



**File Code:** 1950  
**Date:** December 31, 2015

Ms. Mary Topa  
Georgia Forest Watch  
81 Crown Mountain Place  
Building C, Suite 200  
Dahlonega, GA 30533

Dear Ms. Topa:

This letter is in response to your objection, dated July 13, 2015, on behalf of Georgia Forest Watch to the Chattooga River Boating Access Project located on the Chattooga River Ranger District of the Chattahoochee-Oconee National Forests, Nantahala Ranger District of the Nantahala National Forest and Andrew Pickens Ranger District of the Sumter National Forests. I have read your objection, reviewed the Environmental Assessment (EA), and the analysis in the project file, and I understand the disclosed environmental effects. I have also considered the comments submitted during the public scoping for this project. My review was conducted in accordance with 36 CFR 218 Subparts A and B.

#### **NON-HFRA PROJECT BACKGROUND**

The administrative review of the Project has been conducted under 36 CFR 218 Subparts A and B in which the objector provides sufficient narrative description of the project, specific issues related to the project, and suggested remedies that would resolve the objection (36 CFR 218.8(d)(5)).

These regulations also allow for the parties to meet in order to resolve the issues (36 CFR 218.11(a)). Even though the request for a meeting was declined to discuss your concerns about the project, I appreciate your personal interest in the project and analysis and the time you spent preparing the project's objection points.

I have reviewed and considered the project in light of the issues presented in your objection letter. This letter summarizes your issues, as presented in your objection letter and provides the Forest Service response to these concerns.

#### **ISSUE REVIEW**

**Issue 1- No Comprehensive River Management Plan:** There is no current Comprehensive River Management Plan ("CRMP") for the Chattooga Corridor (p 4).

**FS Response:** The Wild and Scenic Rivers Act states that the Federal agency charged with the administration of a wild and scenic river (in this case, the Forest Service) shall "prepare a comprehensive management plan for such river segment to provide for the protection of the river values. The plan shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes of this



chapter. The plan shall be coordinated with and may be incorporated into resource management planning for affected adjacent Federal lands.”

After the Chattooga’s designation in 1974, the Forest Service issued a CRMP in 1980. AR005:00236-37. During the Forest Service’s subsequent land and resource management planning, and in conformity with 16 U.S.C. §1274(d), that CRMP was incorporated into the 1985 Sumter Forest Plan as Appendix M. AR006:00305, AR007:00321-52. When the Sumter revised its forest plan it also revised the CRMP. The current management plan for the Chattooga WSR Corridor is located in Section 2.A of Chapter 3 (“Management Prescription”) of the 2004 Sumter Forest Plan. United States District Judge Bruce Howe Hendricks in his Opinion and Order dated September 29, 2015 (United States District Court, District of South Carolina, Greenville Division) stated (page 17):

..... The management prescriptions for the Chattooga in the 2004 Sumter Forest Plan “constitute[] the comprehensive plan as required in Section 3(d)(2) of the Wild and Scenic Rivers Act” and are used by the Nantahala and Chattahoochee National Forests for management of the Chattooga within their respective forest boundaries. (AR020:01758; *see* AR235:10656-62 (Nantahala); AR236:11032 (Chattahoochee)). Moreover, those management prescriptions were developed in close cooperation between the three National Forests and designed for collective use. (AR019:01548). The dispersed management of the Chattooga Corridor is a feature of the river itself, and not a product of any unjustifiable arrangement adopted by the Forest Service. Neither the Forest Service writ large, nor the individual Forest Supervisors can change the fact that this precious natural resource flows through three different national forests in three different states. In this context, the Forest Service has adopted dispersed LRMPs that are designed to facilitate local management while incorporating a unified approach to the preservation and enhancement of the Chattooga’s ORVs. Where, as here, the Forest Service has complied with the procedural requirements imposed by statute, the Court will not substitute its own notions of procedural propriety on the agency. *See Tyrrel*, 918 F.2d at 818.

The management prescriptions for the Chattooga WSR Corridor in the 2004 Sumter Forest Plan “constitute[] the comprehensive plan as required in Section 3(d)(2) of the Wild and Scenic Rivers Act” and are used by the Nantahala and Chattahoochee National Forests for management of the Chattooga within their respective forest boundaries. AR020:01758; *see* AR236:11032 (same, for Management Area 2.A in the Chattahoochee NF); AR235:10656-62 (Nantahala Management Area 15 applies to the Chattooga WSR Corridor). The management prescriptions in the 2004 Sumter Forest Plan “were developed in close cooperation with the Chattahoochee and Nantahala National Forests and will be used by all three Forests for the Chattooga River watershed.” AR019:01548.

**Issue 2- Inverted Planning:** By identifying the location of specific access points, the 2012 Decisions made site-specific decisions as amendments to the Forests’ LRMPs. In doing so, the 2012 Decisions committed the Forest Service to future action--designation of System Trails for

<sup>1</sup> For purpose of clarity, *Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor Environmental Assessment* is referred to in this document as the 2012 EA. The associated Decision Notices from the three Forest Supervisors are referred to as the 2012 Decision Notices. *Chattooga River Boating Access Environmental Assessment* is referred to in this document as the Boating Access EA or the 2015 EA.

River access points--in violation of Forest Service regulations, which require authorization of public uses of National Forests at the project, not LRMP, level (p4).

**FS Response:** The 2012 EA only designated temporary locations and committed to analyze site-specific access points in a future analysis open to public review and comment.

**Issue 3 - Too-Narrow Capacity Analysis:** The Forest Service failed to consider users other than boaters in evaluating the impacts of various boater access trails, and the Forest Service neglected to add boating and establishing capacity guidelines to the past, present, and reasonably foreseeable actions table within the watershed (Table 3.1-1, Access EA, pp. 19-20 (p5)).

**FS Response:** The 2012 EA considered impacts of other users in Section 3. The 2015 EA described impacts and capacity on pages 24-30 and throughout Section 3. The 2015 EA also clarified that "Periodic monitoring of these trails may lead to relocation or upgrading design or maintenance on portions of them should recreational activities result in resource damage." Table 3.1.1 identifies specific projects considered for cumulative effects. On-going general use is part of the existing condition from which the effects of additional projects are considered. They are listed in Table 3.1 as "ongoing".

**Issue 4 - Violation of Access Regulations:** The Boating Access EA acknowledges that the proposed access is not legal: "Consistent with the requirements outlined at 36 CFR 261.70, the Forest Service is planning to change 36 CFR 261.77 to more clearly reflect this new management direction for the entire length of the Chattooga WSR on National Forest System lands (p. 6).

**FS Response:** The interim and proposed registration points all abut the river in accordance with the regulation, and the addition of self-registration stations abutting the upper Chattooga system is a reasonable implementation of the 2012 Decisions that allow for boating on the upper Chattooga by self-registration permit. The main feature of the regulation is to notify the public of locations where permits can be obtained – at a self-registration station "abutting the Chattooga River" (36 C.F.R. § 261.77). United States District Judge Bruce Howe Hendricks in his Opinion and Order dated September 29, 2015 (United States District Court, District of South Carolina, Greenville Division) stated (pages 37-38):

The defendants respond that the new boater registration kiosks at the interim access sites are permissible under § 261.77. They argue that the seven locations enumerated in the regulation are neither exclusive nor exhaustive, and that § 261.77 should not be read to tie the hands of the Forest Service and prohibit additional kiosks. The defendants further contend that the self-registration model adopted for the new kiosks on the Upper Chattooga should be deemed permissible, because it is based on the self-registration system for non-commercial boaters that has been in effect on the Lower Chattooga since it was first designated a WSR. Finally, they argue that the Forest Service's reading of § 261.77 is reasonable and entitled to deference by the Court, especially in light of the fact that the Forest Service has already been interpreting the regulation in this way for some time by allowing three non-enumerated boater registration stations on the Lower Chattooga. The Court agrees.

**Issue 5 - Limited NEPA Alternatives Analysis:** For each access trail, only two alternatives were presented to the public. The Forest Service has locked itself into this position by allowing

boating in the prior decision in the locations where it did. This is exactly why NEPA prohibits segmentation of projects (p. 6).

**FS Response:** The 2015 EA, section 2.4, page 17 describes other alternatives considered but not developed and the rationale for not developing those alternatives in full. Since the 2015 EA will result in three separate decisions on three National Forests, there is nothing to preclude one National Forest from selecting the "No Action" and another from selecting the "Action" Alternative. The potential permutations of this scenario need not be analyzed individually as long as they are within the range of effects considered.

**Issue 6 - Failure to Protect ORVs.** The Forest Service has failed to address degradation of the Chattooga Corridor by sediment (p7). The Forest Service ignores that those using access features must also use roads and parking areas within the Chattooga Corridor.

**FS Response:** Ongoing system road maintenance was identified as an existing condition for cumulative effects in Table 3.1-1. The EA concluded on page 38 that "Cumulative decreases in erosion and sediment to the Chattooga River are expected with implementation of the proposed action when considered in context with other projects in the drainage."

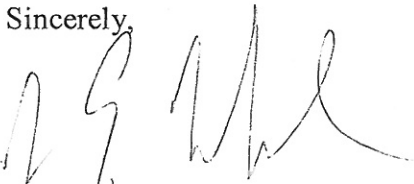
## SUMMARY

After reviewing all of the available information and on behalf of myself and the Forest Supervisors for the Sumter and Chattahoochee National Forests, I have concluded there is adequate direction in place (or to be in place once the decision is signed and implemented) to ensure that the proposed actions are being authorized as stated in the Environmental Assessment (EA) and Decision Notice / Finding of No Significant Impact (FONSI).

This letter meets the requirements for resolution of objections (§218.11(b)(1)) and, therefore, concludes the administrative review process for this objection (§218.11(b)(2)). Based on this response, Nantahala District Ranger Mike Wilkins, Chattooga River District Ranger Edward Hunter Jr. and Andrew Pickens District Ranger Robert Sitzlar may sign their decisions (36 CFR 218.12 (a) and (b)) and implement the project as soon as practicable. This response is not subject to further administrative review by the Forest Service or the Department of Agriculture (36 CFR 218.11 (b)(2)).

Thank you for participating in the process. I appreciate the time and thoughtfulness you have given to this project.

Sincerely,



JAMES MELONAS  
Acting Forest Supervisor