

BRIEFING PAPER



U.S. Department of Agriculture
Forest Service
Southern Region

National Forests in North Carolina

Date: 06/27/15

Topic: Initial Briefing on objection(s) to the Chattooga River Boater Access project on the National Forests in North Carolina.

Background: The U.S. Forest Service proposes to construct, reconstruct, designate and maintain trails and boater access sites pursuant to the 2012 EA decisions at five locations.

Responsible Official	
Reviewing Officer	Kristen Bail

Objection 15-08-11-0008-0218 was submitted on 06/26/15 by Richard Rust on behalf of the Rust Family Trust. The following issues were identified:

Objection Issue	Objection Proposed Resolution	Initial Risk Assessment
The EA redefines the previous Forest Plan as the removal of the prohibition of boating upstream of highway 28, without recognition that boating remains prohibited above Greens Creek. The EA presents the previous Forest Plan as the removal of the boating prohibitions, including above Greens Creek, and that boaters could access the River anywhere.	First, clarify the scope of their discretionary authority over the Private Segment (the agency has no discretion to allow public use of private property, the agency can prohibit boating because of property rights, and it cannot remove a court-recognized prohibition without an assessment as to the effects such a removal would have on the property owners).	
The EA defines the Proposed Actions based on property boundaries while leaving ambiguous the location of those property boundaries; therefore the Proposed Actions lack necessary clarity.	Second, we ask the USFS to comply with the 4 th Circuit Court ruling by enforcing the boating prohibition both upstream of Greens Creek and over private property, and that no river access point be designated within a quarter mile of the Private Segment.	
Neither of the two EAs has considered the indirect consequences the Proposed Actions (as defined for review within the 2015 EA) could have on the Private Segment, the property rights of the Family, or of their productive use and enjoyment of their property. The USFS failed to conduct the required suitability analysis which	Third, we request the USFS conduct a legally sufficient review (a complete EIS) if the Proposed Actions include the removal of boating prohibitions above Greens Creek. Alternatively, not designate the proposed Greens Creek trail and move the location from where boating is allowed downstream to Norton Mill Creek	

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must remove areas from forest planning consideration if the proposed use violates the law, rights or executive order.		

Initial review: The objection meets the content and timing requirements of §218.8 and §218.9 and therefore will not be set aside from review (§218.10)..

Next steps:

1. *The Reviewing Officer will review the objection issues at the forest-level and if requested provide the Regional Forester with a summary of findings and a draft proposal for resolution.*
2. *If requested, the Reviewing Officer will schedule a briefing for Regional Forester review and approval of the evaluation and proposed resolution when it's completed.*

Draft Deliberative

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