

Knibbs, James H -FS

From: Mary Topa <mtopa@gafw.org>
Sent: Friday, October 31, 2014 8:53 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access
Attachments: GAFW GASC WW Comments 091712-NNF.pdf; GAFW GASC WW Comments 092712-LLT.pdf; GAFW GASC WW Comments on access trails 062912.pdf; GFW Comments on boating access 082813.pdf; GAFW Chattooga River Boating Access EA Comments 10.31.14.pdf

I have attached Georgia ForestWatch's comments to the Chattooga River Boating Access EA (GAFW Chattooga River Boating Access EA Boating Comments 10.31.14), along with some previous comments on the subject. Please contact me if you have any questions.

Regards,

Mary

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October 31, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

RE: Chattooga River Boating Access

Dear Chattooga Planning Team,

Please accept these comments from Georgia ForestWatch on the Chattooga River Boating Access Environmental Assessment announced on September 29, 2014. Per the Scoping Notice, the designated opportunity for submitting scoping comments is until November 1, 2014 - thus these comments are timely filed. Georgia ForestWatch has submitted comments under previous solicitations for these activities, and we would like to include all of our prior comments by reference, including but not limited to, our comments submitted by our attorney, Rachel Doughty of Greenfire Law, on: June 29, 2012, ("June 29 Comments"); September 17, 2012, to the Nantahala Ranger District; and September 27, 2012, to the Andrew Pickens Ranger District. These comments are attached, along with comments that I submitted on August 27, 2013.

General Comments

Registration stations: The actions proposed still do not address the fact that the current boater permitting system will encourage boaters to violate Federal Regulations. Providing "boating access" trails in the Sumter and Chattooga directly contradicts Forest Service regulations, which prohibit "using or occupying any area" of those Forests "abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit." 36 C.F.R. 261.77(s) (attached). The EA fails to discuss that registration stations are provided at the new upstream put-ins which are not among those permitted by Forest Service regulations. In the alternative, it fails to analyze the impacts of requiring boaters to register at downstream locations before putting in at the newly proposed upstream locations.

Soil erosion and sedimentation: In our June 29 Comments, Georgia ForestWatch stated that user-created features should not be relied upon for access since they are "chronic sediment sources."¹ The soils of the Chattooga River area are described as having "high erosive potential."² Because of this, impacts to vegetation in riparian areas can occur even with low to moderate use. Soils are more susceptible to compaction and displacement in the winter season

¹ 2012 EA, p. 297.

² 2012 EA, p. 300.

(when boating now is allowed on the Upper Chattooga, following the 2012 Decisions) when they are moist for longer duration and subject to freeze/thaw processes. Erosion is more likely during high river flows or intense rainstorms—the very times when boating access is proposed. ForestWatch supports the creation of legal, sustainable access trails that will minimize soil erosion and sedimentation of the Chattooga River and its tributaries.

As noted above, the Forest Service first proposed the five boater access trails over two years ago. Since that time, we have had two seasons of boating access and boaters have been using user-created trails. The 2014 Chattooga River Boating Access Environmental Assessment (“2014 EA”) identifies the current soil erosion conditions for the five proposed access sites and trail locations. All five trail activities were rated as having a medium potential effect on the soil resource, with mitigation likely needed (2014 EA, p. 74). This analysis assumes that designated trails would be located on grades of less than 12 percent, with dips and other structures that limit concentrated flows (p. 73), but grades are higher than this in some of the proposed trail locations. The 2014 EA (p.74) lists soil conditions specific to the five proposed access sites and trail locations:

- *Non-designated or user-created trails* have more potential for erosion and sediment entering the stream because of their location and lack of design and maintenance. As a result, they are periodically eroded during storm and flood events and become more entrenched over time, as well as more capable of eroding and delivering sediment. Currently, the non-designated trails at Burrells Ford Bridge are heavily used and are eroding in some locations. The trails at Green Creek, Bull Pen Bridge and Lick Log are not used very much and have minimal erosion.(refer to section 3.2.1)
- *The parking area* of concern in this analysis area is at the Burrells Ford access site. The parking area is contributing sediment to the river via the existing non-designated trails.

With all five proposed access trails, it is plausible that existing user-created trails might be used more frequently by all recreation trail users. ForestWatch would recommend that *all* user-created trails intersecting any of the five proposed access trails be closed and revegetated to encourage trail users to stay on the constructed, more sustainable trails. Advocates note that this is not only a boater issue—numerous user-created trails and unauthorized and trashed campsites were observed on the site visits, and visitors other than boaters may use trails established by boaters and vice-versa.

At earlier site visits, at least one ranger commented that the Forest Service would not finally identify and create access, portage, and scouting trails, and put-ins and take-outs until boaters had some experience with the sites during actual conditions. With two seasons of monitoring boater put-ins and take-outs, the Forest Service needs to stop relying on user-created access trails since these are responsible for considerable soil erosion, sedimentation and trampling of native vegetation. Unfortunately, the public is presented with only two alternatives in this EA for all the proposed trails - do nothing or accept the Agency’s proposed action. Trail closure is not an option and should be.

Another concern of ForestWatch has to do with trail monitoring and enforcement of user group sizes, and designated put-ins and take-outs. With only two river rangers, it is clear that the Forest Service will have to rely on passive direction of use rather than active enforcement of rules. Lick Log, Norton Mill Creek and Green Creek all require hiking for some distance with boating gear. The Forest Service must consider its actions in light of its actual enforcement capacity. Are existing or expected resources adequate to prevent access at Grimshawes Bridge or by-passing the Lick Log take-out and using the Route 28 Bridge as a take-out by boaters who wish to avoid hiking?

The 2012 EA anticipates between five and 10 search and rescue operations per year. In developing access features, it makes sense to consider where emergency access may be needed at each point and to use that information to inform access feature selection and design. Access features will need to be made part of a search and rescue plan and a pre-accident plan that will both protect users and the River and the Ellicott Rock Wilderness. Such planning should be made part of a Comprehensive River Management Plan.

The management framework that the Forest Service has created through the 2012 Decisions to protect solitude and the outstanding recreational values of the upper sections of the Wild and Scenic Chattooga River can only work with monitoring, informed adaptive management, and enforcement. If the Forest Service is going to practice adaptive management when is it going to commence? Has it established the baseline that is critical to informed adaptive management? Georgia ForestWatch would like to see further development of a comprehensive river management plan as applied to access, with a clear articulation of monitoring and enforcement activities.

Boaters report that there are two long-term portage areas identified at Big Bend Falls and Corkscrew rapids. No portage trails are considered or discussed in the scoping notices. Will the Forest Service monitor these portage sites and other portages certain to arise as the Hemlocks fall to minimize further degradation of the natural resources? For the longer-term portage areas, will any effort be made to make these trails more sustainable or add them as system trails so that resources can be directed toward their maintenance?

Trail Specific Comments

Norton Mill Creek (County Line Access)

Earlier discussions with some paddler groups indicated that they had little interest in using the County Line access point because the distance from parking to the River is too great. The boater user data in the 2014 EA supports this sentiment, with no boaters using this trail in both boating seasons. This begs the question as to whether the Forest Service should keep this as an access site for boaters. But closure is not an alternative in this EA.

County Line Road/Trail is neither a designated road nor a designated trail. It is a known illegal access point to the Chattooga River for motorized vehicles. As a temporary road, it should have been (or should be) obliterated, instead of offered as an access route to the River. Adding a trail at County Line will interrupt the 5.2 mile segment of the Chattooga River Trail from Whiteside

Cove Road to Bull Pen, possibly destroying the unique remote experience along a mountain stream that is not available elsewhere by introducing more people to this area. The only reason to construct/reconstruct this trail would be to make this a sustainable trail for other trail users (anglers, hunters and hikers). But any trail reconstruction should deter motorized vehicles.

A launch site at the campsite below Norton Mill Creek was selected as the best site entering from County Line Road. This site seems to have been chosen primarily because it is already severely impacted. The bank in this area should be monitored and, if erosion is found, it should be moved 100 feet upstream to the rocks below Norton Mill Creek. One issue that must be addressed is how boaters and other users will be dissuaded from entering the River at other points along the Chattooga River Trail if a new access is created.

Green Creek

Green Creek appears to be a preferred launch point. However, based on our previous visits, this access point poses the greatest challenge in creating a sustainable trail (please see our June 28 Comments for more detail). Since only two alternatives are proposed, do nothing (Alternative 1 which would further degrade the area) or Alternative 2, Alternative 2 is the preferred alternative with the closure and revegetation of any user-created trails intersecting the proposed trail. If Green Creek is going to serve as the preferred upper access point for boaters, the eight available parking spaces may not be sufficient if there is an increase in trail use by other trail users.

Bull Pen

This put-in/take-out was one of the most popular access trails to boaters during both boating seasons. It is appealing to boaters because it does not require a long hike from the road. Less skilled boaters probably will not use the designated put-in above the bridge because it would immediately thrust them into a difficult rapid. The existing user-created trail below the bridge is steep, slippery, and subject to erosion. This trail would need to be reconstructed or closed to minimize soil erosion and sedimentation of the Chattooga River.

Burrells Ford

User-created trails already line the riparian area near Burrell's Ford, and should be addressed. Given that only two alternatives were presented (do nothing or build a sustainable trail), ForestWatch supports the decommissioning and revegetation of two of these user-created trails, and all efforts to construct a sustainable trail that will minimize soil erosion, and degradation of the riparian area and water quality. If a sustainable trail cannot be constructed, then this access trail should be closed.

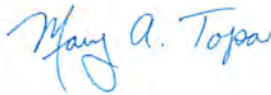
Lick Log

The creation of access points enables boating, but also necessitates take-out points. As the lowest access/take-out point on the Upper Chattooga, Lick Log Creek had 32 boaters use it in the 2012/13 season and 2 boaters the following season, representing 9% and 3% of the boating use access areas, respectively. Unfortunately, this takeout requires a mile-long hike so it is not surprising that its use was low. Georgia ForestWatch received anecdotal reports of boaters during the first boating season floating down to Highway 28 in order to easily exit the River and avoid the long hike, and this would explain the discrepancy in put-ins/take-outs in the 2012/13 boating

season data. The Forest Service should monitor activity at the Highway 28 bridge during active floating days to determine whether boaters are observing the exclusion in that area.

The decision under consideration in this EA and the environmental analysis for the January 2012 decisions reversing decades of prior management direction on the Upper Chattooga, as connected actions, should not have been segmented into two separate EAs; doing so is a NEPA violation. Boating only makes sense if there is appropriate access--a consideration that should have been addressed before allowing boating on the Upper Chattooga. Segmenting the project improperly and unnecessarily limited the scope of review and available alternatives. Because of this segmentation, the only alternative presented to the proposed alternative is to allow continued use of user-created access trails. This presented to the public and decision-makers only the false choice of the impacts of boater access during high erosion wet events on wet gravel roads and user-created features, or on wet gravel roads and forest-service maintained trails (in locations pre-determined for boater access, not because they present the lowest erosion concerns). Had you properly implemented NEPA, a far greater range of alternatives would have been available, including more limited or no access for boaters.

Sincerely,



Mary A. Topa
Executive Director
Georgia ForestWatch

Knibbs, James H -FS

From: Chattooga Conservancy <info@chattoogariver.org>
Sent: Friday, October 31, 2014 3:56 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River boating access
Attachments: Chattooga Conservancy comments on Boater Access EA.pdf

Please find attached our comments regarding the subject issue.

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8 Sequoia Hills Lane
Clayton, GA 30525



TO: Jim Knibbs/Chattooga Planning Team
USDA Forest Service
4931 Broad River Road
Columbia, South Carolina 29212

FROM: Chattooga Conservancy, Inc.
8 Sequoia Hills Lane
Clayton, GA 30525

October 22, 2014

RE: Chattooga River Boating Access, Comments on Environmental Assessment

To All Responsible Officials,

We write to comment on the Environmental Assessment (EA) released by the Supervisor's Office of the Sumter National Forest, entitled Chattooga River Boating Access, dated September 26, 2014. These comments are submitted on behalf of the Chattooga Conservancy, a nonprofit conservation organization whose mission is to protect, promote and restore the natural ecological integrity of the Chattooga River watershed in harmony with a healthy human environment. The Chattooga Conservancy has many members who use and enjoy the national forest lands in the upper Chattooga River watershed and the unique natural and cultural resources housed there.

We submit these comments with the caveats that the Chattooga Conservancy believes that the three Decision Notices and Finding of No Significant Impact for the Environmental Assessment, "Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic Corridor," are deeply flawed. We feel strongly that the 2012 decision failed to consider inevitable negative impacts to the sensitive, rich biological environment of the Upper Chattooga River and to the increasingly rare backcountry experience in the Chattooga River watershed. Nonetheless, this decision has withstood legal challenge and is now in effect. Ironically, the 2012 decision to pre-approve access in all reaches of the upper Chattooga has resulted in only two alternatives offered to the public for consideration in the purported "site-specific" Environmental Assessment of Boater Access in the Upper Chattooga River.

We believe that the EA for Chattooga River Boating Access is deeply flawed and, if implemented, it will inevitably cause irreparable damage to the unique backcountry experience and to the biophysical environment in the headwaters of the Chattooga River. Specifically, we believe this to be true for the following reasons: 1) The Boater Access EA contains a procedural

“tiering” defect which renders the proffered alternatives non-viable; 2) the EA fails to consider an adequate array of alternatives and provides no justification for this failure; 3) the EA is based upon insufficient information and data and fails to address other “connected” actions; 4) the EA misrepresents its scope of analysis; and, 5) the EA violates the Wild and Scenic Rivers Act (WSRA) and the Wilderness Act. We assert that these oversights constitute violations of the National Environmental Policy Act (NEPA), the Administrative Procedures Act (APA), the Wild and Scenic Rivers Act (WSRA) and the Eastern Wilderness Act.

I. A Substantial Procedural Defect is Contained in the Boater Access EA Concerning the Lower Bullpen Bridge Trail Which Effectively Renders the Alternatives Completely and Comprehensively Untenable

The 2012 Decision and Finding of No Significant Impact for Recreation Uses in the Upper Chattooga River (“the 2012 EA”) was a “programmatic” NEPA document in that it was geared towards analyzing and identifying the environmental impacts of a broad management regime—recreational use in the Chattooga’s headwaters—as a whole. The Forest Service then purported to “tier” this initiative by implementing additional NEPA analysis of Alternative 13A, the course of action that was selected in the 2012 EA, at “site-specific” locations. While Courts have held that it is, at times, preferable to defer the detailed analysis of site-specific impacts until a “specific development action is to be taken,” the “site-specific” analyses contained in the Boater Access EA exceeds the scope of actions that were made permissible under the 2012 EA. *Resources Ltd., Inc. v. Robertson*, 35 F.3d 1300, at 1306 (9th Cir. 1993). Specifically, the 2012 EA explicitly permits *five* (5), and only five (5), boater put-in and take-out points to be designated at the following locations: Green Creek, Norton Mill Creek, Lick Log Creek, Bullpen Bridge and Burrells Ford bridge. Peculiarly, however, in the Boater Access EA, there are six (6) boater access points/trails proposed, as the Forest Service has added the lower Bullpen Bridge trail. This additional trail is simply unauthorized under the terms of the 2012 EA and, more importantly, raises a wealth of NEPA infractions.

The 2012 EA contains required NEPA analyses of the direct, indirect, and cumulative effects of Alternative 13A. Accordingly, the legality of the “tiered” decisions contained in the Boater Access EA is inextricably dependent upon the NEPA analysis contained in the 2012 EA regarding direct, indirect and cumulative impacts. Because the lower Bullpen Bridge trail was not mentioned in the 2012 EA, however, its direct, indirect and cumulative impacts were never assessed. To make matters worse, these impacts were not analyzed in the Boater Access EA either. Thus, as it would turn out, there are a wealth of presumptions made in the Boater Access EA that are baseless. For example, the Forest Service attempts to show that each of the proposed boater access trails/sites, including the lower Bullpen Bridge trail, are compatible with an existing Recreational Opportunity Spectrum (ROS) inventory by referencing the proposed trails, access sites and capacities established in the 2012 EA. Because the proposed lower Bullpen trail was not included in the 2012 EA, however, it cannot be said that the allegedly comprehensive ROS analysis is, in effect, being satisfied.

In short, the impacts of the lower Bullpen Bridge trail have not been addressed by the Forest Service. While NEPA does not require an agency to select particular courses of action, it does require that certain impacts of a proposed action—namely, the direct, indirect and cumulative impacts—at a minimum, be considered. Failure to make this consideration, therefore, is contrary to legal mandate and, as such, constitutes an abuse of the Forest Service’s discretion.

There is also a broader and undoubtedly more substantial concern that arises in connection with the Forest Service’s proposal to designate the lower Bullpen Bridge location. Having determined that the trail itself would be unlawfully designated if it were in fact designated, the question remains how this might impact the entire Boater Access EA. The Boater Access EA restricts the available alternatives to either an “action” or a “no action” course of action. Thus, because the lower Bullpen Bridge location cannot legally be proposed and/or designated under NEPA, the “action” alternative is not only non-viable, but legally impossible. There are two opposite consequences that surface from this realization. On the one hand, this would indicate that none of the trails could be designated, since the Forest Service has remained insistent on its “all or nothing” approach to the boater access trails. On the other hand, as will be discussed below, the alternatives proffered in the Boater Access EA are inappropriate given the circumstances, and do not constitute a hard look at the impacts of the proposed action.

II. The EA is Deficient Because it Fails to Consider An Adequate Array of Alternatives and Provides No Justification for the Selected Alternatives

The “all or nothing” approach set forth in the Forest Service’s Environmental Assessment—that is, either all the boater access trails and sites will be designated or none will be so designated—effectively reduces discussion of other environmentally sound alternatives to a false “yes,” or “no,” dichotomy. This oversight is in breach of the regulatory requirement that an environmental assessment contain a “brief discussion ... of alternatives ... [and] the environmental impacts of [those] ... alternatives.” 40 C.F.R. §1508.9. While we do not disagree with the Forest Service’s inclusion of the action and inaction alternatives in its assessment, the inference that these alternatives alone are sufficient to satisfy NEPA’s procedural requirements is the precise kind of agency solipsism that has been met by a skeptical glare from the judiciary.

The Sixth Circuit Court of Appeals, for example, has explicitly stated that an environmental assessment may not discuss the “yes and no” alternatives of an action and no action without at least exploring other alternatives. *Save Our Cumberland Mountains v. Kempthorne*, 453 F.3d 334, at 345-46 (6th Cir. 2006). As was stated by the Seventh Circuit, moreover, while discussing an EA’s required alternatives analysis: “if an even less harmful alternative is feasible, it ought to be considered.” *River Road Alliance, Inc. v. Corps of Engineers*, 764 F.2d 445, at 452 (7th Cir. 1985). The question is whether the agency has taken a “hard look” at a reasonable range of alternatives and further explained its reasons for rejecting them. See *Baltimore Gas & Electric Co.*, 462 U.S. 87, at 97-98 (1983). Because the Forest Service has failed to consider an obviously feasible and less harmful alternative—namely,

designating only those proposed trails and access points that have actually been used by boaters and not designating those that have rarely been used by boaters and which risk substantial environmental disruption—it cannot be said that they have adhered to this requirement.

The “all or nothing” alternatives dichotomy, more particularly, is not appropriate given the current status of several of the proposed access points. For example, there are compelling reasons not to designate the County Line and Greens Creek Trails: 1) There was a sharp decline in the number of boaters who used the Greens Creek Trail between the 2012-13 and 2013-14 boating seasons; 2) there were no documented boaters who used the County Line trail during the first two official boating seasons; 3) boater use of the County Line trail is expected to remain the same -- essentially nil -- into the future, and for the Green Creek trail is expected to taper off or remain the same into the future; and, 4) the Chattooga Cliffs reach is the most biologically sensitive area and least used section in the entire Chattooga River Corridor, and enhancing boater and multiple use access to this precious environment has un-explored potential to seriously diminish its rare ecological features.

On the other hand, there are several compelling reasons in support of designating the upper Bull Pen Bridge and Burrells Ford access points: 1) Given the above information, they are both likely to be the primary boating access points; 2) the whitewater floating between these locations is far superior to that of the Chattooga Cliffs; and, 3) both locations are in need of officially designated boater access trails due to the high volume of user-created and “spur” trails. Clearly, then, there are considerations that are particular to each of the proposed sites, which require each proposed access point to be independently assessed.

An action is “arbitrary and capricious,” within the purview of the APA, when the agency fails to consider the “relevant factors and articulate a rational connection between the facts and the choices made.” *Baltimore Gas & Electric Co. v. Natural Resources Defense Council, Inc.*, 462 U.S. 87, 105 (1983). In consideration of the above information, it is apparent that the Forest Service has failed to so consider each of the “relevant factors,” and, moreover, has failed to establish a “rational connection” between the demonstrable needs to designate *some* boater access trails and to refrain from designating others and its “all or nothing” approach.

III. The EA is Deficient Because it is Based Upon Insufficient Information and Does Not Adequately Consider Other “Interconnected” and “Inter-related” Uses

Again, “[a]ccurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA,” and the information contained in a NEPA document, including an environmental assessment, must be of “high quality,” and “concentrate[d] on the issues that are truly significant to the action in question. 40 CFR 1500.1(b). Accordingly, in light of the general lack of monitored “other uses” during the previous two boating seasons, it is questionable as to whether future use trends have been accurately, or even realistically, predicted in the Boater Access EA. The Boater Access EA itself states that, “...[t]he Forest Service has not yet implemented a comprehensive use monitoring program, although a request for monitoring

proposals is planned for 2015.” Monitoring boater use as well as “other uses” is critical to crafting viable alternatives for managing recreational uses in the headwaters, especially in light of the admissions that some of the proposed boater access locations are currently, and will continue to be, used by “other users.” This informational gap greatly hampers the Forest Service’s ability to adhere to NEPA’s procedural requirements.

In addition, CEQ Regulations provide that “connected actions”—actions that are closely related or interdependent, actions that “automatically trigger” other actions that may require NEPA analysis, and/or actions that cannot or will not proceed unless other actions are taken previously or simultaneously—should be considered in a single NEPA document. 40 C.F.R. 1508.25(a)(1); *see Hammond v. Norton*, 370 F.Supp. 2d 226, 247 (D.D.C. 2005). The Boater Access EA mentions on pages 7-8 that other users will have their access to the river enhanced as a result of the proposed boater access trails. Without the proposed boater access trails, this seems to indicate, other users would not have their access to the river enhanced. As such, access for other users and boaters are “connected actions” within the purview of CEQ Regulations and, as such, should have been considered together in a single environmental assessment that is tailored towards river access for all recreational users, not just boaters.

IV. The EA Misrepresents the Scope of Analysis, Thereby Depriving the Public of the Information Necessary to Make Informed Decisions About the Proposal

In releasing the Chattooga River Boating Access Environmental Assessment (the EA) for public commentary, the US Forest Service, pursuant to the National Environmental Policy Act (NEPA), is required to provide information that is sufficient to ensure informed decision-making and public participation. 42 U.S.C. 4332. Because “[a]ccurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA, ”this information must be of ‘high quality,’ and, [m]ost important[ly] must concentrate on issues that are *truly significant* to the action in question.” 40 CFR 1500.1(b) (emphasis added). Because it is apparent that the designation of the County Line trail is entirely unrelated to the core objective of the EA — namely, that boater “put-ins and take-outs, and access routes to and from,” be designated — a proposal to do so is not “truly significant” to this objective and is, accordingly, not warranted. There are several reasons that are readily observable in support of this position.

Primarily, it is unlikely that the proposed County Line trail would be used by boaters at all. In fact, over the course of two consecutive boating seasons, there was not one boater documented as having used the County Line trail. This is not surprising in light of the fact that the trail is 1.2 miles in length, thereby requiring boaters to carry their boats a significant distance across a rugged and uneven terrain. What is surprising, however, is that the Forest Service seems aware of this realization. On page 7 of the EA, which is, at the risk of repetition, a document entitled “Chattooga River *Boating Access*,” the Forest Service justifies the designation of the County Line trail by stating that the trail is currently used by “other users.” True as this may be, the EA was not prepared to address trails for “other users.” Instead, it was prepared to address

boater access, and, pursuant to NEPA, must be focused on issues that are “*truly significant*” to that action. 40 CFR 1500.1(b) (emphasis added).

This misrepresentation aside, the Forest Service has provided no meaningful assessment of how the proposed designation of the County Line trail will impact the Outstandingly Remarkable Values of the Chattooga Cliffs Reach and its included backcountry experience, nor do they address the biophysical effects of probable increased use by “other users” due to the development and designation of the County Line trail. Again, one of the primary goals of NEPA is to ensure that sufficient information is available so that informed public participation can occur. 42 U.S.C. 4332. With the disjointed and deficient information provided concerning the County Line trail, however, it cannot be reasonably expected that a member of the public would be able to understand and make informed decisions about the potential threats to the same features that justified the Chattooga River’s designation as America’s 12th Wild and Scenic River.

By proposing the designation of the County Line trail -- a trail that affords no apparent advantages to boater access on the Chattooga -- in a NEPA document that is dedicated specifically to assessing boater access, the Forest Service has misrepresented the scope of the EA. Moreover, the Forest Service has failed to provide the public with the information necessary to foster informed participation with the designation of the County Line trail, and, most importantly, has failed to show a “rational connection” between the facts and the decision to propose designation of the trail. *Id.* For these reasons, we believe that the Forest Service has acted arbitrarily and capriciously.

V. The EA Violates the Wild and Scenic Rivers Act (WSRA) and the Wilderness Act

Construction of the proposed trails and access points is contrary to the Wild and Scenic River Act’s (WSRA) mandate that the Chattooga’s Outstandingly Remarkable Values (ORVs) be “protect[ed] and enhance[d],” and that uses which would “substantially interfere” with these values be limited. 16 U.S.C. 1271. While recreation is considered to be one of the Chattooga’s ORVs, it is not the only one. Moreover, the WSRA makes it mandatory for the Forest Service to place “primary emphasis” on a river’s “esthetic, scenic, historic, archaeological, and scientific features,” in its administration of the river. Promotion of the river’s recreational values alone, stated differently, cannot detract from the WSRA’s overall directive that Wild and Scenic River segments be managed so that each ORV is protected and enhanced. *Wilderness Watch v. U.S.F.S.*, 143 F.Supp.2d 1186, 1205 (D. Mont. 2000). Because the Forest Service’s proposal would pose direct and substantial interferences with the Chattooga’s ORVs and because the trails would not enhance these ORVs, the proposal is inconsistent with the WSRA, thereby in violation of the APA.

The ORVs that were responsible for the Chattooga’s designation as a WSRA segment, and which the Forest Service should “protect and enhance,” includes history, geology, recreation, scenery and biology. The WSR Report prepared by the Forest Service indicates that the Chattooga Cliffs reach is an area that is “in a near natural condition,” which includes “some

beautiful whitewater,” but that it “should not be floated.” There are also some rare and precious biological ORVs that thrive in this area including nine species of sensitive or locally rare animal species and a wealth of rare plant species that are endemic to the Southern Appalachians. Designating boater access trails to the extent of that proposed, therefore, would “substantially interfere” with these ORVs because it would allow increased access to conditions that have only been able to exist because of their remoteness and seclusion.

Additionally, designation of the proposed trails to the extent of that proffered by the Forest Service would not enhance the Chattooga’s recreation ORVs because, in actuality, they would deplete them. Over the last 35 years, to be more particular, access points within the Chattooga’s headwater corridor near the Chattooga Cliffs and Rock Gorge reaches have been very limited. During this time a unique and secluded backcountry fishing experience has ensued. Additionally, other recreational activities, including scenic viewing, wildlife tracking, photography, hiking, trail running and wildlife viewing have also resulted from this distinct sense of seclusion, isolation and solitude. Designation of the proposed boater trails to the extent of that set forth in the EA, specifically in reference to the Green Creek and County Line Trails, would reduce the ability for these other users to partake in these distinctive recreational experiences because the trails would make remote and secluded portions of the Chattooga more accessible. Moreover, in light of the fact that many of these other recreational uses have been pushed into the headwaters precisely because of the overuse of the lower portions of the river, this form of degradation has potential to be severe as these other users would have nowhere else to go.

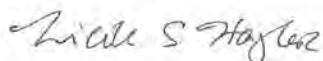
Designation of the proposed boater trails to the extent of that proffered by the Forest Service would also not enhance the Chattooga’s recreation ORVs because any advantages to boaters would be minimal. It is apparent that boaters are already able to reach the headwaters without official boater access trails. In addition, as was stated in the EA, “[b]oating is likely to remain low given the use levels that have occurred so far.” The WSR report, perhaps most importantly, that addresses the Chattooga’s headwaters concluded that only some portions of the headwaters were ideal for floating and, more specifically, that the Chattooga Cliffs reach contains “hazardous whitewater that should not be floated.” There are also other considerations, such as a log jam extending across the entirety of the river .25 miles below the Norton Mill Creek access point and the presence of a major boating access point beneath the Lick Log Creek proposed location, that raise serious questions as to the necessity of the extent of the proposed trails and whether they would really enhance recreation.

The EA’s proposed action violates Section 2(c) of the 1964 Wilderness Act which defines Wilderness as, “an area where the earth and its community of life are untrammelled by man... retaining its primeval character and influence... and which generally appears to have been affected primarily by the forces of nature with the imprint of man’s work substantially unnoticeable.” Public Law 88-577. The Upper Bull Pen Trail is completely sufficient to providing access to boaters. The Forest Service proposes to construct a second access point further downstream in the Ellicott Rock Wilderness Area: “For boaters that do not wish to put-in and immediately experience a highly technical section of whitewater, the Forest Service would

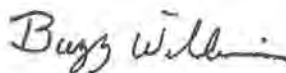
construct a foot trail (less than 300ft. in length) below the bridge to the lower Bull Pen put-in on river left to get paddlers off Bull Pen Road, down the road bank to the river." FSR 1128. This proposed lower put-in would be constructed in the Ellicott Rock Wilderness Area. Although trails are allowed in wilderness areas they must not significantly diminish the qualities as defined in Sec. 2 (c) of the Wilderness Act. The construction of a trail into the Ellicott Rock Wilderness would attract more users into an already heavily used eastern wilderness, and would cause harm to the wilderness experience and cause harm to many rare species of plant life in the spray zones immediately located in this area. Constructing a trail into a wilderness area at a place where adequate access already exists for the purpose of getting boaters off the road and for the "convenience" of providing a put-in for boaters to avoid putting in where "highly technical water" exists at the Upper Bull Pen put-in is not a sufficient reason to risk degrading the wilderness area immediately below.

For the foregoing reasons, the Chattooga Conservancy believes that the Boater Access EA is a flawed document. Generally speaking, in conclusion, we feel that it is not supported by the requisite statutory, practical and common-sense analyses. We also feel that moving forward with the Boater Access EA, as it stands presently, would constitute an abuse of the Forest Service's discretion. With this in mind, therefore, we ask that the Forest Service select the "no action" alternative so that the proposed action can be reconsidered in light of a more thought out and complete range of alternatives and additional monitoring and evaluation. In addition, we ask that the mandatory procedural requirements be completely satisfied.

Sincerely,



Nicole Hayler, Executive Director



Buzz Williams, Chairman of the Board

Knibbs, James H -FS

From: Hank Klausman <hank@klausmangroup.com>
Sent: Thursday, October 30, 2014 9:11 PM
To: FS-comments-southern-francismarion-sumter
Cc: info@chattoogariver.org
Subject: Chattooga River Boating Access

It is encouraging that the Forest Service is promoting boating on the Chattooga upper reaches. But I don't see any need for six more trails when a good boater trail already exists.

So I oppose designating and building new boater access trails at the County Line Road, Green Creek, and into the Ellicott Rock Wilderness Area below Bull Pen Bridge. Boaters do not use the County Line and Green Creek trails in sufficient numbers to justify building new access, and an appropriate access trail already exists just upstream of the wilderness at Bull pen Bridge. Building these new trails would attract year-round use and more use, which will irreparably damage one of the last places in the headwaters that can provide a true backcountry experience. Building these trails would also harm the rare and very sensitive ecological values in the Chattooga Cliffs reach, where 70% of the rare plants in the Chattooga River Corridor occur.

Therefore, I insist that the Forest Service choose the EA's "No Action" alternative until they comply with federal law that compels them to offer a full range of viable alternatives to protect the Chattooga River headwaters, while providing adequate boater access.

Thank you,

Henry M. Klausman

Marietta, Georgia

Knibbs, James H -FS

From: John Carothers <jocaroth@me.com>
Sent: Wednesday, October 29, 2014 11:41 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga Planning Team

Hi-

I'm emailing my comments regarding the proposal to allow boating on the Chattooga. I still think that you should have stuck to your original guns and not allowed any kayaking on the river. This is a camel with its nose under a tent, and it WILL NOT stop unless you shoe it away! These trust fund kayakers need to be stopped. You don't even propose the numbered items as alternatives.

Do NOT construct a Greens Creek trail. Bullpen Bridge and below is the ONLY compromise I could make. No construction needed so no cost for that or maintenance. And even with that there's the camel in the room, as I noted above.

Sincerely Frustrated,

John Carothers

Knibbs, James H -FS

From: Ratzlaff, Allen <allen_ratzlaff@fws.gov>
Sent: Wednesday, October 29, 2014 1:30 PM
To: FS-comments-southern-francismarion-sumter
Cc: Moffat, Steverson -FS; Kauffman, Gary -FS; Leslie, Andrea J; Bryan, Sheryl -FS
Subject: 12-257 Chattooga Boater Access Trails
Attachments: 12-257 Chattooga Put-ins 3.pdf

Attached are comments from the U.S. Fish and Wildlife Service.

--

Allen Ratzlaff
Fish and Wildlife Biologist
U.S. Fish and Wildlife Service
160 Zillicoa Street
Asheville, NC 28801

828-258-3939. x229



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Asheville Field Office
160 Zillicoa Street
Asheville, North Carolina 28801

October 29, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, South Carolina 29212

Subject: Environmental Assessment and Biological Assessment/Biological Evaluation for the Three Proposed Boater Access Trails on the Chattooga River, Nantahala Ranger District, Nantahala National Forest, Jackson and Macon Counties, North Carolina

We received the subject Environmental Assessment (EA) on September 29, 2014 (via email) and the subject Biological Assessment/Biological Evaluation (BE/BA) on October 7, 2014, again via email. We previously provided comments on these projects in a letter to District Ranger Mike Wilkins (Nantahala Ranger District) on September 11, 2012 and to Forest Supervisor Richard Lint on August 20, 2013. The following comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. § 4321 et seq.); the Migratory Bird Treaty Act, as amended (16 U.S.C. 703); and section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) (Act). Also, as in our previous letters, our comments only apply to the Nantahala National Forest.

The subject documents correctly conclude that the only two federally protected species in the project areas are the endangered Indiana bat (Macon County) and the proposed endangered northern long-eared bat (Jackson and Macon Counties). To protect the Indiana bat, the following conservation measures will be implemented:

- a. Trees known to have been used as roosts by Indiana bats or other federally protected bat species are protected from cutting and/or modification until they are no longer suitable as roost trees, unless their cutting or modification is needed to protect public or employee safety. Where roost tree cutting or modification is deemed necessary, it occurs only after consultation with the U.S. Fish and Wildlife Service (USFWS).
- b. Snags are not intentionally felled from April 1 through September 1 unless needed to provide for immediate safety of the public, employees or contractors. Exceptions will require evaluation by a qualified individual (i.e. biologist or other individual approved by the district biologist) for current Indiana bat or other protected bat species use and may require coordination with the USFWS.

- c. Compliance with Indiana bat and other protected bat species standards will be monitored. The Forest will submit an annual report to the USFWS documenting compliance with Standards¹.

The subject documents also conclude that implementation of the aforementioned protective measures for the Indiana bat will be similarly protective of the northern long-eared bat - we concur.

Therefore, based on the information provided in the subject EA and BA/BE and a review of our records, we concur with your assessment that the project, as proposed, is not likely to adversely affect the Indiana bat nor is it likely to jeopardize (as described in Section 7(a)(4) of the Endangered Species Act of 1973) the northern long-eared bat. Therefore, the requirements under section 7(c) of the Endangered Species Act are fulfilled. However, obligations under section 7 of the Endangered Species Act must be reconsidered if: (1) new information reveals impacts of this identified action that may affect listed species or critical habitat in a manner not previously considered, (2) this action is subsequently modified in a manner that was not considered in this review, or (3) a new species is listed or critical habitat is determined that may be affected by the identified action. Additionally, because the USFS has committed to the previously mentioned protective measures for bats, once the northern long-eared bat is placed on the endangered and threatened species list, our concurrence with a "not likely to adversely affect" determination can be assumed from this letter and further consultation on the northern long-eared bat "post-listing" is not necessary for this project as long as circumstances remain the same.

In meetings held on June 7, 2007 and December 12, 2007, the National Forests in North Carolina agreed to provide our office with an opportunity to review and comment on projects on national forests at the 35-, 70-, and 95-percent design stages, not just at the programmatic level. We would like to review the subject site designs when they are available.

We appreciate the opportunity to provide these comments and request that you continue to keep us informed as to the progress of the proposed projects. If we can be of assistance or if you have any questions, please contact Mr. Allen Ratzlaff of our staff at 828/258-3939, Ext. 229. In any future correspondence concerning this project, please reference our Log Number 4-2-12-257.

Sincerely,

- - original signed - -

Janet Mizzi
Field Supervisor

cc:

E-Copy: Andrea Leslie, North Carolina Wildlife Resources Commission,
andrea.leslie@ncwildlife.org

¹ It should also be noted that the portions of the project that occur in Macon County North Carolina must comply with all of the terms and conditions of our Biological Opinion (as amended) of April 7, 2000 for the Indiana bat.

Knibbs, James H -FS

From: David Reid <davidreidok@hotmail.com>
Sent: Wednesday, October 29, 2014 1:02 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

Would love to run the upper section of this beautiful stream

Please open these sections of the Chattooga for boating access

used to live in the area and still drive over to run the lower sections

**David Reid
12514 S 12th St
Jenks, OK 74037**

Knibbs, James H -FS

From: norm.sharp@att.net
Sent: Tuesday, October 28, 2014 9:38 PM
To: FS-comments-southern-francismarion-sumter
Cc: Norm Sharp
Subject: Subject: "Chattooga River Boating Access"
Attachments: Large rock below bridge.JPG; Level area on proposed trail.JPG; Litter on proposed trail.JPG; Litter on trail route.JPG; Proposed trail start area.JPG

I am commenting in regard to the above proposed action.

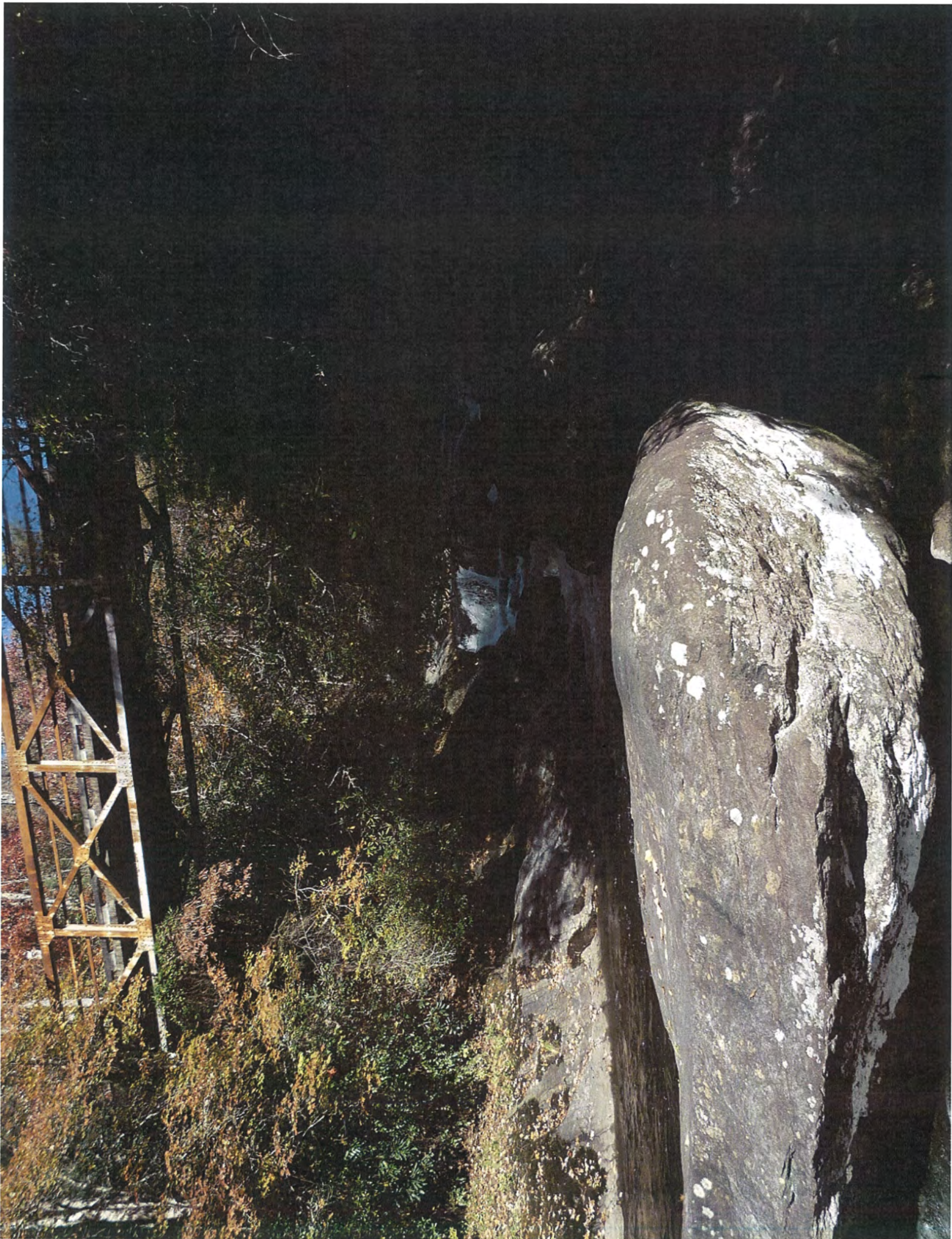
Specifically, I have concerns regarding the proposed access trail on river left below the iron bridge on Bullpen Road. This is in a designated wilderness area. The EA indicates the proposed trail will divert traffic from the existing user created trail to the river. I don't agree with that assessment. I believe it will add to the existing user created access to the river and degrade the "undeveloped" aspect of wilderness character.

The existing user created access appears to be primarily for sunbathing and swimming at the large rocks on river left below the bridge. The river access point for the new trail would not be nearly as advantageous for that. People would continue to access the large rocks as before.

The proposed trail has erosion potential where it starts from Bullpen Road and has a few level spots on the way to the river that would be subject to overuse and littering, thereby degrading the "undeveloped" aspect of wilderness character, similar to what exists in other parts of the wilderness close to the river. This would especially happen in the warmer months when boating isn't even allowed. I have attached a few pictures of the area and existing littering, even though there isn't even a trail there now.

Please keep me informed on this.

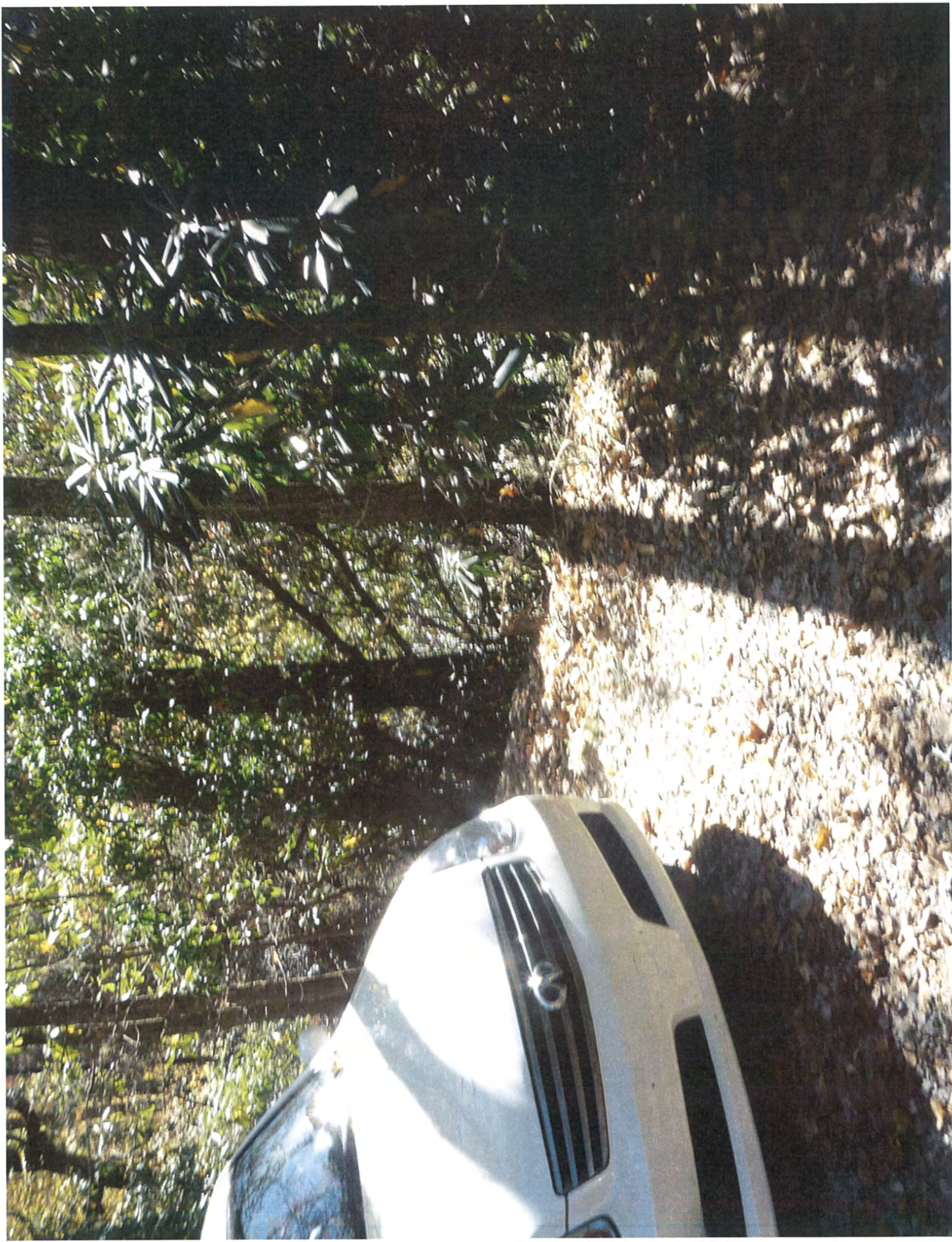
Norm Sharp
100 N Severn Circle
Easley, SC 29642
norm.sharp@att.net











Knibbs, James H -FS

From: Josh White <josh@joshwhiteriverguide.com>
Sent: Tuesday, October 28, 2014 7:56 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River access

1. I support the trail analysis and Forest Service proposal for trails in Alternative 2. High quality sustainable trails are good for forest visitors and the river.
2. The Forest Service does not need to require that paddlers use specific river access and egress points, but if they do, they should likewise require that all visitors seeking shore and water access use those same points.
3. The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek.

Sent from my iPad

Knibbs, James H -FS

From: Kelly Cochran <freethefireflies@gmail.com>
Sent: Tuesday, October 28, 2014 6:27 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

Even though I kayak weekly on the Chattooga River, I am **oppose** to building new boater access trails at the County Line Road, Green Creek, and into the Ellicott Rock Wilderness Area below Bull Pen Bridge. . Please let's keep the headwaters a true back-country experience, and protect the sensitive ecosystem on and around the Chattooga River.

I am demanding that the Forest Service choose the EA's "**No Action**" alternative.

Kelly Cochran

Knibbs, James H -FS

From: Michael Bamford <mbamford123@comcast.net>
Sent: Tuesday, October 28, 2014 4:50 PM
To: FS-comments-southern-francismarion-sumter
Subject: Upper Chattooga River Boating Access Environmental Assessment
Attachments: WCA second letter.pdf

see attached

**Whiteside Cove Association
Cashiers, NC 28717**

The Chattooga Planning Team,
4931 Broad River Road,
Columbia, SC, 29212

RE: The Upper Chattooga River Boating Access Environmental Assessment

Dear Members of the Planning Team.

The Association add the following comments to the recent scooping EA..

The association request the agency change the location as to where boating is permitted to start further downstream of Greens Creek. Such a change in policy will both reduce impacts to the resource as well as discourage public use of private property. The facts in the record support such a Decision. Also, see map attached

I: Adding Access Will Increase Resource Impacts.

For 40 years the USFS has protected the upper segment of the Chattooga Wild and Scenic River through trail and old road closures. The 1985 Forest Plan documented that the 1976 trail closures prevented easy access to the river but had reduced recreational impacts to the resource. The scooping EA contradicts these previous Forest Service findings -and forecasts without basis- that additional access will reduce impacts to the resource. The 1985 Forest Plan documented improvements to the resource as a result of closing old roads and easy access to the River. The documented beneficial River management policy which had reduced resource impacts through access closures is now being replaced under the pretense that additional access will reduce impacts along the Chattooga resource. The assumption that increased access will protect the resource is unsupported by the record.

The 2012 EA to which this EA is based was premised upon a net reduction of designated and user created trails offsetting the increase in trails to accommodate boaters (both at access sites and at portages). The trail closures and redesign was never done and instead the 2014 scooping EA ignores this need to redesign the site-specific trails. Under the 2012 Plan and this scoping EA, access trails and recreational impacts are projected to proliferate as new user types create new trails to gain greater access (or portage along) the Chattooga. The 2007 Biological assessment and subsequent EA's have been

premised upon mitigation action whereby overall impacts would be reduced in order to meet the administrative obligation to protect resource impacts over protecting recreational use. 16 USC 1281(a). The 2014 has not decreased the number of trails, campsites, but instead has increased the number of trails and overall ease of access to more remote areas within the designated Wild and Scenic River corridor. Because over 1.5 miles of boater access trails are being proposed above Bull Pen Bridge in the North Carolina, simply moving boating downstream to below the Bridge would eliminate these trails. Such a proposal of changing where boaters are allowed was never considered.

II: Fishing Flow Levels:

The data within the record for the 2012 EA does not support the Forest Service claim that fishing is unlikely during boatable flows. The USFS own findings in the 2007 Recreational Flow Study documented that acceptable flow levels for fishing and boating “significantly overlap”. The 2004 Sumter FEIS documented that fishing remained popular up until 2000cfs, and did not “drop off” until flows were above the 97 percentile.(see Appendix H). The Whiteside Cove presented the USFS with 60 years worth of data which shows fishing remains popular in North Carolina segment throughout the 99% of high water flows. For this EA to assert fishing during boatable flows is unlikely, has no basis in fact and disparages the extensive record. Such an assertion is not based upon the collected recreational usage data, or the Forest Service own Plan Documents. Such an assertion within a Plan Document should be corrected in order to accurately present facts which may be used in the future for adoptive management decisions.

Moving boating further downstream to Bull Pen Bridge would protect a few miles of the Chattooga main-stem (classified as NC Trout waters) available for NC anglers looking to also enjoy a public section of the Chattooga without boater disturbances. Such a policy would prevent anglers from having to move to smaller more delicate tributaries in order to avoid boating created disturbances. Protecting the smaller tributaries is aligned with the 2014 strategy to prevent recreational impacts on smaller stream segments.

III: No Alternative Avoids Interference with Property Rights.

The effects of the 2012 Decision -and now the 2014 boater access EA- onto adjacent private property are ignored; therefore, no alternative that would mitigate interference with the adjacent to private property was ever considered. The 2014 EA, again offers no reasonable alternative that would discourage public use of private property, and

specifically inventories private property as available for public use. Moving the start of the boatable section of the Chattooga downstream to Bull Pen Bridge would certainly avoid interference with the Private Segment and associated property rights. Continuing the boating prohibition above Norton Mill Creek would similarly avoid interference with property rights. Even continuing the prohibition starting 400 yards below Greens Creek, would avoid inciting public use of private property. Because the Forest Service failed to consider the negative impacts to property rights -and private use of the Private segment- the Forest Service failed to consider any reasonable alternative that would have avoided such effects on private land use or the associated property rights.

In conclusion, we ask the USFS to treat the main-stem of the Chattooga above Bull Pen Bridge –or at least above Norton Mill Creek- as a tributary where boating would remain prohibited. Such a policy would avoid increased impacts to the most ecologically sensitive segment of the resource, reduce angler disturbance in North Carolina, eliminate interference with property rights, and would be consistent with the 2012 Decision to keep the more narrow streams (i.e. tributaries) boat-free and protected from associated recreational impacts.

Thank you for your time and consideration.

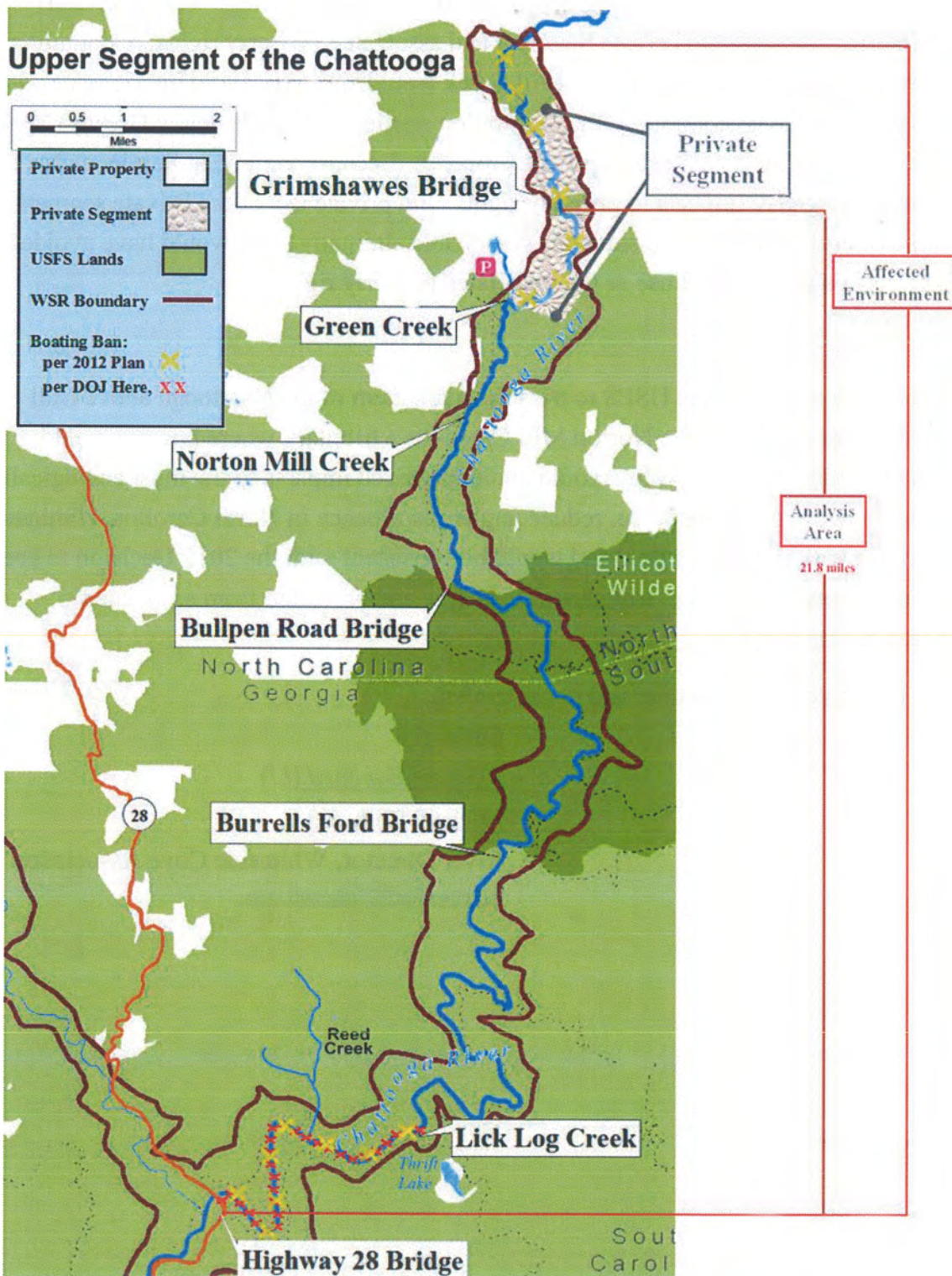
Sincerely

Michael Bamford (/d/)

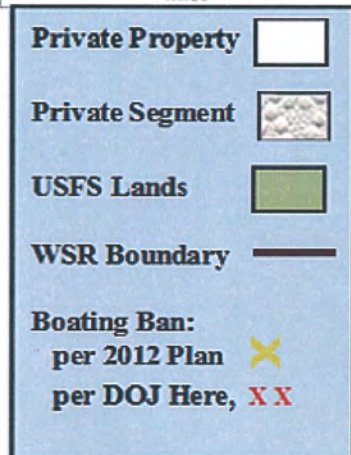
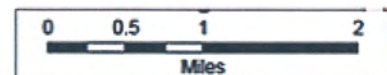
Michael Bamford

River Director, Whiteside Cove Association

mikebamford123@gmail.com



Upper Segment of the Chattooga



Grimshawes Bridge

Private Segment

Green Creek

Norton Mill Creek

Bullpen Road Bridge

North Carolina
Georgia

Burrells Ford Bridge

Reed Creek

Lick Log Creek

Thrift Lake

Highway 28 Bridge

Affected Environment

Analysis Area

21.8 miles

Ellicott
Wilde

North
South

South
Carolina

Knibbs, James H -FS

From: Rhys Gratz <rhysgratz@gmail.com>
Sent: Tuesday, October 28, 2014 4:36 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

Based on the Environmental Assessment I think the proposed trails are a good idea as long as the construction and management is done in a matter to help prevent soil erosion and user created trails that lead to soil erosion. However, I believe there needs to be more done too educate the community and on the impacts of user created trails and erosion on the beautiful wild and scenic Chattooga River.

Thank you,

Rhys Gratz

Knibbs, James H -FS

From: Travis Dockins <tdockins@cricpa.com>
Sent: Tuesday, October 28, 2014 4:28 PM
To: FS-comments-southern-francismarion-sumter
Subject: "Chattooga River Boating Access"

Chattooga Planning Team,

I'd like to submit my response to the Chattooga river access team. I really like the idea of constructing new trails for boating access. **I am also an avid trout fisherman**, and the trails would benefit me in the summer when boating is not allowed as well. I think **Alternative 2** is the best course of action.

As far as the permits go, I don't think paddlers should be required to use specific river access point unless all users of the river are required to use the same points. Paddling doesn't have a negative impact on the environment any more than hikers or trout fisherman. I would argue that wading trout fisherman do more damage to the shore and streambed than kayakers who are floating on top of the water. I myself have been wading in the upper Chattooga and seen all of the silt and debris I kick up while wading.

I appreciate the step in the right direction of allowing paddlers at certain times of the year and at certain flows on certain sections of the river. I would like to see the Chattooga be open to paddlers year round, on every section of the river. Being a fisherman and a kayaker, I know that when the water is too low to kayak, it's good for trout fishing, and vice versa. I don't see a conflict of interest for either group. Also, by limiting boating access, you are limiting the area of water that I can fish to sections that I can hike to and wade.

I appreciate the request for public comment. Thank you for your time.



Travis Dockins, CPA
Senior Accountant
Carr, Riggs & Ingram, LLC
4360 Chamblee Dunwoody Rd.
Suite 420
Atlanta, GA 30341
Voice: 770-457-6606
Fax: 770-255-4193
Mobile: 404-512-9988
CRlcpa.com
blog.CRlcpa.com

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dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it from your computer. Thank you. Carr, Riggs & Ingram, LLC

Knibbs, James H -FS

From: Michael Eber <eber.michael822@gmail.com>
Sent: Tuesday, October 28, 2014 3:51 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

As a member of American White Water, an avid kayaker, and one concerned with maintaining our precious resources I would like to provide feedback on the Boating Access Proposal for the Chattooga River.

1. We support the trail analysis and Forest Service proposal for trails in **Alternative 2**. High quality sustainable trails are good for forest visitors, the visitors, and the wildlife.
2. The Forest Service does not need to require that paddlers use specific river access and egress points, but if they do, they should likewise require that all visitors seeking shore and water access use those same points. This is a way of ensuring that the fauna and insect life is minimally impacted by all visitors.
3. The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek.

Thank you,

Michael J. Eber
Sr. Software Engineer
Visual Risk Technologies

Knibbs, James H -FS

From: Kyle Kraft-Culkin <kyle.kraft.culkin@gmail.com>
Sent: Tuesday, October 28, 2014 2:49 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

Hello, I would like to provide some comments for the Upper Chattooga Access.

- I support the trail analysis and Forest Service proposal for trails in Alternative High quality sustainable trails are good for forest visitors and the river.
 - The Forest Service does not need to require that paddlers use specific river access and egress points, but if they do, they should likewise require that all visitors seeking shore and water access use those same points.
 - The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek.
- Thank you for your time and efforts!

Kyle Kraft-Culkin

Knibbs, James H -FS

From: Tclarke916 <tclarke916@aol.com>
Sent: Tuesday, October 28, 2014 2:36 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

Please leave the access to this River the way it is....It does not need another six (6) access trails cut into this area as it is too pristine and too delicate. The access it has now is adequate and serves those who use it quite well!

I now live in Savannah, GA but am concerned about all of the State of Georgia and it's incredible beauty.

Respectfully,

Ted Clarke

"My goal is simple.....to help you reach yours."

Ted Clarke
REALTOR®
Short Sales and Foreclosure Resource Specialist

Celia Dunn Sotheby's International Realty
9-13-17 West Charlton Street
Savannah, GA 31401
t. 912 234-3323 c. 912 659-8851
Ted.clarke@sothebysrealty.com
www.Sothebysrealty.com
www.celiadunnsir.com

Look what we can do for you!
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Knibbs, James H -FS

From: Chris OCleary <chrisocleary@gmail.com>
Sent: Tuesday, October 28, 2014 2:02 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chatooga river boating access

I oppose building new trails for boating access. Would like to see that area stay more remote. Please vote for "no action"

Thanks, chris OCleary
1096 riverbend club dr
Atl, GA 30339

Peace, Chris O

Get outside and play, it makes for a happy day!!

Sent from my iPhone

Knibbs, James H -FS

From: Katie May <katiemay45@gmail.com>
Sent: Tuesday, October 28, 2014 1:40 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek!

Thanks!

Knibbs, James H -FS

From: Marc Brenner <marcbrenner86@gmail.com>
Sent: Tuesday, October 28, 2014 1:21 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access.

1. We support the trail analysis and Forest Service proposal for trails in Alternative 2. High quality sustainable trails are good for forest visitors and the river.
2. The Forest Service does not need to require that paddlers use specific river access and egress points, but if they do, they should likewise require that all visitors seeking shore and water access use those same points.
3. The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek.

Knibbs, James H -FS

From: Kevin Colburn <kevin@americanwhitewater.org>
Sent: Tuesday, October 28, 2014 10:13 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access
Attachments: 2014.10.28 AW Replacement Trail EA Comments.docx

Hi Chattooga Planning Team,

We had time to give the Chattooga River Boating Access a deeper review, and ask that you replace our comments submitted on 10/22 with the comments attached to this email. Please disregard our prior comments and consider these instead, dated 10/28.

Thanks,

Kevin Colburn
National Stewardship Director
American Whitewater
kevin@americanwhitewater.org
828-712-4825
Join American Whitewater!



www.americanwhitewater.org

Kevin Colburn
National Stewardship Director
PO Box 1540
Asheville, NC 28806
828-712-4825
kevin@americanwhitewater.org

October 28, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, South Carolina 29212
comments-southern-francismarion-sumter@fs.fed.us

Re: Chattooga River Boating Access

Dear Planning Team,

American Whitewater has conducted additional review of the Chattooga River Boating Access Environmental Assessment (EA), as well as the 2012 Forest Plan Amendments relating to paddling on the Upper Chattooga. We were unaware until reading the 2012 decisions that the EA would, in addition to approving trails, also designate river access sites at the same time. Therefore we offer these comments *in replacement of* the comments previously filed, and dated October 22, 2014. Please disregard our prior October 22 comments, and consider these comments in their place.

American Whitewater has reviewed the Chattooga River Boating Access Environmental Assessment (EA) and offers our comments herein. The EA rightly considers the merits of designating the trails that are explicitly envisioned in the 2012 forest plan amendments. We feel that the EA generally takes a thorough approach to considering the impacts and merits of designating these trails and making any upgrades needed for the trails' sustainability. We offer our conditional support of the Proposed Action, Alternative 2, and voice our concerns and conditions below regarding designated launch sites.

Support for Trail Analysis

We feel that Alternative 2 will ensure that the trails have negligible environmental impacts while providing high quality recreational experiences for hikers, paddlers, and anglers alike. Designating these trails will offer significant environmental safeguards over Alternative 1. We encourage the Forest Service to approve the trails in Alternative 2 and move forward with trail enhancements as soon as practicable.

We recognize that the scope of the EA was intended to cover only the trails and access areas needed for paddlers to access the Upper Chattooga River, including

those needed to avoid the reach closure imposed by the Forest Service. We appreciate though that the EA recognizes that these trails and access areas are all multi-use trails. The paddling use data in the EA strongly infer that paddlers are the smallest user group that will use and benefit from these trails. The EA correctly notes that the County Line Trail isn't a paddling access trail at all based on scoping comments and use data. *See EA, pg. 102*. In fact, only 0.43 miles of the 1.63 miles of proposed trails are likely to be used by paddlers.

Request for Explicit Geographical Scope Limitation Consistent with USFS Position

Earlier this year the Forest Service stated in a brief to the Fourth Circuit Court of Appeals that "In fact, the USFS neither permits nor prohibits floating on this part of the river," referring to "the roughly 1.7-mile reach of river above Green Creek."¹ Given the fact that the USFS does not prohibit or explicitly permit floating upstream of Green Creek, it would be inappropriate for the Forest Service to draft the Record of Decision (ROD) for the Chattooga River Boating Access EA, or the resulting paddling permit, in a manner that prohibits or permits boating on the reach.

We request that the ROD and resulting permit explicitly require a permit for floating The Chattooga River from a point 200 feet upstream of the junction of the Green Creek Trail and the Chattooga River, downstream to Lake Tugaloo. No permit would be required for floating above the point 200 feet upstream of Green Creek. We see this as the only legal and practical decision given the Agency position.

This is a very small change to the EA that will have no practical effect on the rationale or structure of the document. The EA must simply clearly state that it's scope is, like the 2012 Amendments, limited to the river downstream of Greens Creek, and make no statements "permitting or prohibiting" river access upstream of that point. The permit language must follow suit.

Practically speaking what this request means is that if a paddler wishes to put in upstream of the Green Creek Trail junction with the river they would need to first secure a permit at the Green Creek trailhead. They would enter the managed section of river at the same point as if they had hiked in on the Green Creek Trail, so there is no difference in use of the managed section of river. The river upstream of Green Creek would simply be governed like any other river in North Carolina.

Request for Changes to Proposed Designated Launch Areas

Designating kayak launch areas while prohibiting launching in undesignated areas is, to our knowledge, without precedent. Even on front-country rivers like the Nantahala that sees hundreds of thousands of paddlers each year, and remote strictly regulated rivers like the Selway, paddlers can hike or paddle into the river

¹ See Answering Brief Federal Defendants-Appellees, American Whitewater v. Tidwell, Fourth Circuit Court of Appeals. 2/20/14. Footnote 9, Page 15.

where they choose. This practice of allowing visitors to choose their access and egress points encourages safe and good decision-making, and is consistent with the Forest Service practice of avoiding unneeded management constraints.

By designating high quality trails to the Upper Chattooga River with good launch points, the Forest Service will ensure that virtually all paddlers will use them. Additional limits on launching are unnecessary, especially given that only 29 paddlers launched on the river last year. With this said, we will not object to limiting river access to specific designated areas so long as these limits apply to all visitors seeking shore or river access. We understand that the use and creation of user-created trails is a concern, and we share that concern, and we see no environmental objective or standard that limits on paddler river access will meet unless the same river access limits are applied to all visitors.

Request to Strike Language

We request that the following sentence be struck from the EA: "Current U.S. Forest Service management that separates recreational users by reach, time and flow seems to be having the desired effect of protecting the ORVs and reducing user conflicts in the upper segment." *See EA, Pg. 103.* This statement has no basis and runs counter to the data presented, and no evidence of causation is presented. The data clearly show that paddling use is extremely low and socially and environmentally a non-issue. This would be true with or without the Forest Service's reach, time, and flow limits. There never were nor would there ever be user conflicts to "reduce." Paddling never did nor would it ever impact ORV's. The agency limits on paddling do not protect the ORVs or prevent conflicts. Instead, the agency's bans on paddling violate the whitewater boating ORV of the Chattooga and impose unreasonable restrictions on a very small and low-impact user group.

Thank you for considering these comments, and we encourage prompt implementation of a modified Alternative 2.

Sincerely,

Kevin Colburn
National Stewardship Director
American Whitewater
PO Box 1540
Cullowhee, NC 28723
kevin@americanwhitewater.org

Knibbs, James H -FS

From: Stuart Alston <Stuart.Alston@mindspring.com>
Sent: Monday, October 27, 2014 8:46 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River trails

I believe the Chattooga WSR is a truly rare treasure in this part of the US. The upper sections are even more special.

Although I am a retired whitewater boater, I think that adding additional trails to accommodate a handful of paddlers who want to risk their lives on the river, during a very short period of the year makes absolutely no sense. Construction will create environmental damage and dump more silt into the river. The boaters need to be content paddling the other sections and leave this area as an unspoiled wilderness.

Stuart Alston
Atlanta, GA

Knibbs, James H -FS

From: atty@stevedoughty.com
Sent: Monday, October 27, 2014 10:09 AM
To: FS-comments-southern-francismarion-sumter
Cc: mbamford123@comcast.net
Subject: Comments of Rust Family on Boater Access EA
Attachments: RustFamilyCommentsFinal.doc; Upper Chattooga Map JA898 (1).jpg

Attached please find comments of the Rust Family and a map of the upper Chattooga River.
Steve Doughty

R. Stephen Doughty
Attorney at Law
2400 Crestmoor Road
Nashville, Tennessee 37215
Telephone (615) 590-4233
Fax (615) 297-6005
atty@stevedoughty.com

October 27, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

RE: The Upper Chattooga River Boating Access Environmental Assessment

Dear Members of the Planning Team:

I represent Richard Rust, Henry Rust and Goodenow, LLC, (the Rust Family) the owners of a segment of private property in the designated Chattooga Wild and Scenic River.

Thank you for providing the opportunity to review and comment on the Upper Chattooga River Boating Access Environmental Assessment (EA). The EA continues to ignore that a segment of the designated Chattooga Wild and Scenic River corridor is privately owned and therefore not controlled by the Forest Service or affected by the Wild and Scenic River administrative statutes. Privately held segments of the Chattooga Wild and Scenic River should not be inventoried as available for public recreational use by the Forest Plans. By ignoring boundaries and property rights, the Forest Plan fails to consider whether it is in compliance with the Wild and Scenic River Act itself.

Record of Review for This Assessment

The basis for this Boater Access Decision is an incomplete 2012 upper Chattooga Recreational capacity Decision. Therefore, the record associated with the 2012 Decision is, and must be, part of this Boater Access Decision. Also, the District Court proceedings associated with CV#8:09-2665-MGL, is used to limit the scope of this EA making it a foundational element to this EA and the ultimate Decision. The records used in this assessment are in contradiction to one another. By reference the Agency incorporates the record of the Court proceedings and the full administrative record for the 2012 Decision into this EA. By reference with this letter, the Rust Family incorporates ALL records associated with these two proceedings into this NEPA and Planning process, the Rust Family's previous comments, and the comments of the Whiteside Cove Association.

Misrepresentation of the District Court Order and 2012 Decision

The EA's reliance on the District Court finding to justify avoiding all issues related to private property or boating is misplaced. The EA misleadingly states the Court found the

Forest Service “complies with federal law”, suggesting that all aspects of Federal laws were adjudicated during the Kayak Lobby’s lawsuit against the Forest Service. This erroneous interpretation of the Court’s decision is then used to justify limiting the scope of the current EA to exclude reasonable alternatives that would avoid interference with property rights or consideration of the effects on the privately owned segments of the Chattooga Wild and Scenic River.

The Court did not adjudicate all issues and specifically limited its findings to those issues raised and analyzed in those proceedings. “The court finds that the Forest Service’s 2012 Plan for Management of the Chattooga WSR complies with the federal law *as set forth and analyzed above*.” (Emphasis added), p. 41, *Amended Order* 7/30, CV#8:09-2665-MGL. By omitting the phrase “as set forth and analyzed” from the Order, the EA claims *carte blanche* judicial approval for every aspect of the previous Decision, thereby avoiding assessment related to recreation in the current assessment about recreational access. The actual Court Order does not provide a basis for circumventing the agency planning mandates, WSR law, and the NEPA process. The obligations of the Forest Service to address issues related to this Planning Decision could not have been premature for judicial review in 2013 and now suddenly adjudicated by the same Court proceedings. The basis for the abbreviated EA is erroneous.

In contradiction to having adjudicated Forest Service compliance with federal law, Judge Lewis ruled narrowly to address *only* those issues raised and analyzed within the scope of the Kayak Lobby’s lawsuit. Judge Lewis did not deny the claims raised by the Rust Family, rather the Court found the scope of agency authority and property issues not ripe for judicial review within the Kayak Lobby’s litigation and dismissed the claims made by the Rust Family without prejudice. *Id.* at 27 and 34. The Court also precluded from judicial review issues raised by Georgia ForestWatch and did not rule on those issues not yet presented to the Court for review. *Id.* at 13. Therefore, the findings of the Court provide no basis for the Forest Service to evade Planning and NEPA regulatory requirements raised in this NEPA process covering recreational impacts due to the 2012 and now 2014 Decision regarding recreation on the upper Chattooga, an area which contains both public and private property.

Impacts to the Affected Environment

The Affected Environment for this EA includes private property held by the Rust Family. As documented by the South Carolina District Court, the Forest Service is not empowered to manage, and has not authority to manage, the private segments of the Chattooga WSR. By law, the public has no right to travel across private property. The location of the Rust Family property is within the designated Wild and Scenic River and within the upper Chattooga WSR at issue here. Despite this, the EA continues to include this private property, and now suggests that public recreation will occur on private property, a suggestion denied by the Forest Service in Federal Court. By acknowledging public use of private property is likely as a result of agency actions is not an assessment as to the direct, indirect and cumulative impacts such policy will have on the Rust Family or its property rights. The EA fails to consider the effects the Forest Service policy has

had with respect to interference with the desired use of the private segment by the property owners.

The Forest Service Plan now suggests public use, fishing, hiking, boating, etc., would extend across the designated Wild and Scenic River including the private segment of the Chattooga. Such interference with an existing property right is in violation of Federal Law and contradicts the District Court Order which documented the Forest Service concession that it does not suggest use of private property and has no authority over private property, and that the capacity for public recreation on this private segment is zero. The Forest Service cannot institute a Plan in violation of Federal law, or in excess of statutory authority. The plan also fails to follow the Forest Service's own planning process, and the executive orders established to prevent inverse condemnation.

Fails to Offer More Reasonable Alternative

By ignoring the potential impacts to property rights, the EA offered no reasonable alternative to avoid such impacts. The current EA concedes interference with private property is expected but provides no reasonable alternative for avoiding such impacts. Interference with private property could be simply avoided by moving boating downstream to a point where private property would not be affected. If boating were not allowed above Bull Pen Bridge over two miles of new trails would become unnecessary and increased impacts to the Chattooga Cliffs segment minimized. If boating were not allowed above Norton Mill Creek, interference with property rights could be avoided and the need for trails and maintenance on the uppermost boater access point could be avoided. Both of these alternatives would prevent interference with private property and, as admitted by the Forest Service, impact only a handful of boaters who could simply initiate their trips a short distance downstream. Simply treating the Chattooga main stem above Norton Mill Creek as it treats the tributaries (which are of similar size) would also be consistent with the Forest Plan.

Egregiously, the Forest Service continues to permit boats to start from Greens Creek, while the Plan only considers how boaters will access the Chattooga a few hundred yards below Greens Creek. As admitted by the Forest Service, this encourages and will likely result in public use of private property. Simply maintaining the boating prohibition on the segment between Greens Creek (approximately 300 yards below the Rust Family property) would discourage public use of private property. Such a policy would not impact any 'legal' boating use of the Chattooga River. It is now clear the only possible rationale of the current boating policy will encourage public use of private property.

The Boater Access assessment omits consideration of moving downstream the uppermost limit for where boating is permitted to the actual location of the boater access trail, in order to eliminate interference with the Rust Family property. Proposed alternatives which would move boaters downstream of Greens Creek to either Bull Pen Bridge or Norton Mill Creek were presented to the Forest Service and dismissed without regard to property rights interference. None of these alternatives were considered in the 2012 Assessment, nor considered in the recent EA. The recent Assessment again disregards

October 27, 2014

Page 4

the effects to existing property rights and ignores interference with the landowners' desired use of their property. The deficient EA ignores the requirements of the WSRA, NEPA, and the NFMA and turns a blind eye to the impacts the Forest Service Plan will have on the Rust Family and adjacent private property.

The Rust Family Requests a Meeting with the Chief of the Forest Service

For ten years the Sumter Forest (SC) and Nantahala Forest (NC) have avoided addressing or even acknowledging private property issues created by Forest Service management Plans. Each local forest assessment asserts that the opposite Forest is responsible for management of the Chattooga Wild and Scenic River in North Carolina, and offer to the public contradicting interpretations of the Forest Plans. This decade long game of ping pong over property rights can only be resolved at an agency level with oversight over both the Sumter and Nantahala Forest Supervisors. As provided by 16 U.S.C. §1282, the Rust Family requests a meeting with the Chief of the Forest Service to assist with resolution of this pressing matter without the need for litigation, or further use of judicial and private resources.

In 2007, the Kayak Lobby requested the Forest Service set policy which would result in harassment of private landowners. The Forest Service has in part complied with this request, with complete disregard for property rights. Forest Service policy has incited conflict between private property owners and the public by misrepresenting the scope of Forest Service authority, the Wild and Scenic Rivers Act, State law and by misinforming the recreating public through Plan Documents. This situation created by the Forest Service Plan needs to be addressed in order to prevent further conflict.

Thank you for your careful consideration.

Very truly yours,

/s/ R. Stephen Doughty
R. Stephen Doughty

RSD

cc: The Rust Family, Whiteside Cove Association
Enclosure: Upper Chattooga Map

Knibbs, James H -FS

From: Donald Spude <donalDSPUDE@gmail.com>
Sent: Monday, October 27, 2014 8:18 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

I demand that the Forest Service choose EA's "No Action" alternative until they comply with federal law that compels them to offer a full range of viable alternatives to protect the Chattooga River headwaters while providing adequate boater access.

It makes no sense to put in six new trails for boater access potentially damaging the fragile and possibly rare plant resources at this location. There is no need for this many trails. Improving boater access at the Bull Pen Bridge is all that is necessary.

DON SPUDE
151 W.T. Weaver Blvd.
Asheville, NC 28804

Knibbs, James H -FS

From: Patterson, Bobbi (Barbara) <bpatte@emory.edu>
Sent: Saturday, October 25, 2014 9:45 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattahoochee Riving Boating Access

Dear Colleagues,

As a kayaker myself, I applaud well designed trails that provide boaters access to fun and healthy rivers for paddling. But the proposal you've offer, which appears to be an "all or nothing" approach is not acceptable. Well-designed trail access is good for everyone and the river, but 6 new trails is to much. I welcome all-year round access and hope you will give us a better choice than this over-extension of trails.

As you have posed it, I oppose 6 new trails and am left to choose "nothing". Surely we can all value our natural wildernesses with more compromise than this "nothing" option.

thank you, bobbi

Stillness is the foundation of our understanding and insight. Stillness is strength.

Knibbs, James H -FS

From: Anderson Jr, William D <AndersonWD@cofc.edu>
Sent: Saturday, October 25, 2014 3:01 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River

I oppose new boater access trails at the County Line Road, Green Creek, and into the Ellicott Rock Wilderness Area below Bull Pen Bridge because boaters do not use the County Line and Green Creek trails in numbers that would justify building new access, and an adequate access trail already exists just upstream of the wilderness at Bull Pen Bridge. Building new trails would lead to year-round use, which will seriously damage one of the last places in the Chattooga headwaters allowing a true backcountry experience. Construction of these trails would also harm the very sensitive ecology of the Chattooga Cliffs reach, where 70% of the rare plants in the Chattooga River Corridor are found.

The Forest Service should choose the Environmental Assessment's "No Action" alternative until a full range of viable alternatives are offered for the protection of the Chattooga River headwaters, while providing adequate boater access.

Yours very truly,

William D. Anderson, Jr.

655 Clearview Drive

Charleston, South Carolina 29412-4508

Knibbs, James H -FS

From: Radio Bob <raydiobob@yahoo.com>
Sent: Friday, October 24, 2014 4:40 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

My vote is a definitive, emphatic, NO! How much is enough to satisfy EVERYONES "needs"?! Let's erect heliopads every ten square miles throughout this special wilderness so that ANYONE can fly to walmart/dollar general stores for a critically needed "wilderness shopping experience"- what say?!!! I mean, wilderness shoppers are people too! ... write it all down as the progress of man.....and one great leap(off!) for mankind! Please- call me a liberal(NOT!), but, ...all I am saying, is give PEACE a chance. No trail access! I mean do we REALLY even need what we have at....Bull Pen?!!! C'mon man(kind?!). Let the record state, I am not a danger to society. M
Understand that my name belongs NOT on any such lists. Thank You and God Bless America!

Knibbs, James H -FS

From: Laura A Garren <lauragarren@icloud.com>
Sent: Friday, October 24, 2014 3:48 PM
To: FS-comments-southern-francismarion-sumter
Subject: Five New Access Trails Along the Chattooga

Dear Forest Service:

I am writing about the new access trails that have been proposed throughout the Chattooga River corridor. I think it's a bad idea, because if you build it, people will use them, thereby disturbing fragile habitat. Plenty of trails—the Chattooga River Trail, the Foothills Trail, and the Bartram Trail— provide access to the river; why is there a need for more? Some places, in order to remain wild, need to be difficult to access. After all, the river is designated as Wild and Scenic. Don't make it a theme park.

As to trails to allow easier access for boating, I would like to endorse the Chattooga Conservancy's proposed solution to allow boating from Bull Pen Bridge to Highway 28. Don't allow special interest groups to set a precedent here.

Respectfully,
Laura Ann Garren

Knibbs, James H -FS

From: jbrcolumbia@aol.com
Sent: Friday, October 24, 2014 3:31 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access Environmental Assessment

I join whole-heartedly in the reasons expressed in opposition by Chattooga Conservancy.

Jim Richardson
Attorney at Law
1229 Lincoln St.
Columbia, SC 29201
(803) 799-9412
fax (803) 799-9628
jbrcolumbia@aol.com

Knibbs, James H -FS

From: rocketroy@windstream.net
Sent: Friday, October 24, 2014 1:36 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

We oppose designating and building new boater access trails in the Chattooga Wild and Scenic river corridor. Please choose no action alternative for the present. Thanks, Roy and Patty Lowe, Clarkesville, Georgia.

Knibbs, James H -FS

From: Walter Evins P <snivo@mindspring.com>
Sent: Friday, October 24, 2014 10:18 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

I have hiked, swam, boated and fished the Chattooga river extensively for over six decades and believe that my knowledge and appreciation of this rare treasure is greater than most.

The proposal to create six new boating access trails high in the watershed makes no sense. This much access is unnecessary and would certainly threaten this undisturbed wilderness area.

I believe the fact that I have both fished and boated the Chattooga gives me a valuable perspective on this frequently contentious issue.

I wish to express my strong opposition the proposal to create six new boating trails in the upper Chattooga watershed.

Sincerely, Walter Evins
 Atlanta, Georgia

Knibbs, James H -FS

From: Donna Patterson <donnajp131@bellsouth.net>
Sent: Friday, October 24, 2014 9:30 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boat Access

It seems that 6 new access points is excessive. I suggest you look at several reasonable access points that will be utilized to provide access but will maintain the wild and scenic character of the river. Once new access points are established they cannot easily be closed if it determined they are underused or detrimental. You need to be cautious about opening these access trails.

Sent from my iPhone

Knibbs, James H -FS

From: Ken Mitchell <kenrmitchell@yahoo.com>
Sent: Thursday, October 23, 2014 6:29 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

I request you take the NO trail access building until you have complied with federal law and offered more options for this area of the Chattooga river.

Ken Mitchell
195 Windy Hill Rd
Mt. Rest, SC 29664

Ken Mitchell
Cell - 864-710-8960

Knibbs, James H -FS

From: Kevin Colburn <kevin@americanwhitewater.org>
Sent: Thursday, October 23, 2014 9:28 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access
Attachments: 2014.10.22 AW Trail EA Comments.pdf

Dear Chattooga Planning Team,

Please accept American Whitewater's attached comments on the Chattooga River Boating Access EA.

Kevin Colburn
National Stewardship Director
American Whitewater
kevin@americanwhitewater.org
828-712-4825
Join American Whitewater!



www.americanwhitewater.org

Kevin Colburn
National Stewardship Director
PO Box 1540
Asheville, NC 28806
828-712-4825
kevin@americanwhitewater.org

October 22, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, South Carolina 29212
comments-southern-francismarion-sumter@fs.fed.us

Re: Chattooga River Boating Access

Dear Planning Team,

American Whitewater has reviewed the Chattooga River Boating Access Environmental Assessment (EA) and offers our comments herein. The EA rightly considers the merits of designating the trails and river access areas that are explicitly envisioned in the 2012 forest plan amendments. We feel that the EA generally takes a thorough approach to considering the impacts and merits of designating these trails and making any upgrades needed for the trails' sustainability. We support the Proposed Action, Alternative 2.

We feel that Alternative 2 will ensure that the trails have negligible environmental impacts while providing high quality recreational experiences for hikers, paddlers, and anglers alike. Designating these trails will offer significant environmental safeguards over Alternative 1. We encourage the Forest Service to approve Alternative 2 and move forward with trail enhancements as soon as practicable.

We recognize that the scope of the EA was intended to cover only the trails and access areas needed for paddlers to access the Upper Chattooga River, including those needed to avoid the reach closure imposed by the Forest Service. We appreciate though that the EA recognizes that these trails and access areas are all multi-use trails. The paddling use data in the EA strongly infers that paddlers are the smallest user group that will use and benefit from these trails. The EA correctly notes that the County Line Trail isn't a paddling access trail at all based on scoping comments and use data. *See EA, pg. 102.* In fact, only 0.43 miles of the 1.63 miles of proposed trails are likely to be used by paddlers.

We request that the following sentence be struck from the EA: "Current U.S. Forest Service management that separates recreational users by reach, time and flow seems to be having the desired effect of protecting the ORVs and reducing user conflicts in the upper segment." *See EA, Pg. 103.* This statement has no basis and runs counter to the data presented, and no evidence of causation is presented. The

data clearly show that paddling use is extremely low and socially and environmentally a non-issue. This would be true with or without the Forest Service's reach, time, and flow limits. There never were nor would there ever be user conflicts to "reduce." Paddling never did nor would it ever impact ORV's. The agency limits on paddling do not protect the ORVs or prevent conflicts. Instead, the agency's bans on paddling violate the whitewater boating ORV of the Chattooga and impose unreasonable restrictions on a very small and low-impact user group.

Thank you for considering these comments, and we encourage prompt implementation of Alternative 2.

Sincerely,

Kevin Colburn
PO Box 1540
Cullowhee, NC 28723
kevin@americanwhitewater.org

Knibbs, James H -FS

From: Hank Berard <hnbrrd@gmail.com>
Sent: Monday, October 20, 2014 7:19 PM
To: FS-comments-southern-francismarion-sumter
Subject: U.S. Forest Service- Chattooga River Boating access

Dear Sir/Madam,

As an avid fisherman, I would oppose the trails to permit the access for boaters above and below Bull Pen Rd on the Chattooga River.

Regards,

Hank Berard

429 Carl Ridge Dr NW

Kennesaw, GA 30152

Sent from my iPad

Knibbs, James H -FS

From: Rick Posey <rposey1@att.net>
Sent: Monday, October 06, 2014 6:19 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga Planning Team, 4931 Broad River Road, Columbia, South Carolina 29212

It would be great for South Carolina Fly Fishing to pave the road for Burrells Ford Bridge. It is a great area for hiking and fishing, but the gravel road makes it a bit inconvenient. Wish it had concrete or asphalt so that we could protect our vehicles better when driving on Burrells Ford Bridge road.

Thank you,

Rick Posey
208 Four Lakes Drive
Easley SC, 29642

Note: I am a current member of Trout Unlimited.

Knibbs, James H -FS

From: Michael Bamford <mbamford123@comcast.net>
Sent: Monday, October 06, 2014 10:19 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access Environmental Assessment
Attachments: WCA Letter to Chat Team Oct 6 2014.pdf

Whiteside Cove Association
Cashiers, NC 28717

To: The Chattooga Planning Team,
4931 Broad River Road,
Columbia, SC, 29212

RE: The Upper Chattooga River Boating Access Environmental Assessment

Dear Members of the Planning Team,

Thank you for providing the opportunity to review and comment on the *Upper Chattooga River Boating Access Environmental Assessment* (EA). It is disappointing that the published Assessment continues to ignore that a segment of the designated Chattooga Wild and Scenic River corridor is privately owned, and again fails to assure the Forest Plan does not interfere with existing property rights as legally required.

As justification for ignoring all issues associated with recreational use on the private segment of the Chattooga River, the EA misrepresents to the public the District Court findings of Judge Mary Lewis. The EA misleadingly states the court found the previous agency Decision ‘complies with federal law’ (id 5), suggesting that all aspects of Federal laws were adjudicated during the Kayak Lobby’s lawsuit with the Forest Service. This false assertion is then used as the rationale for limiting the scope of the published EA.

The SC District Court limited its’ findings to those issues raised and analyzed: “The court finds that the Forest Service’s 2012 Plan for Management of the Chattooga WSR complies with the federal law as set forth and analyzed above.” (p.41 *Amended Order* 7/30, CV# 8:09-2665-MGL). While, the published EA misleadingly removes the phrase “as set forth and analyzed”; and asserts *carte blanche* judicial approval as a basis for evading consideration for issues raised in this NEPA. During the 4th circuit appeal hearings on September 17th, Judge Robert King made clear that the ‘merits’ of Forest Watch issues raised were not adjudicated and are therefore still open for judicial review.¹ Similarly, issues raised by other parties -also aggrieved by the agency actions- have never been adjudicated. Importantly, the District Court never concluded the Forest Service complied with all aspects of Federal law involving private property rights within a WSR corridor. Rather the court found these issues not ripe for review within the context of the kayak lobby lawsuit, because **the Forest Service conceded it does not and is not empowered to manage the privately owned segment for recreational use**. The court also made clear the issue of property rights in the NEPA context would become ripe upon completion of the Boater Access Decision, which is now. (*Amended Order*, @34).

Further denigrating the Courts findings, the Forest Service cites the pre-amended Order in April –rather than the Amended Order on July 30th- as the basis for avoiding planning and assessment requirements. The

¹ <http://coop.ca4.uscourts.gov/OAarchive/mp3/13-1960-20140917.mp3> , @ approx. 51st minute

Forest Service cannot ignore the existence of an *Amended Court Order* in which the Forest Service concedes they do not manage, and have no authority to manage, the Private Segment of the Chattooga WSR. (id@ 24)

In contradiction to having adjudicated agency compliance with ‘all federal laws’, Judge Mary Lewis ruled narrowly to only address those issues raised and analyzed within the scope of the Kayak lobby’s lawsuit. Judge Mary Lewis did not deny the due process rights owned all other aggrieved parties’ on different grounds brought to the court within the six-year window of statutory limitations. The Court found the scope of agency authority and property issues not ripe for judicial review within the kayak lobby’s litigation and dismissed claims made by the property owners without prejudice.(id @27,34). The court also precluded from judicial review issues raised by Forest Watch,(id@13), and did not rule on those issues not yet presented to the court for review. Therefore, the findings of the Federal Court provides no basis for the Forest Service to evade planning and NEPA regulatory requirements raised in this NEPA process regarding recreation policy on the upper Chattooga, an area which contains both public and private property.

As requested by the Forest Service in pleadings during the Kayak lobby lawsuit, the District court did not reach the merits of the property rights issues raised, nor reviewed interference with the landowner’s desired use of their own property, nor did it find ripe the adequacy of the Environmental Assessment with respect to all potential deficiencies. The Court accepted the agency’s explanation that the assessment deficiency raised by Georgia Forest Watch and the Rust Family would be part of the ‘site-specific NEPA’ published here as the *Boating Access EA*.(id@ 34). However, the EA contains no such assessment connecting the issue of boating to the issue of boating access, nor considers any indirect impacts to private property, nor the interference with the existing rights associated with the private segment. Under a false premise, the agency circumvents their own planning process and the NEPA mandates, by misrepresenting a Federal Court Order.

In the published EA, the Forest Service completely ignores any direct or indirect affects related to boating in an assessment entitled *Chattooga River Boating Access*. Such avoidance of their own mandates is based solely upon the misrepresentation of a Federal Court Order as having approved through adjudication all aspects of the Agency 2012 Decision. Simply, the Forest Service previously convinced a Federal Court that any judicial review of interference with private property was premature, while the recent EA presents the Decisions on boating as a *fait accompli*. Remarkably, the agency asserts this Chattooga Management Plan to have been adjudicated in compliance with all Federal Laws prior to any judicial review. By first misleading a Federal Judge, then misrepresenting the courts narrow finding to the public as a *carte blanche* judicial approval, the Forest Service attempts to circumvent ever having to conduct the required Assessment of the potential effects to the private segment, interference with landowner use of their property, and the effects on existing property rights.

The published EA omits the Forest Service concession to the District Court that it does not, and is not empowered to, manage boating, or any form of recreation, over privately held segments of the Chattooga WSR. (id @24). The EA fails to address the kayak lobby’s demands that the Forest Service permit boating through

private property, by omitting the lack of such Forest Service authority over the private segments of the Chattooga. The agency instead asserts the Chattooga WSR (as a whole) is under the management of the Forest Service, both private and public segments. This assertion is presented without basis. The Forest Service contradict their own concessions to the District Court that the management provisions under the WSR Act do not pertain to segments in private ownership. Whatever WSR obligation or discretion the Forest Service has over public property within a designated WSR corridor, such discretionary authority does not apply to the segments privately held. Federal jurisdiction cannot be based on a presumption which blatantly contradicts federal law. Further, Congress specifically prevented the Forest Service from interfering with property rights within a designated the Wild and Scenic River corridor, therefore the Forest Service are prevented from inventorying private property as available for public recreation. The limits of agency authority and discretion within the designated Chattooga WSR exclude privately owned segments. As written, the EA presumes agency jurisdiction in excess of delegated statutory authority, and/or makes some illegal claim of property title against vested title in an attempt to nullify property rights.

Had the Forest Service expended a fraction of the resources objectively conducting the necessary assessment it spent on avoiding this issue, these property issues could have easily been settled a decade ago. Instead the Forest Service set policy to placate the litigious Kayak lobby, and deceive a federal court. This while ignoring all others affected by their management policy. Only by clearly defining the agency actions, mapping the Forest Service boundary, and providing the rationale for such actions as required by law;² would the Forest Plans be in compliance with federal law. Under the US constitution, the Forest Service must provide this information to both the public and the court in order that any agency action which impacts basic rights, liberties or interests can be judicially challenged and transparently adjudicated. Through ambiguity in the published Plans, and inconsistency between the proposed Nantahala and Sumter Plans across the same segments of the designated Chattooga WSR, the agency creates a legal quagmire which has wasted millions of dollars in agency resources, judicial resources and those resources of stakeholders aggrieved by the agency in-actions.

The SC District Court did not adjudicate all aspects of the previous agency Decision, nor did the Court release the agency from meeting its' future Planning regulatory requirements here. Attempts by the agency to circumvent their own planning and NEPA requirements through an erroneous interpretation of a Federal Court Order fails to meet their own requirements.

By ignoring the *Amended* Federal Court Order on July 30th, and only citing the redacted Court Order, the *Chattooga River Boating Access Environmental Assessment* (EA) attempts to circumvent any planning and assessment mandates. The Court Order never granted the USFS license to evade any consideration of affects to private property or the associated interests. Property issues are not perpetually unripe for judicial review and

² NEPA requires the USFS "State what the Decision was" 40 C.F.R. § 1505.2(a). A Forest Plan must be "understandable", 36 CFR §219.30. Ambiguity in the context of Planning and Assessment is itself a violation.

effects to private property are no longer 'speculative' based upon the public record presented in this NEPA. The Forest Service Actions in this assessment makes a mockery of their own planning requirements, violates numerous federal laws protecting private property and landowner rights, and importantly misrepresents the findings of the Court in order to shirk its' regulatory responsibilities.

We again ask the Forest Service to restrain from establishing policy that circumvents regulatory requirements, and knowingly interferes with property rights in violation of Federal Law. Because the area of dispute is primarily within the uppermost Chattooga Cliffs Segment,³ we propose the USFS restrain itself from taking actions to designate boater access trails, and Stay any Decision to allow any boating on the three miles segment above Bull Pen Bridge, until the property disputes raised here by Forest Service Actions are resolved either administratively, or by a court of law. Such a policy would allow the remaining 14 of the 21.8 miles of the upper Chattooga to remain open for boating, until all property related issues are resolved. Alternatively, the USFS could modify its' Forest Plans now so that they do not interfere with property owner rights or the desired uses of private property by the property owners.

Forest Service policy has incited confrontation between property owners and the recreating public; this situation has become volatile and needs to be addressed. Shirking planning mandates based upon the misrepresentation of a Federal Court Order fails to comply with the 'hard look' NEPA mandates required here.

Thank you for your time and consideration.

Sincerely

Michael Bamford (/cl)

Michael Bamford

River Director, Whiteside Cove Association

Asset Manager, Goodenow LLC

mikebamford123@gmail.com

CC: Forest Supervisor Richard Lint, Supervisor Kristin Bail, Honorable Judge Mary Lewis,

³ The Chattooga Cliffs Section above Bull Pen Bridge received only two groups of boaters throughout the entire 2013-2014 season, therefore the negative impact on boaters if the uppermost few miles of the Chattooga remained closed would be minimal. Conversely, designation and building over a mile of new trails without a full EIS would be an imprudent resource commitment in an area the USFS has labeled as the most ecologically sensitive. Critically, the property rights issue raised with respect to the uppermost segment of the Chattooga Cliffs Section are now ripe for judicial review, and the Forest Supervisors and Regional Forester has avoided working with the affected landowners to set an amicable policy that would protect WSR values and not interfere with property rights.

Knibbs, James H -FS

From: gccabinet@aol.com
Sent: Wednesday, October 01, 2014 6:25 PM
To: FS-comments-southern-francismarion-sumter
Subject: Additional Boating access to upper Chattoga River

As a trout fisherman / Trout Unlimited member, I often fish the upper sections of the Chattoga River. I believe that the river is too small to absorb the traffic from kayaks and canoes tubers, etc. without damaging the " life and spirit " of a wild and scenic river.

I've never met a boater (helping) during any of our trash pick-ups or work sessions on the river.

- Gary Coldren, member of TU Cattoga River chapter.

Knibbs, James H -FS

From: Ken Baerwalde <kbaerwalde@ymail.com>
Sent: Wednesday, October 01, 2014 3:46 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

I am firmly opposed to permitting access to boaters on this pristine section of the Chattooga River. Boaters would basically destroy this section of the river for fly fishermen. It is the only remaining area that is fishable in the warmer weather months. We fishermen joke about the "tube hatch" that comes out late morning in the warmer months on the boater access areas. Unfortunately this is not a joking matter when talking about this section of the river..

Boaters, tubers, swimmers and others presently have an extremely large area in which to recreate. This section is the last bastion for fishermen.

I do also want to point out that we fishermen pay a significant fee for licenses to fish these waters. I have yet to see any kayakers, tubers, and swimmers pay a recreation fee.

I can't tell you how many times kayakers and tubers have floated through these waters even today while I was fishing and ruined my day. Explaining the situation to these interlopers only led to a confrontation on more than one occasion. I only request that boater access be denied. If approved I can assure you I will fish in other states that recognize the value that a pristine area adds to the environment.

Sincerely,
Kenneth C. Baerwalde
101 Sugar Lake Ct.
Greer, SC 29650
803-517-9689
[Kbaerwalde@ymail.com](mailto:kbaerwalde@ymail.com)

Sent from my iPad

Knibbs, James H -FS

From: Steve Best <sbest79724@bellsouth.net>
Sent: Wednesday, October 01, 2014 9:00 AM
To: FS-comments-southern-francismarion-sumter
Subject: Upper Chattooga

Have the courage to deny boaters access to the upper Chattooga. They have plenty of water in this watershed as it is.

Steve Best
Sent from my iPad

Knibbs, James H -FS

From: Truman Nicholson <TNCOSN@clemson.edu>
Sent: Tuesday, September 30, 2014 11:24 AM
To: FS-comments-southern-francismarion-sumter
Subject: Upper Chattooga River

To Whom it may concern,

Right now, the existing trails and roads are used very little during high water flows from fishing, hunting , and hiking. Creating these boating access/egress points will be used during high water flows from heavy rains which will lead to more trail and road erosion.

I attended the meetings held in Walhalla several years ago and expressed my opinion there. I remember in the first meeting held at St. Johns Church. A Forest Service personnel member in the beginning stated that "No New Construction Would Take Place" to

aid with the additional use of these potential impacted areas. I see things have changed, as usual. Most of the original local people have very little respect for the Forest Service in my area because of the way it handles issues such as this.

Boating organizations

will not stop until they have full use and control of the entire river.

How much will this cost? Not very long ago (a couple of years)picnic tables, and high dollar bear proof trash cans in the Andrews Pickens District of The Sumter National were removed because of the so called "cutting maintenance cost and resources " according to Mike Crain.

These areas were used for years by local people to enjoy the Mountains with their families on the weekends and holidays. The Forest Service quit maintaining these areas years ago.(ten or more years) So how did this really cut cost? Where was the money be used that was supposed be going

toward the maintenance of the these areas? The picnic shelters that were built by the CCC were let go for so long that roof members were damaged from leaking roofs.

Lastly, I don't have a problem with anyone wanting to use our natural resources for recreation. However, I think that it's the Forest Service's responsibility to make sure that equal use is given to everyone. Don't close areas to some(picnickers, hikers, campers, backpackers, fishermen, and hunters) because of laziness and open some areas others.

Thanks, have a great day!

Truman Nicholson , Oconee County, SC native citizen

Knibbs, James H -FS

From: larry walker <dixienamos@yahoo.com>
Sent: Tuesday, September 30, 2014 10:08 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattoga Boating Trails

Any new trails will create soil disturbance and ultimately sedimentation into the river and/or its tributaries. Only stable existing trails and roads should be used.

Larry Walker
706-2444345 cell
dixienamos@yahoo.com

Knibbs, James H -FS

From: James Riddle <riddle4iu@gmail.com>
Sent: Monday, September 29, 2014 9:00 PM
To: FS-comments-southern-francismarion-sumter
Subject: Change of leadership

Regarding The Over The Hill (OTH) Hiking Club of Highlands, NC, please remove Mr. Whitehurst as the designated contact and add me, Mr. James Riddle. My email is riddle4iu@gmail.com. Thank you.

J.R.

Knibbs, James H -FS

From: markcdiamond@gmail.com
Sent: Monday, September 29, 2014 4:48 PM
To: FS-comments-southern-francismarion-sumter
Subject: Re: U.S. Forest Service News Release: U.S. Forest Service invites public to comment on analysis of boater access trails

please take me off of this mailing list. thank you.

Sent from Windows Mail

From: [FS-comments-southern-francismarion-sumter](#)
Sent: Monday, September 29, 2014 3:08 PM
To: [FS-pdl r8 francis marion so chattooga external](#)



National Forests in North
Carolina
160A Zillicoa St.
Asheville, N.C. 28801
Web: www.fs.usda.gov/nfsnc

News Release

Media Contact: Stevin Westcott, 828-257-4215



U.S. Forest Service invites public to comment on analysis of boater access trails

Analysis is part of implementing 2012 decisions on managing recreation on the upper segment of the Chattooga Wild and Scenic River

ASHEVILLE, N.C., Sept. 29, 2014 - U.S. Forest Service officials are asking for comments on an [environmental analysis](#) (EA) released today on designating boater access trails on the upper segment of the Chattooga Wild and Scenic River. This analysis covers five proposed trails on national forests in South Carolina, North Carolina and Georgia.

"We appreciate everyone's continued interest and contributions as we work through

some of the complexities of the 2012 decision," said Michael Wilkins, Nantahala district ranger. "We look forward to receiving input from folks in the next 30 days about this next step in management of this special resource."

Today's proposal is linked to decisions the Forest Service made in 2012 to allow boating on the upper segment of the Chattooga Wild and Scenic River. In today's proposal, the agency would construct and designate hiking trails and establish boater access sites at the following locations:

1. Greens Creek trail, construct 0.28 miles with access at the Greens Creek trail and Chattooga intersection;
2. County Line trail designation of 1.2 miles of an old road bed with access just downstream of Norton Mill Creek
3. Bullpen Bridge;
4. Burrells Ford Bridge; and
5. Lick Log Creek (take-out only).

Other non-motorized recreationists also would be able to use these trails and access locations.

Although district rangers for three different districts (Andrew Pickens in S.C., the Chattooga River in Ga., and the Nantahala in N.C.), will issue separate decisions, written comments must be submitted to: *Chattooga Planning Team*, 4931 Broad River Road, Columbia, South Carolina 29212. Electronic comments may be emailed to: comments-southern-francismarion-sumter@fs.fed.us

The opportunity to comment ends 30 days following the date of publication of the legal notice in the Seneca Journal in S.C., Franklin Press in N.C. and the Clayton Tribune in Ga.

For more information on the decisions to management recreation on the upper segment of the Chattooga Wild and Scenic River, please visit <http://www.fs.usda.gov/scnfs> or "like" us on Facebook at <http://www.facebook.com/scnfs>.

#

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Knibbs, James H -FS

From: Cotten Tyler <tylerc@hpw.com>
Sent: Monday, September 29, 2014 3:49 PM
To: FS-comments-southern-francismarion-sumter
Subject: Sounds wonderful.

Another. "thank you to our Forest Service",

Cotten Tyler

919-622-2212
fax 919-313-9812
tylerc@hpw.com
www.cottentyler.com

Knibbs, James H -FS

From: Tom Dunken <tdunken@windstream.net>
Sent: Tuesday, August 19, 2014 4:38 PM
To: FS-comments-southern-francismarion-sumter
Subject: Nix proposed trails for Chattooga

Please stop making it easier for people in plastic boats to visually, aurally and physically pollute/damage the river. The Chattooga river corridor doesn't need our improvement. There're plenty of places for paddlers to re-create themselves. And other ways for entrepreneurs to make money, instead of off the taxpayers' property. I myself paddle the aneurisms downstream. Please keep the river as wild as possible.

Thomas Dunken
706.968.4594

Knibbs, James H -FS

From: Laura Garren <garrenlinnell@earthlink.net>
Sent: Monday, June 16, 2014 5:17 AM
To: FS-comments-southern-francismarion-sumter
Cc: info@chattoogariver.org
Subject: New Access Trails to the Chattooga River

Greetings,

I would like to respectfully oppose the construction of any new access trails to the Chattooga River, specifically those proposed for Green Creek, Norton Mill Creek, Bull Pen Bridge, Burrell's Ford Bridge and Lick Log Creek.

New trails, of course, would increase traffic through some of the most biologically rich areas of the river corridor that should be protected. While I am not opposed to allowed restricted access by boaters on the upper Chattooga, I believe that part of the responsibility for the stewards of the forest is to also provide a backcountry experience, which would be compromised with increased traffic.

Please resist pressure to provide new routes of access so that the unique experience of the forest may be preserved.

Thank you for your time.

Sincerely,
Laura Ann Garren
Author, "The Chattooga River: A Natural and Cultural History"
<http://lauragarren.com/>

Robert L. Alexander
P.O. Box 1928
Clayton, GA 30525
October 18, 2014
Ph: 706-490-1402

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 19212

RE: Chattooga River Boating Access: Appeal-¶218.24(B)(6).

I find very little evidence of what is presented as actually "an on the ground review" within the EA. Statements are made that various projects were Initiated and perhaps they were; however; there is no listed substantial evidence as to verification in defense of some of the actions considered.

36 CFR 219.5(a)4) the forest Service is to develop a broad range of alternatives which identify the benefits and costs of land and resource management. The way I read the EA there are only two (2) alternatives and this is not a "broad range". And, there are no financial entities presented as to the costs for implementing the EA.

36 CFR 219.5(4)(b) The Forest Service has presented much redundant information but has not presented to the Public, "diverse specialized areas of professional and technical knowledge applicable to the planning areas as it applies to expertise in ... "scientific" information to defend its position within the confines of the EA. There are many words but very little in the way of a presentation of "scientific" information in the EA to go along with its decisions. The Forest Service did well in the area of MIS and various Sensitive, Threatened and Endangered species but did not provide information in many other areas. Redundancy comes in the form of "past, present and foreseeable" statements with no *scientific evidences* presented as to how the conclusions were reached. Only pure speculation is presented. There are other similar statements throughout the EA with no scientific evidence presented to substantiate the decisions made. 40 CFR 1502.1, "statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses; 40 CFR 1502.16. The Forest Service is to, "present the environmental impacts of the proposal and the alternatives in comparative form, thus *sharply defining* the issues and providing a *clear basis* for choice among options by the decision maker and *the public*."

There is just too much speculation and personal observation presented in the EA with no evidence presented to comply with Laws and Regulations. Opinion is presented as a viable substitute for scientific information and this is in violation of the 36 CFR's and the 40 CFR's; also 16 USC 1604 Sec. 6(d).

As stated in the EA, Boating was permissible as early as 2012 into 2014 on the upper Chattooga River: page 2(b) boating, of the EA and page 21, 3.2, 3.2.1, Outstanding Remarkable Values ((ORVs Affected Values)). This allowance is in direct violation of 40 CFR 1500.1(b) "NEPA procedures must insure that environmental information is available to public officials and Citizens *before* decisions are made and *before* actions are taken... Since the EA did not come out until on/or about September 29, 2014, the Forest Service authorized unlawful boating access to the Chattooga river. Since the unlawful acts were authorized, the EA is null and void; the Forest Service cannot lawfully justify a good intent or action while committing a known

infraction of the law; 36 CFR 219.27(a)(7) also, which deals with "Prior" information; also, 40 CFR 1502(f), 1506.1(c)(3), 1508.8.18(b)(4), 1508.7, 8, and 1508.27b. Because of Forest Service actions NEPA was violated pursuant to unlawful deeds by Forest Service personnel. The Forest Service has prejudiced the decision making process and prejudiced the consideration of (my) appeal. The EA must be thrown out and the boaters must cease and desist immediately. The Forest Service is responsible to maintain the law.

In addition the implementation of boating practices and activities on the Chattooga River (Chattooga River Boating EA that is being appealed) is injurious to me as a concerned citizen (and various other parties) because it allows an irretrievable commitment of resources. The decision to go ahead with the activities (the permitting of unlawful boating) indicates that the Forest Service's inertia will prejudice the meaningful review of my appeal. Therefore I request that all management activities be stayed as the (my) appeal is undergoing review and that the Forest Service throw out the present Chattooga River Boating Access EA and consider it null and void immediately.

36 CFR 219.27(a)(4). "Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land." I am familiar with the Burrells Ford area dating back to the 1950's. There has been a great unwelcome change there. The area around the bridge and below was one of deep holes, that is, over 10' deep, with long rock ledges. Trout lived in this area that exceeded 24 inches. These entities are non-existent at the present time. In fact the river was full of sand; and, one could wade easily in these areas the last time I fished that area of the River. The Burrell's Ford Road was a major factor in the degrading of the River and the Forest Service used their "Best Management Practices". I expect your "Best Management Practices to fall by the way side and the River, and it's banks, to end up desecrated. Example: the West Fork of the Chattooga river from Warwoman Road to the first bridge over the River on Overflow Road. Regardless of "Best Management Practices the Forest Service has not enough manpower to keep vegetation and The River bank from being ruined.

Page 76, Boater Put-ins and Take-out Access Sites: The soil impacts will only get worse because the general public does not care about conservation; and, they will do pretty much what they want to. The River is already inundated with red, yellow, green, blue rocks where the canoes slide over them. This will only get worse and cause more of a "scenic" degradation.

36 CFR 219.6(g): Any notice requesting written comments on regional planning shall allow at least 60 calendar days for response... The EA has only listed 30 days.

No mention was presented as to who was to pay for the rescue of boaters or persons hurt or lost on the Chattooga River. I believe the people rescued should be billed for all expenses.

40 CFR 1500.2(c): Each agency shall: study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources as provided by section 102(2)(c) of the act. There are plenty of "unresolved conflicts" between fishermen, aesthetic enthusiasts, and boaters concerning the upper River use.

All pertinent information must have been gathered within the past 6 months and that appears to be not totally the case with the Chattooga River Boating EA.

Fishing for Trout: Prior to about the mid 1980's Trout were still in abundance in the Chattooga River. After this era The Georgia State Game and Fish Commission found that because the Trout had disappeared, there was no longer a need to purchase a Trout Stamp below the confluence of Warwoman Creek. The only large projects to affect the River were the Clear cutting, Seed tree, and Shelter wood cutting, road construction, etc., in the watersheds. These projects were in accord with Forest Service "Best Management Practices with "no adverse affects". Some years ago I took the temperature at the confluence of the West prong (Overflow) and the main confluence of the Chattooga River and found it to be 75 degrees. I have no confidence in the abilities of the Forest Service to be able to maintain the Chattooga River as a scenic, multiuse entity, especially with boating; it has not done so effectively yet.

There has been very little mentioned concerning the Clean Drinking Water Act that I noticed. In the old days when we got thirsty; we just drank out of the River. Can that be safely done now? The answer is No! Boating on the upper Chattooga River will not enhance the water quality.

Georgia has a law concerning the development of land along Trout streams. The Forest Service did not mention compliance with Georgia law. The Forest Service in 36 CFR 219.27(e) states that, "Special attention shall be given to land and vegetation for approximately 100 feet from the edges of all perennial streams... Within a few years after the implementation of this EA the river banks will be trampled.

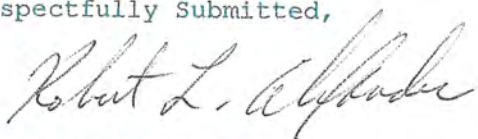
Due to the magnitude of the decisions being made the Forest Service should have prepared an EIS instead of an EA. 40 CFR 1502.1...supported by evidence: 1502.14, 15, 16.

There was no mention of the Ospreys along the Chattooga river. I have seen them numerous times both way below and above the Hwy 28 bridge. Surely they have a listed status as I never saw any from the 1940's until the 1990's. I see these during the summer months.

Also, did you know that there is an Albino Copperhead snake living along the Chattooga River? I saw it and my grandson with me saw it. Is this unusual snake protected? We did not harm the snake.

The Migratory Bird Treaty Act 16 USC 703: even a Crow is considered a migratory Bird and I did not notice its inclusion.

Respectfully Submitted,



Robert L. Alexander

cc: Georgia Forest Watch
Dahlongega, GA



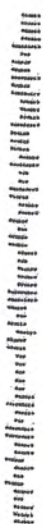
POSTNET
OCT 22 2014

BY:

Robert Morrison

Chattanooga River Boating Access

29212953031



U.S. Forest Service
Chattanooga Planning Team
4931 Broad River Rd.
Columbia, SC ~~29212~~

29212

ATLANTA METRO 300
20 OCT 2014 PM 6:1



Earl Nutz
368 Tanyard Rd.
Greenville, SC 29609
October 6, 2014

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

Dear Planning Group:

The upper regions of the Chattooga River were my favorite fishing grounds in South Carolina. I and my partner Dr. Emmitt Williams fished through the 709 entry road the Big Bend falls area. We also fished the gorge area by taking the back road past Village Creek Church off Highway 107. In a few of our expeditions we found parts of destroyed Kayaks and wondered who had ventured into the hazardous area. Big Bend falls from my observation is not a falls that can be paddled or portaged around. The falls pour over the broad expanse of the river that is at least 70 or 80 feet across. The falls are at least 25 or 30 feet high. On the west side of the river a rocky shelf protrudes out and into the pool below the falls. To hike around the falls my friend and I carried a rope that we secured around a tree to swing unto the rock ledge and then down into to west side of the pool below where the fishing has always been good. The pool below the falls is not deep enough to land a kayak of any sort, and the falls are practically vertical. My son, Hans Nutz, is one of the leading kayak designers for Confluence. Perception, Wave Sport, and Dagger Kayaks are made by Confluence. Hans designs the national and international Wave Sport competition kayaks, and now he is designing the new fishing kayaks. He is not in favor of opening those waters to the kayakers.

The gorge presents some additional problems. The entry point would probably be Burl's Ford. That means a kayaker would have to run Big Bend Falls. Then, when the kayaker floated into the gorge he would find himself in a region of no return. The overhanging cliffs on both sides literally mean that there are no portage areas in the gorge itself. It is an area that is rather difficult to hike. Just below the gorge a road on the Georgia side existed but is now overgrown. To exit the river by the marked trails you need to hike an additional mile and a half down river and past Hog Pen Creek. The isolation of the entire area makes safety an issue, and rescue hazardous if not close too impossible.

I would recommend that the existing law regarding the wild-scenic Chattooga River remain in place for everybody's benefit. South Carolina has a very limited number of trout streams.

Sincerely,

A handwritten signature in cursive script that reads "Earl Nutz". The signature is written in dark ink and is positioned above the printed name.

Earl Nutz

Earl Nutz
368 Tanyard Rd
Greenville, SC 29609

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

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South Carolina Council

Jim Hopkins
Chairman

October 17, 2014

US Forest Service
Chattooga Planning Team
4930 Broad River Road
Columbia, SC 29212

RE: Environmental Analysis – Designated Boater Access Trails
Upper Segment of the Chattooga Wild & Scenic River

Gentlemen/Ladies:

The following are the comments and opinion of the South Carolina Council of Trout Unlimited representing over 1,600 members regarding the above referenced proposal covering five proposed trails on national forests in South Carolina, North Carolina and Georgia:

Since the USFS proposal is to improve the access and sustainability of the five (5) trails; the proposed trails are multi-use trails (i.e., for hikers, fishers, boaters, and others); the trails would continue to exclude motorized recreation; the proposal has no material effect on the trout or its habitat in the river and its feeder streams; and the proposal does not affect the 2012 USFS decision regarding the management of recreation on the upper segment of the river (i.e., limitation of boater access), the South Carolina Council of Trout Unlimited is not opposed to this proposal. Our position is, however, based on the condition that the USFS will use best practices in trail location, design and construction, including taking all precautions to prevent siltation of the river and its feeder streams.

Thank you for this opportunity to provide our opinion on this important matter. We look forward to continuing to work closely with the US Forest Service and its partners in protecting the Chattooga River as a "Wild and Scenic River".

Sincerely,

J. A. (Jim) Hopkins
Chairman – South Carolina Council
Trout Unlimited

J.A. Hopkins
SC Council of TU
103 Pebble Creek Way
Taylors, SC 29687-6630

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US Forest Service
Chattooga Planning Team
4930 Broad River Road
Columbia, SC 29212

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10/30/2014 1:30 PM
US Forest Service
Chattooga Planning Team
4930 Broad River Road
Columbia, SC 29212

From: harrisonoc1 <harrisonoc1@gmail.com>
Sent: Monday, November 03, 2014 7:32 PM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

To whom it concerns:

I am a whitewater canoeist who waited decades for the opportunity to paddle the Upper Chattooga River where paddlers were wrongfully and discriminatorily denied access for so many years. The first season the river was opened to boating under the arbitrary and unnecessary flow restrictions, I felt fortunate to paddle the two sections below Bull Pen Bridge. I recently read that an environmental analysis found that last year only eight groups ran the river on seven days, down from the first year when boaters ran the river on only 17 days. This proves what paddlers have been saying all along: there would be no stampede of use on these sections and natural flow conditions should be the only restricting factors. There have been high flows during the summer months when paddlers should have been able to run the river, but were kept off by the illogical seasonal restrictions which continue to treat boaters as less legitimate than all other users – for absolutely no reason. I hope the Forest Service will see fit to lift the seasonal and flow restrictions and let paddlers, anglers and hikers share the river as they do on all other rivers that flow across the public's national forest lands in the US.

As for the trail considerations, I object to the fact that boaters are still prohibited from accessing the four miles above 28 bridge. There is a good boater access at Highway 28, yet we were forced to hike out what seemed like a mile the time we ran this section. Along with a couple of difficult portages due to rapids blocked by wood, this rendered this section hardly worth the effort involved. I felt like these rules were designed for that purpose: to dissuade paddlers from running Section 1. This is a shame, and boaters should be allowed to paddle out to Highway 28.

I support the Forest Service's work to maintain a good, environmentally sound trail system around the river. These should in no way be considered "boater trails" as they will see a lot more use from other users. With or without the nonsensical seasonal and flow restrictions, the Upper Chattooga will remain a sparsely used wilderness experience for the few users who choose to venture there. That is as it should be.

E.H. Metzger
Chattooga paddler, hiker and friend for four decades (since 1974)

Knibbs, James H -FS

From: Brad Preslar <brad.preslar@gmail.com>
Sent: Tuesday, November 04, 2014 9:33 AM
To: FS-comments-southern-francismarion-sumter
Subject: Chattooga River Boating Access

I'm writing regarding the Environmental Assessment and proposal re: the Upper Chattooga.

1. We support the trail analysis and Forest Service proposal for trails in Alternative 2. High quality sustainable trails are good for forest visitors and the river.
2. The Forest Service does not need to require that paddlers use specific river access and egress points, but if they do, they should likewise require that all visitors seeking shore and water access use those same points.
3. The Environmental Assessment should be clear that it does not cover the section of the Upper Chattooga upstream of the Green Creek Trail, and that the resulting Paddling Permit should only be required for paddling downstream of Green Creek.

Thanks,

Brad Preslar

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615.696.9606

www.bradpreslar.com