

**DECISION NOTICE
AND
FINDING OF NO SIGNIFICANT IMPACTS**

**Transportation System and Related Recreation Management Actions
for Trail 1 (FSR 420-1) of the Upper Tellico Off-Highway Vehicle System**

USDA Forest Service Southern Region

National Forests in North Carolina

Tusquitee Ranger District

Cherokee County, North Carolina

THE PURPOSE OF THIS PROJECT

The proposal is to implement road improvements on Trail 1 (that section of Forest Service Road 420-1 from Allen Gap to the Tennessee state line) of the Upper Tellico OHV System in Cherokee County, North Carolina. The purpose would be to greatly reduce the amount of soil and other material leaving the road and entering the upper Tellico River and Tipton Creek and thereby improve the habitat for native brook trout.

THE DECISION

Based on my review of the Environmental Assessment (EA) for the Transportation System and Related Recreation Management Actions for the Upper Tellico OHV System, including the discussion of the alternatives considered, the issues associated with this proposal, the environmental effects analysis, and my personal knowledge of the area, I have decided to select the actions in Alternative C as described for Trail 1 (FSR 420-1). In this alternative: approximately 4,860 feet of Trail 1 (FSR 420-1) will be paved; the remainder south to Allen Gap will be reconstructed; and it will be kept open as a through route for highway-legal vehicles. Alternative C removes non-highway-legal OHVs from Trail 1. See the graphic *Proposed Trail 1 Improvements for All Action Alternatives* for the locations of these actions. I am selecting Alternative C because it best meets the purpose and need for action. This is based on the analysis in the EA which used the best available science. This alternative was developed to achieve a very low level of risk of sedimentation. The decision for the remainder of the Upper Tellico OHV System may be found in a separate decision notice: *Decision Notice, Finding of No Significant Impact, and Non-Significant Forest Plan Amendment #24; Transportation System and Related Recreation Management Actions for the Upper Tellico Off-Highway Vehicle System (Excluding Trail 1)*.

In making this decision I have considered the analysis in the EA and the project record which references the best available science. This includes documents listed in the EA

Upper Tellico OHV System Project Trail 1 Decision Notice

under “References;” results from extensive condition surveys; results of user surveys and economic surveys conducted by the University of Tennessee; a Biological Evaluation; a Heritage Resources report; and, water quality studies of turbidity, suspended solids, in-stream macroinvertebrates, fish counts, pebble counts, and pool filling. The record also shows a consideration of responsible opposing views, and acknowledges incomplete or unavailable information, scientific uncertainty and risk.

MITIGATION MEASURES

1. All standards and guides for the protection of the Indiana bat, as listed in Amendment 10 of the LRMP, would be followed. No suitable snags would be cut between April 15 and October 15.
2. There would be no in-stream construction during the trout-spawning season (October 15 – April 15) to protect trout eggs and larvae while they are within the gravel.

BACKGROUND

The Upper Tellico Off-Highway Vehicle Road and Trail System (or OHV System) is located in Cherokee County North Carolina, about 13 miles north of Murphy. The approximately 39.3 miles of existing roads and trails that comprise the OHV System are concentrated within an area approximately 8,000 acres in size. Trail 1 (FSR 420-1) accounts for 5.3 miles of the 39.3-mile system. The area borders Monroe County, Tennessee, and Trail 1 (FSR 420-1) is accessible from both states. Trail 1 occurs within the upper Tellico River watershed and the Davis Creek drainage. The Tellico River flows from its headwaters in Cherokee County, North Carolina through the area that encompasses the OHV System and on into Tennessee. The North Carolina Wildlife Resources Commission in 1991 classified the North Carolina segment of the Tellico River as “Wild Trout Waters.” This section contains self-sustaining wild trout populations, native brook trout in particular.

The OHV System was established May 1, 1986 with an amendment of the Off-Road Vehicle (ORV) Management Plan for the National Forests in North Carolina. At the time, analysis of the 58 miles of roads lying within the upper watershed found “user conflict, user safety conditions, and damage to natural and cultural resources are at an unacceptable level. In order to improve these conditions and to meet the minimum criteria established for ORV management by Forest Service policy:

1. The Upper Tellico River area will be closed to ORV use unless signed open.
2. ORV use will be restricted to designated routes only.”

In condition surveys conducted in 2007 and 2008, it became clear that damage to natural and cultural resources was ongoing. As a result of these surveys the Forest Service initiated an environmental assessment for the Upper Tellico OHV System, in accordance with the National Environmental Policy Act. Also, in accordance with the Travel Management Rule (Federal Register, November 9, 2005), the Forest Service

Upper Tellico OHV System Project Trail 1 Decision Notice

conducted an area-wide Travel Analysis concurrent with this OHV system environmental assessment. The Travel Analysis addresses the general and specific criteria for designating roads and trails in the Upper Tellico watershed, including a wide range of resource and use considerations. The findings of the environmental assessment - *Transportation System and Related Recreation Management Actions for the Upper Tellico Off-Highway Vehicle System* and the area-wide Travel Analysis are incorporated into this decision by reference.

In August 2008 a Decision Memo was signed authorizing the paving of approximately 3,340 feet of Trail 1 (FSR 420-1) from the Tennessee state line to Trail 1 intersection with FS 402. That paving project is currently underway. See the graphic *Proposed Trail 1 Improvements for All Action Alternatives* for the location of this paving.

THE NEED FOR THE PROJECT

There is a need to stem the flow of sediment that is entering the Upper Tellico River and its tributaries from the OHV System, and thereby improve habitat for native brook trout.

1) Forest Plan standards for soil and water are being violated.

- The Nantahala and Pisgah Land and Resource Management Plan (the Forest Plan or LRMP) standard for soil and water management states: “Prevent visible sediment from reaching perennial and intermittent stream channels...” (LRMP III-40)
- Field surveys conducted in 2007 and 2008 revealed approximately 114 sources of visible sediment along the 5.3 miles of Trail 1 (FSR 420-1) (EA Chapter 3.1.1).
- Approximately 46 of the 114 sources of visible sediment were reaching the stream system at the time of survey. For each of these locations a path of soil particles could be seen and followed on the ground from an OHV trail to a waterbody in the stream system (EA Chapter 3.1.1).
- Approximately 1.0 mile of Trail 1 (FSR 420-1) is within 100 feet of the stream system. Trails this close to streams are at high risk for contributing sediment to a stream system (EA Chapter 3.1.1)
- Approximately 1.40 miles of Trail 1 (FSR 420-1) are hydrologically connected - that is, the length of trail storm water runs and then enters the stream system. Wherever hydrologic connectivity exists, rapid runoff, sediments, and substances on the road surface are provided an efficient route into the streams. (EA Chapter 3.1.1)

2) Best management practices are currently failing.

Trail 1 (FSR 420-1) is an example of where intense maintenance efforts have taken place (short of paving) and visible sediment is still reaching the stream.

Sediment production from the trail can be reduced by implementing BMPs, but where the trail is located within 100 feet of a stream channel, preventing sediment delivery to streams is unlikely considering all the work that is needed (EA Chapter 3.1.1).

3) BMPs are not sustainable due to severely erosive soils and heavy rainfall.

- The area receives greater than 80 inches of rainfall per year with the wettest period occurring during the winter months (EA Chapter 3.1.1)..
- The soil on 86% of Trail 1 (FSR 420-1) is classified as severe hazard by the Natural Resources Conservation Service (NRCS). A rating of severe indicates that on an unpaved surface erosion of the trail is expected, the trail requires frequent maintenance, and costly erosion control measures are needed (EA Chapter 3.1.1).

4) North Carolina standards for turbidity are being violated.

- In 1991, the North Carolina Wildlife Resources Commission classified the Tellico River as “Wild Trout Waters” (EA Chapter 1.1).
- The state of North Carolina’s standard for turbidity states, “the turbidity in the receiving water shall not exceed...10 NTU in streams, lakes, or reservoirs designated as trout waters...Compliance with this turbidity standard can be met when land management activities employ BMPs...BMPs must be in full compliance with all specifications governing the proper design, installation, operation and maintenance of such BMPs” (EA Chapter 3.1.1)
- Turbidity measurements from the Tellico River have been recorded up to 370 NTU at the state line during storm events (EA Chapter 3.1.1).
- Trail 1, (FSR 420-1) with 1.4 miles of hydrologic connectivity and with recorded evidence of sediment entering the stream system, is contributing to the total suspended sediments in the river that in turn are contributing to turbidity(EA Table 3.1.1.6).

5) Brook trout reproduction is being negatively affected.

- Improving “habitat of wild trout streams as a first priority” is a Forest Plan standard (LRMP III-185). All streams within the Upper Tellico River watershed are suitable for brook trout.
- There are elevated fine sediment deposits in the Tellico River and its tributaries compared to nearby reference streams (EA Figure 3.1.1.1.9 Plot B). Brook trout spawning is reduced by increases in fine sediment deposits (EA Chapter 3.2.1).
- Trail 1 (FSR 420-1) in its present condition, by contributing to the sediment load (EA Chapter 3.1.1), is not supportive of improving brook trout spawning.

OTHER ALTERNATIVES CONSIDERED IN DETAIL

- **Alternative A is the “No Action” alternative.** Trail 1(FSR 420-1) would remain as is.
- **Alternatives B, D-modified, and E** would treat Trails 1 (FSR 420-1) the same as Alternative C.
- **Alternative F-modified** paves the same 4,860 feet of Trail 1(FSR 420-1), reconstructs the remainder, but also allows continued use of full-size OHVs on Trail 1 (FSR 420-1) (not ATVs).

ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL

Among the Alternatives in the Environmental Assessment considered but not analyzed in detail, only **one** had a specific alternative component for Trail 1(FSR 420-1) not included in one of the alternatives considered in detail:

- **The Response #2247 Alternative.** This alternative proposed to construct a paved ATV lane on Trail 1 (FSR 420-1).

Additional details of this alternative are in the project record.

The ATV lane as proposed would not be appropriate for ATV use due to safety considerations. Generally, ATVs come with a warning sticker advising the rider not to drive the vehicle on pavement.

RATIONALE FOR THE DECISION

- Paving 4,860 feet of Trail 1 (FSR 420-1) will result in a notable reduction in sediment yield to Tipton Creek (EA Chapter 3.1.2). When combined with the paving of 3,340 feet initiated in the spring of 2009 based on a separate decision signed August 18, 2008 it will greatly reduce the potential for sediment entering the stream system along this stretch of Tipton Creek and the Tellico River. It will eliminate any unpaved surface along that section of Trail 1 (FSR 420-1) where it is very close to and paralleling these streams. The paving in this decision when combined with the paving implemented in the spring of 2009 will cover over half the locations where visible sediment was tracked from the trail to the stream during conditions surveys in 2007 and 2008 (EA Chapter 3.1.2). Once the road sides become stabilized following paving there will be minimal future soil loss from these locations.
- The paving will occur on soils classified as “high hazard” for erosion from native surface roads, thus reducing the hazard. The reconstruction will include additional gravel on the surface of the remainder of Trail 1. Gravel surfaces have been shown to produce 40% less sediment than native surfaced roads (EA, Chapter 3.1.1).

Upper Tellico OHV System Project Trail 1 Decision Notice

- By reducing the sediment from Trail 1 (FSR 420-1), the overall sediment load into the Tellico River will be reduced, therefore reducing the turbidity in the river (EA Chapter 3.1.2).
- I have an obligation as a land manager to do all I can do to reduce the human induced sedimentation from Trail 1 (FSR 420-1) and lessen this environmental stressor to the watershed. This will help ensure meeting water quality standards and support long-term persistence of brook trout within the watershed.

THIS DECISION IN REGARD TO THE SIGNIFICANT ISSUES

Eight significant issues were identified during the scoping process which could broadly be divided into environmental concerns, concern regarding amending the Forest Plan, and recreation opportunity concerns. Alternative C addressed the identified environmental concerns equally well or better than any other alternative. It is the environmentally preferable alternative. In regard to amending the Forest Plan, Alternative C was equal to other alternatives. In regard to the recreation opportunities identified, Alternative C does not address these issues as well as the other alternatives. While Alternative C does not support the OHV recreation opportunity in the area, it does not preclude other recreational uses. Refer to Chapter 1.4 for a description of the significant issues, and Table 2.3.2, *Relative Ranking of How Well the Alternatives Address the Significant Issues*.

PUBLIC AND AGENCY INVOLVEMENT

A scoping letter describing the proposed action and soliciting comments was mailed and/or e-mailed to individuals, organizations, and agencies that had previously expressed interest in Upper Tellico OHV System management, or who were on the Tusquitee District or Nantahala/Pisgah mailing lists. In addition, a news release was faxed to numerous media outlets. Notices appeared in the Asheville Citizen-Times on June 9, 2008 and the Cherokee Scout on June 11, 2008. On June 28, 2008 an open house was held in Murphy, North Carolina to provide additional information on the proposed action and the condition surveys, as well as resource information. This was also an opportunity for attendees to provide written comments, have their questions answered, and to contribute information to an economic impact survey being conducted by the University of Tennessee to assess the impacts of the OHV System on the local communities.

The Forest Service received approximately 24 comments specifically referring to Trail 1 (FSR 420-1) during the scoping period. Some comments favored paving and some did not.

A predecisional EA describing and analyzing the effects of six alternatives was distributed to interested parties for a 30-day Notice and Comment period. A cover letter identified Alternative C (see Chapter 2 for details) as the preferred alternative.

Upper Tellico OHV System Project Trail 1 Decision Notice

Over 2,000 individuals, organizations, or agencies submitted comments. Approximately 20 comments received during the 30-day Notice and Comment period referred specifically to Trail 1 (FSR 420-1). Some comments expressed support for paving, while many voiced concerns about environmental effects of paving. The Predecisional EA simply stated the action as “pave.” This was interpreted to mean the whole 5.3 miles would be paved. In response to voiced concerns, the Trail 1 (FSR 420-1) proposal has been clarified and the amount of paving specified as approximately 4,860 feet. This, when added on to the 3,340 feet paved in the spring of 2009, would total approximately 1.6 miles of paving. To read the comments and our response, see the “Response to Comments” document.

FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the EA, I have determined that these actions will not have a significant effect on the quality of the human environment considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. I base my findings on the following:

(a) Context:

In this site-specific project effects are local to Monroe County, TN and Cherokee County, NC. Partial paving and reconstruction of this road would facilitate through traffic between the two states but any change is not expected to be significant.

(b) Intensity:

1. Both beneficial and adverse effects have been considered (EA, Chapter 3).
2. The action will not significantly affect public health or safety. Safety on Trail 1 (FSR 420-1) will improve somewhat from paving the switchbacks that are currently the most difficult to traverse (EA, Chapter 3.10).
3. The action will not significantly affect any unique characteristics of the geographical area, including historic or cultural resources, wetlands, floodplains, wilderness areas or outstandingly remarkable wild and scenic river values. The upper Tellico River from its headwaters at the Cherokee/Graham County line in North Carolina, through Cherokee County and on into Tennessee, is eligible and suitable for consideration in the Wild and Scenic River system and effects to these values are disclosed in Chapter 3.8.
4. The effects on the quality of the human environment are not highly controversial. While there were some concerns raised by the public regarding

Upper Tellico OHV System Project Trail 1 Decision Notice

runoff of petroleum products from paved roads, there is broad acknowledgement that paving will reduce the potential for erosion (Response to Comments, EA Chapter 3)

5. The effects on the human environment are well known and do not involve unique or unknown risks, since road paving and reconstruction are common practices.
6. This action will not establish precedent for future actions with significant effects. The environmental effects are based on very site specific data and analysis that would not carry over to any other area. The actions - paving and reconstruction, are common and frequent events performed as a part of national forest management.
7. This action has been considered cumulatively relative to other actions (EA Chapter 3, various sections).
8. No sites listed in or eligible for the National Register of Historic Places will be affected by the paving and reconstructing of Trail 1 (FSR 420-1) (EA, Chapter 3.9).
9. The proposed action is not likely to adversely affect endangered or threatened species or critical wildlife habitat (EA, Chapters 3.2, 3.3, and 3.4, and Biological Assessment)
10. The action does not violate any federal, state, or local environmental laws. Implementing the action will help ensure that any current violation of water quality standards that might exist would be mitigated (EA, Chapters 1, 3.1, and 3.2).

FOREST PLAN CONSISTENCY

This action is consistent with the Forest Plan since it supports Forest Plan standards to prevent visible sediment from reaching streams, and supports improving habitat conditions for wild trout.

ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is subject to appeal pursuant to 36 CFR 215.11. A written appeal, including attachments, must be postmarked or received within 45 days after the date the legal notice is published in The Asheville Citizen-Times. The appeal shall be sent to USDA, Forest Service, ATTN: Appeal Deciding Officer, 1720 Peachtree Rd. N.W. Suite 811 N, Atlanta, Georgia 30309-9102, within 45 days of the date of this legal notice. Appeals may be faxed to (404) 347-5401. Hand delivered appeals must be

Upper Tellico OHV System Project Trail 1 Decision Notice

received within normal business hours of 8:00 a.m. to 4:30 p.m. Appeals may also be mailed electronically in a common digital format to:

appeals-southern-regional-office@fs.fed.us

Those who meet requirements of 36 CFR 215.11 may appeal this decision. Appeals must meet content requirements of 36 CFR 215.14.

IMPLEMENTATION DATE

As per 36 CFR 215.9, if no appeal is received, implementation of this decision may occur on, but not before, the 5th business day following the close of the appeal-filing-period (215.15). When an appeal is filed, implementation may occur on, but not before the 15th business day following the date of appeal disposition (36 CFR 215.2).

CONTACT INFORMATION

For further information on this decision, contact Candace Wyman, Project Coordinator, 160A Zillicoa Street, Asheville, North Carolina, 28801, and Phone: 828-259-0510.

RESPONSIBLE OFFICIAL APPROVAL

/S/ Marisue Hilliard

MARISUE HILLIARD
Forest Supervisor
National Forests in North Carolina

10/14/09
Date