share access to the Headwaters. Banning paddling, while allowing all other uses to occur without any limits, is discriminatory and does not meet the stated objective of limiting use.	APA	Environmental Assessment, Chapter 1  Environmental Assessment, Chapter 2  Environmental Assessment, Sect 3.3.1  Environmental Assessment, Appendix B  Environmental Assessment, Appendix D  Decision Notice, Sect 4.0  Response to Comments, # 408, 488
<b>Exhibit I Issue 39 See AW 111, 113, 114</b>	The Headwaters are federally protected due in large part to boating. As noted above, the upper Chattooga was included in the Wild and Scenic River system based in large part on the incredible paddling opportunity those reaches would provide to the public in perpetuity. Banning paddling on the Headwaters of the Chattooga is at odds with the intent of the Chattooga's WSR designation.	WSRA	Environmental Assessment, Sect 1.1 & 1.3  Environmental Assessment, Sect 3.3.1  Environmental Assessment, Appendix A,  Environmental Assessment, Appendix C  Decision Notice Sect 4.0  Response to Comments, #s 487, 491, 506, 507  <i>Analysis of Outstanding and Remarkable Values of the Chattooga Wild &amp; Scenic Rivers 1971-1996, pp 9-10</i>
<b>Exhibit I Issue 40</b>	The boating ban sets a damaging precedent. Making the Chattooga River an exception to the traditionally collaborative relationship between paddlers and anglers has done more to create conflict	NEPA	Environmental Assessment, Section 1.1  Response to Comments Document, #s 64, 473, 477;  Decision Notice, Alternative 4 selected, Section 4, Rationale for the Decision

	<p>between these two user groups than any on-river interaction ever will.</p> <p>The USFS has driven a wedge between these groups that threatens to have significant unwanted ripple effects. The USFS decision if allowed to stand, it will establish that angling and paddling are incompatible uses.</p>		
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Crosswalk to Administrative Index and Records

Environmental Assessment = Tab 224.0  
Response to Comments= Tab 225.0  
Decision Notices=Tab 221, 222 and 223  
Biological Evaluation= 214.0 and 214.1  
Biological Assessment= 215.0  
Capacity and Conflict on the Upper Chattooga= Tab 171  
Expert Panel Field Assessment=Tab 160  
Data collection process – May 25, 2006=Tab 150  
Upper Chattooga River Visitor Use Capacity Analysis Plan-June 5, 2006=Tab 155  
*Implementation Plan for Data Collection Methods*, Oct. 2006 =Tab #159.0  
1971 W&S River Study Report = Tab 1  
1976 Development Plan Chattooga W&S = Tab 2  
Jerome Thomas’s letter dated 9/26/2007 ”Direction regarding alternatives” = Tab 183  
*Analysis of Outstanding and Remarkable Values of the Chattooga Wild & Scenic Rivers 1971-1996* = Tab 11  
Decision for Appeal = Tab 54  
SC Department of Natural Resource Unpublished Data = Tab 238  
Visitor Use Capacity Analysis, Public Meeting, Date: July 27, 2006 = Tab 157.0 -157.13  
CONF Forest Plan=Tab 236  
Revised Land and Resource Management Plan, Sumter National Forest=Tab 20  
North Carolina Amendment #5=Tab 235

<b>Index to Appeal Record 10-08-012-0024 American Whitewater Association, et al</b>						
Upper Chattooga River Project - Sumter/Chattahoochee/Nantahala National Forests						
<u>Tab</u>	<u>Pages</u>	<u>Date</u>	<u>Document type</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>
18	35	11/12/09	Document	Transmittal Letter	Forest Service	Forest Service (Reviewing Officer)
17	1	11/09/09	letter	Re: Appeal of Forest Supervisors George M. Bain's, Marisue Hilliard's and Monica Schwalbach's Decisions for Amendments on the Upper Chattooga River Land and Resource Management Plan	Forest Service, Southern Region	Paul, Hastings, janokfsky & Walker LLP (Rachel Doughty)
16	8	11/06/09	letter	Re: <i>Boating Parties</i> Stay Request of Implementation Floating Prohibitions on the Upper Chattooga River dated October 29, 2009 ("Request")	Mike Bamford	Forest Service (Reviewing Officer)
15	2	11/05/09	letter	Request to Intervene in the American Whitewater, et al. Administrative Appeal of the Proposal for Management of the Upper chattooga river and the supporting Environmental Assessment	Paul, Hastings, janokfsky & Walker LLP (Rachel Doughty)	Forest Service (Reviewing Officer)
14	10	11/04/09	letter	I hereby submit part two of three of my comments as an intervener to the AW, et alia, (kayaker) appeal, dated October 19, 2009.	Mike Bamford	Forest Service (Reviewing Officer)

<u>Tab</u>	<u>Pages</u>	<u>Date</u>	<u>Document type</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>
13	1	11/03/09	letter	Re: Appeal of Forest Supervisors George M. Bain's, Marisue Hilliard's and Monica Schwalbach's Decisions for Amendments on the Upper Chattooga River Land and Resource Management Plan	Forest Service, Southern Region	Michael Bamford
12	1	11/02/09	letter	Re: Appeal of Forest Supervisors George M. Bain's, Marisue Hilliard's and Monica Schwalbach's Decisions for Amendments on the Upper Chattooga River Land and Resource Management Plan	Forest Service, Southern Region	Joseph Harrison
11	1	11/2/009	letter	Re: Appeal of Forest Supervisors George M. Bain's, Marisue Hilliard's and Monica Schwalbach's Decisions for Amendments on the Upper Chattooga River Land and Resource Management Plan	Forest Service, Southern Region	David M. Bates
10		10/29/09	letter	Jackson Macon Conservatrion Alliance request to intervene	David M. Bates	Forest Service (Reviewing Officer)
9		10/28/09	letter	Joseph harrison request to intervene	Joseph Harrison	Forest Service (Reviewing Officer)
8	29	10/29/09	letter	Mike Bamford hereby submits his timely request to intervene into the American whitewater et alia , (Paddler) appeal, dated October 19, 2009	Mike Bamford	Forest Service (Reviewing Officer)

<u>Tab</u>	<u>Pages</u>	<u>Date</u>	<u>Document type</u>	<u>Title</u>	<u>Author</u>	<u>Recipient</u>
7	3	11/05/09	letter	RE: Request for Stay of Implementation of Floating Prohibitions on the Upper Chattooga River, Project Appeals #10-08-03-0022, 10-08-11-0023, and 10-08-12-0024	Forest Service, Southern Region	Patton Boggs LLP (On behalf of American Whitewater)
6	4	10/29/09	letter	AWA requests the Forest Service to "vacate" the stay on boating provisions	Patton Boggs (on behalf of American Whitewater)	Forest Service
5	8	10/29/09	letter	Request for Stay of Implementation of Floating Prohibitions on the Upper Chattooga River	Patton Boggs (on behalf of American Whitewater)	Forest Service
4	8	10/26/09	letter	AWA asks forest Service to deny Georgia ForestWatch ("GFW") Stay Request for Boating Provisions of the Proposal for Management of the Upper Chattooga River, dated October 20,	American Whitewater Associaton	Forest Service
3	1	10/27/09	letter	This acknowledges receipt of your electronically filed October 19, 2009, Notice of Appeal (NOA) which will be processed under 36 CFR 219.	Forest Service, Southern Region	Record
2	1	10/20/09	Document	APPEAL NOTICE RECORD Part A - Notification to Responsible	Forest Service	Record
1	156	10/19/09	Appeal	Notice of Appeal	American Whitewater Associaton	Forest Service

<b><u>Description</u></b>
Record transmitted by FMS on Appeal 10-08-012-0024
Grants intervenor status on behalf of Georgia Forest Watch
Request to deny American Whitewater's stay request
GFW's request to intervene in AW's appeal
Part II focuses on the expansive flaws in the logic of the kayaker appeal and the kayaker's misinterpretation of the governing statutes

<b><u>Description</u></b>
This letter responds to your October 29, 2009 request for intervenor status in the appeal 10-08-012-0024
This letter responds to your October 28, 2009 request for intervenor status in the appeal 10-08-012-0024
This letter responds to your October 29, 2009 request for intervenor status in the appeal 10-08-012-0024
I do not have this letter; this is a place holder for the letter
I do not have this letter; this is a place holder for the letter
Mike Bamford requests to intervene in appeal 10-08-012-0024

<b><u>Description</u></b>
The status quo (the existing management of the river in effect prior to August 25, 2009) is preserved and currently in effect until a decision is finalized on each of the appeals filed. As a result, the agency will refrain from implementing the decisions at issue until the final administrative decision is made.
AWA questions legality of stay on boating provisions
AWA requests to stay boating provisions of the 3 decisions.
American Whitewater, American Canoe Association, Atlanta Whitewater Club, Georgia Canoeing Association, and Western Carolina Paddlers (“Boating Parties”) ask the USFS to deny GFW’s
Letter to AWA accepting their timely appeal
designates who will be responsible for appeal response on FMS
Appeal by American Whitewater, American Canoe Association, Atlanta Whitewater Club, Georgia Canoeing Association, and Western Carolina Paddlers