



**File Code:** 1950

**Date:** December 30, 2015

Michael Bamford  
Whiteside Cove Association  
PO Box 2294  
Cashiers, NC 28717

Dear Mr. Bamford:

This letter is in response to your objection, dated June 27, 2015, on behalf of Whiteside Cove Association, to the Chattooga River Boating Access Environmental Assessment and Draft Decision Notice on the Nantahala Ranger District of the Nantahala National Forest. 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.

These regulations also allow the parties to meet in order to resolve the issues (36 CFR 218.11(a)). On September 25, 2015 District Ranger Mike Wilkins, Administrative Review Coordinator Heather Luczak, Francis Marion and Sumter National Forests Environmental Coordinator, Jim Knibbs and I met with you at the Nantahala Ranger district office in Franklin, North Carolina to discuss your concerns about the project and analysis.

I have reviewed and considered the project in light of the issues presented in your objection letter.

#### **ISSUE REVIEW<sup>1</sup>**

**Issue 1:** The EA claims property title and public access rights are uncertain (EA 163). The 2015 EA reasserts uncertainties over access rights, property ownership and navigability. The agency harms the WCA and Rust family by clouding property title and questioning the most valued of all property rights, the right to exclude.

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<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.



**Suggested Remedy:** We ask the USFS 1) clarify in this EA that the Private Segment is not suitable for Public recreational use, because ownership is currently privately held. 2) Further, that Planning documents make clear that boating remains banned upstream of the Private Segment, across the Private Segment and within ¼ mile of the Private Segment. 3) We further request that the Greens Creek Trail not be designated and that the uppermost point from where boating is allowed is moved downstream to Norton Mill Creek.

**FS Response:** The Boating Access EA response to comments (comment # 107, pages 163-164) stated, "The 2012 EA disclosed that private property is located in the upper reaches of the Chattooga River." The following is excerpted from the 2012 EA:

Navigability and public access rights on this reach have not been formally analyzed by any federal or state agency or authority, nor has its navigability been adjudicated by a court of law. Public access rights and navigability are complex topics, and the outcome of a formal analysis or adjudication for the upper segment of the Chattooga WSR is uncertain. According to FSM 2354.14 - Navigability of Rivers, "Most rivers in the country have not been adjudicated as navigable or non-navigable. Consider them non-navigable until adjudicated otherwise." Until decisions about boating are made for the sections of the river with public land along them, or public access rights on this reach are determined, the U.S. Forest Service considers this decision to be beyond the current scope of analysis.

The Chattooga River Boating Access EA (Boating Access EA) therefore limits the scope of the decision to establishing boater put-in and take-out locations on National Forest System lands and is consistent with the decisions signed in 2012.

Reference is also provided to the published ruling of US Court of Appeals for the Fourth Circuit - US Court of Appeals for the Fourth Circuit, No. 13-1960, 11/05/2014 pages 25-27.

The Boating Access EA defines the purpose and need in Chapter 1, page 4. The key driving need was the direction of alternative 13A in the 2012 EA to designate specific put-ins and take-outs after site-specific analysis. The Boating Access EA adheres to the 2012 EA and US Code of Federal Regulations (CFR) 261.77. The 2012 EA stated that boating would be allowed on National Forest lands between the Green Creek confluence and the Lick Log confluence when boaters start or end trips at designated locations (page 2 of the 2012 Decision Notice). In addition, CFR 261.77 and the closure order in effect on the Nantahala National Forest require that boaters have a permit. The decision applies only to National Forest lands. Boating on private land above Green Creek is beyond the scope of this decision (Boating Access EA, comment # 107, page 163).

**Issue 2:** The EA redefines ownership of the Private Segment as 'uncertain', which makes the Proposed Actions uncertain, undefined and therefore illegal.

**Suggested Remedy:** We request the Forest Service remove ambiguity over property ownership within the planning documents. This can be accomplished by either defining the boundaries of

the National Forest System, Forest Lands and Private Property, which defines the proposed and previous agency actions, or define the location of those Actions –including the conditions of the permit- based upon locations well within National Forest System boundaries as outlined by the 4<sup>th</sup> circuit court rulings. Not designating the Greens Creek trail, and moving downstream the location from where boaters could start a float trip to “the confluence of Norton Mill Creek” would accomplish our appeal request and comport with the Court Orders.

**FS Response:** Federal ownership was displayed in all maps in the EA and proposed trails are all located on National Forest lands. Neither the 2012 EA nor the Boating Access EA proposes any actions on private property. See response to previous issue and response to comments in the Boating Access EA (comments #140 and #154).

Property boundaries are marked on the ground and on the 2013 administrative maps, which are available and sold to the public. The Boating Access EA proposes access locations and trail construction specifically on National Forest lands only. These locations are described in narrative form and on maps that are clearly on the National Forest and not private land.

**Issue 3:** The EA defines the 2012 Plan Amendment as the removal of the boating prohibition on the upper Chattooga, even though a Federal court previously ruled that a prohibition on boating remains above Green Creek and over the Rust family property.

**Suggested Remedy:** We request the Forest Service comport with the court-defined 2012 Forest Plan Amendments and recognized that boating is prohibited “above Greens Creek and over the Rust family property” and that boaters cannot access the Chattooga within ¼ mile of the Private Segment. Since the Greens Creek trail is the only trail that does not comport with the court’s ruling, we request the agency not designate Greens Creek trail and move downstream the location from where boaters could initiate a trip to “the confluence of Norton Mill Creek”.

**FS Response:** The Boating Access EA tiers to the 2012 EA and clearly states that the selected alternative will “Designate trails and require boaters to start or complete their trip only at specific boater access points...” The Fourth Circuit Court ruling did not prohibit boating within ¼ mile of the private property. The court did not require that a buffer strip be established between the private property on National Forest System lands where public access trails could be constructed, reconstructed or designated. To the contrary, the court stated that, “Of course, the Rust Family is free to challenge any decisions on any site-specific locations of boating access points (made downstream from the Rust Family property) when those decisions are made and the issues are ripe for review.”

The Court of Appeals for the Fourth Circuit also addressed this in their review on page 25 by stating:

The Rusts also argue that the Forest Service violated NEPA by failing to analyze the risk that opening portions of the Headwaters to floating could lead to trespass on Rust property. They insist that floaters are likely to attempt to reach the River by crossing their property illicitly, instead of using the trails and parking lots already

available to the public. The district court correctly held that this prospect is so speculative that no NEPA analysis is required.

The 2012 EA considered access on the trail that is covered in the Boating Access EA, page 169.

Neither the 2012 EA nor the Boating Access EA proposes any actions on private lands. Access to the Green Creek put-in site is accurately displayed on page 11 of the Boating Access EA. This access route is an old logging road that is currently used mainly by anglers going to and from the river. Minor work is needed to make it a sustainable Forest Service system trail.

**Issue 4:** The EA misrepresents the agency action as “not authorizing” and “not allowing” public use of private property, rather than acknowledging jurisdictional limits.

**Suggested Remedy:** We request the Forest Service comport with the court-defined 2012 Forest Plan Amendments and recognized that boating is prohibited “above Greens Creek and over the Rust family property” and that boaters cannot access the Chattooga within ¼ mile of the Private Segment. Since the Greens Creek trail is the only trail that does not comport with the court-approved action, we request the agency not designate Greens Creek trail and move downstream the location from where boaters could initiate a trip to “the confluence of Norton Mill Creek”.

**FS Response:** The Boating Access EA response to comments (3107, pages 163-164) states:

The 2012 EA disclosed that private property is located in the upper reaches of the Chattooga River. The following is excerpted from the 2012 EA:

Navigability and public access rights on this reach have not been formally analyzed by any federal or state agency or authority, nor has its navigability been adjudicated by a court of law. Public access rights and navigability are complex topics, and the outcome of a formal analysis or adjudication for the upper segment of the Chattooga WSR is uncertain. According to FSM 2354.14 - Navigability of Rivers, “Most rivers in the country have not been adjudicated as navigable or non-navigable. Consider them non-navigable until adjudicated otherwise.” Until decisions about boating are made for the sections of the river with public land along them, or public access rights on this reach are determined, the U.S. Forest Service considers this decision to be beyond the current scope of analysis.

The Boating Access EA therefore limits the scope of the decision to establishing boater put-in and take-out locations on National Forest System lands and is consistent with the decisions signed in 2012. Private property is shown in the 2012 and Boating Access EAs and various administrative maps available to the public.



Reference is also provided to the published ruling of US Court of Appeals for the Fourth Circuit - US Court of Appeals for the Fourth Circuit, No. 13-1960, 11/05/2014 pages 25-27.” Neither the 2012 EA nor the Boating Access EA allows public use of private property.

**Issue 5:** The inclusion of the Private Segment within the upper Chattooga visitor capacity analysis is a violation of the planning process. The EA perpetuates the public misconception that private property is, or could be, available for public use by the agency.

**Suggested Remedy:** We request the Forest Service include in this EA- and all future EAs which include the Chattooga WSR- that the Private Segment is not suitable for public recreational uses. We request the agency not designate Greens Creek trail and move downstream the location from where boaters could initiate a trip to from the Private Segment Property boundary located at the confluence of Greens Creek to “the confluence of Norton Mill Creek”.

**FS Response:** There is no mention of a suitability analysis in comments received during the 30-day notice and comment period detailed in Appendix A of the Boating Access EA.

The Proposed Action does not propose any actions on private property nor is the Forest Service suggesting the public use private land to access the river. The 2012 EA page 13, item E (AR16709) and section 2.4 (AR16741) state that boating through private land is beyond the scope of the decisions that were made in 2012.

The US Court of Appeals for the Fourth Circuit states on page 24 of Appeal: 13-1960:

The Rusts acknowledge that the Forest Service would need to take additional action before it could manage this portion of the Chattooga. The Forest Service has not done so. Nor has it argued that this portion of the Chattooga is subject to Forest oversight. In fact, the Rusts agree that the Forest Service has consistently treated this segment of the Chattooga as non-navigable, private, and outside its authority.

Property boundaries are marked on the ground and on the 2013 administrative maps, which are available and sold to the public.

The Boating Access EA proposes access locations and trail construction only on national forest lands. These locations are described in narrative form and on maps that are clearly on the National Forest and not private land.

A capacity analysis was completed in the 2012 EA and is located on pages 67 – 73 (AR16763-16769) of the 2012 EA. Civil Action No.: 8:09-2665-MGL, Amended Order and Opinion, issued on July 30, 2013 stated that the Forest Service complied with statutory directives relative to the user capacity study (refer to pages 20-23 of the Amended Order).

**Issue 6:** The EA contradicts the standard by first defining recreational activities as values, then protecting these activities at the expense of resource conditions. The EA also conflicts the Forest

Service handbook which requires all new WSR trails “must be compatible with and fully protect identified values” (FSH 1901.12\_80).

**Suggested Remedy:** We request the Forest Service take immediate corrective action by closing the River above Norton Mill Creek to stop the downward trend in the condition of the resource. Under the proper standard of review we request the Greens Creek Trail not be designated and that the agency prohibit boating upstream of Norton Mill Creek.

**FS Response:** The Wild and Scenic River Act (WSRA) requires that a river designated as wild and scenic “shall be administered in such manner as to protect and enhance the values which 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....” 16 U.S.C. § 1281(a). The “values” which lead to the inclusion of a river in the National WSR System are free-flowing condition, Outstandingly Remarkable Values (ORVs) and water quality (16 U.S.C. § 1271). The joint Secretarial Guidelines between the Department of Agriculture and the Department of the Interior interpret the management principles of Section 1281(a) for these values “as stating a non-degradation and enhancement policy for all designated river areas, regardless of classification.” (*Nat’l Wild and Scenic Rivers Sys.; Final Revised Guidelines for Eligibility, Classification, and Mgmt. of River Areas*, 47 Fed. Reg. 39454, 39458 (Sept. 7, 1982)). “The WSRA requires the administering agency to manage each component so as to protect and enhance its ORVs, while providing for public recreation and resource uses which do not adversely impact or degrade those values.” *Yosemite III*, 520 F.3d at 1028 (citing 47 Fed. Reg. at 39,458-59).

The Wild and Scenic Rivers Coordinating Council, in its May 2014 document, *A Compendium of Questions and Answers Relating to Wild and Scenic Rivers, A Technical Report of the Interagency Wild and Scenic Rivers Coordinating Council* (page 69) states:

In its technical report on managing wild and scenic river, the Council...interprets Section 10(a) of the WSRA as: “Protect rivers by documenting and eliminating adverse impacts on values (free-flow, water quality, ORVs), including activities that were occurring on the date of designation. Enhance rivers by seeking opportunities to improve conditions.”

While the term “protect” is interpreted by the Council as “eliminating adverse impacts,” it is not interpreted as an absence of impacts. Rather, each WSR-administering agency must, based on best available scientific information and reasoned professional judgment, ensure that existing values are protected and, to the extent practical, enhanced. The river-administering agency must also establish a positive trajectory for any value that was in a degraded condition on or after the date of the river’s designation.”

Both the 2012 EA and the Boating Access EA are consistent with the WSRA and the National Forest Management Act. Both EAs contain a detailed analysis of the effects to the Chattooga’s

free flow condition, water quality and the ORVs. Also, refer to the following court opinions: Civil Action No.: 8:09-2665-MGL, Amended Order and Opinion, 7/30/2013 and US Court of Appeals for the Fourth Circuit, No. 13-1960, 11/05/2014.

While the scope of the 2012 decision was limited to the upper segment of the Chattooga Wild and Scenic River (WSR), the decision was considered within the context of the entire WSR corridor. The Boating Access EA and draft decision is therefore considered within the context of the entire WSR corridor.

**Issue 7:** Because there is no discernable difference between the proposed alternatives, the EA provides no basis for comparison to analyze and contrast those issues raised during scoping, which circumvents the mandated 'Hard Look' through comparative analysis.

**Suggested Remedy:** We request the Forest Service assess the benefits to the resource, the riparian zone, property interests, financial management burdens, non-boating visitors and wildlife from not designating the Greens Creek Trail and moving the location from where boating is allowed downstream to "the confluence of Norton Mill Creek".

**FS Response:** The rationale for the proposed Forest Service action pertaining to user created trails and portage needs for boaters is presented in Chapter 3, section 3.2.1, section 3.2.3, and section 3.3.2 of the 2012 EA.

The Boating Access EA, section 2.4, page 17 describes other alternatives considered but not developed and rationale for exclusion.

Since the Boating Access 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.

Put-ins and take-outs are specified on page 39 (AR16735), Table 2.2-8 of the 2012 EA. The Council on Environmental Quality (CEQ) issued guidance regarding "Effective Use of Programmatic NEPA Reviews", December 18, 2014. The 2012 EA is a programmatic document that helps to avoid repetitive broad level analysis in subsequent tiered NEPA and to narrow the consideration of alternatives (refer to comment #48, pages 138-141 of the Boating Access EA).

Prior to the Boating Access EA, Ranger Wilkins had a public field trip and invited the public to offer alternatives for access. All those alternatives were included in the range of alternatives. The Boating Access EA analyzed two alternatives in detail and considered three additional alternatives, which is determined to be a reasonable range of alternatives.

**Issue 8:** In contradiction to the court ruling, the Proposed Action is presented as a 'need to designate trails' due to the commitment of the resource previously made under the 2012 Decision. This fragmentation of a complete assessment circumvents the assessment requirement entirely, specifically the indirect effects of the action above Greens Creek.

**Suggested Remedy:** We request the EA comport with the 4<sup>th</sup> circuit court ruling which defined, before it upheld, the 2012 Plan Amendments. Boating is prohibited “above Greens Creek and over the Rust family property” and within ¼ mile of the Private Segment. Since the Greens Creek trail is the only trail that does not comport with the court’s ruling, we request the agency not designate the Greens Creek trail and move downstream the location from where boaters could initiate a trip to “the confluence of Norton Mill Creek”.

**FS Response:** Tiering is a well-documented procedure which allows an agency to avoid duplication of paperwork through the incorporation by reference of the general discussions and relevant specific discussions from an environmental impact statement of broader scope into one of lesser scope or vice versa.

While the 2012 EA identified five areas, it did not designate or analyze the site-specific effects of designating trails in those specific locations. The 2012 Decisions only deferred designations until site-specific analysis was completed.

All boater access sites and trails proposed for designation are located on National Forest System lands. These access sites will be the only sites permitted for launching boats into or taking out of the Chattooga River once the decisions are made.

The EA considered impacts to private property in the response to comments stating, “Due to the terrain, easy access to the Greens Creek trail head and location of the put-in well downstream of private property (approximately 700 feet) and the experience from the 2013, 2014 and 2015 paddling seasons, no trespass is expected. In addition, paddlers coming to this section are much more highly skilled and research their trip to a very high degree.”

The Court of Appeals for the Fourth Circuit also addressed this in their review on page 25 by stating:

The Rusts also argue that the Forest Service violated NEPA by failing to analyze the risk that opening portions of the Headwaters to floating could lead to trespass on Rust property. They insist that floaters are likely to attempt to reach the River by crossing their property illicitly, instead of using the trails and parking lots already available to the public. The district court correctly held that this prospect is so speculative that no NEPA analysis is required.

All parking areas, proposed trails and access points to the Chattooga River are located on National Forest System lands.

**Issue 9:** The 2015 EA and associated Decision Notices contradict the 2012 Forest Plan and denigrates a series of Federal court rulings regarding the upper Chattooga.

**Suggested Remedy:** We request the Draft EA comport with the 4<sup>th</sup> circuit court ruling which defined, before it upheld, the 2012 Plan Amendments. Boating is prohibited “above Greens Creek and over the Rust family property” and boaters cannot access the Chattooga River within ¼ mile of the Private Segment. Since the Greens Creek trail is the only trail that does not comport with the court-defined Plan, we request the agency not designate the Greens Creek trail

and move downstream the location from where boating starts to “the confluence of Norton Mill Creek”.

**FS Response:** The Court of Appeals for the Fourth Circuit ruling did not prohibit boater access within ¼ mile of the private segment. The court did not require that a buffer strip be established on National Forest lands and private property. To the contrary, the court stated that, “Of course, the Rust Family is free to challenge any decisions on any site-specific locations of boating access points (made downstream from the Rust Family property) when those decisions are made and the issues are ripe for review.”

The Court of Appeals for the Fourth Circuit also addresses this in their review on page 25 by stating:

The Rusts also argue that the Forest Service violated NEPA by failing to analyze the risk that opening portions of the Headwaters to floating could lead to trespass on Rust property. They insist that floaters are likely to attempt to reach the River by crossing their property illicitly, instead of using the trails and parking lots already available to the public. The district court correctly held that this prospect is so speculative that no NEPA analysis is required.

The 2012 EA considered access on trails that are analyzed in the Boating Access EA - Page 169.

The Boating Access EA tiers to the 2012 EA and clearly states that the selected alternative will “Designate trails and require boaters to start or complete their trip only at specific boater access points...”

**Issue 10.** The 2012 Decision –which expanded limited boating opportunities to the upper Chattooga- was premised upon a net reduction in the overall length of trails and associated sedimentation run-off. This proposed Action contradicts the earlier Plan to which it is purportedly “tiered”. In place of reducing the overall length of trails, the Proposed Action would designate additional trails, but only for boaters.

**Suggested Remedy:** We request the Forest Service Stay the 2015 Decision to designate any new access trails, and move downstream the location from where boaters could initiate a trip to “the confluence of Norton Mill Creek”<sup>2</sup>, thereby removing the perceived need for the Greens Creek Trail.

**FS Response:** The 2012 EA (page 39) lists the actions under alternative 13A concerning trail management. The Boating Access EA (page 71) discloses the impacts of trail work at Green Creek and Norton Mill Creek access sites.

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<sup>2</sup> Boaters can arrive at the confluence of Norton Mill creek via the existing trail system, thereby requiring no new trails.

Trails accessing the Green Creek and Norton Mill Creek sites would require some reconstruction and minor realignment to produce a sustainable trail. Sections of these old road beds are currently used although they are not designated or maintained. The work on these new trails would improve their conditions and reduce impacts to water resources.

The Boating Access EA concluded on page 72 that “Newly constructed trails and river access sites would have the potential for increased erosion and sedimentation, but with the implementation of effective design measures, measurable adverse impacts to water quality would be avoided.”

The Boating Access EA proposed action would result in designation of an existing trail at Norton Mill Creek and reconstructing an old road bed at Greens Creek. New construction is only anticipated below Bull Pen Bridge and at Lick Log. Approximately 375 feet of user-created trail would be decommissioned at Burrells Ford (2015 EA Table 2.2-1, page 16).

Analysis on pages 27-28 of the Boating Access EA states that other users could use the trails to access the river.

The new locations are not considered primary hiking, hunting or riverside recreation access points and are not likely to induce new use. They may simply encourage a few users to access the channel at specific locations (as opposed to accessing the channel via user-created spur trails). With increased hemlock downfall and heavy understory vegetation growth in the area, designated trails are likely to receive the most use and will discourage use on the old user-created spurs into the river.

**Issue 11:** The Draft EA claims there were “almost no interactions between boaters and non-boaters on the North Carolina side (EA p23); implying no conflict between anglers and boaters in North Carolina.

**Suggested Remedy:** We request the Forest Service provide a year-round opportunity for anglers to enjoy a public segment of the NC Chattooga without interference from boats by prohibiting boating upstream of “the confluence of Norton Mill Creek”.

**FS Response:** The FS acknowledged potential interactions in the 2012 EA on page 26:

Boating use levels would likely continue at levels similar to the last two years, and are unlikely to increase substantially the number of encounters per day with anglers. Most boating is occurring at higher flows (boaters were present on three days between 350 and 500 cfs). Based on Whittaker and Shelby (2007), flows are considered unacceptably high for fly fishing at 450 cfs and for spin fishing at 525 cfs; flows are optimal below 250 cfs for fly fishing and 325 cfs for spin fishing. The level of actual



encounters and potential for face-to-face conflict between these two groups has probably remained very low to date.

The 2012 EA analyzed a number of alternatives for recreation management and addressed potential conflict between boaters and other users (2012 EA, page 11). This issue was addressed in the 2012 EA and is beyond the scope of the decision to be made in the Boating Access EA.

**Issue 12:** The Forest Service has not applied the same protection to the headwater segment of the Chattooga main stem above Norton Mill Creek which is of similar size to the tributaries.

**Suggested Remedy:** We request the agency provide consistent management by treating the Chattooga Headwaters as a tributary by prohibiting boating upstream of Norton Mill Creek.

**FS Response:** This issue was not raised during 30-day comments. The 2012 EA analyzed a number of alternatives for recreation management and addressed tributary boating (2012 EA page 14). Actions being proposed are consistent with the 2012 EA and decisions. This issue is beyond the scope of the decision to be made in the Boating Access EA.

**Issue 13:** Documents cited the Kayak lobby's website to inform the public where boating opportunities exist in Western North Carolina. (Exhibit D) According to the AW website (Exhibit E) boating the Chattooga WSR starts at Grimshawes Bridge, nearly 2 miles upstream of Greens Creek.

**Suggested Remedy:** We request the Forest Service correct the public misconception by adding signage at Grimshawes Bridge, on kiosks, and maps and make as a condition of the *Floater Permit* that *Boating Remains Prohibited*, either above the uppermost put-in, or Norton Mill Creek.

**FS Response:** Based on discussions, we have researched the references to the document linked to the Forest Plan and the Forest Service does not utilize other web sites to share information about our rules and regulations and did not in any way delegate this responsibility to American Whitewater. We have no control over what others post to their websites. This issue was not raised during 30-day comment period.

**Issue 14:** NCRS published an extensive analysis on soil and land use within Jackson County, North Carolina. The publication notes that due to the slopes and type of soil located at the proposed Greens Creek Trail, the NCRS does not recommend its' use for recreational trails. Further, the NCRS further warns that wet soil conditions- after periods of heavy rains when kayakers are present- increase the severity of impacts created by recreational trail usage, as is identified in the EA (p.76). The EA provides no analysis which shows the soil and slope conditions at proposed Greens Creek trail could sustain recreational use after the heavy rains required to facilitate kayaking, rather the evidence in the record indicates this trail is not suitable for boaters.

**Suggested remedy:** We request the Forest Service not designate the Greens Creek Access Trail, and immediately issue a closure Order for boating on the segment of the Chattooga River above Norton Mill Creek River.

**FS Response:** The following information provides additional analysis of soils for the Green Creek and County Line trails to the Norton Mill Creek access sites.

#### Green Creek Trail Location

The environmental assessment for the project area gave a general description of the soils in the project area. This response takes a more site specific look at the soils on the proposed Green Creek trail location. Micaceous soils occur in the Highlands-Cashiers area but are not located where the trail is proposed. The only micaceous soil series that occur in Macon and Jackson Counties, North Carolina are Cashiers, Chandler, and Fannin soils series. The proposed trail location is located on Cullasaja –Tuckasegee soils, 15-30% slope (Soil Survey of Jackson County, North Carolina). The soil survey shows the Cullasaja series as having large stones as a possible limitation and a moderate rating for Tuckasegee soils for paths and trails because of the slope. A small section of the trail would be located on the Plott soils series, 30-50% slope. Plott soils have a poor rating for paths and trails because of slope. This can be mitigated by using the less steep portions of the soil mapping unit. These soil mapping units can be reviewed on map sheet 90 of the Jackson County Soil Survey.

These factors can be mitigated in trail construction by using Forest Service trail standards such as keeping the trail under 8% slope and by installing proper water control structures such as water bars, dips, out-sloping, cribbing, and bridges and culverts for drainage crossings. The trail location would be on an old road bed that is grown up with some tree saplings that are approximately one to two inches in diameter and ground vegetation. Proper water control structures would be installed to prevent erosion and sedimentation. The trail would be constructed with hand tools to minimize soil disturbance. The use of the old stable road bed would have fewer effects than new trail construction.

#### County Line Trail Location

The portion of the County Line Trail that is located on the ridge top is on the Fannin soils series, 15-30% slopes. From the ridgetop towards the Chattooga River, the trail crosses into the Cashiers soils series, 30-50% slopes. These soils are micaceous. Fannin has a moderate rating for paths and trails because of the slope. Cashiers soils have a poor rating for paths and trails because of slope. Then the trail location goes across a portion of a Cullasaja –Tuckasegee soils 15-30% slope mapping unit. These are not micaceous soils. The County Line trail has been used for a long time to gain access to the river corridor. This project would improve the trail with proper water control structures and tread improvement using the methods listed in the above paragraph. This would lessen the potential for erosion from the trail surface. The soil mapping units can be reviewed on map sheet 93 of the Jackson County Soil Survey.

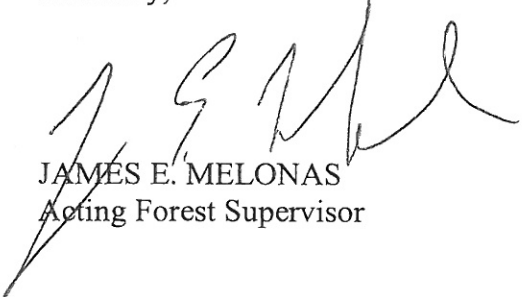
**Summary**

After careful review of the issues presented in your objection letter, I have concluded that 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 Boater Access Environmental Assessment and Decision Notice/Finding of No Significant Impact.

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 E. MELONAS  
Acting Forest Supervisor

**References:**

United States Department of Agriculture. Natural Resources Conservation Service. 1997. Soil Survey of Jackson County, North Carolina.

United States Department of Agriculture. Natural Resources Conservation Service. 1996. Soil Survey of Macon County, North Carolina.

