

**Milena Carothers**  
<milena.rose@me.com>

08/27/2011 11:14 AM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Why cater to kayakers on Chattooga?

Dear People:

I've just heard that you are kowtowing to the demands of a group of kayakers by changing what you had already recommended for management of the Chattooga. I am not pleased at all that you are so biased in their favor and assume that they must be able to afford a nice legal team. But what about we individual citizens who feel strongly but do not have a lobbying organization pushing policy. This is exactly what is wrong with the Federal Government: special interest groups like Whitewater has the loudest voice because they have a ton of money. Please do NOT expand kayaking as you have done in this most recent proposal!

Cordially yours,

Milena Rose

**Sandy Canupp**  
<petalpresser@bellsouth.net>

08/27/2011 01:17 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject no new trails to Chattooga headwaters...

Please leave it as it is.....without another trail to the Chattooga in NC. The Chattooga River needs to be protected from any additional disturbance. We all know that trails built anywhere lead to lots of people using those trails and then you have water run off that deposits silt and dirt into the water. This is detrimental to the native trout and aquatic insects that they feed on. Please do not do this. It is not needed, it is a plan leading to destruction of a beautiful pristine place. I have picked up trash on the Chattooga and have seen first hand how people treat easily accessed mountain streams and it isn't pretty. Please, no new trails on the Chattooga River.

Thanks! S. Canupp Walhalla, SC

**Charles Gossett**  
<gossettd64@gmail.com>

08/27/2011 06:04 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Upper Chattooga Paddling

I am a local Columbia paddler and backpacker and I have some candid observations. First, having backpacked the Chattooga River-Fork Mtn-Foothills Trail loop I have often admired the Chattooga from the trail and hope I have the opportunity to paddle it one day. I have also paddle Chattooga Section 3 and 3.5 and have enjoyed a peaceful relationship with the fisherman along the banks. I am unsure where the idea of a potential conflict comes from.

I did read a concern, and where it came from escapes me, that boater cause a disproportionate impact on access trail because they drag their boats up and down the trail. I must say, I have never seen such behavior the typical cost of a whitewater boat is typically in the range of \$900-1200. Most paddlers do not want additional punishment to their boats. I think the place one could best observe the truth, of this statement, would be to go the Upper Green/Green Narrows put-in/take-out. The parking area is a half mile, up the mountain, from the river. I have never seen anyone dragging their boats, although the hike up is a beast!

In closing, I would urge you to allow me, and my paddling friends, would love the chance to run the entire Chattooga. Thank you!

Charles D. Gossett

**"Fred Crawford"**  
<crawford.fred@gmail.com  
>

08/28/2011 09:28 AM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Chatooga Comments

Dear USFS,

I am concerned about the recent study on the Chattooga River. I have had the chance to paddle the lower sections of this beautiful river and look forward to a chance to paddle the upper section of this Wild and Scenic River. I believe that paddling should be allowed on all Wilderness and Wild and Scenic rivers, including the upper Chattooga!

The US Forest Service preferred alternative (12) is not fair, legal, or justified.

Alternative 8 is the best alternative but needs to allow paddling on the entire upper Chattooga and its tributaries, should require indirect limits on all visitors before direct limits are applied, and should not include "scenic boating" or "boat-based angling" in the analysis

The concept of a Wild and Scenic River designation includes the concept that paddlers should be able to paddle the entire river as a multi-day trip if desired.

The US Forest Service analysis is not reasonable because it singles out paddlers for inequitable treatment.

Regards,  
Fredrick E Crawford  
300 Dunlin Drive  
Buda, Tx 78610



**Curry Brown**  
<a\_curry\_brown\_jr@yahoo.com>

08/28/2011 03:02 PM

Please respond to Curry Brown <a_curry_brown_jr@yahoo.com>
---

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Please Consider North Carolina Fishing

Dear: Chattooga NEPA review Team

Fishing the Chattooga between Norton Mill Creek and Greens Creek was never assessed. This low gradient stretch provides ideal fishing and easy access unlike the gorge section discussed within the recent EA. The valley area is fished at water levels up to 2.5"[700cfs@Burrells Ford]. Also, the Chattooga just below the iron bridge has provided a low-gradient easy-access river for anglers and does permit bait fishing. This area remains easily fishable up to 2.3" [600cfs at BF]. Fishing the North Carolina remains possible and popular at level far above those discussed within the EA and will overlap with boating flow levels.

In order to provide for diverse interests, the Forest Service has protected part of the SC Chattooga in order to accommodate SC anglers. The revised policy should also protect the North Carolina anglers from constant boat-interruptions by providing an area for those anglers to fish without having to purchase an expensive out-of-state fishing license.

By continuing the restriction of boats above Bull Pen, or at least between Norton Mill Creek and Greens Creek, the forest service will continue to protect and enhance the fishing values in North Carolina.

Thank you for carefully considering my comments and proposal.

Best regards  
Curry Brown

amychase@frontier.com

08/28/2011 06:52 PM To  
comments-southern-francismarion-sumter@fs.fed.us  
cc

bcc

Subject

Subject: RESEND: Cashiers Sliding Rock Swimming Area, Final Draft  
Environmental Assessment Chattooga River

Dear Sumter Forest Supervisor,

I am resending this email with attachment commenting on the most recent  
Environmental Assessment on the Chattooga River since I left out my  
signature on the first email.

Amy Chase

To: comments-southern-francismarion-sumter@fs.fed.us

From: amychase@frontier.com

Subject: Cashiers Sliding Rock Swimming Area, Final Draft Environmental  
Assessment Chattooga River

Dear Sumter Forest Supervisor,

I am a longtime resident of Whiteside Cove and a frequent visitor to the  
Slide Rock Swimming Area along the Chattooga by Whiteside Cove Road. Each  
season I watch families and visitors including my grandchildren having  
great fun sliding and swimming at Slide Rock. I appreciate that by the  
unique use of that swimming area, the children are safe from the dangers  
which other recreations might impose on swimmers.

I have heard that through closure orders, the Slide Rock Swimming Area  
has

been protected from boats interfering with those who swim and play there.

I am thankful that Forest Service management has restricted boating at  
Slide Rock and at the Pisgah Forest sliding rock swimming area. The  
safety

of the children is of primary importance. This local swimming opportunity  
is way more enjoyable for families and visitors when they are assured of  
that safety.

Will boating at the Slide Rock Swimming Area remain restricted following  
the new Environmental Assessment currently proposed by the Forest  
Service?

Please advise as to how the restrictions on boating at the Slide Rock  
Swimming Area will continue under the new management plan.

Amy Chase

amychase@frontier.com

To: comments-southern-francismarion-sumter@fs.fed.us  
From: amychase@frontier.com

Subject: Cashiers Sliding Rock Swimming Area, Final Draft Environmental Assessment Chattooga River

Dear Sumter Forest Supervisor,

I am a longtime resident of Whiteside Cove and a frequent visitor to the Slide Rock Swimming Area along the Chattooga by Whiteside Cove Road. Each season I watch families and visitors including my grandchildren having great fun sliding and swimming at Slide Rock. I appreciate that by the unique use of that swimming area, the children are safe from the dangers which other recreations might impose on swimmers.

I have heard that through closure orders, the Slide Rock Swimming Area has been protected from boats interfering with those who swim and play there. I am thankful that Forest Service management has restricted boating at Slide Rock and at the Pisgah Forest sliding rock swimming area. The safety of the children is of primary importance. This local swimming opportunity is way more enjoyable for families and visitors when they are assured of that safety.

Will boating at the Slide Rock Swimming Area remain restricted following the new Environmental Assessment currently proposed by the Forest Service?

Please advise as to how the restrictions on boating at the Slide Rock Swimming Area will continue under the new management plan.

Amy Chase  
amychase@frontier.com

**"Ruth and Alex"**  
**<corbin12@bellsouth.net>**

08/28/2011 06:48 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Comments to USFS on Alt 12 Chattooga River



Comments to USFS on Alt 12 Chattooga River.docx

Date: August 28, 2011

To: Paul L. Bradley, Forest Supervisor, Francis Marion and Sumter National Forests

From: M.A. Watson, Jr.

RE: (EA) Entitled Managing Recreation Uses on the Upper Segment of the Wild and Scenic Chattooga River, File Code 1950

1. According to your e-mailed letter of July 15, 2011, after all these years and all the time put into this issue the Forest Supervisors are going to make a decision. It is my hope the decision is to prohibit boating above the Highway 28 bridge per Alternative 3. The USFS has put in an enormous amount of time measuring what it can, engaging expert panels (of which I was a member), counting woody debris, conducting surveys, defending law suits, reading anecdotal information, projecting usage and activities on the river, and any number of other activities which were costly in terms of cash for consultants and pay for USFS staff. I commend you for trying to make a fair and data based decision. However, the data collected is not all that is pertinent to your decision. Observing first hand both the culture and behavior of many in the boating community is also pertinent.
2. While there are those in the boating community and those who make their living in both for profit and non-profit organizations supporting the boating community who are responsible people and genuinely believe that boaters act responsibly, there are also many boaters who fall into the categories of ignorant, irresponsible, thrill seekers at any cost, and who are incapable of curbing their hormonal urges. The worst are those who feel it is their god given right to kayak any stretch of water regardless of the danger to themselves, other boaters, or anyone else who happens to be in the river fishing, swimming, hiking, birding, or engaged in any other activity. The second most egregious are those so inexperienced and ignorant of the power and danger of a river that they

are also a danger to those listed above. There are also boating hypocrites who seek thrills but claim to you, the USFS, that they just want to be able to enjoy the solitude and scenery of the river at a leisurely pace. If the hypocrites want to leisurely enjoy the river they could walk like the hikers, birders, campers, and fishermen. A good example of hypocritical behavior was displayed at one of the public meetings held by the USFS when a mother paraded her overweight children to the dais to testify that they shouldn't be deprived of the joys of leisurely paddling down the river. If she had insisted that they walk the river, using the calorie burning large muscles in their legs, perhaps they wouldn't be so overweight and wouldn't qualify for the poster children for her hypocrisy.

3. In previous correspondence and during in person testimony at public meetings I have detailed rude, unsportsmanlike, and potentially life threatening close calls I have personally experienced on streams in North Carolina and Georgia due to rafters and kayakers. These occurred on the Nantahala River, Holcomb Creek, and Moccasin Creek. Since that time I have also experienced negative encounters from drift boat guides and their fishermen customers on the South Holston River in Tennessee. Further, I have seen a video posted on the internet by kayakers who felt it was the height of being cool to kayak down Dukes Creek falls right into very small pools that I have fished for over 30 years. I have also since observed a boater "poaching" a trip down the Chattooga above the Highway 28 bridge.
4. In previous correspondence and in person testimony at public meetings I have also raised concerns about the lack of law enforcement personnel throughout the National Forests and particularly in the Chattooga River Wild and Scenic River corridor above the Highway 28 bridge. I again raise this concern because I have seen nothing from the USFS that would lead me to believe law enforcement will increase as boating usage increases. In fact state budget cuts in Georgia lead me to believe that there will be less law enforcement personnel in the future on USFS lands due to WMA staffing decreases at the state level. How will the USFS keep boaters from removing large woody debris and engaging in thrill seeking activities that endanger both themselves and fishermen during the winter months? Surveys by your own USFS personnel on other nearby mountain streams open to boaters revealed evidence that boaters are currently removing large woody debris to the detriment of fish habitat. Although Alternative 12 prevents boating in the Delayed Harvest section of the Chattooga, it does not prevent boating in another section of the Chattooga that has good trout fishing only during the winter and early spring due to rises in temperature. That section is from the bottom of the Gorge area where the trail from the Thrift Lake parking lot leads down to the Chattooga and then down to Reed Creek. This area will be a potential site for boater/angler conflicts particularly at shoal and run sites preferred by both fishermen

and boaters. If I am fishing a shoal or a run and another fisherman rudely barges closely into the same area, I am not about to just stand there and take it silently. If a boater does the same thing or endangers my safety I am not going to take his/her abuse either regardless of whether the abuse is the result of ignorance or arrogance. The less boating there is above the Highway 28 bridge the less necessity there is for law enforcement expenses while *more taxpayer revenues can be spent on fish and wildlife habitat improvement*.

5. Again, I prefer Alternative 3 which will keep boaters off the Chattooga above the Highway 28 bridge especially since Alternative 12 does not restrict the volume of boaters during the dates they are allotted and does not restrict the poor behavior some have exhibited on other mountain streams other than the prohibition against removing large woody debris. Further, without a strong law enforcement presence conflicts are inevitable again because of the historically poor behavior exhibited by some of the boating community on other mountain streams. If you are bound and determined to approve Alternative 12 please amend it as follows:
  - A. Amend the area for boating from January 15 to March 1 to from Burrell's Ford Bridge to the downstream edge of the Gorge area at the falls where the Thrift Lake parking area trail in South Carolina reaches the Chattooga.
  - B. Add a rule that at no time will boaters approach within 30 feet of fishermen, hikers, or other boaters who are already floating the river unless those already in the river (such as those who are capsized or have fallen out of their boats) are in distress and need rescuing. If they don't want to wait for others to finish fishing a run and clear the water before continuing downstream they may portage around them. This will ensure the safety of wading fishermen and hikers, or boaters who are also resting or fishing and also provide less disruption to fishermen.
  - C. Please add a specific description of how you will address the current law enforcement needs and future increase in law enforcement needs on the Chattooga River above the Highway 28 bridge if boating is allowed.

Thank you for this opportunity to comment once again on the alternatives for usage on the North Fork of the Chattooga River. I have now been fishing the forks of the Chattooga for over 60 years and care deeply about the management by the USFS of the area.

Sincerely,

M.A. Watson, Jr.

764 Wildwood Rd

Atlanta, GA 30324

corbin12@bellsouth.net

"Catherine Whitham"  
<cwhitham@comcast.net  
>

08/29/2011 05:26 AM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject letter re: Chattooga River Project

Ladies and Gentlemen:

Attached please find a letter regarding the proposed changes in proposed changes in the manner of managing recreation uses on the upper Chattooga River. Please confirm receipt of attached letter by the due date.

Thank you,



Catherine Cranston Whitham Chattooga\W\SRComments Cranston 2011-08-26.doc

United States Department of Agriculture, Forest Service

Chattooga River Project

4931 Broad River Road

Columbia, South Carolina 29212

[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Ladies and Gentlemen:

Thank you for the opportunity of commenting on the proposed changes in the manner of managing recreation uses on the upper Chattooga River.

### **Background for Comment**

My family (Cranston Family Partnership) has owned property through which Greens Creek flows for over 50 years and has been supportive of the Wild and Scenic River Corridor since its inception. Indeed, my late father Craig Cranston donated to the USFS in the early 1990s a parcel of mature timber land near the Chattooga Trail head parking area adjacent to the Whiteside Cove Cemetery road to protect the land and allow for easier access to the



Chattooga Wild and Scenic River Corridor. The proposed changes for managing recreation uses on the upper Chattooga River are, therefore, of great interest to us.

### **Main Questions:**

- 1. Where in the Environmental Assessment (EA) does it say that boaters may NOT use tributaries of the Chattooga?** Since Greens Creek flows through the lake on our property and our house overlooks the lake, this is a great concern for us. The EA clarifies that “because boating is not currently permitted on the main-stem, it also is not permitted on the tributaries inside the wild and scenic river corridor”. However, nowhere within the EA are the tributaries protected from boating during periods where boating would be “allowed” on the main stem. **How will the USFS implement tributary boating restrictions –critical to the protection of key habitat – in a new management policy?**
- 2. How does the USFS plan to deal with the impact to this highly sensitive ecosystem of boaters accessing the river after heavy rains?** No consideration is given in the EA to resource impacts after heavy rains. The Chattooga River above the Steel Bridge is one of the most fragile ecosystems in the entire Appalachians. Indeed, some of the trails that run through this terrain are home to rare and exotic plant species that are particularly susceptible to uprooting when displaced by foot traffic after heavy precipitation. Because this section of the Chattooga is unnavigable in low water and has extremely steep ledges and drops in high water, boaters will only attempt trips after heavy rains. Not only will this action result in likely rescue missions, but **all** activity will take place when the roads and trails are most easily eroded. The EA claims that use of these roads is the primary source of sediment into the river, while simultaneously increasing use of the roads at the time when sediment run-off is most likely. Furthermore, the Forest Service handbook recommends unpaved roads be closed while susceptible to erosion, while the proposed policy expands access during these time the roads are most likely to erode into the stream. Unlike hikers who park once, boating requires shuttling between access points, often doubling and tripling road and trail use per visitor. **How can the Forest Service reconcile such contradictory policy?**

### **Summary**

In summary, we generally support public access to public lands and waters. We are, however, **very opposed to Alternative 12**. There are fatal flaws in the Environmental Assessment as presented, in that the assessment does not consider all of the impacts of the Alternatives 8-14. In particular, the impacts at the proposed main access point at Greens Creek, which is contiguous to our property are not considered at all. Overall, we would like the Forest Service to continue to restrict boating on the upper reaches of the river. However, there are other alternatives not presented in the Environmental Assessment that would give limited added boating access to the public while protecting the fragile ecosystem and taking in to account the impact on private property owners. These include boating below Burrell’s Ford at all stages and seasons, and perhaps below the Steel Bridge at Bullpen Road during the winter season.

Thank you for considering these questions and comments on your proposed changes.

We urge you to go with the status quo. Failing that, we urge you to consider the compromise alternatives described above.

Sincerely,

**Catherine Cranston Whitham**

**representing Cranston Family Partnership: Marie Teague Cranston, Elizabeth Cranston Cleckler and Catherine Cranston Whitham**

**23 Libbie Avenue**

**Richmond, VA 23226**

**804-282-0414**

**cwhitham@comcast.net**

## **DRAFT**

United States Department of Agriculture, Forest Service

Chattooga River Project

4931 Broad River Road

Columbia, South Carolina 29212

[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Ladies and Gentlemen:

Additional Comments Related Cranston Family Partnership Interests to Accompany the Comments of Thomas H. Robertson dated [\_\_\_\_\_]

### **Background and Status to Comment**

The Cranston family has owned the land on the right bank of the Chattooga River immediately upstream the mouth of Greens Creek for many years, well before the US Forest Service owned land in the vicinity. As an ardent conservationist, Craig Cranston furnished comments on the original designation of the Chattooga Wild and Scenic River corridor under Public Law 90-542 back in 1969, advocating both protecting water quality of the watershed, while respecting the rights of private property owners. Were Mr. Cranston able to comment now, I am sure his position would be the same.

Mr. Cranston died earlier this year, and I now serve as co-executor of his estate. I can represent his interest in the Cranston Family Partnership, which owns the land immediately adjoining the Chattooga WSR corridor public lands. The other partners are his widow Marie T. Cranston, and daughters Catherine Cranston Whitham and Elizabeth Cranston Cleckler. They are joining this submittal as additional signatories, below. **[Thus, I am submitting these comments on their behalf as well. or They are joining this letter as signatories below. or They are submitting further comments separately.]**

Following the establishment of the Chattooga WSR, the USFS built the Chattooga River Trail along the 6.5 mile reach from the Steel Bridge at the Bullpen Road upstream to the limit of federal ownership. The original trail entrance emerged on State Road 1108 (now called Greens Creek Cemetery Road) at a shared public/private woods road on Cranston and USFS land. Later the Forest Service began construction of a parking lot at this location. Mr. Cranston vehemently objected at an on-site meeting with Forest Service representatives, which I personally attended and witnessed, citing adverse impacts on private property. As a result the Forest Service abandoned the parking lot at this location, in favor of a place entirely on federal property. But, the new site near Whiteside Cove Road did not actually front on the public way. Mr. Cranston adopted a civic minded stance on this proposal and came to the rescue. He and his wife purchased a strip of land from another private landowner, Tom Picklesimer, in [year] and donated the property to the United States Forest Service. Thus he enabled the Forest Service to develop the parking lot and trail head that still exists and is in use today.

The Estate of John Craig Cranston supports the comments of Thomas H. Robertson that accompany this letter, and adds the following ...[\_\_\_\_\_]

BLUEGRASS WILDWATER ASSOCIATION  
ALLEN KIRKWOOD

OFFICE OF PRESIDENT  
246 ALBANY ROAD  
LEXINGTON, KENTUCKY 40503-2624  
TELEPHONE: (859) - 351 - 3823  
kirkwoodea@yahoo.com

August 19, 2011

United State Forest Service  
Forest Supervisor's Office  
4931 Broad River Road  
Columbia, SC 29212

Also via Electronic Mail:  
[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Re: *Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor*

Dear Forest Supervisor,

The Bluegrass Wildwater Association (BWA) would like to formally submit its comments regarding the management of recreation uses in the Upper Segment of the Chattooga Wild and Scenic Corridor..

We are an active paddling organization based in Central Kentucky with over 250 members. We as paddlers of America's wild water courses and streams have enjoyed recreating in the area of the Chattooga Wild and Scenic Corridor since being founded in 1976 in Lexington Kentucky. We have been privileged to have represented the interests of thousands of paddlers that have flowed through our organization over the past 35 years. A great number of those have traveled to the Chattooga to recreate. We have a very strong interest in the area and the opportunity to paddle in one of the earliest Wild and Scenic River corridors in America.

For some of our members, it was the very first introduction they had to rivers and the desire to protect and preserve them for future generations to enjoy as did they. We, as an organization, still conduct annual pilgrimages to the Chattooga, not only to be in a beautiful place and enjoying the river and solitude that wilderness settings afford, but also to commune in a setting where friends and loved ones have come to recreate for many decades. One of our beloved former members, David Weyland, who died on the Crystal River in Colorado in 1986, asked that he be remembered by having his ashes spread by family and BWA friends at Seven Foot falls on Section IV. So, we have strong ties to the area.

Our position on the issue is as follows:

- That paddling should be allowed on all Wilderness and Wild and Scenic rivers, including the upper Chattooga
- The US Forest Service preferred alternative (12) is not fair or justified
- Alternative 8 is the best alternative but needs to allow paddling on the entire upper Chattooga and its tributaries, should require indirect limits on all visitors before direct limits are applied, and should not include "scenic boating" or "boat-based angling" in the analysis

August 19, 2011

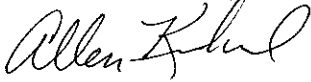
- Paddlers should be able to paddle the entire river as a multi-day trip if desired
- The US Forest Service analysis is not reasonable because it singles out paddlers for inequitable treatment.

Finally, I might add on behalf of our taxpaying and political active membership, that we completely object to the waste of taxpayer dollars this continuing prohibition on the simple act of floating down a river, not to mention the resistance your office has provided to the fair and equitable use of our nations resources. For that reason, I am enclosing a copy of this letter to our local Congressman, Hon. Ben Chandler, and Senator, Hon. Mitch McConnell.

Please feel free to contact the undersigned if you have any questions.

Very truly yours,

Allen Kirkwood, President BWA



Cc: Hon. Ben Chandler  
Hon Mitch McConnell

[illegible]

NR 4400

[illegible]

# ***FRIENDS OF GEORGIA, Inc.***

P.O. Box 870951

Stone Mountain, Georgia 30087

PHONE 404-375-8405 email - winfog@windstream.net

***"DEDICATED TO PROTECTING GEORGIA'S NATURAL HERITAGE"***



August 24, 2011

U.S. Forest Service  
Chattooga River Project  
4931 Broad River Road  
Columbia, South Carolina 29212

Re: Chattooga boating issue

Dear Sumter NF,

I am writing to inform you that Friends of Georgia (FOG) is still opposed to any Alternative that would open up the Chattooga River's headwaters to boating. Nothing has changed that leads us to believe that lifting the ban is appropriate. We would, in fact, argue that opening the river for boating thru the Ellicott Rock Wilderness is inconsistent with the goals of the Wilderness Act, especially if it leads to commercial boating which we fear would be the next step. We are likewise concerned that allowing boating through the Rock Gorge section of the river, from the Highway 28 bridge to Burrell's Ford, could severely damage this areas currently relatively unspoiled nature and potential for future wilderness designation. FOG has long supported full Wilderness protection for this area and an extension to the Ellicott Rock Wilderness.

The Forest Service's highest priority should be protecting the Upper Chattooga's existing biology, geology, history, water quality and, especially, its solitude.

We would add that we do support those parts of Alternative 12 that would fix user-created trails, decommission bad campsites, and educate the public to setting limits on group sizes, encounters, etc.

In closing, again, we remain **opposed** to any additional boating on the headwater's of the Chattooga River.

Sincerely,

John Clark Geiger, Vice President



*Friends of Georgia is a member group of "the Stop I-3 Coalition", "Save America's Forests" and "the Endangered Species Coalition"*

*"The first rule of intelligent tinkering is to save all the pieces" Aldo Leopold*

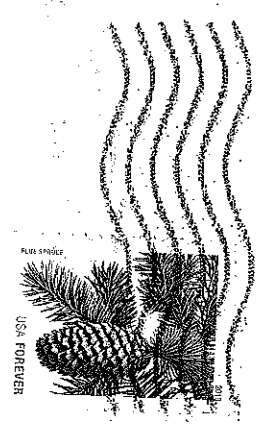
*"Wilderness needs no defense...just needs more defenders." Edward Abbey*

FRIENDS OF GEORGIA, INC.  
P.O. Box 870951  
Stone Mountain, Ga. 30087



NORTH METRO, GA. 30063

24 JUL 2011 PM 3:17



U.S. Forest Service  
Chattooga River Project  
4931 Broad River Road  
Columbia, South Carolina 29212

AUG 25 11 AM 11:03

29212+13530



U.S. Forest Service,  
Chattahoochee River Project  
4931 Broad Run Road  
Columbia, SC 29212

August 21, 2011

Please accept these comments to the draft EA for the decision on boating on the Chattahoochee W & S River and include me on the list for all future mailings for this process.

There are several questions and/or issues that I would like to see clarified, answered, or expanded upon in the final documents. They are as follows:

1. I believe that the original "zoning" of the river was decided and documented in the legislation designating/creating the Chattahoochee W & S R. I recall seeing it described in the Federal Register as part of the legislation. If my recollection is correct, please explain why it does not take additional action by Congress to change the "zoning". Does the Forest Service have the authority over the original enabling legislation? Does the Federal Register need to have any change to the "zoning" published in it?

2. Does this legally close the West Fork to boating. The decision indicates that tributaries are closed to boating. If the West Fork is considered a tributary by hydrologic definition, then it should be closed to boating. Was this closure of the West Fork identified as an effect earlier in the process?
3. Under the issue of LWD removal, page 22 of the EA states "The removal of large woody debris . . . . . when it poses a threat to private property or FS infrastructure". The concern that I have relates to the definition of private property. If an individual was kayaking on the Upper Chattahoochee and came to LWD that could cause damage or ~~pose~~ "pose a threat to his private property" ~~could~~ could they remove the LWD that was a hazard to his private property - AKA kayak? Please clarify this rather than allow the courts to decide.
4. If there is only voluntary registration, you will not receive accurate use information which is a cornerstone of your monitoring. Voluntary registration on different aspects of river use have been attempted in the past with questionable or poor compliance. A permit process that is

required will be the only way to get accurate data; otherwise you will ~~be~~ have under-reporting of use from day one.

5. The biggest question I have is on the issues of monitoring and enforcement. Monitoring is the "cornerstone" of how the agency is to manage the river and utilize "adaptive management". Yet the monitoring plan consists of four paragraphs on page 37 and 38. There is insufficient detail as to the who, what, where, and how it will be accomplished. In order to do what the agency commits to here, please lay out the plan in more detail. The monitoring described in the Appendix lacks specific detail (who, when, where, frequency)

1. How often will sampling occur to be statistically valid?
2. Who will do the sampling, existing personnel on the District already have fulltime jobs. To totally do the monitoring required eg: LWD removal, trail condition, trends, compacted credits, trends, conflict, etc will additional personnel be hired / contracted to complete the monitoring each year.

3. Is there a total inventory now of LWD present to monitor as a baseline

to be able to determine what is being removed if boating is allowed. If not this should be completed before any implementation.

\*

The bottomline is that the agency is currently closing ATV trails and other trails because of unacceptable resource damage and insufficient funding to correct the damage. These trails were used by thousands of people. Please explain in the social section of the EA how the agency, on the one hand closed areas to thousands of users due to resource impacts and no budget, and is now making a decision to allow boating for a very very small number of people in the absence of a sufficient budget and staff to take ~~care~~ <sup>care</sup> of existing uses, and in the absence of a very specific and detailed plan (monitoring) created prior to any decision on the boating issue.

I believe there is a legal question and an unanswered management issue here as to, in essence, opening a new "trail" (boater trail) when on the other hand the agency is closing trail off the system they can't afford. "Agency priority", "can do", prerogative, and management judgment / discretion should not be used as generic terms to ignore this issue as the actions are connected by having trail closures occurring

on the same forest where this "addition" to the system is being considered. While geographically separated, they are connected by being on the same forest / district / budget / personnel.

6. Tied to monitoring is enforcement. If the take out is Sick Log, how well it be enforced to restrict logging from floating on down to 28. Illegal logging is already occurring now on the upper Chatterbox and in the tributaries. If laws can't be enforced now, how well it be seriously enforced at Sick Log. With limited resources for enforcement, the take out should be moved upstream to the Benello Ford Bridge.

1. Has law enforcement been involved with the IOT to determine if the actions proposed are to have any chance of being enforced. There are no LE folks listed on any team.
2. Parking restrictions are another enforcement issue and virtually impossible to enforce along road and dispersed areas of the forest. Would a Forest Order be utilized to restrict parking and has LE been consulted as to its ability with our current court system to make

this an effective tool that will hold up in court.

I do not believe the exorbitant costs of accommodating such a small amount of use is justified when other areas are being closed on the same unit. As the federal government makes serious attempts to reduce the budget, as has been done by state government, in future years it will make monitoring and enforcement of any decision to allow boating even more difficult to implement. It appears LE was not seriously consulted through the process.

Proposed Solution

1. Select the no boating alternative as many alternative sites have already been added in recent years. eg Tallulah Gorge, Tallulah Run, West Fork. Were these addressed in the EA? as additional opportunities?
2. Remove boating from the decision below Bulls Ford bridge. Monitoring, enforcement, and finding room in the budget will be more likely with a decision of smaller proportions. The user will float to <sup>28</sup> ~~the bridge~~ <sup>bridge</sup> rather than hike out Lick Log
3. Make a decision covering two years, and then evaluate the monitoring, enforcement

ad resource impacts to determine if what the public and the agency commit to is being fully accomplished. If there are shortfalls, close it until weaknesses are corrected, funded, or enforced.

In the Appendixes and the EA, there is some discussion as to Search and Rescue and basically state little to no increase in accident, injuries, rescues, or fatalities. I found no where in the documents that indicated that there had been any discussions with the respective Countries that would take on the additional burden of more rescues/recoveries in more remote areas. Was there any formal discussions / documentation with any of the respective S.R. personnel to see if they agree with your assessment. Essentially this decision would place a large and unfunded burden / mandate on state and local agencies, without their involvement?

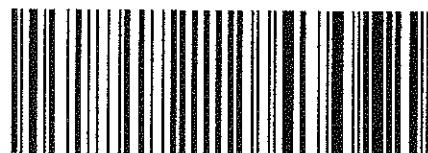
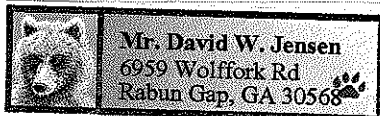
Some of these points described above are simply questions. I may have overlooked the answer to these in the EA or appendices. If so I regret my oversight. Many of these points you could disregard by saying that the FS simply "will do", "can do" or the point I raise are management prerogative.

a related to agency process. I would disagree if there is failure in enforcement / monitoring. The Chattooga River is a priceless treasure. I believe this treasure will be sacrificed if boating is introduced to the upper Chattooga, especially if monitoring and enforcement are only spoken, not put in to action. When Congress established the Chattooga W.S.R., zoning above and below 28 was enacted and it worked very very well. What has changed from strictly a resource standpoint to continue that status.

Sincerely

David W. Jensen  
6959 Wolfpack Road  
Rohn Gap, Va 30568



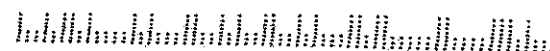


7009 3410 0002 4080 7562

U.S. FOREST SERVICE  
CHATTOOGA RIVER PROJECT  
4931 BROAD RIVER ROAD  
COLUMBIA  
SOUTH CAROLINA

29212

2521283530



SBOOHER@aol.com

08/29/2011 08:33 AM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Comments on the Upper Chattooga EA

Comments on the Upper Chattooga EA  
c/o Supervisor Paul Bradley  
USDA Forest Service Supervisor  
4931 Broad River Road  
Columbia, SC 29212  
[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Supervisor Paul Bradley,

I am writing to say I am **opposed to any Alternative that would open the Chattooga River's upper headwaters to boating**. This part has been closed to boats for more than thirty years and the ban should remain in place.

The reason for the ban is because the Upper Chattooga bisects the Ellicott Rock Wilderness, and Rock Gorge. These areas are the premier wild areas left in the eastern United States. They are one of the few refuges for wildlife, the public, and the best back country trout streams in America.

Opening the river for boating through the Ellicott Rock Wilderness is inconsistent with the goals of the Wilderness Act. If you were to allowing boating through the Rock Gorge section of the river, from the Highway 28 bridge to Burrell's Ford, you would severely damage this areas currently relatively unspoiled nature and potential for future wilderness designation.

By opening the area to boaters, you are opening the area to their vehicles which would further overwhelm this fragile ecosystem. The current use is impacting the fragile ecosystem as already reported as "impaired" in your own Forest Service's Reed Creek/Chattooga River Watershed Conditions report. Opening any of this section to boating will make this impaired situation worse.

I believe watershed protection is a cornerstone of the Forest Service Land and Resource Management Plan for our National Forests. Opening this area to boating would seem to us to be in conflict with the goals of that plan as well.

Whitewater boaters already have access to the majority of swift rapids in the area, including the entire West Fork of the Chattooga, and all of the Chattooga below the Highway 28 bridge.

Overflow Creek all the way to North Carolina is also already open to boating. Given the Forest Service's shortage of personal to police and protect this fragile and important ecosystem I see no way that adding additional users of any type is helpful.

The Forest Service's highest priority should be protecting the Upper Chattooga's existing biology, geology, water quality and, especially, the public's opportunity to have solitude,somewhere.

Again, I am **opposed** to any boating on the headwater's of the Chattooga River.

Sincerely,

Sam Booher

CC Soil & Water District Inspector  
4387 Roswell Dr  
Augusta, GA 30907

**"Robert E. Smith"**  
**<sesres@frontier.com>**

08/29/2011 09:40 AM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Comments for Chattooga River Boating Proposal

Comments below and also in an attachment, according to what is best for your use.

Robert Smith  
Jackson-Macon Conservation Alliance

August 29, 2011

**Francis Marion and Sumter National Forests**  
**U.S. Department of Agriculture**  
**Forest Service, Southern Region**  
**4931 Broad River Road Columbia, SC 29212**

**Email:** [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Supervisors Bradley, Bain, and Hilliard:

The Jackson-Macon Conservation Alliance (JMCA) is glad to have the opportunity to provide comments in response to your request for input regarding the preferred alternative and other findings contained in the U.S. Forest Service's July 15 Environmental Assessment, *Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor*.

JMCA is a not-for-profit grassroots conservation organization whose mission is to address environmental issues through education, advocacy, collaboration and hands-on initiatives. Our service area is the Cashiers Valley and surrounds, and the Highlands plateau and surrounds, essentially all the headwaters region of the Chattooga River. Hence, our deep commitment and concern for the preservation of this treasured natural resource.

JMCA does applaud the efforts of the USFS to provide a most comprehensive EA for the impacts of various use alternatives. This is quite instructive, not only for the issue of whether or not to allow boating, and if so, the best manner, but also to the many individuals and organizations which prize this natural resource. The EA reveals several matters which could and should be addressed regardless of the outcome of this issue.

JMCA can quite easily surmise, given the conflicts of organized groups which are being contested as we speak, that the USFS will receive hundreds of letters of support or non-support of a quite technical and litigious nature. From a less technical but more practical perspective of an organization which wants to encourage sustainability of our

resources, we will address what we find are the issues which point to a diminishment of sustainability is the proposed alternative to allow boating.

As a categorical statement, we believe that allowing boating at all on the Upper Chattooga is a non-sustainable decision. All that you'll get is a few years, if that, of some happy boaters, and a degraded resource that even now actually is in need of serious stewardship to preserve what is and should be for all generations which will follow us.

Therefore, JMCA opposes the preferred alternatives 8 and 12. Our explanations follow.

Alternative 8 is simply a non-starter. A careful reading of the EA, particularly the sections regarding "user conflicts," leads us to conclude that user conflicts would be exacerbated by this alternative, probably to a serious point. We can't understand why this is even presented as an alternative, given the information you have gathered in the EA. It just doesn't add up as qualifying for consideration.

The preferred alternative, 12, has aspects we can support, but in general we find that it is also highly problematic. We applaud and support those parts of Alternative 12 that would limit group sizes for hikers and anglers, reduce environmentally damaging, user-created campsites along the river, limit access to designated trails only, close and/or re-route trails that threaten water quality and/or rare, sensitive plant life, or that create conflict and unneeded encounters. We especially support the aim of Alternative 12 to try to restore and preserve the sense of solitude that the Forest Service rightfully agrees is the key and outstandingly remarkable value of this river. We also fully support the aim of the EA to coordinate and combine monitoring and enforcement efforts to educate the public to these management changes ***[assuming appropriate budget support is made available to do so.]*** These are things which will take staff, funding and time to address, even without allowing boating. The fact is that there has been some neglect, but this is also evidence that the allowable uses that are now in-place cause minimal damage. For example, problems with user-created campsites can be addressed by identifying where such campsites should be sited and identified on maps.

However, the allowing of boater use in the two sections in two separate time-frames simply means that access will have to be allowed as if boating would be allowed all the time. This seems impractical for 3 months of the year, in an area where access is minimal. So we emphatically and categorically oppose boater use as it exacerbates a situation which does require stewardship, but which will not have to be monitored by staff which do not exist and aren't likely to be provided in the future.

We believe the fact is that as the population increases and the demand for the kinds of wilderness experience that the Upper Chattooga WSR area currently provides is only going to increase. This will occur, if the current national financial situation continues, as the financial resources USFS diminishes. Adding boating to the allowed uses is simply like overloading a boat or plane—it won't float or fly.

Boating is a different activity by orders of magnitude. Whereas hikers and anglers, who can move quickly with their minimal gear, or campers who are relatively stationary, can

move to designated trails with relative ease, boaters have a lot of gear, and won't be able to access egress points when the necessity comes on them such as in quickly rising waters. With the closing of user-designated trails, this only gets more complicated.

The agency's preferred proposal to initiate boating at or just below the confluence of the Upper Chattooga and Green Creek is fraught with problems, and likely would forever destroy the wildness of that area.

We have some specific observations, based on visits to the area of the new access point:

1. The Whiteside Cove parking lot, where boaters would park to begin their portage to the river, is so small that hikers and other pedestrian visitors will compete with the boaters that would come to this area under the Alternative 12 proposals. (For comparison, it is not unusual to encounter as many as dozen or more boater vehicles at the ingress and egress points along Overflow Creek Road when "creek paddlers" use that similarly challenging whitewater.) This will encourage boaters and hikers to park at the privately owned Summer Chapel, and use the more direct (but unauthorized) user-created trail that would serve as a quicker and more direct link to the Chattooga River Trail, one which has a precipitous, steep hillside feature to the river. This is but one of those user-conflicts that are to be avoided.

2. The last mile downhill to the Green Creek access point is described as "mostly an old road bed going down the river," according to Nantahala District Ranger Mike Wilkins, who made public a map of this proposed access. Nothing could be further from reality. The "old roadbed" is totally overgrown with both underbrush and tall trees, and presents as an impassable and steep gully heading downhill. In sections, it is so deeply entrenched and cut down to bedrock as to have morphed into an ephemeral stream, with attendant sedimentation heading toward the Upper Chattooga. An angler's rough trail also heavily covered by underbrush and downed trees and limbs, switchbacks over the old roadbed and does reach a smallish, steep rock jutting into the Upper Chattooga. It, too, is eroded down to bedrock along some portions and is visibly causing erosion downstream. The Green Creek Access proposal is a recipe for building a new trail access "in the reasonably foreseeable future" (EA, page 53) at an undetermined cost that would inevitably kill more wildness in this area. It does not appear to be well thought out.

3. Many of the rock features in the river and along the shore have vegetation growing on them. We believe boating will damage the vegetation.

4. In a seriously misleading way, the EA discusses the loss of rare species as if this is ok because rare species are rare. This is one of the most egregious justifications found in the EA. We believe the fact of rare species in the area justifies doing all within our power to protect them. Here is your statement: "Potential direct and indirect effects to rare and sensitive terrestrial species from this alternative include the addition of a new recreational user group (boaters). The potential impact would be from trampling of vegetation and

sensitive habitat through the creation of portage trails and new access trails and increased vegetation disturbance through creation of new “play” (swimming, resting, lunch) sites. It is assumed that some wildlife individuals may be directly or indirectly affected by recreational users under this alternative. However, because rare and sensitive species are rare, and are not encountered often, it is unlikely the effects of this alternative would occur at a frequency which would impact the population viability of this species.” (EA page 200). You only have to damage rare species once, and then the damage is done.

4. How do you propose to control use based on flow? The fact is you can’t. You may not even be able to control use at all.

5. Many rock features are barriers to boating. The usual solution is to portage, which means creating pathways to drag the boat from one place to another. This invariably damages the vegetation and creates erosion. Just as with rare species, the EA already addresses that there will be damage. Boating is an environmental damage activity, particularly in this section of the river.

6. A similar problem arises with the Agency’s continued decision to list construction of a new access road and parking lot on the so-called County Line Road, which, if one is to believe Alternative 12, should be closed and decommissioned as a user-created trail. Yet, the SOPA (Schedule of Proposed Actions) for the Nantahala-Pisgah National Forest (of July 1, 2011) continues to list this project for eventual construction. The Agency suggests that only a parking lot will be built at this location (EA, p. 53 and 88) and that its only purpose is to “simply replace parking spaces lost when a state road was widened.” Actually, there are just as many parking spaces (about three) along the side of Whiteside Cove Road at this location as there were before North Carolina Department of Transportation paved the road.

7. It is a fact, now, that woody debris will be a fact of life in along the Chattooga. The dead Hemlocks will fall and create obstacles to boating. It is clear from the EA that these are also necessary for the health of aquatic life in the river. It is also clear that boaters will continue to remove them, almost certainly by the unauthorized use of chain saws.

In many of the foregoing issues, the matters are clear from what has been happening on the West Fork and Overflow Creek waters where boating has been allowed. Whether we like it or not, that is the boaters’ area. We just don’t need that to be allowed on the area proposed for boating on the Upper Chattooga (above the Highway 28 Bridge).

Accordingly, we urge the U.S. Forest Service to adhere to both the spirit and the full intent of the Wild and Scenic River Act and the Wilderness Act, and to use its clearly authorized mandate to “zone” its land for appropriate recreational uses by revising its preferred alternative to prohibit all boating on the Upper Chattooga, year round. This zoning has worked well for more than 35 years to protect the river and the low-impact, traditional uses that local people have come to enjoy and cherish. This decision would address all the adverse consequences revealed in the EA which will

happen if boating is allowed. Can there be any other conclusion that to prevent them?

Sincerely,

Robert E. Smith  
Chair, Board of Directors



JMCA Chattooga Boatong Proposal Comments.doc



**Laurence Holden**  
<art.laurence.holden@gmail.com>

08/29/2011 11:48 AM

To comments-southern-francismarion-sumter@fs.fed.us  
cc  
bcc

Subject Comment on boating on the Upper Chattooga River

I oppose any changes to the present long standing regulations prohibiting boating on the upper stretch of the Chattooga River. The Forest Service process for implementing new regulations has been deeply flawed because it was framed only to address boating and trout fishing. This view is based on the blind and fictive notion that the river (and all of nature) is “out there” only as a resource to be exploited.

I have known and been known by this stretch of the Chattooga for over 40 years now. This knowledge and appreciation goes far beyond boating or fishing. The bureaucratic process that has reduced the issues to contending consumers of so called recreational opportunities is both short sighted and small minded.

What has brought us to this point is violence, acquisition, and competition. The Forest Service decision process has only served these ends. You can see the consequences of this all along this river. You only have to stop, look, and listen along its banks. This is a form of reverence. But we are the only species here that doesn't spend most of its time looking and listening. Much is lost, and forgotten, in this blindness and deafness.

In the current Forest Service process we've lost this reverence, and the actual river and its natural community have never been consulted. Do nothing until it has! Leaving the regulations as they have been for many years at least avoids additional harm to the river, and that should be the most important criterion.

Sincerely,

Laurence Holden

266 Beck Lane  
Clayton, Ga. 30525

Laurence Holden,  
Warwoman Creek,  
Katuah Province, Turtle Island

<http://artistspath.info/>  
[laurenceholdenart@gmail.com](mailto:laurenceholdenart@gmail.com)<http://artistspath.info/>

[The Artist's Path: On The Trail Between Art & Nature](#)

[Laurence Holden: Portfolio](#)

[TAKE ME TO THE RIVER: A BOOK OF POEMS & PAINTINGS FOR COMING HOME](#)

## Untitled [This is what was bequeathed us]

by [Gregory Orr](#)

An excerpt from *How Beautiful the Beloved*

This is what was bequeathed us:

This earth the beloved left

And, leaving,

Left to us.

No other world

But this one:

Willows and the river

And the factory

With its black smokestacks.

No other shore, only this bank

On which the living gather.

No meaning but what we find here.

No purpose but what we make.

That, and the beloved's clear instructions:

Turn me into song; sing me awake.

**"Michael Bamford"**  
<mbamford123@comcast.net>

08/29/2011 01:47 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc <michelleburnett@fs.fed.us>

bcc

Subject Legal Documents part of the Administrative Record

History:

Dear Chattooga Review Team:

Paralleling the Chattooga Administrative process have been two lawsuits initiated by the kayak lobby against the USFS. One was in NE Georgia in 2006, the other in pending in SC Federal Court. The administrative record would be incomplete without including some of the unique, and often conflicting arguments filed into federal court during the decision process.

Please incorporate the following documents from these lawsuits as part of the underlying Administrative Record for use in an administrative, or judicial, review of the final agency decision.

Thank You  
Michael Bamford

From The 2009 Lawsuit

1. The kayak lobby Original 2009 Complaint
2. The Declaration of Haas 17 filed with the AW complaint
3. The 2010 transcript from the USDC SC regarding pending motions
4. The Kayak lobby 2011 Revised Complaint.
5. The 12-1-2010 Order on the Motions

From the 2006 Lawsuit AW v. Bossworth case 2:06-cv-00074-WCO

1. The Motion to Dismiss Order
2. The 2010 Court transcript
3. The USFS MTD request
4. The USFS opposition to a Preliminary Injunction
5. The Friends of the Upper Chattooga Amicus

6. A Filed Statement from Forest Planner Mr. Liggett
7. American Whitewater v Bosworth, Complaint (Civil Action NO. 2:06-CV-74-WCO, N.D. Ga)



2009 Chattooga-AW 2009 USDC SC suit 12.01.10 ORDER on Motions.pdf



2009 Chattooga-AW Rust-WCA Reply of Intervenor to A/W Response Exh..pdf



2009 Chattooga-AW 2009 USDC SC suit Declaration of Haas 17.pdf

Decision on Motions.pdf

A/W complaint clean.pdf



2006 Motion to Dismiss Order.pdf

2006 MTD transcript.pdf

2006 USFS MTD request.pdf

Amicus from FOTUC.pdf



Upper Chatt Liggett 7.7.06.pdf

USFS oppose preliminary injunction.pdf

Transcript 10-13-10 American Whitewater Motions.pdf

**"Michael Bamford"**  
<mbamford123@comcast.net>

08/29/2011 02:15 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject FW: American Whitewater Upper Chattooga River  
descriptions from their website

History:

Dear Chattooga Review Team:

The Kayak Lobby organizations involved in this administrative process have publicized information that contradicts statements they have made within the Chattooga Analysis and within pending lawsuits. Some of this information has not been incorporated within the Administrative record. Please incorporate the following as part of the underlying Administrative Record for use in an administrative, or judicial, review of the final agency decision.

Thank You  
Michael Bamford

- American Whitewater Newsletters from 1994, 1999, 2000, 2001, 2008 regarding the Chattooga River.
- American Whitewater 2001, 2002 and 2003 letters to the USFS regarding Chattooga Management which predates the 2004 Decision.
- American Whitewater Upper Chattooga River Descriptions from AW website downloaded in 2005 and 2006.
- Georgia Canoe Association 2009 website postings.
- October 2009 News article from Macon News
- American Whitewater 2008 Annual Report
- Paddler Magazine article feb, 2008



AW website on Chattooga Section 1 Oct 2006.pdf



AW website on Chattooga Section 00 12-24-05.pdf



AW website on Chattooga Section 00 Oct 2006.pdf



AW website on Chattooga Section 0 Oct 2006.pdf



2002 june 10th, Ltr AW to USFS on draft plan.pdf



2003 july letter to USFS.pdf



AW Newsletter 2000 Chattooga boating.pdf



GA Canoe - Kayak Paddlers - Paddlers Take Chattooga Issue to Federal Court.pdf



AW on GA Canoe Ass.pdf



MaconNews October 2009.pdf



june 2002 aw letter to USFS.pdf



1994 American Whitewater page 21 nov-dec.pdf



2001 AW comments on Sumter plan.pdf



2008\_AW\_Annual\_Report.pdf



aw journal sep-oct 2008.pdf



Backwoods Politics paddler magazine.pdf

**"Michael Bamford"**  
<mbamford123@comcast.net>

08/29/2011 01:58 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Emailing: 1979 Craig Report on Boating, 1980 Chat. River Managment plan, 1985 Sumter FEIS Appdx M, 1993 Flow Manual Whitaker excerpts, 1996 ORV analysis, 1996 RLMP in federal registry, 2001 Chattooga scoping document on boat usage, 2001 EPS sediment study

Dear Chattooga Review Team:











Some of the documents referenced within the Chattooga analysis are not incorporated within the Administrative record. Please incorporate the following documents as part of the underlying Administrative Record for use in an administrative, or judicial, review of the final agency decision.

Thank You

Michael Bamford

--Attachment List -----

1979 Craig Report on Boating the Chattooga  
1985 Sumter FEIS Appdx M  
1993 Doug Whittaker Flow Study Manual (excerpts)  
1996 Chattooga ORV analysis  
1996 South East Regional RLMP in federal registry'  
2000 NPS Final Report on Boating Yellowstone.  
2001 Chattooga Scoping Document regarding boat over-usage  
2001 EPS sediment study on the Chattooga  
2004 Sumter FEIS Appendix H on boating  
2006 Flow Study Manual; Co-authored Whittaker & AW  
2006 July Whittaker slide show presentation on the Chattooga

 1979 Craig Report on Boating.pdf  1985 Sumter FEIS Appdx M.pdf  1996 ORV analysis.pdf  1996 RLMP in federal registry.pdf  
 2001 Chattooga scoping document on boat usage.pdf  2001 EPS sediment study on the Chattooga.pdf  
 2006 Flow Study Manual; Whitaker & AW.pdf  2006 July Whitaker slide show presentation.pdf  Yelwstn NP final report 2000.jpg  
 2004 Sumter FEIS appendix H on boating.pdf

**Justin Smith**  
<justin@justinpaulsmith.com>

08/29/2011 03:28 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga River Comments

I would like to submit comments regarding access to the Chattooga River. As an avid kayaker and nature enthusiast, I am dissapinted to have restricted access to the Chattooga. I'm an avid fly fisherman as well and am surprised that I'm able to commercially access sections of the Chattooga if I chose to fish or hire a fishing guide, yet I can't enjoy the river from the comfort of my own boat. This is equally our land as Americans and the restriction of access is unnecessary. The whitewater club that I belong to, the Atlanta Whitewater Club, is full of enthusiasts with a similar outlook. We have river cleanups several times a year to keep our rivers beautiful. I know that myself and this club would respect every inch of the Chattooga that we're granted access to. Please consider giving us the access we deserve.

Thank you,

--

Justin P. Smith  
678 591 2628



**"Tom Robertson"**  
**<THRobertson@cranstone**  
**engineering.com>**

08/29/2011 03:30 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc <trobson@bellsouth.net>

bcc

Subject Comments/Questions: Chattooga WSR Recreation Uses

Dear Ladies and Gentlemen:

Please find attached my comments and questions on the Environmental Assessment on Managing Recreation Uses on the upper Chattooga Wild and Scenic River.

Please consider them in reaching your conclusions.

Sincerely,

Thomas H. Robertson

**Thomas Heard Robertson**

PE, AICP, RLS

President

**Cranston Engineering Group, P.C.**

452 Ellis Street – Augusta, Georgia 30901

Phone: 706-722-1588

Fax: 706-722-8379

[www.cranstonengineering.com](http://www.cranstonengineering.com)

NOTICE: This email and any attachments are confidential and proprietary material of Cranston Engineering Group, P.C. If you receive this message in error or are not the intended recipient, please notify the sender. You should not retain, distribute, disclose or use any of this information and should destroy the email and any attachments or copies.



ChattoogaWSRComments2011-08-27.pdf

United States Department of Agriculture, Forest Service

Chattooga River Project

4931 Broad River Road

Columbia, South Carolina 29212

[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Ladies and Gentlemen:

Thank you for the opportunity of commenting on the proposed changes in the manner of managing recreation uses on the upper Chattooga River.

### **Background and Status to Comment**

I own a cabin and land immediately proximate to the trail head of the Chattooga River Trail on Greens Creek Cemetery Road off Whiteside Cove Road, and my family has had this place for the past 45 years. We have been supportive of the Wild and Scenic River Corridor over this time.

Our water supply springhouse touches the Forest Service boundary at a point about 1/8 mile from the trail head parking lot. We often hike the trail system and render minor maintenance and trash policing. In our experience, the public is usually polite and well behaved.

A few years ago my mother, Mary B. Robertson, and nearby neighbor Judge Duncan Wheale purchased several acres of mature timber land adjacent to the trail head parking area and donated it to the Forest Service to protect the land and to add to the ambience of the Chattooga Wild and Scenic River Corridor.

### **Summary**

In summary, I generally support public access to public lands and waters. I am supportive of Alternatives 1, 2, and 3, and am opposed to the favored Alternative 12. There are fatal flaws in the Environmental Assessment as presented, in that the assessment does not consider all of the impacts of the Alternatives 8-14. In particular, the impacts at the proposed main access point at Greens Creek are not considered at all. Overall, I would like the Forest Service to continue to restrict boating on the upper reaches of the river. However, there are other alternatives not presented in the Environmental Assessment that would give limited added boating access to the public that would be acceptable to me. These include boating below Burrell's Ford at all stages

and seasons, and perhaps below the Steel Bridge at Bullpen Road at all flows during the winter season.

### **Position with Respect to Alternatives in Current Version of Environmental Assessment**

I am supportive of Alternatives 1, 2, or 3, but I am opposed to Alternatives 8,11,12,13, and 14.

The following discussions summarize some of the reasoning why I recommend you choose one of the first three, and do not choose one of the other options. They also pose several questions to which I desire the US Forest Service's official answers.

The Chattooga River trail head is the most upstream limit of where the Chattooga River courses through public land. But this point is not a suitable put-in point for boating. The parking area is a very long way from the river itself, via a portage of at least 2/3 mile of steep unofficial trail, or more than a mile via the main official trail.

A closer access point, but on private land, is at the intersection of our driveway and Greens Creek Cemetery Road, where woods roads are shared with Forest Service, the Cranston Family Partnership and me. It is presently common to have hikers park cars here to cut off the first 1/8 mile of steep trail from the official parking lot. These occasional parkers have not been much of a problem to us thus far, but they are not trying to carry boats either. I believe that there will be increased parking by the new boaters (with associated trespassing and potential conflicts), if preventive measures are not taken. But, the Forest Service states that no new parking will be developed and relies on that fact to limit access and usage to the interior trails and river. I believe that the added users will try to park in our driveway.

Parking at the trail head is available for only eight to ten cars, and little suitable public land exists to expand. As mentioned in the background section above, my mother donated several acres of beautiful land near this location to the US Forest Service for the purpose of protecting the land and for providing a green buffer at the trail head. Any expansion of the trail head facilities would be inconsistent with the spirit of this gift.

*What measures will the US Forest Service take to mitigate or prevent the inevitable overflow parking problem, including potential trespassing and public nuisance to adjacent private properties?*

From the trailhead entrance (the upper end of public ownership) it is about 6.5 miles to the Steel Bridge on the Bullpen Road, and there are no put-in points for boats anywhere in this reach that would be convenient to parked vehicles. Even at the Steel Bridge, the river access is precipitous and is right at the top of a waterfall, far below the road elevation.

Downstream of the Bullpen Road is the Ellicott Rock Wilderness. There is not even a trail along the river in most of this area, much less a boat launch. By definition this area is a wilderness with very little built infrastructure, and should remain so.

Below the Ellicott Rock Wilderness, a trail follows the river, and there is a greater flow of water in it. The river itself is more conducive to boating, but again there is no boating launch point. At Ellicott's Rock, the upper end of the riverside trail system, it is over 3.5 miles by trail to the nearest road, hardly a good portage.

The next access downstream is Burrell's Ford, where more parking exists. The river downstream of this place is more suitable for boating than any place upstream.

*Why will the US Forest Service not restrict boating to the reaches below Burrells Ford and prohibit it upstream?*

Back upstream, beyond the Chattooga River trail head, the next public access to the river is the small isolated parcel of public land at Grimshawes, where the public uses the sliding rock falls on the river. It is not a suitable nor adequate entrance for boaters either. Parking is very minimal here, and large overflows of parked cars often line Whiteside Cove Road currently, even without boaters as additional users. It is not uncommon to see 30 to 40 cars on the narrow shoulders.

As for the use of the river for boating, the Chattooga between Grimshawes and Greens Creek could hardly be deemed navigable. For example, I cannot imagine someone wanting to go over Corkscrew Falls in any vessel. Nevertheless, if such daredevil stunts should be undertaken by boaters, those activities will almost certainly result in injuries, if not deaths.

*How could the US Forest Service and rescue personnel access a boating accident site to transport victims effectively and without trespassing on adjacent private lands?*

### **Flaws in the Environmental Assessment**

The Environmental Assessment (EA) is fatally flawed, both as to its process and as to its content, because, among other things, it does not consider the impacts associated with the new Greens Creek put-in. In fact, the document barely mentions the entrance and impacts, except in passing. By contrast the EA retains in the updated document the leftover (and presumably now obsolete) access at Grimshawes, as if it were the major entrance at the upstream end of the Chattooga Cliffs reach. Grimshawes is quite remote from the proposed put-in point at Greens Creek -- over 2.5 miles away. Therefore, all of the statistics and discussions of that entrance presented in the EA are entirely irrelevant to the alternatives now under consideration. And, the EA offers no similar studies for the Greens Creek location.

More specifically, the EA considers neither the environmental, "backcountry," nor "forecountry" effects of the new launch trail and site. On the "forecountry" subject, for

instance, the USFS states that no new parking will be developed and relies on that fact to limit access and usage. The EA fails to present or consider the impacts to adjacent private property.

*What will be the environmental, backcountry, and forecountry impacts of the new Greens Creek launch trail, site, and support facilities?*

The EA depicts the Greens Creek entrance way as a “secondary road” located mostly on private property all the way to the mouth of Greens Creek (Figure 2). This leads to the question of whether the Forest Service intends to condemn a right of way for the public use. Moreover, there actually are roads that exist along the route shown, but they extend only for about one-third of the length. Part of this entrance way seems to be my driveway and its extensions through property belonging to the Cranston Family Partnership.

*Does the US Forest Service intend to provide any new road access at the Greens Creek put-in? If so, where will it be located and what are the details of the facilities?*

The undated map and brief description titled “Potential Green Creek Access” that was distributed on August 5, 2011 attempts to offer some clarification, but fails in that regard, because it is incomplete and raises additional questions. The document is not presented as an amendment to the EA, but as the basis for a “reasonably foreseeable future action,” as if the changes to the area do not rise to the level of importance that might influence the selection of an alternative in this EA. I believe that it does so rise, and complete analyses of the new put-in and its vicinity should be considered in this EA.

The write-up states that the Greens Creek put-in “would probably be located slightly downstream of the confluence of the Chattooga WSR and Green Creek, the exact location would need a site-specific analysis and separate decision.” Depending on which “exact location” is selected, this issue might be pivotal in the current decision process. For example, if the route shown at the upstream (northeast) side of the crosshatched area on the map were to be utilized, it could follow an existing logging road and meet the river at an easy launch site with minimal impact. Routes elsewhere would be much steeper and difficult.

*Why does the US Forest Service not consider the effects of the new Greens Creek put-in in the Environmental Assessment?*

The map introduces further confusion. It does not show the present trail head and parking at all, nor the first mile or so of the trail itself. To my relief, it does not show the “secondary road” on my property to the mouth of Greens Creek as the EA does, but it does show a road from the Whiteside Cove Church (actually schoolhouse) through other private property. Does this mean that there will be a new access point from Whiteside Cove Road at that location? In addition, the map shows an access road to the river on the east side of Greens Creek through private lands (through the Cranston Family Partnership driveway and around Potato Knob on the Rust land).

## **Additional Compromise Alternatives That Should Be Considered**

Overall, I favor an ultimate situation where the Forest Service would continue to restrict boating on the upper reaches of the river. And, I recognize the need to consider the desires of all river users, boaters included. However, the present EA presents what amounts to a binary choice: boating allowed everywhere, or boating disallowed. I believe that there are other alternatives not presented in the Environmental Assessment that would give limited added boating access to the public that would probably be acceptable to me. Added compromise alternatives should include (a) allowing boating below Burrell's Ford at all flows and seasons, and perhaps (b) allowing boating activities to extend upstream to the Steel Bridge at Bullpen Road under all flows and from December 1st through March 1st.

Thank you for considering these comments on your proposed changes.

To summarize succinctly, I urge you to go with the status quo. Failing that, I urge you to consider the compromise alternatives described above.

Sincerely,

**Thomas Heard Robertson**

PE, AICP, RLS

President

**Cranston Engineering Group, P.C.**

Post Office Box 2546

Augusta, Georgia 30903

Telephone: (706) 722-1588 Ext. 108

Facsimile: (706) 722-8379

Website: [www.cranstonengineering.com](http://www.cranstonengineering.com)

**"Tom Robertson"**  
**<THRobertson@cranstone**  
**ngineering.com>**

08/29/2011 03:34 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc <trobson@bellsouth.net>

bcc

Subject Comments/Questions: Chattooga WSR Recreation Uses

Dear Ladies and Gentlemen:

Please find attached a set of comments and questions that I am submitting on behalf of the Estate of John Craig Cranston on the Environmental Assessment on Managing Recreation Uses on the upper Chattooga Wild and Scenic River.

Please consider them in reaching your conclusions.

Sincerely,

Thomas H. Robertson

Co-executor

Estate of John Craig Cranston, Deceased

**Thomas Heard Robertson**

PE, AICP, RLS

President

**Cranston Engineering Group, P.C.**

452 Ellis Street – Augusta, Georgia 30901

Phone: 706-722-1588

Fax: 706-722-8379

[www.cranstonengineering.com](http://www.cranstonengineering.com)

NOTICE: This email and any attachments are confidential and proprietary material of Cranston Engineering Group, P.C. If you receive this message in error or are not the intended recipient, please notify the sender. You should not retain, distribute, disclose or use any of this information and should destroy the email and any attachments or copies.



CranstonEstateChattoogaWSRComments2011-08-29.pdf

United States Department of Agriculture, Forest Service

Chattooga River Project

4931 Broad River Road

Columbia, South Carolina 29212

[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Ladies and Gentlemen:

The Estate of John Craig Cranston generally supports the several comments of the undersigned Thomas H. Robertson dated August 27, 2011 submitted to your agency separately, and adds the following discussion, comments, and questions for your consideration and answers.

### **Background and Status to Comment**

The Cranston family has owned the land on the right bank of the Chattooga River immediately upstream the mouth of Greens Creek for quite a number of years, well before the US Forest Service owned land in the vicinity. As an ardent conservationist, Craig Cranston furnished comments on the original designation of the Chattooga Wild and Scenic River corridor under Public Law 90-542 back on December 2, 1969, wherein he advocated protecting water quality of the watershed, while respecting the rights of private property owners. Were Mr. Cranston able to comment now, I am sure his position would be the same.

Mr. Cranston died earlier this year, and I now serve as co-executor of his estate. I can represent his estate's interest in the Cranston Family Partnership, which owns the land immediately adjoining the Chattooga WSR corridor public lands on the right bank at the mouth of Greens Creek. The other partners are his widow Marie T. Cranston, and daughters Catherine Cranston Whitham and Elizabeth Cranston Cleckler.

### **History of Cranston Support of the Chattooga Wild and Scenic River Corridor**

Some years following the establishment of the Chattooga WSR, the USFS built the Chattooga River Trail along the 6.5 mile reach from the Steel Bridge at the Bullpen Road upstream to the limit of federal ownership. The original trail entrance emerged on State Road 1108 (now called Greens Creek Cemetery Road) at a shared public/private woods road on both Cranston and USFS land. Later the Forest Service began construction of a parking lot at this location. Mr. Cranston vehemently objected at an on-site meeting with Forest Service representatives, which I personally attended and witnessed, citing adverse impacts on private property. As a result the Forest Service abandoned the parking lot at this location, in favor of a place entirely on federal property. But, the new site near Whiteside Cove Road did not actually front on the public way.



Mr. Cranston adopted a civic minded stance on this proposal and came to the rescue. He and his wife purchased a strip of land from another private landowner, Tom Picklesimer, in 1993 and donated the property to the United States Forest Service. Thus he enabled the Forest Service to develop the parking lot and trail head that still exists and is in use today.

### **Practicality of the Proposed Access: Comments and Questions**

I would like to know the opinion of the USFS planners about the suitability proposed main put-in at the mouth of Greens Creek, as included in the preferred Alternative 12.

*Is the Greens Creek location a suitable and practical site for boating access?*

I submit that it is not. I have walked the Cranston Family and US Forest Service lands at the mouth from time to time over the past 40 years, most recently on the weekend of August 27, 2011; and can confirm that the lands along the right bank of Chattooga River in this reach are so steep as to be nearly impossible to traverse as a pedestrian, and certainly unusable as a boat launching area. There are cliffs along the boundary line common to Cranston and USFS that all but assure that public users would trespass on the private Cranston Family lands to get around them. Based on first-hand observations in the field, the nearest feasible site for practical boating access is located downstream at the fringe of the area that is shown cross-hatched on the map attached to the August 5, 2011 separate documentation posted as explanatory to (but not included in) the Environmental Assessment.

*How can the US Forest Service choose such an impractical boating "put-in"?*

*How can the US Forest Service designate a boating put-in so unsuitable for the purpose that it will almost certainly assure that trespassing on our adjacent private property will occur?*

*Will the US Forest consider moving the Greens Creek put-in downstream to the feasible site described above?*

Thank you for the opportunity of offering these comments.

We have been generally supportive of the US Forest Service in this Wild and Scenic River Corridor for a long time.

Please be supportive and respectful of our property rights now and in the future.

Sincerely,

Thomas H. Robertson  
Co-executor  
Estate of John Craig Cranston, deceased

**Lynn Fayard**  
<lcfayard@gmail.com>

08/29/2011 05:42 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject upper Chatooga

Please leave the Upper Chatooga as is...beautiful, wild and undamaged. NO BOATERS  
PLEASE!

**Garrick Taylor**  
<garrick.d.taylor@gmail.com>

08/29/2011 06:48 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Alternative 12 comments

To Whom It May Concern,

Throughout my life I have enjoyed our National Forests. Growing up, the motto of the national forest, "land of many uses," fit our family. We camped, hiked, swam in lakes, waded in creeks, paddled canoes, went tubing, rafting, fishing, and had endless fun. I can't remember my first family camp out, first time floating a creek on an innertube, or the first of many fish I caught with my dad as a kid, but I do remember spending lots of time outside.

Now that I am an adult with children of my own, I have endeavored to pass on my love of the outdoors to the next generation. As a Scout leader, I take Boy Scouts camping, hiking, rafting, and fishing. I take my own kids on family adventures where we appreciate the outdoors in a way that is lost to many younger Americans.

I feel a deep connection with this area; my family tree reaches deep in the area of the Chattooga. Both my mothers' and fathers' families have lived in the Upstate of South Carolina for over a hundred years. A small part of my heritage reaches back to the original Cherokee that lived, fished, swam, and boated along the river. I can see the development pressures put on many of our forests, lakes, and streams. I appreciate the protection offered by designating these areas as wilderness or wild and scenic rivers. These protections help to make sure that coming generations can enjoy the outdoors as I have.

As someone who has a variety of outdoor interests, I looked forward the Forest Service decision on management of the Chattooga Wild and Scenic River. I looked forward to a plan that would assess all users fairly and equitably. I looked forward to a plan that would restrict use where warranted in a way that was fair to everyone, keeping to the spirit of the "land of many uses."

After first reading the draft Environmental Assessment and preferred management alternative issued in 2009, I was very disappointed. Both the draft EA and the preferred management alternative were unfair and inequitable. Neither of these documents kept with the spirit of the "land of many uses" or the original Wild and Scenic River designation as legislated by congress. I was further troubled when the Forest Service withdrew the proposal they had spent 5 years developing with little explanation.

While the new Environmental Assessment presented this year excels at generating an

enormous volume of paper, it continues to violate the spirit of “land of many uses” by unfairly scrutinizing paddlers while failing to address the serious impact already present from other user groups. The document glazes over and minimizes the impact from existing user groups. While it does propose a reduction in campsites and user created trails, it does not make any serious attempt at determining the existing impact. Impacts from hikers and anglers who trample riparian areas blazing trails to the river are also largely ignored in this assessment. The impact of fishing lines and lures left hanging in trees is not addressed. Perhaps the most glaring oversight is that no assessment has been made of the impact of stocking this wild and scenic river with non-native fish species. These non-native fish undoubtedly impact native plants and animals within the Chattooga corridor yet this impact goes completely unmentioned in the environmental assessment. The sound of the helicopters used to stock tens of thousands of exotic fish species in a wild and scenic river corridor and its impact on river users is never discussed. The impact of those who waded into the river to fish or swim is also not determined by this environmental assessment. Does wading through a riparian corridor for 6 hours fishing have a greater impact on plants and fish than floating over the same section of the river in a boat? This EA makes no serious attempt to assess the impact of anglers on the Chattooga headwaters.

While the Environmental Assessment provides for no fewer than 14 different use scenarios, all of these scenarios revolve around limiting paddling opportunities in one manner or another. Not a single scenario studies the possible effect of eliminating or reducing the stocking of non-native fish species. Eliminating stocking would likely reduce the impact anglers have on the river while at the same time improving conditions for native fish and other aquatic species. Despite the potential positive impact this scenario might have on returning the river corridor to a more natural state, this possibility is never mentioned or discussed. In a previous round of comments when asked why this issue was not addressed, the forest service stated it was out of scope while providing no reason for not exploring the impact of a significant activity within the river corridor. The validity of this approach can be assessed by looking at the streams in the Great Smoky Mountains National Park, where stocking was discontinued in 1975. According to the fishing FAQs section of the National Park’s website:

“The only stocking practiced today seeks to restore endangered and threatened native species like the Smoky Mountain madtom and the spotfin chub to waters where they once thrived. Fisheries monitoring activities in the park have clearly shown that stocking is not needed. This information shows that many park streams have 2,000-4,000 trout per mile.”

Stocked rainbow trout are like the kudzu of mountain streams, outcompeting and driving out native aquatic wildlife. Discontinuation of artificial stocking of non-native species that outcompete the native brook trout might improve the survivability of the native brook trout.

One area that the study focuses on in great detail is conflict between boaters and those who fish on the river. In many rivers throughout the southeast, these two user groups use the same river corridor without significant conflict. On rivers such as the Tellico, Little Pigeon, Nolichucky, Watauga, Big Creek, and Wilson Creek, these user groups find a way to share a resource without significant conflict. In the case of the Cheoah River, anglers and boaters worked together to establish a management plan for the river that resulted in a healthier river that both groups can enjoy. How can these user groups share the resource? In most cases, the conditions which are favorable to fishing (low flows) are not favorable to paddling (high flows). These

groups choose which days to use the resource on their own without a strict set of rules because there is very little natural overlap. In the study, it becomes readily apparent that any time where boaters may have even a remote chance of using the resource when an angler may be present, the paddler is banned from using the resource.

In the Forest Service preferred alternative, all tributaries above highway 28 and the Nicholson Fields reach continue to be completely closed to whitewater boating. This is despite the fact that the original 1971 Wild and Scenic River Report specifically mentions that the Nicholson Fields reach is, "shallow and easy for the beginning canoeist." This section of the river would provide solitude for the beginning paddler that cannot be found on the lower reaches of the river where use is shared with commercial interests. Nowhere in the original report does it propose banning or limiting whitewater paddling along any sections of the Chattooga River.

In instances where the proposed alternative does allow boating on limited sections of the Upper Chattooga, the limitations make boating logistically impossible for all but a few local paddlers. The proposal limits boating on two sections to 6 week periods in the coldest part of the winter with no overlap, limiting boating to a few days per year when anglers are not normally present. The proposed alternative squeezes all boating use of the Upper Chattooga into an extremely narrow window, greatly increasing the likelihood that paddlers will overcrowd the river on the extremely limited days during the year that fall within the narrow window when there is sufficient water for boating. The entire spring season, when the river is most likely to have good flow, is excluded because a FEW anglers MIGHT want to fish on high water days in the spring. Again, any time when anglers MIGHT want to use the resource, paddlers are banned. After 35 years of being banned from the river, if one user group should be given preference, it should be paddlers.

The length of the Chattooga River which is suitable to paddling and largely undeveloped is unique in this part of the Southeast. Opening the entire Chattooga to paddling would provide a river that could be completed over several days while camping. This is an appealing idea to those boaters, who, like myself, enjoy a wide range of outdoor activities which include hiking, fishing, and camping in addition to boating. The Upper sections of the Chattooga would provide a remote camping experience not available along Sections 3 and 4 of the river. The number of days per year when the river is at a suitable level for this type of activity is naturally limited. The proposed alternative bans any possible overnight trips from the headwaters to Lake Tugaloo by completely banning the Nicholson Fields reach and allowing no overlap in season on the remaining two Upper reaches where paddling is allowed on an extremely limited basis.

In summary, the draft Environmental Assessment is incomplete as it does not fully assess all the current uses and impacts to the Chattooga River. The assessment is unfairly balanced against boaters and gives preference to the angling community. The alternative continues an unfair ban on much of the Upper Chattooga while placing impractical limits on the number of days and season when boating is allowed.

The 1971 Wild and Scenic River Assessment presented to congress describes the Upper Chattooga as follows:

“Enormous boulders, some over 50 feet high with trees growing on top, rise from the river bed. In many places sheer rock outcrops and cliffs rise 400 to 600 feet above the river. The Chattooga Cliffs, a series of these outcrops continues along the river for two and one half miles. Rafting or some method of floating is the best method to see this portion of the river, for many of the pools are 10-20 feet deep and impossible to wade by hikers and fishermen. The sheer rock cliffs and dense vegetation along the shoreline make it extremely difficult to hike on foot.”

If some method of floating is the BEST method to see the Upper Chattooga, why does the Forest Service ban this activity for the vast majority of the year? The pictures in the assessment further underline the importance of paddling – paddlers are pictured multiple times, including a drawing on the cover of the report. No other river users are pictured in the report. A better solution would be a fair and equitable approach that allows all users the same level of access. If floating is the BEST use of the river, other uses should be considered secondary and their use restricted to prevent interruption of floating the river.

The new assessment further adds a new and unwarranted idea in an attempt to justify a near total ban on paddling. The report states:

“Anglers spend most of their time near the river and usually fish a small section of the stream where they are likely to be passed by nearly all boaters present on that day. When these encounters occur, impacts on users are also more likely to be asymmetric (more adverse for anglers than for boaters).”

This completely unfounded assertion is used throughout the assessment to justify a near total ban on paddling. As a paddler, I can state that my wilderness experience is disturbed by anglers. Their presence is seen not only when I pass them on the river, but when I see monofilament line snagged in the trees and branches along the river bank. Their presence disturbs me when I see their hooks and flies snagged in the same trees and branches, when I hear helicopters circling above to deposit non-native fish into the river, when I see their trails dig into the banks of the river, or when I don't see native species that have been displaced by the stocked fish.

The difference between paddlers and anglers in this scenario is that after a 35 year ban, paddlers understand what it is like to be unfairly denied use of the resource. Paddlers are willing to share the resource despite being disturbed and affected by other users. It is the height of selfishness for a small group of anglers to demand banishment of another group. If anglers are unwilling to share the resource, it is their access which should be restricted.

A more fair and equitable solution would be to allow boaters to decide for themselves when the weather and level is conducive to paddling. This would allow paddlers to make the decision of when to paddle, much as hikers decide when to hike along the river, and similar to anglers who are also able to decide when to fish along this scenic public resource. Alternative 8 is the only alternative considered which even approaches an equitable use of the resource. Despite the fact in that the study refers to alternative 8 by saying, “most boating would occur when non-boating uses

are low, and on less than one-third of the total days in a year,” alternative 8 was rejected because it allowed boating on days that a FEW anglers MIGHT use the river. The rejection of the most equitable alternative in preference of anglers is illogical and irrational. Even though alternative 8 approaches an equitable use of the resource, it still unfairly bans boating above Green Creek and all tributaries above Highway 28. No valid reason is given for closing tributaries. The only reason given for banning boating above Green Creek is that some property owners feel the river in that stretch is not navigable. This stretch of river is part of North Carolina waters, and matters of navigability are the determination of the State of North Carolina, not the forest service. Alternative 8 should be modified to remove these unnecessary restrictions.

A complete and balanced Environmental Assessment needs to be conducted by an impartial group. After more than 5 years of failed attempts, it is clear that the Sumter Forest Service is unable to produce a complete, balanced, or impartial Environmental Assessment. Given that boaters have been unfairly excluded from the river since the arbitrary decision made 35 years ago in 1976, the river should be completely opened to boaters while this study is conducted. This would allow the study to assess the actual impact of boaters instead of a hypothetical and assumed impact. Boaters have been unfairly excluded for 35 years, and entire generations of paddlers have missed the opportunity to boat the Upper Chattooga. This likely means that use in the first few years will likely exceed long-term use and should be excluded from any assessment of long term boating use. An assessment of boater impact after boating has been allowed for at least 2 full years is essential to provide a more accurate level of long-term boating activity.

Sincerely,

Garrick Taylor

Easley, SC

**Emory Young**  
<eryoung3@gmail.com>

08/29/2011 07:00 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chatooga

To Whom It May Concern:

I would encourage that the upper Chatooga be open to paddlers for more than just a few days a year. Paddlers take great care of our wild and scenic rivers.

If you want to close it to commercial traffic then so be it. But I would ask that you allow private boaters full access.

Respectfully,

Emory Young  
Greer, SC



**Edward Stolis**  
<wwboat@aol.com>

08/29/2011 07:09 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject chattoga

let us paddle

**Garth Brown**  
<mgkayaker@gmail.com>

08/29/2011 07:25 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Supporting Kayaking on the Upper Chattooga

To Sumter National Forest:

This is my letter to support the ability for people to enjoy all parts of the Chattooga Wilderness area including that of boating in the headwaters above the Highway 28 bridge.

A few weeks ago, I wanted to take my wife up to see the headwaters of the Chattooga, which is an area that I really find to be beautiful and special. Unfortunately this trip was done from the car due to an injury not allowing us to get into the heart of the wilderness to really see it beauty. We saw a fair number of people out there; however, we also saw some of the dark side of the Chattooga. An information station for registering trout fisherman had tuned into an overflowing trash dump. A family of local fisherman were wandering up and down the bank walking all over natural grass and other plants with no regard to their damage.

In addition, we drove down to Sandy ford on Section III and expected to see about 3 other people. Instead, we found the entire gravel bar was packed full of about 30 cars and about 50 people drinking, partying right in the river, loud music and roaring campfires.

If one listens only to a lot of the groups out there, the only people who cause any problems on the river are the kayakers. However, the kayakers are only able to run the river in the spring and winter when the river is up from the weather being bad. At these times, there are not a large number of fisherman and other hikers out there to cause "conflict." Even if the fisherman observed a few kayakers go by, they only see them for a few minutes and have the river back to the self.

Kayakers are very concerned about the health of the river and do not want to do any environmental damage. In fact, we paddle down the water and do much less environmental damage than any other user group.

Its very discouraging to read the comment from groups banning the kayakers as they try to paint all kayakers as someone trying to drag coolers down the river. That would never happen on the headwaters. The headwaters are a difficult section of river to kayak and one that very few people will even achieve the skill to paddle. Also, this is a "creeky" and narrow section of the river, so people complaint of it being like the Ocoee filled with rafts is totally unfounded. Rather its a section that if boating was allowed above the Highway 28 bridge, it will still be a wilderness.

In addition, if there are going to be limits on visitors, it needs to be all visitors. The current analysis is totally unreasonable because they treat paddlers inequitably and irrationally.

With that, I believe alternative 8 is the best and alternative but needs to allow paddling on the entire upper Chattooga and its tributaries.

Thanks,  
Garth Brown

--  
\*\*\*\*\*

Garth Brown  
ACA Certified Whitewater Kayak Instructor  
M & G Outdoor Instruction, LLC.

mgkayaker@gmail.com

**"Nelson Highley"**  
**<nhighley@carolina.rr.com**  
**>**

08/29/2011 07:28 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Upper Chattooga

I wish to add my support to your allowing boating on the headwaters of the Chattooga River. There is really little conflict between boaters and anglers because the levels of the river adequate for boating are too high for good fishing. From some of the comments I've seen over this issue, there are a lot of anglers who need to do a lot of growing up and stop acting like selfish spoiled brats.

As our population increases, this kind of conflict is going to be more and more common. What you do about this specific issue will have influence on how future conflicts are handled. Wouldn't you prefer to have your handling of this issue be a model of how future conflicts are handled rather than a source of future bad decisions and all the aggravation and expense that that will involve?

I'm in my early seventies and have led an outdoor lifestyle most of my adult life. I've paddled, hunted, fished, backpacked, hiked, climbed and caved. In my opinion, the best resolution for this would be for all three groups; paddlers, anglers and the Forest Service to work together on this. I firmly believe that the Forest Service can be a really big help by taking leadership in creating co-operation.

Thanks for your consideration

Nelson Highley  
[nhighley@carolina.rr.com](mailto:nhighley@carolina.rr.com)

**John Mattox**  
<johnrichardmattox@gmail.com>

08/29/2011 08:08 PM

To comments-southern-francismarion-sumter@fs.fed.us  
cc  
bcc

Subject Management of the Upper Chattooga

Dear Sirs:

I'm writing in regard to the Management of the Upper Chattooga River.

I would very much like to have the opportunity to paddle this section of the Chattooga River.  
I would do so in a manner that I think would enhance the enjoyment it provides to fisherman.

I urge you to enact a management plan that balances the needs of all potential recreational users of this wonderful asset.

Thanks,

John Mattox  
Fayetteville, NC

**Steve Frazier**  
<stevefrazier17@yahoo.com>  
m>

08/30/2011 02:51 AM

Please respond to  
Steve Frazier <stevefrazier17@yahoo.com>

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>  
cc Don Kinser <dkinser@ediltd.com>, Steve Frazier  
<stevefrazier17@yahoo.com>

bcc

Subject Comment on Management of Headwaters of the  
Chattooga Wild and Scenic River

I am writing today to indicate my disappointment of the United States Forest Service's (USFS) support of Alternative 12. I support Alternative 8 for the following reasons:

Although the USFS has literally spent millions of taxpayers dollars trying many times over the last fifteen years, they have failed to justify the decision to continue an unlawful ban on paddling the Wild and Scenic Upper Chattooga River. Although they have been ordered by the court system twice to conduct an Environmental Assessment (EA), they have failed to do a lawful, meaningful one that properly reflects the potential environmental impact of allowing paddling and other uses. The reason for this is obvious. They realize that paddling is an extremely low impact recreational activity and any on point EA would reflect that. I would like to ask the Regional Forester to conduct an appropriate visitor use capacity analysis, including non-commercial boat use, and to adjust or amend, the previous EA to reflect the new analysis.

For the past 15 years, the USFS has engaged in nothing but unlawful decisions to protect the interests of the decision makers-namely fishing. It infuriates me that the people making these decisions are putting their own personal preferences for having the headwaters of the Chattooga Wild and Scenic River as their private, glorified trout pond instead of making these decisions in accordance with the desires of the general public and existing laws. I compare this behavior to "the fox guarding the hen house".

I want to see this case go to the court system where an impartial judge can weigh the merits of both sides of the matter so an impartial decision can be made. The USFS has wasted enough time and money and I want to see it stopped- NOW.

Sincerely,

Steve Frazier  
4465 Patrick Dr. NE  
Kennesaw, GA 30144-1642

**Ben Waller**  
<resq3man@yahoo.com>

08/30/2011 03:27 AM

Please respond to  
Ben Waller <resq3man@yahoo.com>

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Upper Chattooga comments

DO IT RIGHT! Stop the continuous delays, stop the "preferred alternative" delays, and most importantly stop the biased, arbitrary, and capricious Upper Chattooga regulations that ban a single user group from the Upper Chattooga.

No other Wild and Scenic River has this kind of discrimination against one user group.

It continues to astonish that the Forest Service would pander so blatantly to one user group while so obviously discriminating against another. Doing the wrong thing for a long time is still doing the wrong thing.

Open the Upper Chattooga to boating and do it without the sham studies and the artificial, biased, and deeply flawed studies that do not fairly and honestly evaluate the real relative impacts (almost none) that boaters would have on the Upper Chattooga. The most fair and obviously best way to do it has never been studied by the Forest Service, let alone offered in an alternative. That alternative is to open the Upper Chattooga to boating and to let it be self-regulating since the water levels required to boat make the water deep, turbid, and unsuitable for fishing. The simple permit system currently in use on Sections II, III, and IV is all that is required.

The federal government has kept the Upper Chattooga as a publically funded private playground for the fishermen while banning many of those who pay for it - whitewater boaters. It's long past time to stop it.

DO THE RIGHT THING - open the Upper Chattooga to boating, do it now, and do it fairly.

Ben Waller  
59 Wheat Field Circle  
Bluffton, South Carolina 29910

**tmskrbelieve@aol.com**

08/30/2011 05:28 AM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga Comments

Dear Sirs:

I ask that you allow whitewater canoeing and kayaking on the sections of the Chattooga river that are currently closed to boating. Boating on these sections would not impact the trout fishing or degrade the enviroment.

Please add me to your email list on this issue.

Thank you.

Tim Ray  
170 Hidden Valley Drive  
Montevallo, AL 35115



**Alex Harvey**  
<[ajharvey34@gmail.com](mailto:ajharvey34@gmail.com)>

08/30/2011 07:35 AM

To [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

cc

bcc

Subject Comments on Chattooga EA

Dear Sir or Madam,

Please see the attached PDF for my comments on the Chattooga EA.

Kindest regards,

--

Alex Harvey, Ph.D.

Viamune, Inc.  
220 Riverbend Road  
Athens, GA 30602

cell: 706-372-4261  
[ajharvey34@gmail.com](mailto:ajharvey34@gmail.com)

NOTICE: This e-mail message and all attachments transmitted with it may contain legally privileged and confidential information that the sender intends for the addressee solely to receive and use. If you are not the addressee, you cannot read, disseminate, distribute, copy, or otherwise use this message or its attachments. If you have received this message in error, please (1) notify the sender immediately by reply e-mail and (2) destroy all paper, electronic, and other forms of this message. Thank you.



Comments on the Upper Chattooga EA-082911.pdf

August 30, 2011

Comments on the Upper Chattooga EA  
c/o USDA Forest Service Supervisor's Office  
4931 Broad River Road  
Columbia, SC 29212  
[comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Dear Sir or Madam:

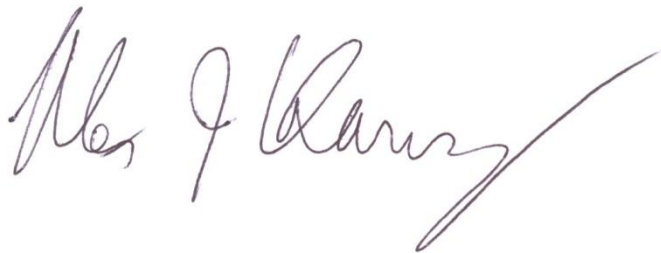
I am writing to support the right to paddle the upper Chattooga River in unmotorized, single or tandem craft regardless of the time of year, water level or the section of river. I would like the right to be able to paddle the entire section of the river, from Green Creek to the lake, in a single day as such an opportunity to paddle this length of continuous whitewater does not exist elsewhere in the Southeast. I, along with my fellow paddlers, understand the concerns of other users of the river, including environmental impact and solitude. We exercise our concerns on numerous other creeks and rivers in the Southeast and my personal experience of nearly 30 years of paddling is that I have never had a negative encounter with other uses of the river. I am a fisherman and, as such, diligently exercise restraint when I encounter other fisherman, regardless if I am fishing or kayaking.

When kayaking, my encounters with other fisherman on the river have been extremely rare. This includes great fishing streams like the lower Chattooga, Overflow, Moccasin Creek, West Prong of the Pigeon, Big Creek of the Smokies, Panther Creek and Upper Tallulah. The primary reason for the rarity of encounters is that the water flows that are optimal for boating do not overlap with those that are optimal for fishing. The rare encounters that I have had over the years have all been very positive and never negative.

The effort to regulate boating by season and section is not needed and is an unnecessary regulatory burden for the Forest Service personnel. We believe in the important work that Forest Service personnel perform as stewards of the Chattooga Wilderness. We understand that the Forest Service personnel are faced with many daunting challenges and have to deal so with dwindling financial and staffing resources. Let us not increase the regulatory and enforcement burden by adding unnecessary regulations.

I strongly emphasize that the right decision is Alternative 8.

Sincerely,

A handwritten signature in dark ink, appearing to read "Alex J. Harvey", with a long, sweeping flourish extending to the right.

Alex J. Harvey  
160 Fox Trace  
Athens, GA, 30606

**Blake McCurdy**  
<blakemccurdy@gmail.com>

08/30/2011 07:53 AM

To comments-southern-francismarion-sumter@fs.fed.us  
cc  
bcc

Subject Whitewater Kayaking and the upper Chattooga

Public resources are meant to be shared. There are times when it's appropriate to exclude one user group for the benefit of other user groups. The current ban on paddling the upper Chattooga is not one of those situations. The exclusion of user groups should only take place when a user group is engaged in an activity that has a serious environmental impact or somehow prohibits another user group from using the resource. Whitewater kayakers do neither of these things. They make little noise and have very little environmental impact. Kayaking is literally the least intrusive way to enjoy the Chattooga river. Boaters stay in the river bed 99% of the time, disturbing virtually nothing.

Angler's frame the argument implying that seeing a single paddler would ruin their experience. I can relate to an angler's desire to see no one else on the river but that's not a realistic expectation in a public resource. As long as kayaking is not physically interfering with the anglers there isn't any justification for dividing the resource.

Also, if this section were opened to boating it would allow some of the longest multi-day trips in the southeast. It would be a wonderful resource that provides an experience that just can't be found anywhere else in the region. Please reconsider your position. The forest service is currently prohibiting an entire group of taxpayers from using a public resource in their preferred method for no good reason.

Blake McCurdy

**Allen Hedden**  
<canoeist@mindspring.com>

08/30/2011 07:55 AM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Comments on Environmental Assessment

I am writing as a user of the Chattooga Wild & Scenic River area, as a hiker and a paddler. I see that none of the alternatives in your assessment give equal treatment and consideration to all user groups, and additionally, that all the alternatives actually discriminate unfairly and unnecessarily against paddlers. While paddlers cause the least impact on the environment of any user group, they would have the most restrictions imposed upon them of any user group. Your assessment fails to justify this treatment in any way. This injustice has been carried out for many years, and it appears that the FS is doing everything in its power to see that it continues to be carried out for many years to come. I am currently a couple of weeks away from my 69th birthday, and it now appears unlikely that I will live long enough to paddle the Chattooga Headwaters legally. I am in the process of composing letters to my representatives in Washington concerning this matter -- just thought you'd like to know.....

Allen Hedden  
2923 Piedmont Drive  
Marietta, GA 30066

**Brian Carver**  
<bcarver@mindspring.com>  
m>

08/30/2011 08:48 AM

Please respond to  
Brian Carver <bcarver@mindspring.com>

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Upper Chattooga

As an Oconee County Resident I am directly impacted by the Forrest Service decision on the Upper Chattooga. I enjoy outdoor activities such as kayaking, hiking and camping. The Chattooga is my community. I urge the Forestry Service to open the Upper Chattooga to boating.

I personally think this catering to the fishing groups is setting bad precedent for all users of the forest. I am also very offended by the direct attacks by fishing groups stating that kayakers would damage the delicate environment. The truth is known the level of kayakers who would or could kayak the Upper Chattooga also care about the pristine environment as strongly as the same fishing groups. Please end these selfish attitudes and allow fair sharing for responsible users of the forest and river.

Please settle the matter and not allow this bickering to continue. The Forest Service has wasted untold hours and money on a non-issue. I would prefer the Forest Service get back to the forest for the safety of users, the protection of the environment and the education of the public. When I hike the shores of the Chattooga and I constantly see litter and trashed campsites, I wonder if the Forest Service has lost their focus.

Brian Carver  
West Union, SC

**Wes Yow**  
<wesyow@gmail.com>

08/30/2011 09:01 AM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Upper Chattooga Plan

As a kayaker, I truly enjoy the pristine qualities of the Chattooga area. I drive about 1 hour & 45 minutes to get to the river & enjoy every trip, regardless of the water levels or weather. It's a truly great place & I'd like to be able to explore & potentially boat on all of the Chattooga (including the Upper Chattooga).

I do not support any sort of ban or limitations on private party boating on any part of the Chattooga. I'd like to see the entire Chattooga river opened up to canoeing & kayaking without restrictive boating level or date / seasonal requirements. There won't be huge problems with other users not floating the river, there won't be huge trail erosion or trash problems caused by boaters. All of the concerned parties can use the area and get along without issues. Please manage the Chattooga area such that it is equally open to all user groups & doesn't single out a specific boating user group with unfair restrictions.

thanks for your consideration,

Wes Yow  
205 Bentwater Trl  
Simpsonville, SC 29680

**Chuck Spornick**  
<[libcds@gmail.com](mailto:libcds@gmail.com)>

08/30/2011 09:13 AM

To [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

cc

bcc

Subject Comments on the Upper Chattooga EA

Comments on the Upper Chattooga EA  
% USDA Forest Service Supervisor's Office  
4931 Broad River Road  
Columbia, SC 29212-3530  
email: [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

To whom it may concern:

Thank you for the opportunity to comment on the Environmental Assessment: Managing Recreation Use in the the Upper Segment of the Chattooga Wild and Scenic River Corridor. Specifically, I would like to comment on the forest supervisor's decision to select Alternative 12 as the preferred alternative.

The Wilderness Act is explicit in regarding non-motorized boating as compliant use; I do not understand how an effective ban on paddling on the upper Chattooga is either legal or justified. Paddlers should be allowed on all Wilderness and Wild and Scenic Rivers. I understand the need to effectively manage special resources such as the Chattooga Wild and Scenic River and the Ellicott Wilderness, but it needs to be done in a way that is fair and justified.

I would suggest that the forest supervisor consider Alternative 8, with the proviso that paddling be allowed on the entire Chattooga and its tributaries.

Sincerely,

Charles D. Spornick  
390 St. Marks Drive  
Lilburn, GA 30047  
email: [libcds@gmail.com](mailto:libcds@gmail.com)

**trey coleman**  
<treycoleman@yahoo.com>

08/30/2011 09:16 AM

To comments-southern-francismarion-sumter@fs.fed.us  
cc  
bcc

Subject upper chattooga

I am writing in support of lifting the ban of private boaters on the reaches of the upper chattooga. I have been both fly fishing and kayaking/canoeing since the age of 12 and fail to see the logic in preferring one over the other.

furthermore, i regularly kayak and fly fish the hiwassee river in reliance, tennessee and this waterway allows for boating and fishing and it is a wonderful relationship and place to visit. there are no issues among fishermen and boaters and most fishermen aren't fishing once the water is high enough to float a kayak or canoe (or tubes, which are common on the hiwassee).

lastly, the whitewater users need a higher flow of water to get down the upper chattooga. these higher flows would not be of use to any knowledgeable or experienced fishermen as the fish hold down and become that much more finicky until the levels drop. i have fished extensively in both state/national forest and in the Great Smoky Mountain National Park and can demonstrate to anyone this fact. so i really don't understand the positions taken by TU and NFS. there is no sensible reason to discriminate against one set of users other than politics. there can be compromise in this situation where both parties benefit and can use the water without conflict.

these are public lands and should be open to all taxpayers who are willing to use them responsibly.

i am both a current member of Trout Unlimited (TU) and active in my local chapter, and, i am a lifetime member of American Whitewater (AW).

Trey Coleman  
Knoxville, Tennessee





**"Richardson, Susan"**  
<SRichardson@kilpatricktownsend.com>

08/30/2011 11:26 AM

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Georgia ForestWatch and Wilderness Watch Comments to  
Upper Chattooga Environmental Assessment

Attached please find comments filed on behalf of our clients Georgia ForestWatch and Wilderness Watch. A hard copy is also being submitted by certified mail today. Please let me know if I can provide any additional information.



**Susan Richardson**

**Kilpatrick Townsend & Stockton LLP**

Suite 2800 | 1100 Peachtree Street | Atlanta, GA 30309-4528

office 404 815 6330 | cell 678 984 4894 | fax 404 541 3366

[srichardson@kilpatricktownsend.com](mailto:srichardson@kilpatricktownsend.com) | [My Profile](#) | [VCard](#)

---

**Confidentiality Notice:**

This communication constitutes an electronic communication within the meaning of the Electronic Communications Privacy Act, 18 U.S.C. Section 2510, and its disclosure is strictly limited to the recipient intended by the sender of this message. This transmission, and any attachments, may contain confidential attorney-client privileged information and attorney work product. If you are not the intended recipient, any disclosure, copying, distribution or use of any of the information contained in or attached to this transmission is STRICTLY PROHIBITED. Please contact us immediately by return e-mail or at 404 815 6500, and destroy the original transmission and its attachments without reading or saving in any manner.

---

\*\*\*DISCLAIMER\*\*\* Per Treasury Department Circular 230: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.



Georgia ForestWatch letter.pdf

Suite 2800 1100 Peachtree St.  
Atlanta GA 30309-4528  
t 404 815 6500 f 404 815 6555

direct dial 404 815 6330  
direct fax 404 541 3366  
srichardson@kilpatricktownsend.com

August 30, 2011

**VIA E-MAIL & CERTIFIED MAIL**

**comments-southern-francismarion-sumter@fs.fed.us**

Comments on the Upper Chattooga Environmental Assessment  
c/o USDA Forest Service Supervisor's Office  
4391 Broad River Road  
Columbia, South Carolina 29212-3530

Dear Supervisors Bradley, Bain and Hilliard:

This letter is filed on behalf of our clients, Georgia ForestWatch and Wilderness Watch, in response to the request by the United States Department of Agriculture, Forest Service (Forest Service) for comments on the Environmental Assessment for Managing Recreational Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor, released July 15, 2011 (EA).

Georgia ForestWatch is a not-for-profit forest conservation group dedicated to promoting naturally self-sustaining forests and watersheds primarily on the Chattahoochee-Oconee National Forests and to preserve their legacy for future generations. The organization's members often visit the Chattooga Wild and Scenic River (River) corridor, not only in Georgia but also in the Sumter and Nantahala National Forests in adjoining North and South Carolina, for recreation, nature study and spiritual renewal. The organization's volunteers in Rabun County have organized and led public hikes along portions of the River where the Forest Service proposes to permit boating. Members have helped maintain and re-route Forest Service hiking trails in this region under Forest Service supervision.

Wilderness Watch, a national not-for-profit conservation organization based in Missoula, Montana, is America's leading conservation organization dedicated solely to protecting the lands and waters in the 110 million-acre National Wilderness Preservation System. The organization strives for preservation and proper stewardship of these remarkable Wilderness reserves through citizen oversight, education, and continual monitoring of federal management activities.

Georgia ForestWatch has been represented at every public meeting held in connection with the Chattooga visitor study. Georgia ForestWatch has commented at every opportunity during the multi-year study and environmental review process leading to this latest Environmental Assessment and its predecessor EA issued in 2008. As a longstanding participant in the decision-making process for the Upper Chattooga, Georgia ForestWatch appreciates the difficulty of successfully managing and protecting a resource that, like so many in the Southeast, is at risk of being “loved to death.” The Forest Service’s final management plans for the Sumter, Chattahoochee and Nantahala National Forests will determine the future of one of the most biologically diverse and spectacular pieces of public lands in the country. Wilderness Watch has commented on previous U.S. Forest Service boating proposals.

### **Summary of Georgia ForestWatch and Wilderness Watch Position**

Georgia ForestWatch and Wilderness Watch agree with the Forest Service that action is needed to continue to support and protect the outstandingly remarkable values (ORVs) of the Upper Chattooga, its natural resources and special solitude, in particular. Restrictions on access to the Chattooga Cliffs backcountry areas, the Ellicott Rock Wilderness and adjacent Rock Gorge backcountry areas, and the special trout fishery areas above Route 28 – indeed, the entire 21 miles of the Upper Chattooga Headwaters -- are necessary to protect the resource. The Forest Service is required by law to manage the resource first and foremost to protect and improve its quality and biological diversity. Furthermore, all recreation uses on all segments of the River should be managed to levels at which the Forest Service can sustain these most important elements.

Georgia ForestWatch and Wilderness Watch do not agree with the findings and conclusions of the Environmental Assessment. We do not agree, as concluded by the Environmental Assessment, that the new management direction would “preserve the natural conditions, wilderness character, ‘outstanding opportunities for solitude’ and a ‘primitive and unconfined type of recreation’” as required under the Wilderness Act.<sup>1</sup> Rather, if implemented, the Environmental Assessment will greatly diminish all of these characteristics of the three affected National Forests. The selected Alternative 12 would for the first time since 1976 formally open these headwaters to boating and improperly intensify use of the Upper Chattooga Corridor. We thus request that the Forest Service maintain that portion of current zoning of the Chattooga River that prohibits all boating in the Headwaters above Highway 28, as well as continuing to prohibit all boating from tributaries on the Upper Chattooga.

Although Georgia ForestWatch and Wilderness Watch remain opposed to boating in the Headwaters above Highway 28, the Environmental Assessment does promote certain appropriate and needed forest management practices, which we commend. We do support management practices that would limit group sizes for hikers and

---

<sup>1</sup> EA at p. 1.

anglers, reduce environmentally damaging, user-created campsites along the River, limit access to designated trails only, close and/or re-route trails that threaten water quality and/or rare, sensitive plant life, or that create conflict and unneeded encounters. We especially support the aim of the EA to restore and preserve the sense of solitude that the Forest Service rightfully agrees is the key and outstandingly remarkable value of this river. We also agree with the goal of the EA to coordinate and combine monitoring and enforcement efforts to prevent the unnecessary and unauthorized removal of Large Woody Debris from the River, which is so crucial to the aquatic food chain. Finally, Georgia ForestWatch and Wilderness Watch applaud the Environmental Assessment's proposals that would require the three involved National Forests to work together to assess and address existing resource concerns. This has been and continues to be a critical need for effective management of all uses of the National Forests. It is essential for the three Forests to have closer and more efficient relationships, including more uniform regulation and enforcement. As such, we support the Agency's proposals to "provide consistent management on issues such as encounters, campsites, trails, Large Woody Debris, group sizes, parking and user registration."<sup>2</sup>

Further, with regard to Alternative 12, although all boating must continue to be prohibited and any Alternative that would allow such boating is unacceptable, Georgia ForestWatch and Wilderness Watch would like to point out certain specific problems with regard to Alternative 12 beyond the general comments provided herein. This includes inadequate protection of natural resources, unacceptable visitor access controls and improper expansion of roads and new access trails.

### **Incorporation of Other Documents**

Georgia ForestWatch incorporates by reference into these comments the following:<sup>3</sup>

- 1) All comments on this matter submitted by Friends of the Upper Chattooga when Georgia ForestWatch was still a member of that group;
- 2) Comments of Georgia ForestWatch on this matter submitted to the Forest Service on September 11, 2007 and October 1, 2007 and August 18, 2008 and October 16, 2009 and October 20, 2009 and November 5, 2009 and November 6, 2009 and November 19, 2009 and January 24, 2011;
- 3) Any and all other comments on this matter, written and verbal, submitted at any time by Georgia ForestWatch on the issues of boating on the Chattooga River and management of the Wild and Scenic Corridor.
- 4) Comment letter filed by Wilderness Watch on August 18, 2008.

---

<sup>2</sup> EA at p. 2.

<sup>3</sup> Georgia ForestWatch and Wilderness Watch understand from the Environmental Assessment that all previous comments will be considered in evaluating the final Environmental Assessment and preferred Alternative.

## **Discussion of the EA and Decision-Making Process**

### **Table of Contents**

I.	SUSTAINABILITY AND CAPACITY .....	5
A.	Existing Boating Recreation is Exceeding Capacity and Should not be Expanded.....	5
B.	All Users May Be Asked to Limit Use in Order to Protect Outstanding Resource Values.....	6
C.	Management Choices Must be Realistic in the Context of Implementation and Enforcement Capabilities .....	7
D.	Management Should be Informed by Quality Monitoring .....	8
II.	COMPLIANCE WITH THE WILD AND SCENIC RIVERS ACT & THE WILDERNESS ACT .....	9
III.	NATIONAL ENVIRONMENTAL POLICY ACT .....	12
A.	An Environmental Impact Statement Should Have Been Prepared .....	12
B.	The Scope of the EA is too Narrow.....	12
C.	Segmentation of Impacts and Projects is Illegal and Misleading ....	13
D.	Costs Associated with Alternatives Were Not Adequately Considered .....	14
IV.	SPECIFIC COMMENTS TO ENVIRONMENTAL ASSESSMENT AND BOATING ALTERNATIVES.....	15
A.	Natural Resources are not Adequately Protected under the Boating Alternatives.....	15
B.	Visitor Controls are not Adequate under the Environmental Assessment or Any Boating Alternative.....	18
C.	Adaptive Management and Financial Resources.....	23

## I. SUSTAINABILITY AND CAPACITY

The EA and the process from which it emerged are inadequate as a matter of both law and fact because, although it mentions recreation use on the Lower Chattooga, it continues to consider the effects of, and need for, recreation on the Upper Chattooga in isolation from the rest of the Wild and Scenic River (WSR) Corridor and region. The Forest Service Manual directs that the following be considered in developing prescriptions to manage recreational use of Wild and Scenic Rivers: (1) the capability of the physical environment to accommodate and sustain visitor use, (2) the desires of present and potential recreational users, including their characteristics, and (3) budgetary, personnel, and technical considerations.<sup>4</sup> The EA and preferred alternative do not adequately address these issues.

Forest Service management direction is to “[e]stablish use limits and other management procedures that best aid in achieving the prescribed objectives for a river and in providing sustained benefits to the public.”<sup>5</sup> The Forest Service Manual instructs the agency to “[e]stablish appropriate levels of recreation use and developments to protect the values for which the river was designated.”<sup>6</sup> The Forest Service should protect visitor experience by developing prescriptions that “manage the character and intensity of recreational use on the river.”<sup>7</sup> Accordingly, the Forest Service may not allow one use of the River to be so excessive that it harms the qualities for which the Chattooga was designated a Wild and Scenic River.

The Forest Service Manual directs that river recreation management be planned and implemented in the context that “considers the resource attributes, use patterns, and management practices of nearby rivers.”<sup>8</sup> This has been done on the Chattooga by limiting the access of certain groups—boaters, horseback riders, mountain bikes, motorcycles, and all terrain vehicle (ATV) users—in parts of the River Corridor.

### A. Existing Boating Recreation is Exceeding Capacity and Should not be Expanded

There is no shortage of boating opportunities on the River or in the region. Boater-oriented and dominated management prevails on the lower 36 miles of the Chattooga Wild and Scenic River Corridor as well as on the nearby tributaries (Overflow and Holcomb Creeks) favored by “creek boaters.” In 1987, 62,200 recreation visitor days dedicated to canoeing or kayaking in the Sumter National Forest were logged.<sup>9</sup> Currently, the Forest Service estimates that between 40,000 and 70,000 boaters per

---

<sup>4</sup> Forest Service Manual (FSM) 2354.41.

<sup>5</sup> FSM 2354.03.7.

<sup>6</sup> FSM 2354.32.6.

<sup>7</sup> FSM 2354.41.

<sup>8</sup> FSM 2354.03; *see also id.*, 2354.32.1 (“to the extent possible, the management objectives should reflect the river’s recreational relationship to nearby rivers.”).

<sup>9</sup> Sumter National Forest, *Recreation Supply and Demand: The Sumter National Forest’s Place in Outdoor Recreation in South Carolina*, p. 15.



year “run sections of the Lower Chattooga.”<sup>10</sup> The Forest Service previously has identified canoeing, rafting and kayaking use on the Chattooga River as an example of where facilities and resources are reaching capacity limits. Consideration should have been given to *limiting* uses that are taxing resources, not expanding those uses to other segments of the corridor.

Wild and Scenic Rivers must be managed for their specific attributes and forest management goals. The decision of how to manage any particular segment must be made in context of how the whole corridor is treated. Zoning is specifically endorsed in the Forest Service Directives<sup>11</sup> in recognition of the differing needs of user groups. The current zoning has protected wilderness and wildness uses on the Upper Chattooga for more than 35 years. Allowing boating on the Upper Chattooga will diminish the experience of those who already have been squeezed out of the Lower Chattooga due to overuse by boaters, and will spread the impacts of excessive boating access to another part of the River Corridor. Although the Environmental Assessment attempts to incorporate the concept of zoning into selection of the preferred alternative by limiting uses by space and by time, such zoning cannot be supported when, as discussed in greater detail, below, it does not consider the River as a whole. Georgia ForestWatch and Wilderness Watch contend that the current zoning, which allows boating on the lower Chattooga but not on the Upper Chattooga, is the appropriate zoning to address all users’ needs and concerns.

#### **B. All Users May Be Asked to Limit Use in Order to Protect Outstanding Resource Values**

Wild and Scenic Rivers and wilderness areas are not recreational free-for-all zones. The need to protect the resource is adequate justification for the current zoning of recreational uses that the Forest Service has maintained over the years and for any of the other restrictions on user access proposed in the EA. The obligation of the Forest Service to protect the Wild and Scenic River and wilderness areas is so great that none of the alternatives to expand user access, including Alternative 12, has been justified adequately by the EA. Before any new recreational use may be made of one of these areas, management for the values for which they received these designations must be accomplished.<sup>12</sup> Trailheads, trails, campsites, boating, and any other recreational use of the Forests may be limited to protect ORVs. Carrying capacity of a Wild and Scenic River is determined not only by the number of users, but also by the mixture of recreational and other public use that can be permitted without adverse impact on the resource values of the river area.<sup>13</sup> Further, review of the biophysical aspects of the Upper Chattooga clearly indicates that steps must be taken to rectify the degradation that has been allowed to occur in the entirety of the Wild and Scenic River corridor. All of this should be addressed before new uses are allowed.

---

<sup>10</sup> EA at p. 58.

<sup>11</sup> FSM 2354.41a.

<sup>12</sup> See, e.g., 47 Fed. Reg. 39458-39459 (Sept. 7, 1982).

<sup>13</sup> 47 Fed. Reg. 39454, 39459 (Sept. 7, 1982).

The Forest Service should not permit any additional boating in the Chattooga River Corridor. The existing segmentation (zoning) of user groups should be maintained in order to protect the ORVs for all user groups, some of which are incompatible with boating. Existing boating opportunities are sufficient both regionally and on the Chattooga. On the Chattooga alone, boating dominates more than 60 percent of the corridor. On the other hand, opportunities for other recreational experiences (fishing, hiking, nature photography, swimming, hunting, solitude, bird-watching, botanizing and picnicking) on and along a whitewater river or stream of any significant size are limited. The boating prohibition has served the resource and its ORVs well for more than 35 years, during which time the Chattooga has become well known for backcountry fishing and interest in hiking into the Chattooga Cliffs, Ellicott Rock Wilderness and Rock Gorge backcountry has grown considerably. A unique fishing and wilderness experience would be lost if more intensive uses were expanded to the quieter portions of the River.

The Forest Service must consider the legitimate needs of all users (and nonusers who value the existence of wilderness areas) in the Forest Service's final decision--not just those of the most visible user groups (anglers and boaters). In considering the fairness of limiting one or another groups' access, the Forest Service should consider how the needs of different user groups are met throughout the River Corridor, and not just on the Upper Chattooga. Boating on the Lower Chattooga may need to be significantly restricted, particularly if other users are driven off the Upper Chattooga and its tributaries.

### **C. Management Choices Must be Realistic in the Context of Implementation and Enforcement Capabilities**

The Chattooga Corridor is suffering from over-use. A hodge-podge of dispersed campsites, user-created trails, litter, and concentrated boating and fishing exist too close to (or in) the River. The Chattooga River Trail leading from Burrell's Ford Bridge to Ellicott Rock and the spur trail along the East Fork of the Chattooga, which are among the most popular destinations for day-hikers and campers, are showing signs of deterioration. Other areas with significant deterioration, which will only get worse without restrictions on all users, include the many user-created and very beat-down campsites along the North Fork; the large dispersed campsite just above Ellicott Rock where the Bad Creek access trail from Bull Pen Road meets the Chattooga River Trail; the heavily used campsite at the confluence of the Chattooga River Trail and Norton Mill Creek, and the tromped-down series of dispersed campsites leading from Lick Log Falls to the Thrift Lake parking area (an area where the Forest Service proposes to intensify use by making this area the putout area for boaters). All this is evidence of continued insufficient or ineffective management and enforcement.

Forest Service Directives require that management plans for Wild and Scenic Rivers "[i]nclude specific and detailed management direction necessary to meet the



management directives.”<sup>14</sup> The EA is deficient in describing how implementation and enforcement will be accomplished and, most importantly, financed. While the EA proposes consistent management for the three affected national forests (Sumter, Nantahala and Chattahoochee), and Georgia ForestWatch and Wilderness Watch salute this goal, we believe this coordination effort will be slow given that the Forests are not accustomed to working closely together and that resources are shrinking even as management responsibilities of employees on their own Forests are growing. Before any uses of the River Corridor are changed, the Forests should first attempt to work together to address present shortcomings in Forest Management.

Management plans for which there are inadequate means for enforcement are not permitted under the Forest Service’s own rules, and selection of an alternative for which there are inadequate implementation resources and financial support would be arbitrary and capricious. Forest Service directives require that regulations for river management be enforceable.<sup>15</sup> Any efforts to distribute visitor use must be supported by adequate administrative capabilities of the managing units.<sup>16</sup>

#### **D. Management Should be Informed by Quality Monitoring**

Effective adaptive management depends on robust monitoring, and the EA places great faith in the ability of monitoring to prevent harm to the fragile Upper Chattooga environment.<sup>17</sup> The Forest Service must establish and commit to a well defined and detailed monitoring plan that is reviewed and updated annually and that is linked to management. Any alternative that adds boating to new segments of the Chattooga will increase the need for law enforcement and increase the area over which it will have to operate. The EA does not describe by what mechanism or authority changes will be made to the management of each of the three Forests. The expected sources of funding, as mentioned above, to support management changes should be identified and discussed.

---

<sup>14</sup> FSM 2354.32.3.

<sup>15</sup> FSM 2354.03.3.

<sup>16</sup> FSM 2354.41a.

<sup>17</sup> See, e.g., EA, page 218. “All the boating alternatives are not likely to cause any viability concerns on the NNF, CONF or the SNF with implementation of the monitoring plan to determine the presence of the rarest liverworts for the first two years and potentially thereafter. If unacceptable recreational impacts are detected, corrective actions would be implemented.”

## II. COMPLIANCE WITH THE WILD AND SCENIC RIVERS ACT AND THE WILDERNESS ACT

Section 10(a) of the Wild and Scenic Rivers Act (WSRA) imposes a “nondegradation and enhancement policy for all designated river areas, regardless of classification.”<sup>18</sup> The portion of the Chattooga that the preferred alternative proposes to open to boating is subject to the provisions of both the Wilderness Act and the Wild and Scenic Rivers Act with respect to both the River and to its immediate environment. In case of conflict between the provisions of these Acts the more restrictive provisions shall apply.<sup>19</sup> In a wilderness, the overarching concept is to preserve natural conditions and wilderness character.<sup>20</sup> The Forest Service’s Handbook directs its managers to “[m]anage wilderness toward attaining the highest level of purity in wilderness within legal constraints.” “The goal of wilderness management is to identify these influences, define their causes, remedy them, and close the gap (“A”) between the attainable level of purity and the level that exists on each wilderness (“X”).”<sup>21</sup> Boating cannot be justified within the constraints of these directives.

Further, the WSRA requires the Forest Service to administer the Chattooga in a manner that places primary emphasis on conservation features over recreational demands.<sup>22</sup> The EA documents that boating will create new wildlife disturbances, impact fisheries and riparian vegetation, create new and undefined amount of trails and pollute the Chattooga River with increased sedimentation. As a result, the EA improperly places recreation over conservation values.

The Forest Service is unable to manage existing use of the River Corridor and Wilderness area without degradation. Pursuant to the Wild and Scenic Rivers Act, the comprehensive management plan is required to include actual measures of user capacities, such as limits on the number of visitors.<sup>23</sup> Canoeing, rafting and kayaking use on the Chattooga River has already been identified as an example of where the “facilities and resources are being stretched to capacity.”<sup>24</sup> Litter, sediment, and lack of solitude plague all parts of the River Corridor.

If anything, the management of the Lower Chattooga should be modified to look more like that of the Upper Chattooga—not the other way around. Before even suggesting additional boating, degradation of outstanding resource values caused by boating on the Lower Chattooga should have been examined closely in the EA. The ban on boating should only be lifted if the Forest Service is able to demonstrate that

---

<sup>18</sup> See U.S. Forest Service, *Wild & Scenic River Management Responsibilities* (A Technical Report of the Interagency Wild and Scenic Rivers Coordinating Council), p. 22 (March 2002).

<sup>19</sup> 16 U.S.C. § 1281(b); FSM 2354.42e.

<sup>20</sup> FSM, Chapter 2320.6.

<sup>21</sup> *Id.*

<sup>22</sup> 16 U.S.C. § 1281(a).

<sup>23</sup> *Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 796 (9th Cir. 2003).

<sup>24</sup> Sumter National Forest, *Recreation Supply and Demand: The Sumter National Forest’s Place in Outdoor Recreation in South Carolina*, p. 15.

boating would “protect and enhance the values” for which the River was designated.<sup>25</sup> If existing resource stress cannot be alleviated, boating might need to be restricted in sections of the River and its tributaries where it is presently allowed. It is not enough to show only that a use will not “substantially interfere” with the public’s enjoyment of river values.<sup>26</sup> No uses (boating, fishing, or anything else) are “grandfathered” just because they existed at the time of designation unless it is stated explicitly in the river-specific legislation.<sup>27</sup>

Solitude is not adequately protected in any of the alternatives given projected increases in recreational use and the absence of persuasive and adequately financed enforcement measures. The need to “get away from it all,” particularly with the growth of urban development, is increasing. Quiet and solitude are extraordinarily fragile and increasingly valuable. Recreational activities should not be permitted to overwhelm solitude. It is possible to protect solitude in the portion of the River Corridor transecting the Ellicott Rock Wilderness and its protection is required by the Wilderness Act. Opening the Headwaters to boaters erodes the compromise that has worked for more than 35 years to the satisfaction of all but a small, elite group of boaters bent on pushing an extreme sport into one of the last truly wild places in Southern Appalachia. Nearly 70,000 people float the Lower Chattooga each year under current zoning; protecting solitude does not compromise the opportunity to paddle in the Southeast.

The Forest Service placed too much import on the desire of boaters to access the River, undermining the statutory directive to first protect ORVs. Kayaking is not an ORV: the 1971 WSR Report described boating in the Headwaters as arduous and with frequent portages. Studies were conducted in a small rubber raft because the participants did not feel that the kayaks or canoes of the day were appropriate.<sup>28</sup> The WSR Report concluded that only some sections of the River were ideal for floating.<sup>29</sup> Upon designation, the Forest Service stated of the Chattooga Cliffs and Ellicott Rock areas that “[b]oth of these sections are in a near natural condition. They include some beautiful but hazardous whitewater that should not be floated.”<sup>30</sup> It is not understandable why these very sections of the headwaters should now be opened to unlimited numbers of boaters, and at all flow levels, between December 1 to March 1 as proposed under Alternative 12.

Because some segments of the River are classified as “recreational,” it should be noted that “[a] river’s classification does not represent the values for which it was

---

<sup>25</sup> See *Oregon Natural Desert Ass’n v. Green*, 953 F.Supp. 1133, 1143 (D. Or. 1997) (quoting the Wild and Scenic Rivers Act, 16 U.S.C. § 1281(a)).

<sup>26</sup> *Id.* at 1144-1145.

<sup>27</sup> *Oregon Natural Desert Ass’n v. Singleton*, 47 F. Supp. 2d 1182, 1191 (D. Or. 1998).

<sup>28</sup> Doug Whittaker and Bo Shelby, *Capacity & Conflict on the Upper Chattooga River*, p. 22 (June 2007) (“Capacity & Conflict”).

<sup>29</sup> WSR Report, p. 22.

<sup>30</sup> 41 Fed. Reg. 11847, 11847 (Mar. 22, 1976).

added to the National System.” For example, a “recreational” river segment does denote a level of in-corridor and water resources development and does not necessarily mean that the recreation resource has been determined to be an ORV. Similarly, a recreational classification does not imply that the river will be managed for recreational activities.”<sup>31</sup> Even the original WSR Report directed that “[r]ecreation use will be regulated on the basis of carrying capacity of the land and water rather than on demand.”<sup>32</sup> It recognized that the major management challenge for the Chattooga would be to maintain the river in the condition that made it worthy of inclusion in the National Wild and Scenic Rivers System while providing for “a safe and satisfying recreation experience.”<sup>33</sup> The Chattooga was never intended to be laid open for any recreational use sans motor that one might contemplate.

Georgia ForestWatch and Wilderness Watch also bring the Forest Service’s attention to another requirement of the Wild and Scenic Rivers Act that “each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system, without, insofar as is consistent therewith, limiting other that do not substantially interfere with public use and enjoyment of these values. In such administration, primary emphasis shall be given to protecting its *esthetic*, scenic, historic, archeologic [sic] and scientific features.”<sup>34</sup> Nowhere in this clear and concise administration section is there any mention of a primary recreational emphasis.

Georgia ForestWatch and Wilderness Watch further contend that the U.S. Forest Service, with its proposal to open some 16.5 miles of the Upper Chattooga to unlimited boating three months of the year, fails to uphold its clear Congressional mandate to protect and enhance the “esthetic features” of the Wild and Scenic Chattooga River.

Esthetic features connote the outward form or appearance of something without any modification having been made; a prominent characteristic of something; a distinguishing mark, part, or quality; anything given special prominence. In the context of the Upper Chattooga, esthetic features, at a minimum, include the human sensations of wellbeing and peacefulness and harmony that derive from having freedom of access to observe and sense the river’s unique and undisturbed scenic beauty and solitude inherent in its natural state---a state that should be maintained largely free from human social interaction and manipulation. What that means, in fact, is that the Forest Service should be doing its darnedest to *not* duplicate on the Upper Chattooga what is already occurring on the lower 36 miles of this river, a section dominated by boating, where boaters have displaced most other visitors.

---

<sup>31</sup> U.S. Forest Service, Wild & Scenic River Management Responsibilities (A Technical Report of the Interagency Wild and Scenic Rivers Coordinating Council), p. 5 (March 2002).

<sup>32</sup> WSR Report, p. 86.

<sup>33</sup> WSR Report, p. 86.

<sup>34</sup> 16 U.S.C. § 1281(a) (emphasis added),

For more than 35 years, the Forest Service has held a firm understanding of the need to protect the special “esthetic” on the upper Chattooga from degradation by utilizing spatial zoning of recreational activities and a prohibition on boating above the Russell Bridge at Highway 28. This, we believe, should continue especially since it is required by this section of the WSRA.

### **III. NATIONAL ENVIRONMENTAL POLICY ACT**

#### **A. An Environmental Impact Statement Should Have Been Prepared**

The Forest Service should have prepared a thorough and detailed Environmental Impact Statement for the proposed change in management. Increasing boating anywhere within the Wild and Scenic River Corridor represents a major federal action capable of significantly impacting the quality of the human environment. Increasing boating in the context of the Hemlock die-off and declining Chattooga water quality would likely not be justified if a complete analysis had been done.

#### **B. The Scope of the EA is too Narrow**

The 2005 Appeal Decision ordered a review of the entire “Chattooga River Management Area (Management Area 2 in the Sumter National Forest (LRMP)”. The Decision added that the Regional Forester consider “nearby rivers”. Therefore the narrow scope of assessment on only the mainstem of the Chattooga above Highway 28 does not meet the requirement of the Regional Forester under the Decision Order. As a result, the EA does not adequately address the impact of the various alternatives on the entire Wild and Scenic River corridor, Ellicott Rock Wilderness, the Sumter, Nantahala, and Chattahoochee National Forests, and the regional recreation experience. The narrow scope and segmentation of the project, as described below, present a misleading view of recreation opportunities in the region. The regional reality is that boaters have near universal access to rivers and creeks in the Southeast and nationwide. There are few places other than the Chattooga where anglers, hikers, birders, hunters, swimmers, nature photographers, botanists and solitude-lovers can enjoy a boater-free experience.

NEPA requires the Forest Service not only to evaluate obvious, short-term impacts, but also the longer-term impacts that “when added to other past, present and reasonably foreseeable future actions regardless of what Forest Service (federal or non-federal) or person undertakes such other actions.”<sup>35</sup> Analysis of cumulative effects must be conducted to address impacts likely to occur if boating is allowed on the Upper Chattooga. Namely, the Upper Chattooga will look and “feel” more and more like the lower Chattooga. And it is “reasonably foreseeable” that boating lobbies and commercial boating outfitters and kayak manufacturers will push over

---

<sup>35</sup> See 40 C.F.R. § 1508.7.

time for expanded paddling, both private and commercial, as is amply shown in the recent boating expansions granted on the Lower Chattooga.<sup>36</sup> Such expansions will reduce the regionally available opportunities for solitude, and habitat for rare species located within the river channel or on the banks, for example. The range of recreational experiences will be flattened at both a River and regional scale by allowing more boating on the Chattooga. Providing access to the River for more boating opportunities will increase the road density and increase the likelihood of new erosion and sedimentation. A good example of a casualty of the too-narrow review is hunting. Hunting is a valued recreation in the vicinity of the more isolated Upper Chattooga. Hunting is not compatible with heavy recreational use by other groups for safety concerns and because wildlife may be driven away. Hunting season overlaps with the preferred alternative's plan for boater access in the Upper Chattooga, and thus the preferred alternative would create a new conflict between user groups.

### **C. Segmentation of Impacts and Projects is Illegal and Misleading**

The Forest Service has unlawfully artificially segmented its analysis of proposed management activities resulting in an insufficient NEPA analysis. The most serious omission from each of the alternatives--but particularly those where boating put-ins and take-outs would be necessary--is the lack of any analysis of access roads and trails and parking facilities. For example, apparently there has not been an evaluation of the likely impact on the Nantahala National Forest and adjacent private lands of using the small, existing parking lot on Whiteside Cove Road and nearby user-created trails as the new access trailhead for boaters' access to the river, nor the impact of constructing the "County Line Road Trail" Parking Lot. Similarly, there does not appear to be an evaluation of the effect of boaters putting out at Lick Log Creek and the effects on the rough and tiny Thrift Lake Parking lot at the trailhead leading to the Lick Log area. It is worth pointing out that this lack of coordination in the planning stage does not bode well for the future ability of the three national forests to coordinate management and enforcement on a day-to-day basis.

Another type of segmentation leading to inadequate environmental review pursuant to NEPA is the failure to consider the management of the entire River Corridor in developing alternatives. As already discussed, the failure to adequately emphasize and properly analyze the huge amount of boating allowed on the Lower Chattooga leaves the decision-maker with the mistaken impression that there is some deficiency in boating opportunities in the Wild and Scenic River Corridor. To fully understand the context of the management decision being made, this other regional use must be considered. The Forest Service Manual directs that river recreation management be planned and implemented in the context that "considers the resource attributes, use

---

<sup>36</sup> See Amendment No. 14 to the Sumter National Forest Land and Resource Management Plan of August 2002, revising and expanding the management of both self-guided and commercial recreation boating on the Lower Chattooga.



patterns, and management practices of nearby rivers.”<sup>37</sup> Boater-oriented and -dominated management prevails on the lower 36 miles of the Chattooga Wild and Scenic River Corridor and nearby tributaries favored by “creek boaters,” not to mention on many nearby rivers and streams. If one were to read only the EA, boaters appear deprived; in reality, it is those who wish to enjoy the river and its opportunities for solitude without put-ins, take-outs, slide-ins, portage trails, and boaters scaring fish and wildlife that are lacking opportunity in the Southeast and on the Chattooga.

Similarly, the management of the River cannot be understood except in the context of the compromise zoning decision that has stood the test of time for the past 35 years. Any additional boating erodes this delicate balance of trust and resource protection.<sup>38</sup> This compromise has protected the Upper Chattooga from the degradation in solitude and other wilderness values that the Lower Chattooga has suffered. The Forest Service should consider limiting use of the Lower Chattooga, not opening access to more segments of the River.

It is true that segments of Wild and Scenic Rivers are to be managed for their specific attributes and the Forest’s management goals, but such attributes and goals are not to be considered in isolation. The Forest Service Manual directs that the following be considered in developing prescriptions to manage recreational use of Wild and Scenic Rivers: (1) the capability of the physical environment to accommodate and sustain visitor use, (2) the desires of present and potential recreational users, including their characteristics, and (3) budgetary, personnel, and technical considerations.<sup>39</sup> When the EA is considered in this context, none of the boating alternatives is adequately supported, even on the Lower Chattooga and in the tributaries. As a result, at a minimum, the existing zoning of the Chattooga, limiting boating to the lower reaches, must continue.

#### **D. Costs Associated with Alternatives Were Not Adequately Considered**

The costs of the various alternatives have not been considered thoroughly. The EA avoids this issue in Appendix B, (as also noted above), which states: “Estimates of probable projects, activities, additional workloads, and agency costs are ... considered estimates since the number, location and the rates in which projects are implemented are driven by available funding and additional decisions informed by site-specific analysis in accordance with agency rules and regulations.”<sup>40</sup> This is insufficient for purposes of NEPA compliance. Actions must be prioritized and some, such as access requiring trail clearing, road or parking lot construction, or monitoring and enforcement must be made contingent upon the occurrence of another event. While

---

<sup>37</sup> FSM 2354.03; see also *id.*, 2354.32.1 (“to the extent possible, the management objectives should reflect the river’s recreational relationship to nearby rivers.”).

<sup>38</sup> See *Capacity & Conflict*, p. 89.

<sup>39</sup> FSM 2354.41.

<sup>40</sup> EA, pp 400-401

vague estimates are provided for the possible cost of staffing positions for the various alternatives, other costs apparently are not considered, including, but not limited to road and parking lot construction and maintenance, restoration, and equipment for measuring water levels. It is impossible for the Forest Service to make an informed decision, or for the public to meaningfully comment, when so many elements are missing from the analysis. A complete economic effects analysis should have been performed, with all three Forests contributing.

#### **IV. Specific Comments to Environmental Assessment and Boating Alternative**

##### **A. Natural Resources are not Adequately Protected Under The Boating Alternatives**

##### **1. Protection of Plants and Animals Must be the Primary Management Objective**

As recognized in the EA, the Upper Chattooga Corridor and the Ellicott Rock Wilderness area are a refuge for rare plant and wildlife species due to the unique geological features and habitats.<sup>41</sup> Boaters access habitats that other users are unlikely to disturb. Allowing boaters into these rarely disturbed habitats on the Upper Chattooga will further restrict the habitat available for these threatened species. Any boating that is allowed should retain and expand the seasonal restrictions to only a very few week per year, in order to at least provides some minimal protection for sensitive plants.

The EA also contains the illogical argument that, although the advent of boating will likely cause trampling of rare vegetation, such damage is unlikely to occur because rare species are indeed rare:<sup>42</sup>

*Potential direct and indirect effects to rare and sensitive terrestrial species from this alternative include the addition of a new recreational user group (boaters). The potential impact would be from trampling of vegetation and sensitive habitat through the creation of portage trails and new access trails and increased vegetation disturbance through creation of new "play" (swimming, resting, lunch) sites. It is assumed that some wildlife may be directly or indirectly affected by recreational users under this alternative. However, because rare and sensitive species are rare, and are not encountered often, it is unlikely the effects of this alternative would occur at a frequency which would impact the population viability of this species.*

---

<sup>41</sup> EA at pp. 16-17.

<sup>42</sup> EA p. 200.



Similarly, the Environmental Assessment reasons that visitor impact on wildlife is minimized because some species can flee.<sup>43</sup> These illogical arguments only raise greater concern that rare and sensitive species may be encountered and destroyed.

In this regard, we also note that the Outstandingly Remarkable Values of the Upper Chattooga's rich biological resources include nine species of sensitive or locally rare animal species and a host of rare plant species, all endemic to the Southern Appalachians, including liverworts, rock gnome lichen, Blue Ridge bindweed, Fraser's loosestrife, Manhart's sedge, Biltmore's sedge, pink shell azaleas, mountain camellia, Oconee bells and divided leaf ragwort.<sup>44</sup> The EA rightfully finds that the plants, especially Fraser's Loosestrife and Manhart's Sedge and Mountain Camellia and rare liverworts could become subject to trampling and destruction under Alternative 12, whether on islands in the river or via portage trails, or at new campsites. One of the boater access trails proposed by the Agency below Green Creek is lined by Oconee bells. The EA also finds that the health of these endemics could be affected by the introduction of non-native invasive species brought in by humans to areas that, currently, get very little visitation if any at all.<sup>45</sup>

We must also note special concern over the possible trampling or loss of a new Rock Gnome Lichen (*Gymnoderma lineare*) subpopulation.<sup>46</sup> The subpopulation of this endangered species is subject to "continued trampling by anglers, hikers, campers, etc. traversing the river near Fowler Creek, scraping of rocks by boats traversing the river at different flows and portaging around log jams which are anticipated to increase with the decline and natural falling of Eastern hemlock (from Hemlock Woolly Adelgid)."

At the same time, the Agency strains to argue that "any increased recreational activity associated with the proposed project may affect but is not likely to adversely affect" this subpopulation of *Gymnoderma lineare*, given its location under a narrow rock shelf. Which is it? Is not any affect in this case an adverse affect? Again, the U.S. Forest Service stretches the bounds of logic with this convoluted argument. Georgia ForestWatch and Wilderness Watch call on the Agency in this latter case to closely monitor the Rock Gnome Lichen populations and ensure their continued viability, as required under relevant federal law, including the Endangered Species Act.

Finally, we believe that the Forest Service may have selected the preferred alternative on the basis of inadequate and inaccurate data. The Forest Service also should have consulted with the U.S. Fish and Wildlife Service to better inform its selection of alternatives, and to determine whether the Eastern Cougar and other species would be negatively impacted by any of the alternatives

---

<sup>43</sup> EA at p. 183.

<sup>44</sup> EA, pp. 136-223.

<sup>45</sup> EA at p. 209.

<sup>46</sup> EA, pp. 218-219.

## **2. Large Woody Debris Must be Maintained.**

Large Woody Debris (LWD) will increase as a result of hemlock die-off. Insufficient attention was given to this significant anticipated change that will alter and stress the entire ecology of the Upper Chattooga,<sup>47</sup> cause additional slope erosion and tree mortality, and change water temperature. Allowing boating on the Upper Chattooga where hemlocks are more common will increase the number and distance of portages, and the temptation to remove LWD, well documented in the Agency's woody debris reports.

It is the confirmed habit of some boaters to remove LWD from streams.<sup>48</sup> Removal with chainsaws—also a common practice—is not allowed in wilderness areas. The Forest Service fails to explain how LWD removal will be prevented if boating is allowed in additional sections of the River. Even with a stated goal in the EA of adopting uniform rules for LWD across the three National Forests, there is no monitoring or implementation mentioned, making the proposal essentially and administratively unworkable.

The ecology of stream habitat is greatly improved by the existence of LWD and streamside vegetation. Unfortunately, in order to accommodate boating these elements that are so critical to the ecology of headwater streams are often destroyed and sometimes removed to allow boat passage. In 2008, the Nantahala Forest Service was even petitioned by paddlers to remove woody debris on the Cheoah in order to improve “boater safety” after claiming no improvements were required during the NEPA review. Visitor safety may trump habitat concerns in the Forest Service manual, which would enable the Forest Service to diminish trout habitat. However, by not granting access to boaters now, the Forest Service would be protecting this critical habitat without having to injure boaters and instigate lawsuits. The indirect affect to habitat if boating were allowed must be considered in this EA, and under WSR statutes, primary emphasis must be given to protecting habitat and fauna before accommodating recreational boating.

## **3. Sedimentation Cannot be Increased**

The Chattooga, which should be pristine, is ranked below average in comparison to other watersheds on the Forest because of sediment problems. Increasing dispersed recreation will increase sediment—something the Forest Service has demonstrated its

---

<sup>47</sup> Some stretches of riverbank have as many as ten dead or dying hemlocks in a 100-yard stretch.

<sup>48</sup> EA, p. 152 (“LWD is removed from river sections downstream of Highway 28 for boating and from Overflow Creek by boaters ([www.boatertalk.com/forum/BoaterTalk/1381138](http://www.boatertalk.com/forum/BoaterTalk/1381138)). Boater message board comments ([www.boatertalk.com/forum/BoaterTalk](http://www.boatertalk.com/forum/BoaterTalk)) indicate that boaters remove LWD from rivers to clear passage for boating. In addition, an article on the American Whitewater Web site (Colburn 2001) describes circumstances where it is proper or improper to remove logs for boating passage. Evidence from these sources and the 2007 LWD inventory show that LWD removal is likely where camping and boating are allowed.”)

inability to control under even current use conditions. Adding another use, and users with the ability to reach currently hard-to-access areas of the Forest, such as islands and remote riverbanks, will exacerbate this problem. Many boaters drag boats when portaging or for long distances when approaching waterways. These boaters also slide down riverbanks to enter the water, making boaters a significant source of sediment compared to other users. Boaters tend to use Rivers at higher flow. It is at these times during and subsequent to precipitation events that the River and its tributaries are most vulnerable to sedimentation from increased use. It makes no sense to intensify uses during these times when the River is already degraded due to sedimentation.

It is unclear from the EA how boaters are expected to access put-ins and take-outs. Will this be by foot or motorized vehicle, or some combination of the two? Where will the "County Line Road Trail" parking lot be? Will it really be one acre in size? How exactly would boaters be expected to portage their craft to the new Green Creek Access point? How far might boaters drag kayaks through the Forest? The EA is not clear on these issues. It is most crucial that the impact of these roads and parking areas and new trails on Chattooga sedimentation be discussed. Anticipated use and any re-design of a Green Creek Access trail and/or the so-called "County Line Road Trail" (and any other trail or road substantially impacted by any of the alternatives) and any associated parking lot must be evaluated and discussed, particularly with regard to the impact of the trail/road itself on sedimentation, and with regard to the traffic patterns any change in use or re-design may cause.

Georgia ForestWatch and Wilderness Watch also note with some concern that the Agency neglects in its Environmental Assessment and effects analysis to make any mention of the recent U.S. Forest Service study of impaired watersheds, based on Agency assessments of national forestlands conducted in October of last year (2010).<sup>49</sup> The assessment map clearly indicates that the Upper Chattooga watershed beginning just above Route 28, near the river's confluence with Reed Creek and extending upriver all the way to Grimshawes is "functioning at risk," (that is, colored in yellow). The Upper Chattooga watershed extending from Route 28 at least to the Chattooga Cliffs area, where the agency proposes to begin boating, is colored in red (that is, as an "impaired function"), to cite the Agency's own assessments. It thus demonstrably unwarranted to add any further intensive human pressure to this sensitive and already dangerously overloaded and obviously impaired watershed.

#### **B. Visitor Controls are Not Adequate Under the Environmental Assessment or Any Boating Alternative**

Georgia ForestWatch and Wilderness Watch applaud the Forest Service's recognition of the need to limit visitor access overall, and especially for taking the initiative to comprehensively propose limits on many user groups' access where it is necessary to

---

<sup>49</sup> See <http://apps.fs.usda.gov/WCFmapviewer/>.

protect the resource. To ensure that ORVs are protected, Georgia ForestWatch and Wilderness Watch suggest going beyond the new limits proposed in Alternative 12 by limiting access to the Chattooga Corridor within the Ellicott Rock Wilderness to a maximum of 6-8 individuals per group on trails and 6 individuals in designated campsites (without exceptions for group campsites).<sup>50</sup> We agree limiting anglers to four per group is appropriate (whether back-country trout fishermen or front-country anglers). Boating should be further restricted on those portions of the River (the Lower Chattooga) where it is taxing resource capacity. Prohibiting boating, horseback riding, and ATV use in the Upper Chattooga Corridor has preserved the wonderful, secluded area that exists there today. Now, additional management limits for hikers and anglers are warranted to guard against loss of the very elements that make this place so attractive; it certainly is not the time to expand user groups and intensify use, or to create new access and egress points to and from the river.

### **1. The Preferred Alternative Will Encourage the Expansion of Existing Unauthorized Boating**

The EA fails to consider the likely increase in unauthorized boating on the Upper Chattooga that will result if any boating is allowed. Were the Chattooga opened for some boating use, unofficial guidebooks and information on the Internet and by word of mouth about its course would become more commonplace. A known river is available to more skill levels because challenges can be anticipated. Also, as the River becomes more familiar to some boaters who use it legally, they may want to run it on other days of the year when it is illegal to do so.

Anyone familiar with boating on the Lower Chattooga knows what unregulated (or unmanaged) boating is likely to look like: it would be comparable to Section 4 of the Lower Chattooga, where maximum use can exceed 180 boaters a day in the summer and reach as high as 100 boaters a day from January through April. Even “low use” days see anywhere from 10 to 50 boaters a day.<sup>51</sup> This demand is particularly out of proportion to the boating proposed in Alternative 12, which sets *no* limits on the number of boating trips per day or the numbers of boaters that would be permitted on the Upper Chattooga or the possibility of boaters establishing new campsites along the more remote stretches of the headwaters. This will present a significant enforcement challenge and threat to the resource.

The Forest Service must consider the likely increase in illegal boating under any alternative allowing boating in segments of the River where it is currently prohibited. If any part of the Upper Chattooga is opened to legal boating, some boaters will be spurred to greater use of the River, whether legally or not. As the River becomes more familiar to some boaters who use it legally, some will likely want to run it on

---

<sup>50</sup> The Forest Service also should consider new limits on groups' sizes in other areas of the River Corridor if adaptive management reveals overuse.

<sup>51</sup> See *Capacity & Conflict*, pp. 34-35 (June 2007).

other days of the year when it is illegal to do so. If boaters become familiar with Headwaters sections, their desire to float it will also grow, and at least a few can be expected to give in to the temptation to float it on days when it is not permitted.

Under no circumstances should the use of inflatable kayaks and tandem kayaks, as proposed under Alternative 12, be permitted, and illegal use should be severely fined. Inflatable craft are rented routinely to the public by commercial outfitters, and would introduce an inappropriate commercial element to the Upper Chattooga, particularly since it is the stated aim of the “preferred Alternative” to “prohibit commercial boating on the upper river.”<sup>52</sup> To the extent any boating is allowed, such boating must be limited to single capacity hard boats to discourage use of more remote and technical segments of the River Corridor by less experienced boaters and will decrease the need for rescue and search-and-recovery efforts.

## **2. The Environmental Assessment must Prohibit Boating on Tributaries**

Current management allows boating on some tributaries of the Upper Chattooga outside the Wild and Scenic River corridor, such as the East Fork. We concur with Alternative 12 that this access must be prohibited. Enforcement, preservation of peace and quiet and solitude, sedimentation, and excessive use all remain issues if boating is allowed on these tributaries. We agree with the EA that boating in the tributaries should not be considered “because of concerns regarding large woody debris, native brook trout restoration, vegetation removal, increased encounter levels, user-created trails, as well as enforcement and management issues.”<sup>53</sup> The EA clarifies that “because boating is not currently permitted on the main-stem, it also is not permitted on the tributaries inside the wild and scenic river corridor.”<sup>54</sup>

However, we do not see anywhere in the EA where tributaries will be closed under the new plan during periods where boating would be allowed, or on the tributaries within Sumter’s Management Area #2. Please advise how the Forest Service will implement tributary boating restrictions -critical to the protection of key habitat – in any new management policy. Further, the Forest Service has not demonstrated that adequate resources exist to curtail existing illegal use. Allowing boating on the tributaries facilitates illegal use.

## **3. The Preferred Alternative Does Not Define any Flow Levels.**

The Boating Alternatives do not impose an adequate flow level for any boating that might be permitted on the Upper Chattooga. The new gauge at the Burrell’s Ford Bridge should be used as a guide and should continue to be used. While Alternative

---

<sup>52</sup> USDA Forest Service News Release of July 15, 2011.

<sup>53</sup> EA at p. 41.

<sup>54</sup> Id.



12 proposes to limit boating by space and time, it would permit boating at any river level, which we believe to be a mistake.

#### **4. The Preferred Alternative does Not Impose Adequate Time Period and User Group Limitations**

The Boating Alternatives should limit boating to the period between December 15 and February 15 to limit user conflict (rather than December 1 to March 1, as proposed in Alternative 12). Any alternative that expands boating into March would risk damage to sensitive vegetation and would drive herons, kingfishers, warblers, and flycatchers from their nests, leaving them vulnerable to predators. The boating alternatives must also impose a limit on the number of boaters permitted to paddle the Upper Chattooga on any given day, by use of a pre-registration or pre-paid lottery system, and boater groups should be limited to one trip per day. Further, contrary to the Draft EA issued by the Agency in 2008, the latest EA no longer indicates that enforcement actions, such as penalties, may be used against recreational users who violate the tenets of the preferred alternative. Penalties, including monetary fines and confiscation of kayaks and paddles and boating and/or camping equipment, must be sufficient to deter non-compliant actions and posted at all access points.

#### **5. The Preferred Alternative Does Not Contain Adequate Camping Limitations**

Any boating alternative must prohibit riverside camping by any boaters, as this would exacerbate the existing problem occasioned by user-created campsites up and down the Upper Chattooga corridor.

#### **6. The Preferred Alternative Improperly Proposes the Expansion of Roads and New Access Trails**

Access to the Chattooga River Corridor must remain by foot only and only on numbered Forest Service trails. This restriction is consistent with the original Wild and Scenic River plan for the Upper Chattooga, which says that “[t]here will be no construction of new roads. All existing roads will be closed and stabilized at the corridor boundary” for wild areas.<sup>55</sup> However, Alternative 12 proposes to create a brand new boater access somewhere below the Upper Chattooga’s confluence with Green Creek, and separately, in the long-term project plans of the Nantahala-Pisgah National Forest, proposes to create a new parking lot and road to the corridor via the so-called “County Line Road Trail.” (Rather, this user-created trail should be decommissioned if the tenets of Alternative 12 are followed). Building a road or a parking area, or creating a new access path to the River, to accommodate a very few elite boaters cannot be justified. This type of user must walk in, as other wilderness users must. Nevertheless, the EA suggests that access for several of the alternatives

---

<sup>55</sup> 41 Fed. Reg. 11847, 11851 (Mar. 22, 1976). See also, FSM 2354.42g (access should be by trail).

will be provided by trails and roads not on the transportation atlas. Parking lots are also indicated. The anticipated location of parking areas, and the likely impact of this decision, was not discussed in sufficient detail such that substantive comments could be made—apparently because the Forest Service has not yet thoroughly examined the issue internally, or is leaving it to subsequent and unlawfully separate NEPA studies and actions. Consideration of transportation, parking and access is critical because the availability of parking and ease of access can impact the amount of use of a whitewater river.<sup>56</sup> Transportation and access may have the largest impact on resources of any element of any of the alternatives. Further, failure to include a thorough discussion of transportation, including associated costs, is a violation of NEPA.

**a. Special Concerns With Green Creek and “County Line Road Trail” Access.**

There are several significant problems and issues with the new Green Creek access, not the least of which is that the Agency has issued two different maps of this proposed access. The first, made public by Nantahala Ranger Mike Wilkins at the behest of the Sumter National Forest Supervisor, starts at the existing Forest Service parking lot on Whiteside Cove Road. The second, quietly added to the Sumter website with no public notice on August 5, shows the access emanating from private property at Whiteside Church (also known as the Summer Chapel) on Whiteside Cove Road.<sup>57</sup>

There are problems with either proposed access. The Whiteside Cove parking lot, where boaters would park to begin their portage to the river, is so small with only room for about seven or eight vehicles. As a result, hikers and other pedestrian visitors would bump into the many boaters who would come to this area under the Alternative 12 proposal. The second map proposes to have access coming from private lands at the Summer Chapel along a user-created trail behind the church. There is no public parking available at this location.

Whatever access point on Whiteside Cove Road is used, the last mile downhill to the river access below Green Creek is described as “mostly an old road bed going down the river,” according to Wilkins, in a private e-mail communication with Georgia ForestWatch of July 18, 2011. Nothing could be further from reality. The “old roadbed” is totally overgrown with both underbrush and tall trees, and presents as an impassable and steep gully heading downhill. In sections, it is so deeply entrenched and cut down to bedrock as to have morphed into an ephemeral stream, with attendant sedimentation heading toward the Upper Chattooga. An angler’s rough trail, also heavily covered by underbrush and downed trees and limbs, criss-crosses the old

---

<sup>56</sup> See *Capacity & Conflict*.

<sup>57</sup> See [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5322195.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5322195.pdf) for “Text and Map of Potential Green Creek Access.”

roadbed and does reach a smallish, steep rock jutting into the Upper Chattooga. It, too, is eroded down to bedrock along some portions and is visibly causing erosion downstream. The Green Creek Access proposal is a recipe for building a new trail access "in the reasonably foreseeable future" <sup>58</sup> at an undetermined cost that would inevitably kill more wildness in this area. It does not appear to be well thought out, especially since the affected soils seem to be both steep and highly erodible.

Similar problems arise with the proposal to construct a new parking lot on the so-called "County Line Road Trail" somewhere between Whiteside Cove Road and the boundary of the Wild and Scenic River corridor (as proposed in recent Schedules of Proposed Actions (SOPA) issued by the Nantahala National Forest). This so-called trail road is a user-created trail. It is not a designated Forest Service trail or road. The Agency's continuing efforts to make it so adds to the NEPA segmentation problem mentioned above -- and would obviously create a new potential river access for boaters not permitted under the current preferred Alternative 12. Both potential boater access points must be analyzed and clarified -- and their construction costs estimated -- and brought back for public review before any final decision is issued in this matter.

### **C. Adaptive Management and Financial Resources**

Georgia ForestWatch and Wilderness Watch are particularly concerned that proper steps should be taken to monitor and "adaptively manage" the Upper Chattooga regardless of the alternative chosen. Any new or continued boating access must be contingent upon the receipt annually of the budgetary resources necessary to enforce use rules. The EA at Appendix B (Implementation Strategy and Monitoring Questions) posits that it would require the equivalent of more than three full-time Agency staffers in the first four years of an Alternative 12 proposal at a combined cost of \$280,000, and more than one full-time staffer and \$50,000 in "years 5 and beyond."

The problem with this staff-budget construct is that there is **no** commitment to actually commit the necessary manpower and taxpayer resources to perform what the Agency estimates it would take to properly manage the Upper Chattooga under Alternative 12. We are especially concerned that the three affected National Forests apparently would strive to accomplish these minimal aims without hiring additional staff. Rather, the Note to Appendix B states that "numbers associated with staffing and dollars should **not** be interpreted as additional staffing. They represent work that will be accomplished with existing staff or additional hires, and may be associated with permanent, seasonal or shared positions. Dollar amounts do not include costs associated with materials, supplies, contracts, fleet, travel or overtime." <sup>59</sup>

---

<sup>58</sup> EA p. 53.

<sup>59</sup> EA at p. 401 (emphasis added).



This truly is astounding! What the U.S. Forest Service is saying in this instance is that it would like to provide for “adaptive management” of new limits and uses on the Upper Chattooga, but cannot commit even to the minimal manpower and dollars estimated necessary to doing so.<sup>60</sup>

## **Conclusion**

History and the administrative record support the current zoning of uses to different segments of the entire Chattooga River and indicate that new limitations for all users of the Chattooga Corridor and Ellicott Rock Wilderness are now appropriate and necessary to protect these resources, and are thus required by law. The most realistic, efficient, and workable solutions to address the need to protect the qualities for which the Chattooga Corridor is covered under the Wilderness and Wild and Scenic Rivers Acts would be to adopt those portions of Alternative 12 that would place greater limits on pedestrian and camper access – but continue the current zoning that prohibits all boating and floating on the entire 21 miles of the Upper Chattooga headwaters. Such a decision would be supported by the EA with a few modifications (such as improved management coordination and adoption of identical amendments to the Land and Resource Management Plans of the three National Forests, as suggested in the EA for management of Large Woody Debris).

For the reasons explained above, Georgia ForestWatch and Wilderness Watch oppose the boating proposed in Alternative 12. The record reveals a lack of consideration or discussion by the Forest Service of the biological, economic, and management impacts of the boating proposed in Alternative 12. For all the reasons discussed in these comments, the record does not support the boating proposed in Alternative 12 or any other alternative that would open the Upper Chattooga to boating or intensify use of the Upper Chattooga Corridor. As such, the Forest Service must either find that a “no boating” alternative is appropriate or find that Alternative 12 will have a significant impact on the quality of the human environment and that an Environmental Impact Statement must be prepared.<sup>61</sup>

As before, Georgia ForestWatch and Wilderness Watch and its members stand ready to assist the Forest Service in protecting this special place, including accepting limitations on their own access to the Upper Chattooga if that is necessary to protect the resource for future generations.

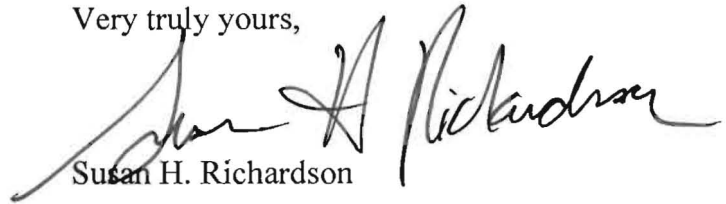
---

<sup>60</sup> In fact, if any new boating is permitted on the Upper Chattooga, (which it should not), the Agency should consider re-establishment of the “river ranger” positions that were once briefly used by the Andrew Pickens District of the Sumter National Forest, both to monitor boating and streamside management in the Wild and Scenic river corridor in the three affected national forests.

<sup>61</sup> 40 C.F.R. §§ 1501.4(c), (e).

Thank you for the opportunity to comment.

Very truly yours,

A handwritten signature in black ink, appearing to read "Susan H. Richardson". The signature is fluid and cursive, with a large, stylized "S" and "H".

Susan H. Richardson

cc: Georgia Forest Watch  
Wilderness Watch

**"Robin D. Saylor"**  
<robindsayler@yahoo.com>  
>

08/30/2011 12:41 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc <info@americanwhitewater.org>

bcc

Subject Chattooga River

Dear Sirs,

Regarding the third item in your email regarding the upcoming evaluation of citizen use of the Chattooga Wild and Scenic River corridor:

Even though my whitewater kayaking career has entered retirement, I still attach a great deal of meaning to the privileges and restrictions of paddling the upper Chattooga River. When I lived in the area, in the 1970's and 1980's, I kayaked Section Zero and Section One many times. My most memorable portages were on Section Zero, portaging Super-Corkscrew many times. It is the hairiest portage I've ever done, even though it has been run since. But all the other rapids are eminently runnable on Zero, and all but two or three on Section One, and the location is spectacular to all visitors: backpackers, boaters and fishermen alike.

I have never experienced a conflict paddling these restricted areas, and the reason is a fact of nature. The conditions for the pursuit of paddling and fishing are mutually exclusive. Fishing is terrible on the days when the river level is good for kayaking, and any intelligent paddler (there are a few of those!) stays off the river when the levels are great for fishing.

Removing the restrictions will not create a crowd of paddlers to these sections, because paddlers understand the difficulty of these rapids, and the rarity of adequate river levels. The current restrictions are probably illegal, and will be eventually judged to be so, as a result of the current legal actions. The U.S.F.S. should anticipate this, knowing that they are employed to serve the public, the tax-paying citizen.

The possibility of conflict has been raised by only one special-interest group. I

am impressed that they have this scale of political clout, which is way out of proportion of their actual numbers. So I am sharing my views on this subject because boaters are not as well organized as fisherman, though I belong to both groups.

Discrimination of this type has been judged illegal in many other areas of life, and will be judged illegal in this circumstance. The Forest Service needs to examine their goals carefully.

Regards,

Robin D. Sayler  
robindsayler@yahoo.com



Kevin Colburn  
<[kevin@americanwhitewater.org](mailto:kevin@americanwhitewater.org)>

08/30/2011 01:07 PM

To [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

cc

bcc

Subject Comments on Upper Chattooga EA

Please accept these comments on the environmental assessment titled: "Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor"

Kevin Colburn  
National Stewardship Director  
American Whitewater  
2725 Highland Drive  
Missoula, MT 59802  
[kevin@americanwhitewater.org](mailto:kevin@americanwhitewater.org)  
(O) 406-543-1802



(C) 828-712-4825 2011.08.30 Paddler Chattooga EA Cmnts Final.pdf



[www.americanwhitewater.org](http://www.americanwhitewater.org)

Kevin Colburn  
National Stewardship Director  
2725 Highland Drive  
Missoula, MT 59802  
406-543-1802

[kevin@americanwhitewater.org](mailto:kevin@americanwhitewater.org)

August 30, 2011

**VIA ELECTRONIC AND FIRST CLASS MAIL**

Comments on Upper Chattooga EA  
c/o USDA Forest Supervisors Office  
4931 Broad River Road  
Columbia, SC 29212-3530

Email: [comments-southern-francismarion-sumter@fs.fed.us](mailto:comments-southern-francismarion-sumter@fs.fed.us)

Re: The environmental assessment titled: "Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor"

Dear Mr. Bradley:

On July 15, 2011, the United States Forest Service ("USFS") published an environmental assessment titled "Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor." Comments were originally requested on or before August 15, 2011, and the deadline was subsequently extended to August 30, 2011. American Whitewater and the undersigned organization's and individual's comments to the USFS environmental assessment are enclosed herewith.

Thank you for considering these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Colburn', written in a cursive style.

Kevin Colburn  
National Stewardship Director  
American Whitewater  
1035 Van Buren Street  
Missoula, MT 59802  
406-543-1802  
[Kevin@americanwhitewater.org](mailto:Kevin@americanwhitewater.org)

**COMMENTS OF AMERICAN CANOE ASSOCIATION, AMERICAN  
WHITEWATER, ATLANTA WHITEWATER CLUB, FOOTHILLS PADDLING  
CLUB, GEORGIA CANOEING ASSOCIATION, WESTERN CAROLINA  
PADDLERS, BRUCE HARE, KEN STRICKLAND, AND JOE STUBBS  
on the Environmental Assessment Titled:  
“Managing Recreation Uses in the Upper Segment of the Chattooga Wild and  
Scenic River Corridor.”**

Prepared by:

Kevin Colburn  
American Whitewater  
National Stewardship Director  
1035 Van Buren Street  
Missoula, MT 59802  
406-543-1802  
Kevin@americanwhitewater.org

August 30th, 2011

## TABLE OF CONTENTS

Introduction.....	4
1. The EA lists improper “Responsible Officials.” .....	5
2. The EA fails to consider a reasonable range of alternatives.....	5
3. The EA correctly predicts no significant impacts of all alternatives for most resource areas. ....	5
4. The EA fails to consider the portion of the river defined by the 2005 Appeal ROD decision. ....	6
5. The EA fails to fairly and equitably limit use.....	6
6. The EA fails to exhaust indirect use limits before imposing direct limits.....	7
7. The EA fails to include paddlers in the User Capacity Analysis.....	7
8. The EA fails to accurately define the mandate of the Wild and Scenic Rivers Act. ..	8
9. The EA fails to protect and enhance the recreation ORV.....	8
10. The EA fails to protect and enhance the Scenery ORV.....	9
11. The EA fails to properly define, analyze or protect the fisheries ORV.....	9
12. The EA fails to protect and enhance unconfined recreation in Wilderness.....	10
13. The EA fails to protect and enhance opportunities for solitude in Wilderness. ...	11
14. The EA fails to produce sufficient visitor use data.....	12
15. The EA fails to calculate encounters between paddlers and other visitors.....	12
16. The EA fails to quantify the number of zero-tolerant anglers. ....	13
17. The EA fails to limit use only when necessary.....	13
18. The EA fails to consider the ecological and recreational effects of stocking.....	14
19. The EA fails to correctly consider Search and Rescue. ....	14
20. The EA fails to reach a logical conclusion regarding conflicts. ....	16
21. The EA fails to design an equitable monitoring process. ....	17
22. The EA fails to document the unilateral nature of the public involvement process. 17	
23. The EA fails to document the role of the public involvement process in creating the controversy and intolerance now being managed for. ....	18
24. Alternative 8 fails.....	18
25. Alternative 12 fails.....	19
26. The EA fails to provide any basis for banning paddling on tributaries. ....	19
27. The EA fails to consider the biophysical impacts of various uses equitably.....	19
28. The EA references a river that does not exist. ....	20
29. The EA attributes boating use to a group that does not exist, scenic boating.....	20
30. The EA fails to clearly state that wood is a non-issue. ....	21
31. The EA fails to clearly state that portage trails are a non-issue.....	21
32. The EA mischaracterizes the effects of low water on portages. ....	21
33. Excluding the errors listed above, which include the illegal and wrongful treatment of whitewater paddling, the EA contains the basic components of a river management plan. ....	22
Conclusion: .....	22



## **Introduction**

The undersigned organizations have reviewed the environmental assessment titled: “Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor” (hereafter referred to as the “EA”) in detail and offer comments in this document. The EA does not comply with NEPA on very basic levels. The EA does not meet the mandate of the Record of Decision (Appeal ROD) for our appeal of the 2004 Revised Land and Resources Management Plan (RLRMP). The EA is deeply biased and makes many massive and backwards leaps in logic without any actual supporting evidence. The EA and its preferred alternative violate the Wilderness Act and the Wild and Scenic Rivers Act (WSRA). The EA and its preferred alternative violate the Forest Service Manual (FSM). American Whitewater herein asserts that the EA and its recommendations are illegal and fundamentally unsound. The EA must be withdrawn as deeply flawed, biased, and illegal.

In April of 2005, the Washington Office of the USFS granted an appeal of the Region 8 Office decision to continue an unlawful ban on paddling the Wild and Scenic Upper Chattooga River. At that time the Regional Office and the relevant Forests embarked on a process designed to create animosity among the public, and to create a unilateral record in support of the boating ban. The process did indeed fuel controversy and animosity, but several attempts at producing a rational defense of the boating ban failed. They failed because there is no rational defense for the boating ban.

This most recent attempt to produce an EA succeeds only in being more clearly and exhaustively wrong, biased and unlawful. The EA proposes to significantly exceed the USFS’s discretion. The EA violates every order of the related 2005 American Whitewater Appeal Record of Decision (Appeal ROD).

At the same time, the EA considers and proposes many reasonable and responsible management components relating to non-paddlers. Paddlers are singled out for illegal, inequitable, and irrational management.

In addition to these comments, we hereby resubmit by reference all past comments made by the signatories of these comments regarding the successfully appealed 2004 Revised Land and Resource Management Plan as it related to the management of the Upper Chattooga River. These documents include all comments and correspondence sent from American Whitewater to the US Forest Service between January of 2003 and today, which include but are not limited to comments and appeal of the 2004 LRMP, comments on various USFS assessment documents including the Integrated Report, and comments<sup>1</sup> and appeal of the 2008-2009 Environmental Assessment titled Managing Recreational Uses on the Upper Chattooga River. In addition we hereby submit by reference the complaint and all related documents submitted in

---

<sup>1</sup> <http://www.americanwhitewater.org/content/Document/view/documentid/481/>

Civil Action File No. 8:09-cv-2665 JMC, *American Whitewater et al v. USDA Forest Service et al* regarding this issue.

These comments are intended to clearly reveal the primary elements of the 500 page Environmental Assessment (EA) that most egregiously violate federal law, federal regulations, USFS policy, and the Appeal ROD.

## **1. The EA lists improper “Responsible Officials.”**

The EA lists three Forest Supervisors as the “Responsible Officials.” The Appeal ROD that ordered this EA was clear: “I am directing the *Regional Forester* to conduct the appropriate visitor use capacity analysis, including non-commercial boat use, and to adjust or amend, as appropriate, the RLRMP to reflect a new decision based on the findings (emphasis added).” The EA lists no fewer than eight staff from the Regional Forester’s office as authors of the EA. The listed “Responsible Official” must be changed to the Regional Forester to comply with the Appeal ROD.

## **2. The EA fails to consider a reasonable range of alternatives.**

The alternatives in the EA consider a range of immediate direct limits on only paddling. This is arbitrary, capricious, and unreasonable. The EA fails to consider reasonable alternatives and limits on alternatives brought forward in our scoping comments.<sup>2</sup> As we stated in multiple sets of past comments, reasonable alternatives must consider equitable limits to all similar uses, only when necessary, and proposing indirect limits first. The EA fails on all three counts. Even if the false assumption that paddling and angling conflict were assumed to be true, a reasonable range of alternatives would have considered limits to angling as well as paddling, since if anglers were absent there would be no chance of the presumed conflicts. Throughout these comments we will offer additional examples of how the EA fails to consider a reasonable range of alternatives. Singling out direct limits on paddlers as the only variable creates an unreasonable range of alternatives and thus the EA violates NEPA.<sup>3</sup>

## **3. The EA correctly predicts no significant impacts of all alternatives for most resource areas.**

The EA offers absolutely no evidence of any biophysical or social impact of paddlers on the Upper Chattooga River or any similar regional river. The EA cites no peer reviewed

---

<sup>2</sup> <http://www.americanwhitewater.org/content/Document/view/documentid/217/>. See also Section II.F of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

<sup>3</sup> See also Section IV.A and B of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

studies showing impacts of paddling on rivers. The authors of the EA opine on various potential impacts of paddling, but not for other visitors, which is inequitable. The EA generally concludes that allowing unlimited paddling with a monitoring component would not significantly impact any natural resources including aquatic species (137, 170), fisheries (158), wildlife (172, 173, 191, 208), rare wildlife (197), spraycliff communities (210), old growth (210), botanical resources (210, 222), rare plants (216-218, 222, 351), heritage resources (244), sediment (258, 286), soil (276, 283), solitude (366), Wilderness values (387), and swimmers (101).<sup>4</sup>

The EA authors also opine that some insignificant impacts may occur. We challenge the validity and equity of each of these assessments. They have no defensible basis.<sup>5</sup>

#### **4. The EA fails to consider the portion of the river defined by the 2005 Appeal ROD decision.**

The EA arbitrarily excludes the section of the Wild and Scenic Upper Chattooga River between the Grimshaws Bridge area and Green Creek from the analysis.<sup>6</sup> It is unclear from the EA if paddling, angling, swimming, or wading is allowed or prohibited by the USFS in this reach. The EA envisions future criminal court challenges resolving the navigability of the reach. Navigability, as mentioned in previous comments, is a moot concept on a Wild and Scenic River. Furthermore, unless the USFS affirmatively states that paddlers are welcome to float through the USFS lands above and below the private lands, the issue of navigability in the private lands will never be resolved. Thus the EA creates a catch-22. Failing to protect and enhance any of the ORV's in this section of river is a violation of the WSR. Failing to analyze it in the EA is a violation of the Appeal ROD and NEPA.<sup>7</sup> Failing to allow floating in the reach is a violation of the FSM.

At the same time paddling on the Chattooga River at and below Grimshawes is excluded from analysis, the EA does consider other uses on this reach (See pages 60, 65, 66). The EA also considers other reaches that are out of scope like the Lower Chattooga (page 139) and the West Fork (page 267).

#### **5. The EA fails to fairly and equitably limit use.**

The EA considers and proposes direct limits immediately for paddlers, but no direct limits for non-paddlers. This is not equitable. The EA considers and proposes to

---

<sup>4</sup> See also Section III.A of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: "Managing Recreation Uses on the Upper Chattooga River"

<sup>5</sup> See also Section II.C of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: "Managing Recreation Uses on the Upper Chattooga River"

<sup>6</sup> See also Section II.H of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: "Managing Recreation Uses on the Upper Chattooga River"

<sup>7</sup> The EA must address the "Chattooga WSR from and to existing access points between and including NC Road 1107 (Grimshawes Bridge) and the Highway 28 Bridge." (ROD pg. 3)

completely ban paddling from some reaches while non-paddlers are granted access to the entire reach. This is not equitable. The EA considers and proposes seasonal bans on paddling but not on non-paddling uses. This is not equitable. The EA considers flow based bans on paddling but not on non-paddler uses. This is not equitable. The EA considers and proposes future limits based on a precise permit system for paddlers but vague car-counts for non-paddlers. This is not equitable. Based on presumed conflict, the EA considers and proposes to limit one presumed conflicting use but not the other. This is not equitable. The EA considers and proposes to grant paddlers 0-5 days of use annually depending on the reach but grants non-paddlers 365 days of use. This is not equitable. The EA considers and proposes to artificially attract some visitors with stocked fish while banning others. This is not equitable. The EA proposes to ban paddling in tributaries to protect brook trout but allows unlimited anglers to catch, kill, and eat a certain number of brook trout from these same reaches each day. This is not equitable. Inequitably limiting uses violates the Appeal ROD and the FSM.<sup>8</sup>

## **6. The EA fails to exhaust indirect use limits before imposing direct limits.**

On page 39 of the EA, a monitoring plan is described that would limit uses first with indirect measures and subsequently with direct measures as necessary. This statement proves that the USFS understands their mandate in the FSM. This mandated use limitation technique however is applied only to non-paddlers whose existing impacts mar the corridor, while paddlers suffer from harsh direct limits before they have ever floated the river in all alternatives. Arbitrarily, capriciously, and inequitably applying direct limits to only paddlers prior to exhausting indirect measures is a direct violation of the Appeal ROD, the FSM, and any concept of fairness or reason.<sup>9</sup>

## **7. The EA fails to include paddlers in the User Capacity Analysis.**

As ordered in the Appeal ROD, the EA must ensure that “limitation and distribution of visitor use should be based on “periodic estimates of capacity in the forest plan” (FSM 2323.14).” The reviewing officer states: “I am directing the Regional Forester to conduct the appropriate visitor use capacity analysis, including non-commercial boat use.” Table 2.5 clearly depicts that paddling limits were excluded and considered separately from capacity decisions. Specifically, Alternatives 1-3 vary capacities but ban paddling, while Alternatives 8-14 have identical capacities but vary paddling limits. Thus, the EA offers no comparisons of alternatives that vary capacities that include paddling. In doing so the EA fails to ever consider the “kinds and amounts of use” in terms of a visitor capacity

---

<sup>8</sup> The EA must ensure that “If it becomes necessary to limit use, ensure that all potential users have a fair and equitable chance to obtain access to the river.” (ROD pg. 5)

<sup>9</sup> The EA must ensure that ““direct controls and restrictions” be minimized, and that controls are to be applied only as necessary to protect the wilderness resource after indirect measures have failed (FSM 2323.12).

analysis. Instead, the EA removes paddling from the actual capacity analysis, in essence first selecting a capacity, and then selecting the amount of paddling. This arbitrary and capricious decision violates the Appeal ROD, the FSM, the WSRA, Secretarial Guidelines,<sup>10</sup> and *Friends of Yosemite v. Kempthorne*.<sup>11</sup>

## **8. The EA fails to accurately define the mandate of the Wild and Scenic Rivers Act.**

The EA states that “Managing a wild and scenic river corridor requires careful consideration of not only the natural resources, but also of people’s values and beliefs, needs and wants, and individual and community connections to the wild and scenic river corridor (page 441).” The EA authors seek to further stretch their own discretion on pages 14 and 15. The EA totally misses the point and ignores the clear statutory language of the Wild and Scenic Rivers Act. The USFS mandate is to protect and enhance the values that led to the designation of each foot of the Upper Chattooga River, which includes paddling. The EA proposes in every alternative to ban paddling and thus violate the WSRA.

## **9. The EA fails to protect and enhance the recreation ORV.**

The EA does not accurately describe the language or intent of the Wild and Scenic Rivers Act and the designation record for the Chattooga that dictate which values must be protected and enhanced on the Upper Chattooga River. Page 14 states that development of ORV’s was a post-designation task. This has nothing to do with the direct mandate of the WSRA to protect the values that led to designation and without limiting uses that do not substantially interfere with those values. The EA wrongly claims that the USFS mandate on the Upper Chattooga is to simply protect some recreation somewhere on the river. As we have stated exhaustively in all past comments, it is undeniable that paddling on the entire upper Chattooga was a value that led to designation that must therefore under federal law be protected and enhanced by the USFS (see also next section of these comments). Banning and inequitably limiting paddling is thus in direct violation of the WSRA. In addition, Alternative 12 violates the WSRA specifically by prohibiting multi-

---

<sup>10</sup> See National Wild and Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas, 47 Fed. Reg. 39,454 (Sept. 7, 1982).

<sup>11</sup> FRIENDS OF YOSEMITE VALLEY; MARIPOSANS FOR ENVIRONMENTALLY RESPONSIBLE GROWTH (“MERG”), *Plaintiffs-Appellees*, v. DIRK KEMPTHORNE, in his official capacity as Secretary of the Interior; THE NATIONAL PARK SERVICE, Jonathan P. Jarvis, in his capacity as Director of the Pacific West Region, National Park Service, Department of the Interior; MICHAEL J. TOLLEFSON, in his official capacity as Superintendent, Yosemite National Park, National Park Service, Department of the Interior, *Defendants-Appellants*. No. 07-15124. DC No. CV-00-06191-AWI

day floating opportunities recognized as a value that led to designation.<sup>12</sup> By failing to substantiate the need to seasonally or totally ban paddling to protect the recreation ORV the EA violates the appeal ROD.<sup>13</sup> See also the next section of these comments.

## **10. The EA fails to protect and enhance the Scenery ORV.**

The EA proposes to totally or nearly totally ban paddling on the upper Chattooga River. The scenery ORV requires that recreationists be present to experience the Scenery. The specific scenery experience referenced in the EA is a boat-based experience. The EA quotes the 1971 Designation Study as describing “easy canoeing water” and states that “The river provides a constantly changing scene,” “Slow water allows the surroundings to be seen and enjoyed, provides relaxation after the last rapids, and gives time to prepare for the next rapids. (see pages 223, 224)” In addition, excluded from this quote in the EA is the following sentence: “The twisting and turning adds interest to the river by creating suspense and anticipation of what is ahead.” Thus, the Scenery ORV is defined at least in part as *the view from a boat moving downstream*. By banning and limiting paddling the EA fails to protect and enhance the scenery ORV and thus violates the WSRA and FSM.

In addition the EA asserts that boat markings on rocks could pose a scenery impact. There is no basis for this assertion – it is pure conjecture – and is arbitrary and capricious.

Lastly, the EA states that allowing an “additional means of accessing remote sections of the river, such as those designated as ‘Wild’” would conflict with the scenery ORV by causing new portage and access trails as well as human waste and trash accumulation. This entire concept is arbitrary and capricious. There is no evidence that portage or access trails are needed, in fact there is evidence to the contrary (the boating trails required no such shore access). There is no evidence that human waste and trash would increase with paddling. Paddling is *entirely* consistent with a Wild designation. Nothing in the EA even considers directly limiting other uses in these remote areas, even though non-paddling uses are anticipated to increase. The EA arbitrarily assesses impacts to paddlers without proof, while ignoring documented impacts by non-paddlers, and then bans paddling while allowing other uses unlimited use. This is arbitrary, capricious, and violates the FSM, Appeal ROD, and WSRA.

## **11. The EA fails to properly define, analyze or protect the fisheries ORV.**

The EA misinterprets the distinction between fisheries ORV and the Recreation ORV which includes fishing. Fisheries refers to fish, and in the context of river protection

---

<sup>12</sup> See page 56, quoting the 1971 study: “River runners on extended float trips can enjoy camping under primitive conditions at sites along the river.

<sup>13</sup> The appeal ROD states that the 2004 RLRMP was “deficient in substantiating the need to continue the ban on boating to protect recreation as an ORV or to protect the wilderness resource.” (ROD pg. 6).

particularly refers to native fish. Recreation refers to fishing and includes non-native sport fish. The EA blurs this distinction and thus attributes positive ecological values to the recreational impacts of stocking non-native fish. This must be fixed, as it introduces significant bias and confusion in the EA.

The impacts that this misunderstanding has can best be seen on page 143 where the EA selects non-native rainbow and brown trout as Management Indicator Species. The USFS stocks 70,000 of these fish each year and anglers partake in significant harvest. The populations of these fish therefore have little to do with natural resource management and therefore they make terrible indicator species. For example, if water quality declines but more fish are stocked then the indicator species would indicate no reduction in water quality. Worse yet, the USFS widely acknowledges that the stocking of these fish is wiping out native species like the brook trout (see past comments). If the EA were to consider these non-native fish appropriately in the recreation ORV it would be clear that they have legitimate recreational value and significant environmental impacts. Hiding these stocked non-native fish in the Biology ORV makes a fair assessment – and appropriate decisions – impossible.

On page 151 the EA states that the three important analysis components to protect and manage the Fisheries ORV are trampling, sediment, and wood. This analysis thus arbitrarily and capriciously ignores the largest impact to native biota in the Chattooga River ecosystem – trout stocking.

## **12. The EA fails to protect and enhance unconfined recreation in Wilderness.**

The EA states on page 384: “the primitive and unconfined recreation quality of the Wilderness would be impacted under Alternative 1 because boaters would not be permitted to float there.” In fact, this is true of every alternative but Alternative 8. Every alternative but alternative 8 violates the Wilderness Act, the FSM, and the Appeal ROD as it relates to the Wilderness Act (See previous comments).<sup>14</sup>

The EA wrongly concludes on page 366 that all alternatives address the importance placed on solitude and the wilderness experience. Paddling is a core Wilderness experience eviscerated by all alternatives except Alternative 8.

Aldo Leopold put the value of Wilderness paddling this way: “The day is almost upon us when canoe travel will consist in paddling up the noisy wake of a motor launch and

---

<sup>14</sup> The EA must ensure that Wilderness “be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness”(Section 2(a) of the Wilderness Act). The EA must ensure that “wilderness will be made available for human use to the optimum extent consistent with the maintenance of primitive conditions” (36 CFR 293.2(b)).

portaging through the back yard of a summer cottage. When that day comes canoe travel will be dead, and dead too will be a part of our Americanism . . . ."<sup>15</sup>

Olaus Murie put it this way: "When you go into country by pack train the streams are only for crossing, or to camp beside. To know a stream you travel on it, struggle with it, live with it hour by hour and day by day."<sup>16</sup>

The EA wrongly concludes on page 380 that encounters between paddlers and non-paddlers would negatively impact Wilderness character. In fact, such encounters are a fundamental experience of Wilderness which by definition includes both paddling and non-mechanized non-paddling forms recreation.

The EA wrongly fails to include the boating ban in the current impacts on outstanding opportunities for solitude or primitive and unconfined recreation on page 382. As admitted on page 384, the ban is a significant impact to Wilderness values.

The EA admits that boating restrictions themselves "would provide a moderate negative effect within the Ellicott Rock Wilderness." In fact, this impact is a violation of the Wilderness Act and the FSM which requires the USFS to "maximize visitor freedom." By failing to substantiate the need to seasonally or totally ban paddling to protect the Wilderness resource, and by itself damaging the Wilderness resource, the EA violates the Appeal ROD.<sup>17</sup>

### **13. The EA fails to protect and enhance opportunities for solitude in Wilderness.**

Wilderness paddling provides spectacular and unique opportunities for solitude. Severe limits to paddling thus impact those opportunities for solitude, violating the Wilderness Act. The EA ignores the fact that solitude is a recreational experience, and paddling is a statutorily protected means of having that experience in Wilderness. Placing a higher importance on the solitude experience of one group of visitors over another is a direct violation of the Appeal ROD which correctly states that solitude is the same for every visitor.<sup>18</sup> Results showing encounters varying with the amount of paddling permitted is purely the result of the design of the alternatives which inequitably vary only paddling from one alternative to the next. Furthermore the EA contains no estimates or documentation of encounter numbers between paddlers and non-paddlers. Thus, the EA

---

<sup>15</sup> Aldo Leopold, "The Last Stand of the Wilderness," *American Forests and Forest Life*, October, 1925.

<sup>16</sup> The Falcon, Margaret and Olaus Murie, in Wapiti Wilderness. Copyright 1985, originally published in 1966.

<sup>17</sup> The appeal ROD states that the 2004 RLRMP was "deficient in substantiating the need to continue the ban on boating to protect recreation as an ORV or to protect the wilderness resource." (ROD pg. 6).

<sup>18</sup> While there are multiple references in the record to resource impacts and decreasing solitude, these concerns apply to all users and do not provide the basis for excluding boaters without any limits on other users. (Appeal ROD, Page 6)



violates the Appeal ROD, the FSM, the Wilderness Act, and is arbitrary and capricious in stating that allowing paddling would decrease solitude.

#### **14. The EA fails to produce sufficient visitor use data.**

The development of visitor capacities and each alternative are premised on the opinions of a few USFS staffers and conflicting sporadic vehicle spot counts conducted by volunteers. There is no data on paddling use – none. The USFS has had over six years since the Appeal ROD to document use of the Chattooga River corridor and has totally failed to do so. The use estimations stated in Section 3.2.1 and elsewhere in the EA are complete fabrications that do not form a reasonable basis for decision making. These methods violate Forest Service standards and direction,<sup>19</sup> and result in clear NEPA violations. By failing to provide sufficient information to conduct a visitor capacity analysis they violate the Appeal ROD,<sup>20</sup> and the Wild and Scenic Rivers Act.

#### **15. The EA fails to calculate encounters between paddlers and other visitors.**

Page 20 of the EA states that “proposed management actions for [backcountry] reaches are designed to limit encounters and separate potentially conflicting uses (boaters and others)...” Page 70 states the encounters are the best single indicator for backcountry opportunities and are the focus of the analysis in this EA.” Page 412 marks the beginning on an appendix titled Encountered Calculations. Yet, the EA fails to estimate or measure the encounters between paddlers and anglers or other corridor visitors.<sup>21</sup> This failure means that there is no basis given for banning paddling. It is obvious that encounters between paddlers and anglers would be extremely rare.

For example, consider the following rough calculation. Suppose an angler fishes the Upper Chattooga 10 times each year (probability of 0.027), and paddlers use the river 63 days (0.17). Differing flow preferences indicate an overlap factor of around 10% (0.1). Differing time preferences and the short length of both paddling and angling trips justify an additional correction of 20% (0.2). Paddlers will not use each reach on each of these days resulting in a factor of 66% (0.66). Thus, an overestimate of the chance that an angler will see a paddler over the course of a year would be in the neighborhood of 0.06%.

The EA proposes a virtual total ban on paddling, and proposes a monitoring program that would yield a ban, so that a handful of intolerant anglers don't have six one-hundredths of a percent of a chance of encountering an angler. This is arbitrary and capricious,

---

<sup>19</sup> Watson, Alan E.; Cole, David N.; Turner, David L.; Reynolds, Penny S. 2000. Wilderness recreation use estimation: a handbook of methods and systems. Gen. Tech. Rep. RMRS-GTR-56. Ogden, UT: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. 198 p.

<sup>20</sup> See also Section II.M of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

<sup>21</sup> *Id.*

inequitable, violates the FSM which only supports limits when “necessary,” and violates national management standards.

## **16. The EA fails to quantify the number of zero-tolerant anglers.**

The EA is clear that all alternatives except alternative 8 are designed specifically to limit or eliminate the unpleasant feelings a small elitist group of backcountry anglers that claim zero-tolerance would feel if they imagined or experienced a group of paddlers floating the upper Chattooga River. This is evident by the new prescription of “boat-free” zones which by definition are designed for people with zero tolerance of seeing boats. This zero-tolerant user group has not been managed for or documented elsewhere. If they exist, their numbers are likely extremely small, perhaps numbering only a handful of individuals. It is not reasonable for the USFS, who has a utilitarian mission, to manage exclusively for a miniscule group of users at all, but especially without even documenting the number of people that actually hold such intolerant views.<sup>22</sup> The EA fails to estimate encounters between these zero-tolerance users and paddlers under each alternative, and thus reaching a decision based on this EA is arbitrary and capricious, violating the Appeal ROD, FSM, and the WSRA as defined by *Friends of Yosemite v. Kempthorne*.<sup>23</sup>

## **17. The EA fails to limit use only when necessary.**

The EA admits on page 59 that uses should only be limited “when necessary” yet fails to recognize the meaning of the word necessary, which according to Webster’s Dictionary is “inescapable, unavoidable, logically unavoidable, that cannot be denied without contradiction, determined or produced by the previous condition of things, compulsory, absolutely needed, required.” The USFS has not met this standard with this EA. Paddling is essentially or totally banned in the EA alternatives before paddlers have left a single footprint or encountered a single angler, and without any evidence that impacts will occur. Thus limits are not logically unavoidable based on previous condition of things. The USFS has no basis whatsoever to claim that paddling limits are “necessary” and thus the EA is arbitrary and capricious in its violation of the FSM.<sup>24</sup>

---

<sup>22</sup> *Id.*

<sup>23</sup> FRIENDS OF YOSEMITE VALLEY; MARIPOSANS FOR ENVIRONMENTALLY RESPONSIBLE GROWTH (“MERG”), *Plaintiffs-Appellees*, v. DIRK KEMPTHORNE, in his official capacity as Secretary of the Interior; THE NATIONAL PARK SERVICE, Jonathan P. Jarvis, in his capacity as Director of the Pacific West Region, National Park Service, Department of the Interior; MICHAEL J. TOLLEFSON, in his official capacity as Superintendent, Yosemite National Park, National Park Service, Department of the Interior, *Defendants-Appellants*. No. 07-15124. DC No. CV-00-06191-AWI

<sup>24</sup> “when it becomes necessary to limit use, ensure that all potential users have a fair and equitable chance to obtain access to the river” (FSM 2354.41a).

## **18. The EA fails to consider the ecological and recreational effects of stocking.**

The EA fails to consider the recreational and ecological impacts of the stocking program. Likewise the EA fails to propose to limit stocking as a means of indirectly limiting use prior to instituting direct limits. The EA mentions that the upper portions of the Chattooga are better for fishing, but fails to mention the stocking that causes this condition (page 58). The EA opines on recreation use patterns, resource characteristics, and seasons but fails to mention the significant role of stocking (page 73). The EA casually acknowledges that stocking can cause congestion and crowding (page 85). The EA ponders impacts to countless aquatic species, most or all of which are eaten by stocked trout, however the EA never considers these impacts. Stocking was excluded from the analysis of existing impacts (page 151). The water quality assessment in the EA totally overlooks the impacts of the hatchery on the East Fork. The EA fails to connect the area with the “greatest length of user created trails” with the obvious cause – Delayed Harvest stocking (Page 299, etc). The USFS stocking program significantly increases use. The USFS stocking program is responsible for the near extirpation of native brook trout. The USFS stocking program causes the “potential conflicts” that the EA bans paddling to prevent. Failing to analyze stocking while banning paddling to limit use is analogous to failing to analyze a program that releases bark beetles while mandating timber harvest in response to a bark beetle infestation. The USFS is causing the impact that the EA proposes to manage. Rather than considering limiting the cause, the EA irrationally proposes to eliminate the effect by banning paddling. Doing so fails to consider and implement indirect use limits prior to direct limits and thus violates the FSM and the Appeal ROD. It fails to equitably limit use which violates the Appeal ROD and FSM. It fails to consider a reasonable range of alternatives by ignoring a primary impact, which violates NEPA.<sup>25</sup>

## **19. The EA fails to correctly consider Search and Rescue.**

Analyzing Search and Rescue (SAR) in the EA is a violation of the Appeal ROD. Assuming negative impacts based on mechanized rescue is wrong because the areas are predominantly Wilderness and Roadless areas where such transportation is prohibited. “Requests” for such access have no impacts, though the EA infers otherwise. Paddling is actively encouraged by the USFS on other Wild and Scenic rivers that are vastly more remote and deep in large Wilderness Areas. To infer that paddling is inconsistent with Wilderness because of SAR is absolutely absurd. Wilderness areas are managed for remote and high challenge recreation, not to prohibit it. This analysis represents a fundamental misunderstanding of what Wilderness is. The EA offers no evidence that SAR issues are any different on the upper Chattooga than any other river in the USFS, all

---

<sup>25</sup> See also Section III.D and IV.I of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

of which allow paddling. This analysis violates the Appeal ROD, the FSM, the Wilderness Act, and any concept of logic.<sup>26</sup>

For perspective, risk is a fundamental part of Wilderness. Bob Marshall, famous Wilderness advocate, had this to say:

The benefits which accrue from the wilderness may be separated into three broad divisions: the physical, the mental and the esthetic.

Most obvious in the first category is the contribution which the wilderness makes to health. This involves something more than pure air and quiet, which are also attainable in almost any rural situation. But toting a fifty-pound pack over an abominable trail, snowshoeing across a blizzard-swept plateau or scaling some jagged pinnacle which juts far above timber all develop a body distinguished by a soundness, stamina and élan unknown amid normal surroundings.

More than mere heartiness is the character of physical independence which can be nurtured only away from the coddling of civilization. In a true wilderness if a person is not qualified to satisfy all the requirements of existence, then he is bound to perish. As long as we prize individuality and competence it is imperative to provide the opportunity for complete selfsufficiency. This is inconceivable under the effete superstructure of urbanity; it demands the harsh environment of untrammelled expanses.

Closely allied is the longing for physical exploration which bursts through all the chains with which society fetters it. Thus we find Lindbergh, Amundsen, Byrd gaily daring the unknown, partly to increase knowledge, but largely to satisfy the craving for adventure. Adventure, whether physical or mental, implies breaking into unpenetrated ground, venturing beyond the boundary of normal aptitude, extending oneself to the limit of capacity, courageously facing peril. Life without the chance for such exertions would be for many persons a dreary game, scarcely bearable in its horrible banality.

It is true that certain people of great erudition “come inevitably to feel that if life has any value at all, then that value comes in thought (Joseph Wood Krutch, The Modern Temper),” and so they regard mere physical pleasures as puerile inconsequences. But there are others, perfectly capable of comprehending relativity and the quantum theory, who find equal ecstasy in non-intellectual adventure. It is entirely irrelevant which view-point is correct; each is applicable to whoever entertains it. The

---

<sup>26</sup> The EA attempts to base recommendations on someone’s perceptions of safety, even though the authors were specifically told by the appeal ROD that “there is no basis in law, regulation or policy to exclude a type of wilderness-conforming recreation use due to concerns relative to safety, and search and rescue.” (ROD pg. 6)

important consideration is that both groups are entitled to indulge their penchant, and in the second instance this is scarcely possible without the freedom of the wilderness.<sup>27</sup>

The EA asserts that risk and adventure is incompatible with Wilderness, which reveals a fundamental misunderstanding of what Wilderness is and how it is to be managed.

## **20. The EA fails to reach a logical conclusion regarding conflicts.**

The EA fails to document a single recreational conflict between paddlers and non-paddlers on the Chattooga or any other similar stream, and openly admits that no studies have done so (page 82).<sup>28</sup> Thus, the decision to severely limit and/or ban paddling to prevent conflicts is arbitrary and capricious and a violation of the WSRA, the Wilderness Act, and other laws and regulations (see past comments).

In an attempt to document conflicts from over 35 years ago, the EA on page 57 unethically combines two quotes from two totally different sections of the 1976 Federal Register development plan. The first half of the quote, which is highly questionable in its validity, is from the “Fishing” section and notes that conflicts have occurred but does not note a location of the supposed conflicts. The second half of the quote is from the Development Plan section and refers to Nicholson Fields. The clear and unethical intent of the EA is to state that these supposed conflicts occurred in the Nicholson Fields Reach, which is absolutely not documented in the 1976 plan.

Lacking any documented conflicts the EA sets about inventing future potential conflicts. See pages 81-84, 96-104, 357-362. This attempt fails completely to pass any straight face test or equitability test. No such conflicts exist anywhere else so it is unreasonable to assume it would spontaneously occur here. As pointed out elsewhere in these comments actual encounters and therefore potential conflicts between paddlers and anglers are not estimated in this report, though the chance of an angler seeing a paddler in a given year is less than 0.06%, making any management of conflicts ridiculous, arbitrary, and capricious.

Even if one were to accept the EA premise that unacceptable conflicts will occur when paddling is allowed, and no reasonable person would ever accept this, the entire management response is not equitable or ethical. Specifically, these imaginary conflicts could be limited or eliminated by limiting or banning zero-tolerance angling, yet the EA fails to consider a single alternative limiting this use. A ban on zero-tolerant angling would still allow normal anglers (likely 99.9% of anglers) to enjoy the river as well as paddlers, and would likely only impact an extremely small group of people. Zero-

---

<sup>27</sup> “The Problem of the Wilderness” *Scientific Monthly* 30 (2), February 1930. Pp. 141 – 148, Bob Marshall

<sup>28</sup> See also Section IV.C and IV.N of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

tolerance anglers could also adopt a tolerant attitude and would be welcome to enjoy the river. They could likely fish the river for decades and never see a paddler, even if paddling were unlimited, as a reward for foregoing their intolerant status.

While the EA struggles to define and escape the term “equitable,” it is inescapable that banning paddling to prevent conflicts that will never occur to benefit zero-tolerant anglers is not equitable. Considering limits only on paddlers when limits to anglers would do an equally good job of eliminating conflicts is not equitable. The conflict analysis violates at least the Appeal ROD, the WSRA, the FSM, and NEPA.

It is clear that the EA confuses desires with conflicts: the presumption being that a small group of intolerant anglers desire a river without paddlers so therefore conflict will ensue if paddlers are allowed to float the river. Perhaps many Wilderness users secretly desire to have no one but themselves and their closest friends in a given Wilderness area, but that does not mean that conflict ensues when they meet another group. They likely smile, say hi, and continue their hike, paddle, or ride. Paddlers have a statutorily guaranteed place in Wilderness and on Wild and Scenic Rivers just like hikers and anglers, and in every single case share the resource. To equate base desires with conflict is just wrong and arbitrary.

## **21. The EA fails to design an equitable monitoring process.**

Most alternatives, including the USFS preferred alternative include a monitoring and adaptive management component (See pages 38, 39, 107 and 476). This management scheme would monitor uses and when use exceeds capacity the USFS would require a “heavy-handed” permit system. This action may be targeted at whichever group the USFS feels is most responsible for the capacity violation. This process inequitably targets paddlers who in Alternative 12 may have only nine days of paddling opportunities whereas other visitors have 365 days on which to spread out their use. Also, paddlers will be precisely counted by a permit system whereas other visitors will be counted by parking lot counts, a system vastly less likely to prove a capacity violation. This whole system is set up to inequitably show that paddlers cause capacity violations while non-paddlers do not, even when this is not the case. Alternative 12 is designed to cause actual and artificial capacity violations. This scheme is inequitable, arbitrary and capricious, and inconsistent with the FSM.

## **22. The EA fails to document the unilateral nature of the public involvement process.**

The EA mentions in several places the many research documents prepared by the USFS and their contractors over the past decade, and stresses the many public meetings and comment opportunities. The EA fails to mention the important point that all documents were published and presented in their final form, and public responses resulted in zero corrections or changes. Thus, the public comment opportunities were a farce. The record

built for this EA was built and unilaterally controlled by USFS personnel. It is largely a product of bias and misunderstanding, and has little or no scientific credibility in the manner that it is being used. While experts were hired, they were clearly not heeded. Developing such a flawed and unilateral record is in violation of NEPA, and presenting it as a robust publicly vetted record is simply untruthful.<sup>29</sup>

### **23. The EA fails to document the role of the public involvement process in creating the controversy and intolerance now being managed for.**

The EA discusses at some length the public meetings and review process over the past decade but fails to mention the only outcome of that process – heightened controversy and intolerance among forest visitors. The agency stated repeatedly in public forums that paddlers would impact other visitors and the landscape, creating fear and anger among non-paddlers. USFS proposals to ban paddlers empowered and entitled non-paddlers. The USFS listened to a few stakeholders concerns and trumpeted that these impacts would occur, growing the base of opposition to paddling. At the same time these statements made paddlers defensive and angry that their use was being blamed for impacts that would never occur, and that they were being treated as second class citizens. At every opportunity the USFS made the situation worse by taking sides, presenting false and biased information, and proposing inequitable solutions that favor some people and persecute others. If anything has been learned from this public process it is that this approach resulted in a catastrophic and utterly avoidable failure. Failure to mention this in the EA totally mischaracterizes the nature of the controversy, public sentiments, public comments, and the entire issue. Eliminating the primary driving factor behind the proposed management from the analysis is a violation of NEPA.<sup>30</sup>

### **24. Alternative 8 fails.**

Alternative 8 fails to consider paddling and other uses on the Chattooga River between Grimshawes Bridge and Green Creek and thus violates the Appeal ROD and WSRA. Alternative 8 arbitrarily bans paddling on the tributaries which violates the WSRA, NEPA, and a variety of other laws and regulations. Alternative 8 fails to require all corridor users to register. Analysis of Alternative 8 includes “scenic boaters” which do not exist, and “boat-based anglers,” an activity that can and should be managed separately. It is not clear that Alternative 8 would equitably institute direct limits only after indirect limits have been exhausted. Alternative 8 includes Licklog Creek as a put-in, which was not part of the paddlers’ requested alternative and should not have been included. It is unclear in the EA what the current status of the trail into Green Creek is,

---

<sup>29</sup> See also Section II.G of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

<sup>30</sup> See also Section IV.O of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

and if that trail is necessary or even desired by paddlers, and thus it may be inappropriate to propose this trail as part of the boating alternative.

## **25. Alternative 12 fails.**

Alternative 12 bans or inequitably and severely directly limits paddling on the entire Upper Chattooga River based on imagined impacts presented in an unreasonable and biased range of alternatives. This arbitrary and capricious alternative thus violates the Appeal ROD, the WSR, the Wilderness Act, NEPA, the FSM, and all federal laws, regulations, and policies that we references in our prior comments on current and previously proposed management. The EA offers no rationale for selecting this alternative as the preferred alternative.

## **26. The EA fails to provide any basis for banning paddling on tributaries.**

The EA excludes the tributaries of the Upper Chattooga River from the analysis, yet bans paddling on them.<sup>31</sup> This is the very definition of an arbitrary and capricious action and is a direct violation of the WSR, FSM, and NEPA. The USFS proposes to take the most extreme management action possible against the public based on a paragraph of completely unfounded and irrational discussion. There is no basis for this action. The USFS can not both exclude the tributaries from the EA *and* ban paddling on them. To do so is arbitrary and capricious. Creating this arbitrary ban is also in violation of the scope of analysis dictated by the Appeal ROD.<sup>32</sup>

## **27. The EA fails to consider the biophysical impacts of various uses equitably.**

The EA discusses at length documented significant impacts of existing visitors (see pages 47, 48, 54), and proposes simple nationally consistent management actions to minimize and mitigate those impacts. While capacity limits are proposed by the EA, no direct or even indirect use limits are immediately proposed to address these significant and well documented impacts. The EA finds on page 65 that “many biophysical impacts can be reduced more effectively by other actions in the management prescription ... rather than adjusting use levels.” In fact, the EA proposes to continue to artificially attract visitors, and to continue to cause significant environmental harm through stocking 70,000 exotic trout each year in the river.

---

<sup>31</sup> See also Section II.I of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: “Managing Recreation Uses on the Upper Chattooga River”

<sup>32</sup> The EA must address the “Chattooga WSR from and to existing access points between and including NC Road 1107 (Grimshawes Bridge) and the Highway 28 Bridge.” (ROD pg. 3)



At the same time, the EA imagines and exaggerates various potential impacts associated with paddling.<sup>33</sup> While none of these impacts were predicted to be significant, the EA discusses at length how the impacts vary with the amount of paddling allowed under each alternative. For example see page 339. This is of course purely an artifact of how the alternatives inequitably vary only paddling, thus masking the fact that the numbers of visitors is the variable driving impacts, not the number of visitors paddling. An example of this flawed and biased logic can be found on page 343, where the EA states that “All three alternatives [8, 14, and 11] have the potential for more boaters and, therefore, the potential for more [ginseng] collection pressure than the other alternatives.” Obviously boaters have no more interest in ginseng than anyone else, and probably have less. Another example is the presumed impacts to black bears, which anglers and hikers are equally or more likely to disturb, and hunters are allowed to chase, shoot, and kill in the same area. A similar example is presumed impacts to brook trout which the USFS is wiping out through stocking non-native trout, and anglers are allowed to catch and kill.

It is unclear if any of the EA’s biased and unfounded claims regarding biophysical impacts have anything to do with the USFS decision to select Alternative 12. They should not, as they are each arbitrary and capricious, wholly unfounded, inequitably applied, and an artifact of an inequitable range of alternatives.

## **28. The EA references a river that does not exist.**

In several locations, the EA references the “North Fork of the Chattooga River.” There is no such river. This is a factual error in the EA.

## **29. The EA attributes boating use to a group that does not exist, scenic boating.**

The EA attributes significant use to “scenic boating” and “boat-based angling.” These uses are figments of the USFS imagination. No such boaters filed comments requesting access to these reaches. No such use has occurred historically. Including this use only in Alternative 8 arbitrarily and capriciously clouds the real effects of that alternative. Paddlers for a decade have requested an alternative that addresses use beginning and ending only at the bridges, and only in whitewater craft. By ignoring this proposal the USFS is failing to analyze a reasonable alternative put forward by the public. This violates NEPA, and is clearly arbitrary and capricious attempt to exclude Alternative 8.

---

<sup>33</sup> For example the EA on page 90 and 204 arbitrarily and capriciously asserts that paddlers will have unique impacts on black bears, which can be shot and killed legally in this area for their fur. There is no evidence for example that paddlers a) impact bears by passing them, b) will pass them, c) will have impacts distinct from hikers, d) will have impacts greater than allowed uses like bear hunting. The same is true for wood in the river, which other visitors have been documented removing.

### **30. The EA fails to clearly state that wood is a non-issue.**

The EA once again dwells on the fact that there is wood in the Chattooga River and its tributaries as a rationale for imposing paddling limits. The EA proposes to prohibit wood removal which makes wood a moot issue. Wood has little or no ecological value in high gradient bedrock and boulder controlled reaches which makes wood a moot issue. The paddling and wood studies proved that only 1-5 out of several thousand pieces of wood in the river were a problem for paddlers which makes wood a moot issue. The EA on page 154 acknowledges that some wood removal is acceptable which makes wood a moot issue. Wood portages are temporary in high gradient streams due to wood mobility, which makes portage trails around wood a moot issue. Portages during the boating test study were conducted on bedrock which makes wood a moot issue. The EA documents that non-paddlers also remove wood but proposes no limits on non-paddlers making the EA inequitable in its treatment of the issue. The EA claims the value of wood is its benefit to brook trout, yet managers allow significant direct harvest of brook trout, and the USFS has admittedly nearly wiped the species out through the ongoing stocking of non-native trout. Limiting a use based on a miniscule and undocumented effect on brook trout while wiping the species out to benefit another use is not equitable and is arbitrary.<sup>34</sup>

### **31. The EA fails to clearly state that portage trails are a non-issue.**

The EA attempts to qualitatively predict impacts of portaging. During the on-water paddling assessment all portaging was done on bedrock, which the EA acknowledges on page 106. Thus, the only evidence that the USFS has regarding portage impacts shows that there will be none. The USFS proposes to actually create a small amount of portage trails, which would have impacts that are no different to angling and hiking trails. Wood portages are incredibly rare and transient, allowing quick recovery of any disturbed soil or vegetation. The only reasonable outcome of considering the potential impacts of portaging is that there will be no significant impacts. The EA however fails to reach such a conclusion.

### **32. The EA mischaracterizes the effects of low water on portages.**

The EA anticipates that low water conditions may cause more portages and thus more shore use by paddlers (see 197 and 276). This is not accurate. Typically, lower flows require less shore access because more rapids can be boat-scouted and many rapids become easier to paddle. Even more importantly, low water conditions allow relatively

---

<sup>34</sup> See also Section III.B of the 2008 COMMENTS OF AMERICAN WHITEWATER on the Environmental Assessment Titled: "Managing Recreation Uses on the Upper Chattooga River"

easy and desirable portaging within the river channel. This is a factual error in the EA that introduces bias against paddling in certain alternatives at certain flows.

### **33. Excluding the errors listed above, which include the illegal and wrongful treatment of whitewater paddling, the EA contains the basic components of a river management plan.**

The EA carves out whitewater paddling, management of Upper Chattooga tributaries and the uppermost section of the Wild and Scenic Chattooga River, and exotic trout stocking from the analysis and any potential action. Whitewater paddling is singled out for harsh limits and inequitable treatment based purely on agency bias. Management of tributaries and the uppermost section of the Chattooga is excluded from the analysis entirely based purely on agency bias. Any consideration of the social and environmental impacts of the exotic trout stocking program was conspicuously left out of the analysis based purely on agency bias.

Beyond these and the other fatal flaws listed above though, the EA does contain some new elements of a normal river management plan. Action alternatives propose biophysical fixes for biophysical problems like user created trails and oversized campsites. Action alternatives contain capacities for all non-paddling visitors. Though inadequate, Action alternatives propose some means of monitoring use. Action alternatives propose an adaptive management plan with valid components.

It is clear from this most recent EA that the authors finally understand what a Comprehensive River Management Plan for a Wild and Scenic River *should* contain. Unfortunately it is equally clear that the authors remain intent on violating the public trust, exceeding their discretion, and breaking federal law to pursue a biased agenda.

Unfortunately, the errors listed above and the blatant bias of the authors against paddling, render the entire EA illegal and fundamentally unsound to base future management upon.

### **Conclusion:**

This EA is illegal, irrational, and biased. It violates every mandate of the Appeal ROD, and many elements of the Wild and Scenic Rivers Act, Wilderness Act, NEPA, the Forest Service Manual, and other federal laws, regulations, and policies. The selected range of alternatives inequitably, arbitrarily, and capriciously targets paddlers for limits. The entire design of the EA transparently aims to reach a predetermined goal of limiting paddling. We object to the selection of the preferred alternative, and consider this entire EA invalid and illegal.

Submitted by,



Kevin R. Colburn  
National Stewardship Director, American Whitewater

On Behalf of,

**AMERICAN CANOE ASSOCIATION**  
108 Hanover St, Fredericksburg, Virginia 22401

**AMERICAN WHITEWATER**  
2725 Highland Drive, Missoula, MT 59802

**ATLANTA WHITEWATER CLUB**  
P.O. Box 11714, Atlanta, Georgia 30355.

**FOOTHILLS PADDLING CLUB**  
PO Box 6331, Greenville, South Carolina 29606.

**GEORGIA CANOEING ASSOCIATION**  
P.O. Box 7023, Atlanta, Georgia 30357.

**WESTERN CAROLINA PADDLERS**  
P.O. Box 8541, Asheville, North Carolina 28814.

**BRUCE HARE**  
30 Three Cabin Trail, Franklin, North Carolina, 28734.

**KEN STRICKLAND**  
210 Padena Drive, Box #63 Morganton, Georgia 30560.

**JOE STUBBS**  
535 Earlvine Way, Kennesaw, Georgia 30152.

Duncan Wheale  
<ddwheale@aol.com>

08/30/2011 01:10 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Kayak Useage Above The Iron Bridge On The Chattooga River

To Whom It May Concern:

By way of introduction, my wife and I, for 17 years, have owned property fronting Whiteside Cove Road and adjacent to the USFS, next to the Trailhead for the Chattooga River Trail. Our property wraps around the cemetery and borders the Cranstons' and Robertsons' properties as well.

In 1997 the Robertsons and I purchased land ( costing \$23,000) and donated it to the USFS in an effort to help protect the Chattooga River Watershed (the stated purpose by the USFS in its letter to me at the time). I did not take a tax deduction for this donation.

In 2001 I attempted to donate 1.76 acres (appraised at \$108,000.00) to the USFS. This property is across the street on Whiteside Cove Rd. from the existing parking lot at the Trailhead. Holly Berry Association blocked that transfer just before it was to take place.

I support the USFS and the hikers who use its properties. My home is the closest to to parking lot used by many hikers, so it is me they often come to for help with cars that are stuck in the ditch (one last week), dead batteries, first aid needs, etc. I'm always happy to help them. You have never received a complaint from me. But today I must file a comment to your proposed plans to allow kayaks above the iron bridge on the Chattooga River.

I had written a lengthy response, but have reviewed the responses filed by Tom Robertson on his own behalf, and on behalf of the Estate of John Craig Cranston, and concluded he has done a much better job at expressing my concerns than I would have. Please join my concerns to those he has already expressed, and join my name to the questions he has put forth.

I would like to add that I own 692 feet of frontage on Whiteside Cove Road across from the existing parking lot, and 628 of frontage adjacent to the USFS parking area. When that parking lot will not accommodate all of the hikers and kayak users who wish to access the trail at that point,

IS THERE ANY DOUBT THAT THEY WILL PARK ON MY PRIVATE PROPERTY OR THE NARROW GRAVEL ROAD TO THE CEMETERY, THAT ALSO SERVES AS THE ONLY ACCESS TO THE ROBERTSON CABIN AND QUEEN CABIN?

Please note that I own to the middle of Whiteside Cove Road, and the DOT has an easement to use and maintain the road. This easement does not include illegal parking and destruction of my property.

HOW WILL THE USFS PREVENT THIS?

IF THIS PROBLEM OCCURS, WHAT RECOURSE SHOULD WE TAKE? CALL A TOW TRUCK? CALL THE USFS? PUSH THE VEHICLES OFF MY PROPERTY WITH MY TRACTOR? CALL THE SHERIFF OR THE FEDERAL MARSHALL WHEN A CONFRONTATION OCCURS?

It has been stated that the primary purpose of the USFS in acquiring and owning the property along the Chattooga River Corridor is to protect the Watershed.

IS THE USE OF THIS SENSITIVE AREA OF THE RIVER BY BOATERS CONDUCIVE TO THE PROTECTION OF THE WATERSHED?

WILL THE WATERSHED BE ADVERSELY AFFECTED BY THIS USE?

I have 2 kayaks and have never even contemplated using that area of the River closest to my home. It is not practical and makes little sense to me that anyone would seriously believe that their time would not be better spent, and more enjoyed, on the many miles of the River below the iron bridge. I support kayaks being used on those portions of the Chattooga River that make common sense, and when those users do not adversely affect the Watershed. I support kayak use below the iron bridge, but not above, for the reasons stated by Mr. Robertson and in this comment.

Thank you for allowing us to comment and to ask questions. I look forward to your responses.

Sincerely,

Duncan Wheale

**C Coleman**  
**<cheetahtk@yahoo.com>**

08/30/2011 01:20 PM

Please respond to  
C Coleman <cheetahtk@yahoo.com>

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Comments on the Upper Chattooga EA

Formal comments in attachment

copy included in body of email.

Sincerely,  
Charlene Coleman

---

U.S. Forest Service  
Chattooga River Project  
(Headwaters)  
4931 Broad River Road  
Columbia, S.C. 29212  
**comments-southern-francismarion-sumter@fs.fed.us**

Dear Sir,

Incredible as it may seem, this is yet another failed attempt at a realistic scientific fact based EA (Environmental Assessment). It concerns me greatly that it seems you have no intent of ever doing one. I am dismayed at how you can get away with blatantly disobeying a directive from the Chief to do a Capacity Analysis.

I also don't understand why, Washington hasn't realize there is an obvious problem and new non prejudice people need to at least review this whole issue. It's obvious you aren't in agreement by reading the text.

The ultimate question is, are you just afraid of letting the Rangers use normal procedures of monitoring and indirect measures to reduce problems, because you know this fairy tale you have perpetuated for years, will shine brightly through and you'll look bad?

Why are you so vehemently against allowing equitable use with normal policy procedures that work for every other National Forest? After 12 years and millions of wasted dollars, all of which would have been better served doing far better things, you still cannot PROVE anything with factual scientific data.

The "conflicts", the only documented conflicts, are from the days of "Deliverance" when the locals hated all things that had to do with the Federal Government coming in and disturbing their God Given right to use and abuse whatever they wanted to.; ie. Like washing trucks in the river. Seems the Feds had as much trouble as any "new people". Rangers were threatened as much as the fancy city slicker fly fishermen. The local raft companies had rafts slashed in the dark of night. Hikers, Fishermen, Boaters and

Rangers all met equal disdain from the locals. There has been no other documented conflict, just urban legend and a Forest Service perpetuated perception of dislike between boaters and fishermen.

Fact of the matter is, you aren't doing anything but making it worse with stocking fish. The non-native species feast on the native Brookies, furthering their demise. When you stock, everyone knows it, and people from all over come and stand around the bend and net scoop fish up and fill the coolers. What a zoo that is.

That "State record trout" was a brood fish just released from the hatchery, some sport this was. It is not World Class if you have to keep putting the big ones in. Elitist Fly fishermen need some pride and actually stand up for the purist version of their sport. Re-establish the Brookies. The Chattooga is number 7 in one and 11 in preferred fly fishing spots in Trout Unlimited's own surveys!!!!

My personal favorite is the money spent on "Back the Brookies" .....let's stock the predators down stream and then kill them off if they get up stream and try to bring back a fish that actually lives here. It can't be just me that thinks this is a colossal waste of energy and time----quit stocking predators. Protect the river and give it a break from this fish insanity you have going on.

The fact remains, you can't, haven't and won't ever be able to viably uphold the fabricated "issues" you have created. If you are sufficiently mad at this point—GOOD....prove you are capable of proper management, open the river up, let the chips fall where they may and I feel certain you'll find it considerably less costly to use normal management with your Rangers than this 'witch hunt' ban you have right now.

Alternative 12 is not acceptable at all.

Alternative 8—though better, still lacks any true equity.

The rest of them are just a waste of time, effort and money because they aren't based on a single fact, valid data or suggestion by agency hired specialists.

I do appreciate the new restrictions on campsites, fire rings and environmental damage going on up there now.

You still need all users in remote areas to get a permit. It helps those of us that have to look for them.

I still am waiting on a Capacity analysis; otherwise this will never be taken as valid.

No, the recreationalist will not sit by while you establish a foothold in a management style, based on "because I said so", for the rest of the public lands in the US.

Boaters are not a wet motorcycle gang or river thugs, we are just like everyone you pit against us. Many boaters fish and when the water is low we fish, high we boat.....simple. Any one fishing when we could boat just doesn't want to be at home. Adding the tributaries portion is just a cheap shot at boaters.



The whole EA could be interpreted as an insult or arrogance to any other agency or region of the Forest Service trying to follow the correct procedures for NEPA.

Give actual equity a chance. Try normal management practices and let the facts prove or disprove the arguments. It costs less to do it the policy established way.

Thank you for your time.

Sincerely,

*Charlene Coleman*

Charlene Coleman  
3351 Makeway Dr.  
Columbia, S.C. 29201  
cheetahtk@yahoo.com



chattooga Headwaters EA Alt 12 comments 83011.doc

U.S. Forest Service  
Chattooga River Project  
(Headwaters)  
4931 Broad River Road  
Columbia, S.C. 29212

**comments-southern-francismarion-sumter@fs.fed.us**

Dear Sir,

Incredible as it may seem, this is yet another failed attempt at a realistic scientific fact based EA (Environmental Assessment). It concerns me greatly that it seems you have no intent of ever doing one. I am dismayed at how you can get away with blatantly disobeying a directive from the Chief to do a Capacity Analysis.

I also don't understand why, Washington hasn't realize there is an obvious problem and new non prejudice people need to at least review this whole issue. It's obvious you aren't in agreement by reading the text.

The ultimate question is, are you just afraid of letting the Rangers use normal procedures of monitoring and indirect measures to reduce problems, because you know this fairy tale you have perpetuated for years, will shine brightly through and you'll look bad?

Why are you so vehemently against allowing equitable use with normal policy procedures that work for every other National Forest? After 12 years and millions of wasted dollars, all of which

would have been better served doing far better things, you still cannot PROVE anything with factual scientific data.

The “conflicts”, the only documented conflicts, are from the days of “Deliverance” when the locals hated all things that had to do with the Federal Government coming in and disturbing their God Given right to use and abuse whatever they wanted to.; ie. Like washing trucks in the river. Seems the Feds had as much trouble as any “new people”. Rangers were threatened as much as the fancy city slicker fly fishermen. The local raft companies had rafts slashed in the dark of night. Hikers, Fishermen, Boaters and Rangers all met equal disdain from the locals. There has been no other documented conflict, just urban legend and a Forest Service perpetuated perception of dislike between boaters and fishermen.

Fact of the matter is, you aren’t doing anything but making it worse with stocking fish. The non-native species feast on the native Brookies, furthering their demise. When you stock, everyone knows it, and people from all over come and stand around the bend and net scoop fish up and fill the coolers. What a zoo that is.

That “State record trout” was a brood fish just released from the hatchery, some sport this was. It is not World Class if you have to keep putting the big ones in. Elitist Fly fishermen need some pride and actually stand up for the purist version of their sport. Re-establish the Brookies. The Chattooga is number 7 in one and 11 in preferred fly fishing spots in Trout Unlimited’s own surveys!!!!

My personal favorite is the money spent on “Back the Brookies” .....let’s stock the predators down stream and then kill them off if they get up stream and try to bring back a fish that actually lives here. It can’t be just me that thinks this is a colossal waste of energy and time----quit stocking predators. Protect the river and give it a break from this fish insanity you have going on.

The fact remains, you can’t, haven’t and won’t ever be able to viably up hold the fabricated “issues” you have created. If you are sufficiently mad at this point—GOOD....prove you are capable of proper management, open the river up, let the chips fall where they may and I feel certain you’ll find it considerably less costly to use normal management with your Rangers than this ‘witch hunt’ ban you have right now.

Alternative 12 is not acceptable at all.

Alternative 8—though better, still lacks any true equity.

The rest of them are just a waste of time, effort and money because they aren’t based on a single fact, valid data or suggestion by agency hired specialists.

#170

I do appreciate the new restrictions on campsites, fire rings and environmental damage going on up there now.

You still need all users in remote areas to get a permit. It helps those of us that have to look for them.

I still am waiting on a Capacity analysis; otherwise this will never be taken as valid.

No, the recreationalist will not sit by while you establish a foot hold in a management style, based on "because I said so", for the rest of the public lands in the US.

Boaters are not a wet motorcycle gang or river thugs, we are just like everyone you pit against us. Many boaters fish and when the water is low we fish, high we boat.....simple. Any one fishing when we could boat just doesn't want to be at home.

Adding the tributaries portion is just a cheap shot at boaters.

The whole EA could be interpreted as an insult or arrogance to any other agency or region of the Forest Service trying to follow the correct procedures for NEPA.

Give actual equity a chance. Try normal management practices and let the facts prove or disprove the arguments. It costs less to do it the policy established way.

Thank you for your time.

Sincerely,

*Charlene Coleman*

Charlene Coleman  
3351 Makeway Dr.  
Columbia, S.C. 29201  
cheetahtk@yahoo.com

**"William Floyd"**  
**<wcbfloyd@ix.netcom.com**  
**>**

08/30/2011 01:46 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc <wcbfloyd@ix.netcom.com>

bcc

Subject Comments on the Upper Chattooga Environmental  
Assessment

Supervisors Bradley, Bain and Hilliard,

Please accept the attached file that contains the full content of my comments regarding the Upper Chattooga Environmental Assessment.

Thank you for your consideration of my concerns.



Bill Floyd Floyd Comments re Chattooga River Environmental Assessment Response v Aug 30.pdf

4110 Quail View Rd.  
Charlotte, NC 28226-7956

August 30, 2011

**VIA E-MAIL & CERTIFIED MAIL**

**comments-southern-francismarion-sumter@fs.fed.us**

Comments on the Upper Chattooga Environmental Assessment  
C/O USDA Forest Service Supervisor's Office  
4391 Broad River Road  
Columbia, South Carolina 29212-3530

Dear Supervisors Bradley, Bain and Hilliard:

This letter is in response to the request by the United States Department of Agriculture, Forest Service for comments on the Environmental Assessment for Managing Recreational Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor, released July 15, 2011 ("the EA").

Since 1978, I have enjoyed hiking, picnicking, and fishing the Chattooga River from the Russell Bridge to the Chattooga Cliffs on Whiteside Cove Road since 1978. I have also floated the west fork to the take out below the Russell Bridge. I recognize the difficulty of managing a resource that involves competing recreational interests and I appreciate the efforts of the Forest Service over the last many decades to balance these interests. However, I am discouraged by the current plan to reverse the longstanding policy prohibiting boating north of the Russell Bridge and the attached comments explain why.

Sincerely,

Bill Floyd

## **Recommendation on the Pending Upper Chattooga River Land Use Management Changes**

- 1) I urge the Forest Service to reconsider its preference for implementing Alternative 12 and instead ask that all boating above the Russell Bridge on Highway 28 be prohibited under Alternative 1. I also ask the Forest Service to reject Alternative 8.
- 2) Lifting the ban on boating will destroy the “**esthetic, scenic....features**” that the National Wild and Scenic River Act explicitly mandates must be protected ahead of any recreational use. 16 U.S.C. §1281(a).
- 3) The degradation of the upper Chattooga’s “**esthetic, scenic.....features**” can be reasonably foreseen because whitewater rafting and kayaking have already contributed directly or indirectly to the degradation of these features on the lower Chattooga River.
- 4) The current EA is flawed. The Forest Service has erroneously chosen to limit the geographic scope of review to the upper Chattooga River.
- 5) How can the Forest Service rationally draw any projected conclusions about how whitewater running will impact the upper Chattooga without first accounting for how whitewater running has historically impacted the biophysical conditions and the “esthetic, scenic....features” of the lower Chattooga River over the last 35 years?
- 6) Consequently, the EA fails the requisite standard of having given rigorous exploration and logical evaluation of the reasonably foreseeable impacts associated with lifting the prohibition of boating on the upper Chattooga. 40 C.F.R. § 1502.14(a).
- 7) Finally, lifting the ban would be inequitable. Introducing whitewater kayaking would grant a marginal benefit to a small subset of a single-user group while unfairly and irreparably harming the “esthetic, scenic....features” of the river for a multitude of other diverse and less intense user groups. These other user groups merely seek to protect their esthetic sense of solitude, natural scenery and spontaneity of access.
- 8) The foreseeable social and biophysical costs of introducing boating on the upper Chattooga far outweigh the marginal benefit of serving a *dessert* to a small, elite subset of a single-user group that already has fared well in its consumption of the Chattooga river resources.
- 9) The Forest Service has invited comments in order to identify unintended consequences and perhaps fashion alternative ways “to meet the purpose and need for the proposal while reducing adverse effects.” EA at p. 9. These comments are intended to provide such feedback.

## Primary Congressional Mandates Under the Wild and Scenic River Act

- 10) The National Wild and Scenic River Act requires a finding of the existence or non existence of “*outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values...*”. The presence of such features are essential to determining whether or not to designate a river as a National Wild and Scenic River. 16 U.S.C. §1271
- 11) Once a designation study has been completed and a river is determined to have sufficient outstandingly remarkable values to be designated Wild and Scenic, Congress also spells out how these Wild and Scenic rivers must be managed.
- 12) In § 1281(a) Congress mandates that: “*Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.*” 16 U.S.C. § 1281(a)
- 13) In other words, Congress has given the Forest Service a mandate to prepare a comprehensive management plan for the river that allows for “other uses” not specifically enumerated as outstandingly remarkable values in § 1271 so long as such “other uses” do not “substantially interfere with public use and enjoyment of these values”. Allowing the continuing sale and harvesting of timber exemplifies how this provision might apply. It would be permissible to allow the sale and harvesting of timber from a Wild and Scenic River corridor so long as the sale and harvesting did not interfere substantially with the public’s use and enjoyment of the enumerated “outstandingly remarkable values” of the river.
- 14) However, the statute also mandates that any outstandingly remarkable recreational activity may have its “intensity” of use restricted based on the “special attributes of the area”. 16 U.S.C. § 1281(a).
- 15) First and foremost, in managing a Wild and Scenic River, Congress has directed that “.....***primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features***” 16 U.S.C. § 1281(a)(emphasis added).
- 16) In this imperative, Congress chose to use the word “**features**” instead of repeating the phrase “**outstandingly remarkable values**”.
- 17) “Features” and “values” are not synonymous.
- 18) “**Features**” connotes the outward form or appearance of something without any modification having been made; a prominent characteristic of something; a distinguishing mark, part, or quality; anything given special prominence. In

- contrast, **“values”** refers to the set of specific characteristics that give something desirability, functionality, utility or pecuniary worth.
- 19) **“Features”** relates more to what distinguishes one thing from another and is capable of being understood from merely observing the outward form or appearance of something. In contrast **“values”** are not necessarily obvious from simple observation of the outward form or appearance of something. Values connote some form of rational evaluation, calculation, or ranking process in the determination of what gives something value.
  - 20) **“Esthetic”** is an adjective describing a quality of being keenly responsive to and appreciative of beauty in art, nature, etc. It is closely related to the noun estheticism which constitutes a theory or outlook that places primary emphasis on the subjective emotional and mental responses of humans to the beauty of art or nature in lieu of objectively assessing the functionality or utility of art or nature
  - 21) The Congressional imperative of § 1281(a) does not include any catch all provision such as “other similar features” or “other similar values”. The intentional omission of such phrases suggests that the enumerated list of “features” was intended to be exclusive.
  - 22) The omission of a catch all phrase coupled with the primacy in order within this sentence of the words **“esthetic”** and **“scenic”** demonstrates Congress was particularly concerned with protecting these enumerated **“features”** over other non enumerated features. Even if **“features”** and **“values”** could be assumed to be synonymous, which they can’t, the failure of Congress to repeat “recreational” in its § 1281(a) imperative would still have to be reconciled.
  - 23) In summary, Congress has clearly mandated that protecting the **“esthetic, scenic ....features”** of the river **must supersede** any management initiative facilitating or enhancing any single outstandingly remarkable recreational value---such as boating, floating, or kayaking---especially where there is conflict, disharmony etc. between the pursuit of that outstandingly remarkable recreational activity and the overall **“esthetic, scenic ....features”** of the river.
  - 24) At a minimum, the Chattooga’s **“esthetic”** features include the human sensations of wellbeing and peacefulness and harmony that derive from having freedom of access to observe and sense the river’s unique and undisturbed scenic beauty and the sense of solitude inherent in its natural condition---a state that should be maintained largely free from intense human social interaction and manipulation per the statute.
  - 25) The protection of any Wild and Scenic River’s **“esthetic, scenic, ....features”** depends on it remaining free from excessively intense human interference and social interaction.
  - 26) Protecting the **“esthetic, scenic, ....features”** means that recreational uses, even those outstandingly remarkable, shall not be encouraged or enhanced at the expense of the degradation of these naturally occurring features.
  - 27) The joint Secretarial Guidelines interpret the management principles of § 1281(a) “as stating a nondegradation and enhancement policy for all designated river areas, **regardless of classification.**” National Wild and



Scenic Rivers System; Final Revised Guidelines for Eligibility, Classification and Management of River Areas, 47 Fed. Reg. 39,454, at 39,458 (Sept. 7, 1982). (emphasis added).

- 28) Consequently, it does not matter if a particular area of the river is classified as wild, scenic, or merely recreational. All classifications are subject to the same standard of nondegradation.
- 29) Nondegradation means zero tolerance for any degradation.
- 30) For over three decades, the Forest Service has held a firm understanding of the need to protect the special “**esthetic**” on the upper Chattooga from degradation by utilizing spatial zoning of recreational activities and a prohibition on boating above the Russell Bridge at Highway 28.
- 31) For over thirty years the Forest Service has applied common sense to protect these “esthetic, scenic....features” by restricting incompatible recreational activities to different segments on the river through spatial zoning.
- 32) Unfortunately, no good deed goes unpunished.

## **Impermissible Degradation of the Esthetic, Scenic Features of the Lower Chattooga River**

- 33) In its effort to fairly allocate limited resources between competing recreational users, the Forest Service has unintentionally abandoned its primary directive from Congress to protect the **“esthetic, scenic....features”** on the lower Chattooga river.
- 34) Unwittingly, to accommodate the lobbying and complaints of the whitewater rafting and kayak industries, the Forest Service has in fact promoted the unlawful degradation of the **“esthetic”** on the lower Chattooga River. The Forest Service has allowed whitewater rafting and kayaking at levels of intensity that directly conflict with its Congressional directive to protect the **“esthetic, scenic....features”** of the river.
- 35) For the benefit of a single recreational group---kayakers and whitewater rafters---the Forest Service has expended public resources to develop various infrastructures such as extending gravel roads closer in proximity to the boundaries of the wild and scenic river corridor in order to establish parking lots, public bathrooms, boat launches and portage trails. (E.g. the extension of the road to Woodall Shoals and the construction of a parking lot which primarily serves commercial rafting needs). At the same time, it has asserted the need to eliminate and close hiking trails or proscribe other pre existing recreational uses like horseback riding and jeeping along major parts of the lower river.
- 36) **“Horseback riding, hunting, and motorized use on several river-adjacent roads were also common and provided recreation, with most of it occurring in the lower segment of the river. All roads except for major highway crossings were removed or converted to trails in the 1970’s after designation, making the river appear more remote and less developed. As a trade-off, the river became less accessible to day users, particularly those interested in picnicking”** EA at p. 18
- 37) These management directives took place under the guise that these user activities were causing or prospectively could cause unacceptable degradation of the solitude component of the river’s **“esthetic, scenic features”**.
- 38) Now, thirty years later, a commercial enterprise---guided whitewater rafting trips--- threatens to dominate the Forest Services’ management and use objectives on the lower as well as upper Chattooga river. This group has been afforded the opportunity to reap the financial profits of running between 40,000 to 70,000 individuals per year through the lower **“Wild and Scenic”** Chattooga River. This volume of boaters could not have used the river had it not been for the assistance of the Forest Service in permitting commercial whitewater rafting.
- 39) For many recreational users, the intensity of boating and the installation of the infrastructure to support this profit motivated use of the river has forever diminished the **“esthetic”** and **“scenic”** features of the lower Chattooga---in direct violation of the Wild and Scenic River Act.

- 40) More troubling, by encouraging boating, the Forest Service has allowed other non boating recreational users to be unlawfully crowded out, displaced, and run off.
- 41) The concomitant result of allowing excessive commercial whitewater rafting was the further destruction of the solitude component of the “esthetic, scenic....features” of the lower Chattooga. Ironically, this was what the prior elimination of other recreational uses like horseback riding and jeeping was supposed to preclude.
- 42) Unfortunately, the boating advocates continue to assert that the recreational user conflicts the Forest Service has based the upper Chattooga boating prohibition on are imaginary, that they have never occurred, that they do not occur elsewhere, and that they will not occur on the upper Chattooga---and even if such user conflicts do exist that they do not constitute a legal basis for restricting boating on the upper Chattooga.
- 43) If only the boaters’ assertions were true, then as the old Merle Haggard song goes we could all be “drinking that free bubble up and eating that rainbow stew.”
- 44) However, the boaters’ lawsuit and the substantial public record demonstrate the exact opposite factual condition. Backcountry hikers, picnickers, waders, birders, hunters, swimmers and fisherman are united on the public record in objecting strongly to boating as being incompatible with their use of the upper river because boating interferes with the river’s special “esthetic” to those groups. Various nature oriented 501(3)(c) organizations are on the record in being opposed to the introduction of boating to the upper Chattooga.
- 45) The EA states that “[p]ublic comments during the Limits of Acceptable Change process suggest general tolerance for existing levels of use and encounters (even during high use months of the year) but people do not want these levels to noticeably increase.” EA at p. 71.
- 46) The EA also recognizes that “social impacts (especially encounters, as well as competition for camps and fishing areas) are probably the most limiting factor for use levels in backcountry areas of the upper Chattooga. While increasing use can have adverse impacts on biophysical or cultural resources, more often it is the type of use (or behavior of the user) rather than the amount of use that is decisive with these resources.” EA at p. 65.
- 47) In other words, while existing users are satisfied with the current levels of use and encounters with other recreational user, they also express a zero tolerance for the introduction of any particularly intense recreational activity such as whitewater kayaking which they understand to be incompatible with protecting the “esthetic, scenic....features” of the upper Chattooga.
- 48) The “esthetic...features” of the river are those features that convey beauty and harmony to human beings. The esthetic of the river holds essentially a subjective meaning where different people might find different reasons for this sense of beauty.
- 49) The public record clearly demonstrates that existing users of the upper Chattooga are united against the introduction of any boating on this segment because they feel boating will irreparably harm the human sensations of

wellbeing, and peacefulness, and harmony that flow from having freedom of access to observe and to sense the river's unique and undisturbed scenic beauty and solitude.

- 50) In weighing the balance of hardships in reversing a longstanding policy of separation that has preserved the "esthetic" of the river on the upper segment, (while abandoning this esthetic on the lower Chattooga) the Forest Service should give greater weight of consideration to the stated human emotional experience and impact on those **existing users** who assert that any kind of boating on the upper Chattooga will irreparably destroy the esthetic, scenic features of the river.
- 51) For existing users, there is no substitute elsewhere on the Chattooga for the **"esthetic, scenic .....features"** that will be irreparably destroyed if any kind of boating is allowed on the upper Chattooga. In contrast, boating does not necessitate the presence of solitude for its enjoyment. Boating also has available a diversity of alternative river recreation opportunities already well documented on both the lower Chattooga and its tributaries.
- 52) Maintaining a boat free segment of the river to protect this "esthetic" complies with the mandates contained in the Wild and Scenic River Act, the Joint Secretarial Guidelines, and the Forest Service's Manual 2354.41.
- 53) Giving greater weight to the esthetic senses of those opposed to boating is fair and equitable because whitewater rafting and kayaking are not essentially solitude seeking pursuits.

## **Fundamental Characteristics of Whitewater Rafting & Kayaking**

- 54) The sport of kayaking and whitewater rafting is an intensely social and gregarious pursuit that derives its enjoyment from the functional teamwork of conquering the unbridled power of the river---and not just from passive observation of its scenic beauty. Having somebody else to witness your achievement implicitly constitutes a foundation for the ethos of whitewater running. Solitude seeking does not constitute a primary concern or focus of the larger set of whitewater rafters or kayakers on the lower Chattooga or other rivers like the Nantahala, Ocoee, or Tuckaseegee.
- 55) Whitewater enthusiasts congregate in larger groups around special places on the river to watch each other while running river features such as Bull Sluice.
- 56) The absence of solitude seeking in the whitewater enthusiasts' passion can be understood by watching any of the various You Tube video clips posted by boaters themselves as they run various parts of the lower river. Simply search You Tube with queries like Bull Sluice or Deliverance Rock, or Jawbone, or Corkscrew, or Woodall Shoals.
- 57) These videos clearly demonstrate that whitewater kayaking and rafting are anything but solitude seeking.
- 58) A particularly informative clip is titled "Bull Sluice Pin on Chattooga" <http://www.youtube.com/watch?v=6nIAmxDinzU> which records the raucous recovery of a raft that is trapped in the hydraulic of Bull Sluice---a recovery feat that some boaters on the associated blog refer to as an expert but unnecessarily risky maneuver.
- 59) As these kayaking and whitewater rafting videos unambiguously evidence, in part because of safety necessities, but also because of the participant/spectator football game like atmosphere of their sport, it is quite normal to come upon groups exceeding a dozen folks at a time gathering strategically above, below and around particularly beautiful, challenging and sometimes dangerous choke points on the river.
- 60) There may be numerous boats standing by below as safety spotters while other boats navigate and run the obstacle. There may be additional participants standing by with ropes etc. along the sides of the river in the event that a boater must be pulled from the river.
- 61) It is a boisterous and congratulatory atmosphere complete with gleeful hollering, cheering and high fiving when participants successfully navigate one of these challenges. Despite whatever, boaters will also sometimes evacuate, portage back upstream, and then float the same section of the river. Consequently, these special places on the lower river sometimes never clear of the congestion of people for extended periods of time.
- 62) As demonstrated by their own behavior captured in their own videos, the concept of solitude is not what is being pursued on the lower Chattooga by whitewater enthusiasts.
- 63) In essence, the way in which whitewater running is practiced suggests an intense shared experience and not a solitude seeking one.

- 64) The intensity of this social teaming aspect of whitewater rafting and kayaking stands in stark contrast to the solitude seeking experience of those who merely seek to observe and sense the esthetic scenery of a river free from the interference of humans' manipulation, be it the construction of a hydroelectric dam, or be it humans trying to conquer the river for their own recreational or pecuniary purposes.
- 65) No doubt there are individual boaters who value solitude and there is no question that they have a deep regard for the river for their own reasons.
- 66) Nevertheless, as demonstrated by their own self describing videos, solitude seeking does not constitute a primary concern or focus of the larger set of whitewater rafters or kayakers on the lower Chattooga or other rivers like the Nantahala, Ocoee, or Tuckaseegee.
- 67) Boaters are group oriented by functional necessity and their sport entails an intense interaction with the river---where sometimes loss of life can occur.
- 68) To further buttress this point, if solitude seeking were a fundamental and irreplaceable concern of the whitewater running experience among the overall user group, why doesn't the American Whitewater Association's lawsuit demand more restrictive commercial permitting on the lower Wild and Scenic Chattooga to eliminate the excessive number of folks (40,000 to 70,000 per year) using the river?
- 69) This would reduce the number of unacceptable interpersonal encounters that degrades the sense of solitude on the lower Wild and Scenic Chattooga.
- 70) Why not prohibit all commercial whitewater rafting on the lower Chattooga in order to restore the balance of solitude that the self guided kayakers assert that they need from the upper Chattooga?
- 71) Despite the boaters' claim of being singled out unfairly, the prohibition of boating on the upper Chattooga does not preclude boaters from enjoying the exact same solitude inherent in the "esthetic" of the upper Chattooga river. People who boat still have the same freedom as hikers, birders, campers, fishermen, picnickers to seek out and enjoy the solitude of the upper river.
- 72) Boaters are merely precluded from introducing a new recreational use on that particular segment of the river that is both incompatible and threatening to the overall "esthetic" for existing users of the upper river.

## Current EA Failures

- 73) The current EA contains numerous omissions and inconsistencies in evaluating how the reversal of a decades old prohibition of any boating will impact the upper Chattooga area.
- 74) The current EA fails to adopt a sufficiently broad geographic scope of review. In order to make any logical projection of how boating will impact the upper segment, the Forest Service must vigorously attempt to evaluate the overall impact (and possible degradation if any) that boating has had on the lower Chattooga River. The Forest Service has over thirty years of history available in this regard.
- 75) The EA justifies its limited geographic scope by asserting that “Management of the river below Highway 28 was not challenged in the 2004 Sumter RLRMP and is not subject to further review.” EA Section 1.4 at p5.
- 76) What the EA fails to consider is that the Chief’s 2004 appeal notice did not proscribe the Forest Service from assessing the entire Chattooga River corridor. In fact, by implication, the Decision for Appeal directed the Forest Service to prepare a visitor capacity analysis for the Chattooga Management Area #2 in the Sumter National Forest RLRMP. In turn, this defined area is comprised of the entire “180,000 acres watershed” per the 2004 Sumter FEIS page 10.
- 77) Furthermore, as the Ninth Circuit instructed, a governing agency can not simply ignore its responsibility under “the ‘protect and enhance’ requirement of the WSRA to address both past and ongoing degradation.” Friends of Yosemite v Kempthorne, 520 F.3d 1024, 1036 (9<sup>th</sup> Cir. 2008). In short, the geographic scope of the required visitor capacity analysis should be expanded to include a careful review of the opportunities and impacts of boating on the lower Chattooga as well as its tributaries. Otherwise, the Forest Service might be determined to have neglected its duty to address past and ongoing degradation.
- 78) “The WSRA requires a single comprehensive plan that collectively addresses all the elements of the plan---both the ‘kinds’ and ‘amount’ of permitted use in an integrated manner.”Id. at 1036. The Forest Service should prepare a “single document covering all required elements.”Id.
- 79) In the case at hand, the Forest Service bifurcates the river into two segments. The Forest Service proposes to suggest management changes for only the upper Chattooga without any analysis of boating on the entire river. Such an approach is neither comprehensive nor integrated. Such an approach is fatally flawed.
- 80) The Forest Service must make a vigorous evaluation of the impacts (e.g. the degradation (if any)) that boating has had on the “**esthetic, scenic...features**” of the lower Chattooga over the last thirty years. Otherwise, the Forest Service fails to comply with its legal mandate to make a rational decision based on all important and relevant aspects of the management problem. 40 C.F.R. § 1502.14(a).

- 81) How can the Forest Service rationally draw any projected conclusions about how whitewater running will impact the upper Chattooga without first accounting for how whitewater running has historically impacted the “esthetic, scenic....features” and the biophysical condition of the lower Chattooga River over the last 35 years?
- 82) The public record reveals that the Forest Service has ignored multiple requests by interested parties to include the lower Chattooga in the environmental assessment.
- 83) Instead, over the past few years, in order to address the complaints of the boating industry, the Forest Service has adopted numerous narrowly defined focus group like studies and quasi scientific analyses like counting cars in parking lots to project the number of individuals on the river. All of these steps are designed to create a record in order to create an impression of scientific objectivity for the pending management policy decision.
- 84) Unfortunately, the conclusions now being drawn from all of this procedural process, as evidenced by the current EA, are incongruent with the facts.
- 85) As the American Whitewater Association pointed out previously “[c]ontinuing to create a record of documents that have not been corrected based on public comment does nothing but create a weak and flawed foundation for future decisions.” July 3, 2007, Letter to Mr. John Cheeves, Project Coordinator, USDA Forest Service, re: American Whitewater Comments on the USFS Report Titled Capacity and Conflict on the Upper Chattooga River, p. 2-3.
- 86) American Whitewater has stated on the public record, “[w]e greatly appreciate the USFS taking a hard look at biophysical impacts on the Chattooga River. The collection of data on user trails, erosion areas, camp areas, fire rings, litter and tree damage is exactly the kind of information needed to really begin to manage for reduced impacts on the Chattooga. We applaud the USFS efforts to collect these data and look forward to working with them on stream clean ups and other management actions designed to mitigate our reduce any unacceptable impacts discovered through this field work” July 3, 2007, Letter to Mr. John Cheeves, Project Coordinator, USDA Forest Service, re: American Whitewater Comments on the USFS Report Titled Capacity and Conflict on the Upper Chattooga River, p. 16. “Class IV+ paddlers are highly specialized, highly skilled users and numerous studies have linked specialization increased stewardship (see our appeal). Furthermore, paddling does not result in the almost obligatory littering that occurs through fishing” Id. at p. 17.
- 87) Attached as Exhibit “A” are several photographs taken in August 2011 at Earls Ford and Woodall Shoals. These photographs demonstrate an immediate need for resource management attention on the lower Chattooga River.
- 88) Why doesn’t the American Whitewater led lawsuit also join with other interested parties to demand an accounting and inventory of any physical degradation that might be taking place on the lower Chattooga river or that might have already occurred?



- 89) Commercial rafting outfitters and the boating equipment industry have an inherent conflict of interest. They are directly and indirectly making money off of the lower Chattooga River. Consequently, the lobbyists that claim to speak for whitewater boaters might also suffer from a potential conflict of interest.
- 90) It is unlikely that the boaters would wish to critically evaluate whether or not their recreational activity might be causing direct or indirect degradation to either the biophysical condition or the “esthetic, scenic....features” of the lower Chattooga river.
- 91) The scope of the EA must be broadened in order to eliminate this potentially fatal oversight.

## Bio-physical Inventory/Analysis Deficiencies

- 92) The EA in 3.1 admits that a baseline estimate of biophysical impacts have been established through monitoring processes conducted in 2006/07. The EA states that the inventory covers National Forest System lands in the basin from Grimshawes Bridge to Tugaloo Lake, including the West Fork. The EA suggests that these monitoring efforts included documenting all designated and user created trails, the amount of litter along trails, the number and condition of campsites (bare ground, cleared area, cut trees and amount of litter), sites with erosion problems and the proportion of trails and camps within 20 feet of the river. EA at p.47.
- 93) In Section 3.4.1 of the EA, the Forest Service spends considerable effort synthesizing its inventory of campsites and trails throughout the upper Chattooga River. The Forest Service reports that campsites and user created trails are degrading the river through erosion and must be closed or remediated. The EA states that “trails that occur in close proximity to the stream bank (within 20 feet) and those that lead directly into the water are chronic sources for eroded soil to enter into the river.” EA at 262. The EA also states the “the greatest potential for soil entering directly into the river is on areas within 25 feet of the river or on the river bank that have limited to no vegetation or root systems to trap sediment.” EA at 263. The analysis speaks generally about why such campsites or trails are biophysically unsatisfactory without specifying the exact locations of the offending campsites or trails.
- 94) Unfortunately, the EA fails to conduct any similar evaluation of the erosion impacts of the user created trails and campsites on the lower Chattooga River. Only on the upper Chattooga River does the Forest Service state there will be a need to close campsites and user created trails.
- 95) The EA makes no effort to carefully synthesize how the user created campsites and trails on the lower Chattooga River might be causing unacceptable erosion-or degradation to the “**esthetic, scenic....features**”—or to attempt any analysis to determine the direct or indirect causes for their creation.
- 96) If the EA were to attempt a critical synthesis and evaluation of the inventory of campsites and user created trails set forth in the EA, such analysis might lead to a conclusion that the lower Chattooga River suffers from greater unacceptable erosion than the upper Chattooga.
- 97) Furthermore, a careful analysis might determine that this adverse soils impact could be closely correlated to the extensive commercially guided raft trips being permitted on the lower Chattooga---and the creation of informal portage trails along the steep banks of that section of the river.
- 98) To demonstrate how the Forest Service might have attempted vigorously to synthesize and evaluate this information, the information/metrics scattered throughout the EA in Tables 3.1-1 (p.47), 3.1-8 (p.48), 3.1-4 (p.49), 3.1.9 (p.54), 3.4.1-3 (p.284) as well as references contained within the narrative of 3.4.1 Soils (p.259-285) can be combined into a single chart in order to compare the lower Chattooga and upper Chattooga segments.

99) The compiled chart is incorporated below:

River Reach	River Miles per EA Map or EA Tables 3.4.1-2 p.283	Design Trails Miles EA Table 3.1-8 p.54 Table 3.1-3 p.48	User Created Trails Miles	% User Created Trails/ Designated Trails	User Created Trail Miles per River Miles EA Tables 3.1-8 p.54 3.1-3 p.48	# Erosion Sites per EA 3.4.1
Hwy 28 to Hwy 76	20.08	36.8	18.6	51%	.9	72
Hwy 76 to Tugaloo	5.66	3.0	7.5	250%	1.3	11
West Fork Chattooga	5.65	5.4	7.0	130%	1.2	8
Chattooga Cliffs	5.29	6.1	1.9	31%	.4	3
Ellicott Rock	5.34	13.4	2.5	19%	.5	17
Rock Gorge	7.35	11.1	8.4	76%	1.1	44
Nicholson Fields	3.8	4.4	6.5	147%	1.7	27

River Reach	Design Trails within 20 ft of river Feet EA Tables 3.1.9 p.54 3.1-4 p.49	User Created Trails Within 20 ft of river Feet EA Tables 3.1.p.54 3.1-4 p.49	% User Created Trails/ Designat Trails within 20 ft of river	Design Trails within 100 ft of river Feet EA Tables 3.1.p.5 4 3.1-4 p.49	User Created Trails Within 100 ft of river Feet EA Tables 3.1.p.54 3.1-4 p.49	% User Created Trails/ Designated Trails within 100 ft of river	# Erosion Sites per EA 3.4.1
Hwy 28 to Hwy 76	2,648	8,344	<b>315%</b>	28,645	44,089	<b>150%</b>	72
Hwy 76 to Tugaloo	307	1,690	<b>550%</b>	1,001	6,135	<b>612%</b>	11
West Fork Chattooga	312	10,517	<b>3,370%</b>	254	16,704	<b>6,500%</b>	8
Chattooga Cliffs	1,300	360	28%	8,976	1,584	17%	3
Ellicott Rock	1,580	1,033	65%	13,728	6,336	46%	17
Rock Gorge	3,536	2,901	82%	32,500	12,500	38%	44
Nicholson Fields	0	3,170	Infinite	36,000	31,200	86%	27

- 100) Significantly, on those sections of the river where boating is currently permitted, the EA evidences that user created trails within 20 feet of the river as a percentage of designated trails within 20 feet of the river are much higher in every reach as compared to the individual reaches on the upper Chattooga—with the exception of the Nicholson Fields reach.
- 101) The Nicholson Fields reach may be anomalous because the EA states there are zero designated trails within 20 feet of the river. EA at p.49 Table 3.1-4. As reflected on relevant topographic maps, the Nicholson Fields constitutes a relatively flat geographic area where trail remediation should not be difficult. (Satolah, GA 1961 topo). The majority of documented erosion sites in the 2007 bio-physical inventory are located proximate to the Russell Bridge in what is a wide and flat area (approximately 1000 feet wide from rivers edge) (Comparing the Satolah, GA, 1961 topo with the Forest Service's Upper Chattooga River Visitor Capacity Analysis Data Collection Reports p. 6, electronic file name 165\_07\_05\_xx\_bio-physical-20070601.pdf.) This bio-physical inventory suggests that there are extensive user created trails within 20 feet of the river---implying degradation by the current recreational users of the Nicholson Fields area. However, this may be misleading. In fact, a careful review of the 1961 topo map demonstrates that these inventoried user created trails are primarily the descendants of jeep and foot trails that long pre-existed the Wild and Scenic River designation.
- 102) Given the known importance of the Nicholson Fields and the special management of its trout fishery by SCDNR, it seems incredulous that some of these user created trails within 20 feet of the river could not be remediated to function as designated trails. Without sufficient detail about all of the trails in the Nicholson Fields reach, it is impossible to know if the raw data presents a misleading picture with respect to the Nicholson Fields reach.
- 103) However, from Highway 28 to Highway 76, user created trails within 20 feet of the river are 315% of designed trails. From Highway 76 bridge to Tugaloo, the percentage rises to 550%, while the West Fork indicates that user created trails within 20 feet of the river are 3370% of designated trails within 20 feet of the river. In contrast, user created trails on the ecologically sensitive Chattooga Cliffs reach constitutes a mere 28% of designated trails, the Ellicott Rock reach 65%, and the Rock Gorge 82%.
- 104) Step back the analysis of user created trails as a percentage of designated trails to within 100 feet of the river and the difference in metrics becomes more significant as follows: From Highway 28 to Highway 76 (150%); Highway 76 to Lake Tugaloo (612%); West Fork Chattooga (6,500%); Chattooga Cliffs (17%); Ellicott Rock (46%); Rock Gorge (38%); Nicholson Fields (86%).
- 105) What does this difference mean? Clearly, where boating is taking place in addition to other uses, unidentified users of the river corridor are disproportionately creating their own access points to the river without regard for the impact of their actions on soil and bank erosion.
- 106) The identities of the users who are creating these informal trails and the intensity of use are unknown because the Forest Service has not attempted to

capture this information for the purposes of this EA. However, the lower Chattooga is dominated by boaters. At a minimum the Forest Service should determine through careful study if boating has been responsible for the creation of these inappropriate user trails because this information would be essentially relevant to any estimate of how boating might impact the upper Chattooga.

- 107) The EA further fails to clarify if these user trails within 20 feet of the lower Chattooga river are now being used primarily for portage purposes by boaters.
- 108) A review of various whitewater enthusiasts blogs clearly demonstrates that information is being shared among the boating community encouraging the use of specific trails without regard for whether or not these trails are designated portage trails. See the attached Exhibit "B" from the Georgia Tech Outdoor Recreation website: <http://www.orgt.gatech.edu/whitewtr/rivers.html>
- 109) In that particular forum, Chattooga River Sections III and IV are discussed and boaters are advised to use various "Walk Out points" some of which are user created portage trails. Further reference made to "Evacuation Maps of the Chattooga" on file at the triangle that further catalogs and encourages boaters to use non designated trails for portage and evacuation.
- 110) This suggests that significant unmanaged impact and degradation of the river could be determined to correlate with boating on the lower Chattooga. Knowing this information would be absolutely relevant and essential to projecting what impact boating will have on the upper segment.
- 111) Such a synthesis has not even been considered by the Forest Service EA in evaluating what impacts the introduction of boating will have on the upper Chattooga. In fact, the EA assiduously avoids any effort to evaluate or quantify the degradation associated with any of these user created trails on the lower Chattooga.

## **Increased Erosion From Introduction of Boating on the Upper Chattooga**

- 112) Specifically, the EA admits that the introduction of boating under any of the possible alternatives will involve increased erosion and sedimentation from increased portages. EA at 259.
- 113) The EA acknowledges that during “the winter season, soils are usually moist for a longer duration and are subject to freeze/thaw processes than at other times during the year. These conditions make soils more sensitive to compaction and displacement.” EA at 267.
- 114) Furthermore, “[s]oils that are finer in texture such as the silts and clays are more compacted than the sandy soils.” EA at p. 267. And “soils that have a very high content of mica are considered to be micaceous soil types. The erode easily because they lack clay to bond the soil materials together and generally exist in unstable conditions.....High levels of mica tend to be present throughout the river corridor and tend to be very prominent near the South Carolina/North Carolina border. Approximately, 45.51% of the soils in the corridor are micaceous soils.” EA at p.260
- 115) “An increase in the number of users, combined with more frequent use, increases soil compaction and displacement on the trails tread during the winter. Erosion and sediment would also increase from exposed soils during the winter due to an increase of rainfall and runoff.” EA at 267.
- 116) “During flood stage and bank full events, flow volume would directly impact soils that are adjacent to the river.” EA at p.268.
- 117) Nevertheless, the EA naively concludes that “impacts from a new use, boating, and connected actions would also be minor” EA at 259. This conclusion fails to give any critical explanation of why these significant at risk soil conditions would not be further exacerbated or degraded unlawfully by the introduction of boating to the upper Chattooga during the winter season.
- 118) To make matters worse, boaters have asserted numerous times on the public record and the Forest Service EA assumes that undesirable encounters between incompatible user groups will largely be avoided because **boaters will only be using the upper Chattooga intensely during those calendar periods when river flows are expected to exceed what is alleged to be an acceptable level for others** like fisherman, hikers, birders, swimmers, campers, etc. to be on the river.
- 119) In fact, whitewater enthusiasts look forward to weather related events to create near bank full rivers and high water creeks. Near bank full rivers elevates the challenge and desirability of the whitewater. Consequently, maximum boater presence should occur in the event of such high water related weather.
- 120) Consequently, the EA is deficient because it fails to adequately address the relevant problem that boaters are likely to be using the river in the winter at the exact same time when weather related events creates special enhanced risk of substantial soil erosion. To blithely conclude that erosion will be minimal fails logically to consider this relevant information.
- 121) Multiple groups of boaters, each comprised of a minimum of at least two individuals, (but maybe many more) will use access trails and portages during

those times. In the upper Chattooga Cliffs reach, the river is narrow and the surrounding area has steep descents to the river---sometime canyon like. Consequently, as the EA states, the Forest Service can't ignore the fact that "an increase in the number of users, combined with more frequent use, increases soil compaction and displacement on the trail tread during the winter." EA at 267.

- 122) The introduction of this new recreational use can only lead, mathematically, to one result---a greater level of degradation associated with soil compaction and erosion.
- 123) In short, the EA generally reports that the upper Chattooga River has suffered unacceptable degradation as a consequence of its current use by campers, hikers, picnickers, swimmers, and fisherman. The EA next states that this degradation in the form of user created campsites and trails requires immediate remediation. Simultaneously the EA suggests the upper Chattooga does not suffer from too many visitors and therefore can satisfactorily adapt to the impacts associated with the introduction of boating which the Forest Service claims will only cause "minor" biophysical impacts. Unfortunately, this suggestion does not square with the history on the lower Chattooga river which provides sufficient factual basis to reach the complete opposite conclusion.

## **Unintended and Unexplained Consequence of Introducing Boating on the Upper Chattooga**

- 124) Specifically, this EA refers to the necessity of closing numerous campsites in the Rock Gorge reach and the need to either close or alter user created trails throughout the entire upper Chattooga river area.
- 125) The EA fails to specify which campsites or which user created trails are unsatisfactory or whether they could be made acceptable through repair or mitigation and at what expense. The EA fails to specify if these trails will be rebuilt and if so where---or if not to clarify how their elimination will impact existing users access to the river.
- 126) It is all something left to be determined in the future---something which is inconsistent with the Forest Service's responsibility to develop a single comprehensive management plan for the Chattooga. Friends of Yosemite v Kempthorne, 520 F.3d 1024, 1036 (9<sup>th</sup> Cir. 2008). The Forest Service should prepare a "single document covering all required elements." Id. The Forest Service should not piece meal its land use management plan.
- 127) In contrast, the EA states that future Forest Service plans call for the 2012 creation of a new access trail for near the confluence of Green Creek in the Chattooga Cliffs reach. EA at p. 53. This planned trail indicates that it will impact approximately 1 mile of forest. In addition, the EA states that a new parking lot is expected to be constructed at the County Line Road. The EA fails to state where this new parking area, estimated to take nearly 1 acre of land, will be precisely located. The EA contains no assessment of the bio-physical impact of such plans although they are reasonably foreseeable at this time.
- 128) A lot of cars can be parked in a one acre lot.
- 129) Consequently, a cynic might believe that the construction of the parking lot and the access trail were being designed to provide favorable access to boaters at the same time that certain user trails are being examined for total closure---to the detriment of existing users of the Chattooga Cliffs reach.
- 130) The EA is deficient because it fails to adequately explain these reasonably foreseeable future actions and to justify them in the context of the entire user access debate.
- 131) No new trails should be constructed to facilitate a new user group's access until after existing user created trails have been carefully studied and where possible rehabilitated and remediated in order to preserve existing users continued access to special places on the river. Otherwise, once again, the unintended consequence of such policy decisions will be the crowding out of various non boating users.
- 132) By application of the laws of supply and demand, the elimination of frequently used front country campsites near Burrells Ford could either entirely displace existing campers or alternatively push these campers farther upstream into the less congested Ellicott Wilderness or Chattooga Cliffs back country areas. This could introduce the unintended consequence of additional pressure on these more sensitive areas of the river.



- 133) The further diminishment of the esthetic of solitude and the consequential unnecessary introduction of the risk of overuse constitutes the unintended consequence of driving up use in these more remote areas of the river.
- 134) Concomitant with putting the river at risk of overuse, is an increasing likelihood of the application of even greater restrictions on spontaneous day use of the river.
- 135) The assumptions in the EA regarding the expected number of boaters that would use the river lacks any factual basis. In fact, these numbers are acknowledged in the Integrated Report to be nothing more than “guesstimated”.
- 136) Particularly troubling is the erroneous assumption that vehicle counts at parking lots on the upper Chattooga Cliffs reach can accurately estimate the level of use of that part of the river.
- 137) Day trippers such as hikers, picnickers, swimmers, birders or fisherman, usually do not cover the entire 5+ mile segment of the river and its trails. They must walk and carry what they bring with them. Consequently, it is physically challenging for day users (other than some hikers) to cover the entire 5 mile reach between the Whiteside Cove (Green Creek) Cemetery parking lot and the parking area at Bull Pen Iron Bridge in a single day.
- 138) Consequently, many day users park their cars at a single location, walk a couple of miles into the corridor, enjoy the scenery of the river and then return to their vehicle.
- 139) In contrast, boaters frequently use shuttle arrangements because of their tendency to through trip an entire segment of a river. If permitted on the river, boaters could put in at Green Creek and travel the entire Chattooga Cliffs segment in a single day---or even reach Burrells Ford. They have the benefit of being propelled by the current of the river.
- 140) Where shuttle arrangements are used, a survey of a parking lots would fail to accurately capture the presence of these boaters on the river---who would be uncounted.
- 141) Furthermore, how many individuals are assumed to be on the river for each vehicle counted in the parking lots? Two, four, six? Furthermore, casual vehicle counts in parking lots might overestimate the number of actual users on any given day because one vehicle at the head of the Chattooga Cliffs trail (Whiteside Cove?Green Creek and one vehicle at the terminus of the trail (Bull Pen Iron Bridge) might be erroneously assumed to be separate parties with maximum group size when in fact the cars could belong to just two individuals hiking together. Or the converse could hold true.
- 142) Consequently, vehicle counts are not accurate and should neither form the basis for stating what the current level of use is on the upper Chattooga nor what it would be in the event boating is allowed.
- 143) Furthermore, because the Forest Service has no credible way to estimate the future use by boaters, the assumptions made in the EA regarding the extent to which new portage trails will be required are also arbitrary and without sufficient factual foundation.

- 144) Also, there is no way to determine how those portage needs would change assuming different flow conditions on the river and differing skill levels of boaters. If boaters are novice but water flows are high, portage outside the bedrock of the river would be necessary. Consequently, a greater number of portage trails could be expected than what the EA suggests.
- 145) In the EA, the Forest Service admits the probability of user created portage trails “appearing” without authorization as well as the likelihood of the illegal removal of large woody debris from the stream. The Forest Service reconciles its expectations of these two types of lawbreaking by asserting that such future lawbreaking is ok because close monitoring and adaptive management by the Forest Service will allow it to track the level of unlawful impact to resources and take appropriate remediation action in the future.
- 146) In summary, first, the EA clearly identifies a need to close a significant number of camp sites and relocate or close existing user created hiking trails on the upper Chattooga because these recreation features are causing unacceptable biophysical or other degradation to the river. Second, if implemented, the EA acknowledges that these initiatives will adversely impact existing users of the upper Chattooga. Third, in the same document, the Forest Service provides evidence from its own studies that unacceptable user created trails within 20 feet of the river are being disproportionately created in areas where boating is currently permitted on the lower Chattooga. Fourth, if boating is allowed, the Forest Service admits that it expects unapproved portage trails will illegally appear and that large woody debris choking the creeks will be illegally removed in order to make the creek floatable. Nevertheless, the Forest Service concludes it will be ok to introduce boating as a new recreational use on the upper Chattooga because the expected “illegal” and adverse impacts associated with this brand new use can be successfully “monitored” and remediated once they occur.
- 147) Isn’t this like closing the barn door after the cows have escaped?
- 148) The EA fails to use a broad enough geographic scope of review to evaluate the overall impact of introducing whitewater rafting and kayaking on the upper Chattooga River.
- 149) The Forest Service should be criticized because it fails to take into account the best form of evidence for making any projection----namely what has actually happened already on the lower Chattooga.
- 150) By failing to evaluate boaters impacts on the lower Chattooga over the last thirty years, the Forest Service does not satisfy the legal requirements for making any decision to change the current land use management practices on the upper Chattooga.
- 151) As the Supreme Court has explained,

Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress had not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise. Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 103 S.Ct. 2856, 77 L.Ed.2d 443 (1983). Although the scope of review is narrow, the

agency must nevertheless "explain the evidence which is available, and must offer a rational connection between the facts found and the choice made." *Id.* at 43, 52, 103 S.Ct. 2856 (internal quotation marks omitted)

- 152) The intended lifting of the ban on boating on the upper Chattooga does not flow from the logic of examining how boating has already impacted the river. Consequently, the planned change is arbitrary and capricious because none of the alternatives consider a reasoned evaluation of this relevant and critically informative factor.

### **Deficiencies with Planned Adaptive Management**

- 153) The EA suggests that monitoring and adaptive management are critical to protecting the outstandingly remarkable values of the river. It states that “[o]nce monitoring establishes the relationship between current use levels and encounters, the number of permits issued each year would be reduced to achieve the desired condition of increased opportunities for solitude.” EA at p.92
- 154) While adaptive management might be an effective approach in other circumstances, the lifting of a spatial zoning policy that has been in place for over thirty years can not be justified by an ex post facto approach. Irreparable harm will be done immediately to the “esthetic.....feature” of the river that the law mandates must be protected. Consequently, any remediation would be too late.
- 155) The 9<sup>th</sup> Circuit has already weighed in on a similar attempt to define user capacity through a process called Visitor Experience and Resource Protection (“VERP”). VERP sought to use a framework of monitoring and maintaining environmental and experiential criteria to establish a sufficiently specific measurable limit of use on the Merced. Once these environmental or experiential criteria were exceeded, the VERP assumed that the National Park Service could act appropriately to remedy the identified problem before any degradation of the resource took place. Friends of Yosemite v Kempthorne, 520 F.3d 1024, 1033-34 (9<sup>th</sup> Cir. 2008). The Court found this approach unacceptable because “VERP requires management action only when degradation has already occurred, and it is therefore legally deficient.” *Id.* at 1034.
- 156) In addition, the 9<sup>th</sup> Circuit criticized the National Park Service’s interim user capacity limits because the National Park Service failed to show how “its interim limits place ‘primary emphasis’ on the protection of the Merced River’s **‘esthetic, scenic, historic, archeologic, and scientific** features’ as required by § 1281(a).” *Id.* at 1036 (emphasis added)
- 157) The significant public record demonstrates that existing users of the upper Chattooga have zero tolerance for boating because of the adverse impact on the overall “esthetic” of the upper Chattooga. Since the “esthetic” of the river is a subjective concept, but one which must receive the highest level of protection, the Forest Service should give careful consideration to the public

record comments of existing users of the upper Chattooga river as to their belief that the “esthetic” will be irreparably harmed.

- 158) It would be arbitrary and capricious to introduce a policy change that flies in the face of this testimony on the public record.
- 159) In the EA the Forest Service admits that it anticipates that overall backcountry use in the upper segment of the Chattooga is *“likely to increase over the planning horizon”*. It presumes this will take place even in the absence of lifting the total ban on boating north of Highway 28 bridge. EA at p.79.
- 160) Consequently, reversing a longstanding separation strategy designed to avoid user conflict will encourage increased backcountry use of the resource above and beyond the growth already anticipated with the prohibition remaining in place.
- 161) Logically, such a policy reversal supercharges the chances of maxing out the existing visitor use capacity for the upper segment---not because of organic growth from existing permitted recreational uses but as a consequence of introducing a different recreational use privilege on this segment of the river. It is the same as if the Forest Service were suddenly to announce that it was going to allow mountain biking on the upper Chattooga.
- 162) In turn, if increased use of the upper river ever exceeds what has been determined to be the maximum visitor use capacity, the Forest Service admits that a mandatory all user permit system might have to be “adapted” to protect the resource.

## **Unintended and Unfair Impact of Introducing an All User Permit System to Remediate Excessive Use of the Resource**

- 163) The introduction of an all user reservation based permit system would cause the unintended consequence of encouraging more boaters to travel greater distances to run the upper Chattooga because it would eliminate the uncertainty of access that would be associated with an informal register upon entry permit system. Boating is a wet sport and boaters are somewhat indifferent to the possibility of inclement weather (rain) in making or changing their plans to access the river. Consequently, they are not disinclined to make advance reservations without having to worry about the weather conditions. They could always do other things on the river if boating conditions are not optimal—especially if they plan to camp overnight in the upper Chattooga area.
- 164) In contrast, day trippers like hikers, fishermen, picnickers, birders, would be disproportionately impacted and inconvenienced because a mandatory permitting system would limit their ability to have any degree of spontaneity in deciding when and if they wish to visit the upper Chattooga—one of the outstandingly remarkable components of the “esthetic” of the upper Chattooga. The weather might be good but the day user might not be able to secure a permit to take advantage of the opportune weather because the long distance boaters or others have already taken all the permits for that date.
- 165) The EA notes this very consequence as follows: *“However, the permit system would also displace some users---some may be unable to obtain a permit when demand exceeds supply, others may be unwilling to even compete for permits because they consider it inconvenient. Even for users willing to participate, the managerial footprint imposed by the permit system may be problematic”*. EA at p. 90.
- 166) In addition to having to make a reservation, a day tripper’s opportunities would be made more untenable from a time and cost standpoint if the day tripper has to drive to the Sumer National Forest Ranger station or another remote location to retrieve their permit within certain limited scheduled hours.
- 167) The unintended consequence of a reserved permit system will be to grant a special privilege to those who previously had no standing to use the upper Chattooga (boaters) while imposing additional practical burdens on those who have had the legal right to use the resource for the last thirty years---day trippers who wish to hike, fish, bird watch, swim etc.
- 168) In other words, in order to bestow a mere marginal benefit of access to a relatively small subset of a single user group, the Forest Service plan exposes the “esthetic” of this segment of the upper Chattooga to significant risk of total irreparable harm.
- 169) The risky management policy of introducing a new type of recreational use to the upper Chattooga can not be justified based on a form of circular reasoning. This would be arbitrary and capricious.
- 170) Introducing an all user permit system on the upper Chattooga, even for a limited number of months, will create a mechanism that grants boaters special

reserved access to something which they heretofore did not have a right to use while threatening that part of the existing “esthetic” for day trippers that flows from the freedom of spontaneity in accessing the solitude of the river.

- 171) Consequently, prohibiting all boating on the upper 1/3 of the Chattooga (while allowing boating on the remaining 2/3 of the river) still offers an equitable solution for addressing the serious social value conflicts inherent in this land use dispute.
- 172) A continued prohibition would also minimize the chances for artificially induced excessive growth in visitor use on the upper segment---which if otherwise lifted would ultimately lead to restrictions on the freedom of access that day trippers currently enjoy.

## Inherent Fairness of Spatial Zoning Restrictions on Recreational Uses

- 173) Prohibiting all boating north of the Highway 28 bridge offers a fair balancing of competing recreational interests because it protects the essential “**esthetic, scenic .....features**” of the river for the largest number of users while constituting the least intrusive solution that still affords each recreational user group an opportunity to engage in their preferred activity on that particular portion of the river best suited for their recreational activity.
- 174) Such a solution also allows for the greatest number of recreational uses without destroying the harmony of the individual river segments by preventing incompatible recreational uses from overlapping.
- 175) Spatial zoning to protect all recreational users access to those respective segments of the river truly most “....*in harmony with, the nature of the individual segments*” constitutes a management objective clearly spelled out by the Forest Service as early as 1976 (Federal Register, Vol. 41, No. 56—Monday, March 22, 1976, p. 11849)
- 176) Zoning affords each recreational user group an opportunity to pursue their passion on that part of the river whose physical characteristics are most in harmony with the pursuit of that recreational activity.
- 177) As acknowledged by the Forest Service, the average depth and flow rates of the lower Chattooga river are more consistently boatable compared to the upper river---especially from the confluence of Warwoman Creek.
- 178) The whitewater folks admit that the characteristics of the upper Chattooga river are more technically demanding than the lower Chattooga. The upper river does not enjoy consistently higher flows, is narrow and extremely shallow in many places, is often characterized by rock formations protruding center stream while being choked with dangerous obstructions in the form of massive fallen hemlocks that span the entire creek.
- 179) As the whitewater advocates admit, when the flows are adequate to float, the upper river is better suited (from a safety perspective) only for a small and exclusive subset of the overall boating public. “The upper segment has more frequent Class IV and V rapids that were substantial safety hazards in the 1970’s, and still require advanced or expert skill today.” EA at p.58
- 180) Significantly, the lower Chattooga river offers the greatest opportunity for the broadest level of boating skills and should receive the greatest protection from the Forest Service in terms of providing access---even in the face of the obvious degradation of the resource that is occurring on the lower segment of the river as a consequence of over 40,000-70,000 commercially guided folks floating the lower river each year.
- 181) Unfortunately, and not insignificantly, there is degradation of the lower River that has neither been adequately discussed nor considered in any of the alternatives of this land management plan amendment process.
- 182) In contrast, the narrower and shallower average depths of the upper Chattooga make this segment well suited for hiking, picnicking, wading, swimming and fishing. Furthermore, the average temperature of the water is generally colder

in the upper reaches compared to the river below the Russell Bridge making it more suitable biologically for wild brown trout fishing.

- 183) Boating and fishing are highly incompatible on the upper river due to the narrowness of the river and the fact that the boaters will need to float where the wild brown trout hold---in plunge pools below rock shelf's or small falls or just downstream at the tail of fast moving "riffles".
- 184) Unlike in a large and wide limestone based river, where boaters might find a track that could avoid a fisherman, in the narrow and shallow freestone waters of the Chattooga Cliffs, such avoidance is impossible. Just one encounter with a boater coming through a promising fish holding spot can spook the fish rendering futile any further efforts to fish that particular spot for some extended period of time. In contrast, no such adverse impact is suffered by the boater who happens to come upon a fisherman while floating down the river. The boater can just keep on floating, or if the boater so desires, he can repeatedly run that same spot on the river. Only the fisherman suffers any lost recreational value due to the interference associated with the encounter with a non compatible user.
- 185) Boaters may choose to repeatedly run certain spots on the upper Chattooga. This further elevates the potential for undesirable encounters and hence displacement. There is no mention in the EA of this encounter problem or how it might be resolved.
- 186) If a boater or boaters runs through two or three fisherman's beat, once displaced, each of these fisherman will move up or down the river to find an undisturbed stretch which will increase the odds of unsatisfactory encounters with other fisherman, hikers, picnickers---another entirely foreseeable but unintended consequence of allowing boating on the upper Chattooga. This problem is not considered by the EA.
- 187) Furthermore, boaters can swiftly cover the entire length of the Chattooga Cliffs reach down to Burrells Ford in a single day thereby almost certainly creating the potential for many more undesired encounters in a single day with other non boating users who happen to be on just one part of the river on the same day. The expert panel of boaters took just five hours to cover the entire river between Norton Mill Creek and Burrells Ford on January 6, 2007. Upper Chattooga River Phase I Data Collection Expert Panel Field Assessment Report, at p.27. In contrast, since all non boaters travel at the same relative slower foot speed, the odds are reduced of multiple encounters by one non boating user overtaking another on either the river or the trail.
- 188) Because they are on foot, fisherman, hikers, and campers are only likely to cover a limited stretch of the river or the trail. My observation is that most of these day users tend to walk back out to their starting point at the end of their visit. Unlike boaters who are able to easily through trip the entire section of the river, non boaters are less likely to even intersect with other non boaters because they are not through tripping.
- 189) The Forest Service plan assumes an unsatisfactory number of encounters between incompatible users can be self managed because boaters and fishermen use of the upper river will not overlap. The EA assumes fishermen



- are expected to use the river only when the flow rates are much lower than that which is desirable to boaters.
- 190) Such an assumption is merely guessing. If the skies are clear and the water is not muddy, there are certain places on the Chattooga Cliffs that can be fished safely even when the flows are much higher than those suggested in the EA.
  - 191) Furthermore, hikers or other users who wish to just admire the awesome scenery and sounds of a thundering river rushing at full bank could be reasonably expected to be present. Merely viewing the river would not be physically precluded by the weather conditions. Such users might wish to observe the esthetic beauty and natural power of the river unfettered from the cacophony of human beings attempting to conquer this raw power with kayaks. The presence of boaters would be incongruous with this natural esthetic of the Chattooga river.
  - 192) Granted, there might only be a couple of fishermen or hikers on the river in such a circumstance. Conversely, by the admission of the EA there would only likely be a small number of boaters on the river also. So, why do the needs of just a handful of boaters deserve additional rights at the expense of the degradation of the “esthetic” of the river for a handful of currently approved users?
  - 193) The whole concept of self management by river flow rates is an abandonment by the Forest Service of its responsibilities to protect the “esthetic” of the river from degradation. Such an assumption about flow rates is nothing more than an abstract generalized justification for giving the boaters what they desire.
  - 194) Above the Iron Bridge on Bull Pen, there are at most three rather large pools, situated below ledges or plunge falls, that span the entire river and which non boaters currently enjoy relaxing and recreating on at various times of the year. These pools are particularly well suited for resting while hiking the Chattooga River Trail, for swimming with family during the summer months, or for picnicking at any time of year.
  - 195) It takes little imagination to understand that these will be the likely places between Green Creek and the Iron Bridge where the boater’s will also likely congregate for extended periods of time when using the same resource. Each of these pools are at the end of potential runs for the boaters.
  - 196) Consequently, an analysis would substantiate that boaters can be rationally expected to have a greater number of encounters with other non boat users as compared to non boaters having encounters with each other.
  - 197) The EA suggests that the Forest Service’s plan for preventing these encounters depends also on setting maximum boater group sizes at six. This plan provides no comfort of real mitigation for the potential “esthetic” damage or the crowding out that will occur in the face of larger congregations of boaters than those allowed.
  - 198) The maximum group size rule is pragmatically unenforceable in such remote locations since multiple different parties of six or fewer might accidentally find themselves in the same spot on the river at the same time. Currently, the river is over a mile by trail from the Whiteside Cover road making enforcement further unlikely on the upper part of the Chattooga Cliffs. At a

minimum, making enforcement practical would probably necessitate the extension of a logging road to the river to allow the Forest Service to come and go conveniently and frequently.

- 199) How could such a new road be justified in the face of the Forest Service's stated plans to close substantial numbers of campsites around Burrells Ford while also calling for the elimination of user created trails without telling the public which user created trails will be closed?
- 200) To keep such a rule breaking scenario from ever developing would require the full time presence of a law enforcement officer. Such a commitment of personnel and financial resources would exacerbate already difficult budget issues and is unlikely to be appropriately funded. Hence, once boating is permitted, enforcement will largely be a voluntary matter. In other words, it won't exist.
- 201) Furthermore, the Forest Service need look no further than the boaters own blogs to see how some boaters openly and proudly cheer on attempts to "beat" the spirit of any restrictions placed on them.
- 202) See the attached "New Record Set on Bull Sluice" (EXHIBIT "C") posted to the Nantahala Outdoor Center blog on Friday, July 24, 2009 lionizing the efforts of one river guide to put 7 different rafts through Bull Sluice within the 30 minutes allocated by the Forest Service rules. If the disdain for stretching rules to the maximum limits is so clear on parts of the river that are supposedly so "carefully regulated" and more easily monitored by the Forest Service, why would we ever expect the spirit or the letter of the rules to be honored on a part of the river that will be largely incapable of being monitored?
- 203) In any case, even if such budget issues could be resolved, and the personnel could be allocated, no matter how competent and diplomatic such enforcement officers might be, the continuous presence of enforcement personnel on the river would further destroy the "esthetic" of solitude that the Wild and Scenic River Act is supposed to be protecting.
- 204) No matter how extraordinary a job our dedicated law enforcement officers do, it is still a significant disruption of the "esthetic" to be approached by a law enforcement officer when you are trying to enjoy solitude and escape from a sense of urban concerns. I don't go down to the river to be reminded of freedom lost by being approached by a law enforcement officer every time I am there.
- 205) Ultimately, while non boaters pose no practical threat to the boaters use and enjoyment of Bull Sluice or Deliverance Rock, or Jawbone, or Corkscrew, or Woodall Shoals, the presence of boaters on the upper river will irreparably harm both the "esthetic" of the river for non boaters and in particular the actual success of fisherman in pursuing their outstandingly remarkable recreational activity. As common sense demonstrates
- 206) In short, opening boating on the upper Chattooga is likely to benefit only a small and elite subset of boaters while unfairly and irreparably harming the "esthetic" of the river for the much larger number of existing non boaters who seek to preserve their spontaneity of access and sense of solitude.

- 207) This relatively small elite subset of boaters already have plenty of substitutable alternatives. Boaters can run all of the lower Chattooga with class IV-V rapids and the west fork of the Chattooga. If they desire remoteness combined with technical challenge, they can access such nearby remote and challenging rivers as the Thompson or Horsepasture each of which drain into nearby Lake Jocassee.

### **Legality of Spatial Zoning Restrictions on Recreational Uses**

- 208) Despite the boaters' legal assertions of discrimination, the current Forest Service management plan prohibiting boating above the Russell Bridge has neither been adjudicated inequitable, nor unlawfully discriminatory.
- 209) The Washington appeals decision relates primarily to deficiencies in procedural requirements related to the development of a comprehensive management plan that includes the development of a visitor use capacity analysis. But even in the absence of the upper Chattooga being utilized at maximum user capacity, the Forest Service need not grant access to boaters in the upper Chattooga.
- 210) Furthermore, the thirty year total prohibition on boating above Highway 28 complies with the letter of the Wild and Scenic River Act as well as the best management practices outlined in the Forest Service Manual (FSM 2354.41a) for addressing recreational user conflicts. Separation strategies that employ spatial zoning must be preserved.
- 211) In order to protect our national forest resources and in order to assure harmonious and fair access for all user groups (including smaller groups rather than just the largest, loudest and perhaps most well financed user groups), the Forest Service has a compelling duty to protect its legal authority to manage the national forests of this county by placing reasonable restrictions on different recreational activities through zoning of space regulations that are based on concerns of preserving harmony and avoiding conflict between incompatible user groups.
- 212) Consequently, if necessary, in order to protect its management discretion, the Forest Service should litigate the merits of its ban on boating above Highway 28 to the highest court in the land.

## Summary and Conclusion

- 213) Despite the boaters' legal complaint, the thirty year prohibition on boating above Highway 28 complies with the letter of the Wild and Scenic River Act, and the Wilderness Act as well as the best management practices outlined in the Forest Service Manual (FSM 2354.41a) for addressing recreational user conflicts.
- 214) The discretion to use separation strategies that employ total spatial zoning restrictions must be preserved in order to give all users an opportunity to enjoy the **“esthetic, scenic....features”** of a Wild and Scenic River free from interference by other directly incompatible users.
- 215) The 2004 Washington appeal decision dealt with deficiencies in procedural requirements related to the development of a comprehensive management plan. Specifically, the appeal instructed the Regional Forester to develop a visitor use capacity analysis that included non-commercial boating.
- 216) However, the Chief's appeal incorrectly applied the Wild and Scenic River Act. The Chief found that multiple references in the public record to resource impacts and decreasing solitude are deficient for substantiating the need to continue the ban on boating because “these concerns apply to all users and do not provide the basis for excluding boaters without any limits on other users.” Decision for Appeal by American Whitewater of the Sumter National Forest Land and Resource Management Plan Revision #04-13-00-0026 at page 6.
- 217) The key distinction that the Chief failed to recognize was that whitewater rafting/kayaking constitutes a sport highly dependant on significant and intense social interaction among larger groups of people as compared to hikers, sightseeing, photographers, birders, swimmers, fisherman, hunters, nature study etc.
- 218) The latter activities can be pursued individually. In contrast, whitewater running and kayaking requires at a minimum two boats and two individuals per Forest Service regulations and general whitewater running safety principles. For less qualified boaters on more difficult whitewater, the practical safety requirements for conquering a river require many more.
- 219) Consequently, whitewater running frequently involves groups of half a dozen or more individuals intensely working together to achieve a mutual goal of safely conquering a river's currents and hydraulics. This irrefutable fact is demonstrated each and every weekend on the lower Chattooga River.
- 220) Unlike other recreational pursuits, whitewater kayaking and rafting involves the permanent pre positioning and caching of safety tools and equipment on and along the banks of the river. Backboards, Stokes litters, traction splints, spare paddles have been stockpiled at various locations along the lower Chattooga so that boaters need not carry them into the river corridor each time that they pursue their sport.
- 221) While boaters might perceive this as a prudent precaution and nothing more than a minor inconvenience to the river, other users consider these caches, hidden behind magnificently giant boulders etc., as evidence of the arrogant diminishment of the natural beauty of the river. Even if there are no boaters

present to create an undesirable face to face encounter, the permanent hiding for future use of these boating tools disturbs the sense of solitude that a wild and scenic river is supposed to evoke. It reminds other users who have to view these caches of the displacement of solitude from that part of the river and it underscores how the boating user group interferes with the natural state of the river in order to pursue their singular type of use.

- 222) Why not construct a tool shed along the river for other users to store their lawn chairs or picnic tables?
- 223) Hopefully, health and safety tools are rarely required. But the potential for deadly encounters is the not so subtle risk that whitewater running enthusiasts willingly embrace and seek to encounter. The thrill of mastering something that can be life threatening forms a significant part of the ethos of some sporting activities. It is the intensity of that challenge that creates the enjoyment for many whitewater enthusiasts.
- 224) Other users find watching this intense use of the river by boaters as being destructive of the “esthetic, scenic, ....features” of the Wild and Scenic Chattooga. These other users understand that whitewater running does not fit the definition of a solitude seeking endeavor. In fact, they find that any boating at all degrades the “esthetic, scenic...features” that the law is supposed to protect. They prefer to view the dynamic canvass of a wild and scenic river running high and near full bank undisturbed without the visual clutter of people in kayaks or rafts scientifically studying a run to determine what offers the best path.
- 225) Unfortunately, in 2004 the Chief failed to understand or alternatively did not wish to acknowledge this basic fact---that whitewater running degrades the esthetic scenic features of the river for other less intense users of the river. The Chief also failed to acknowledge that the foremost mandate of Congress was not to encourage the facilitation of recreational uses for any single group but instead was to protect the **“esthetic,scenic,....features”** of any Wild and Scenic River from degradation.
- 226) Consequently, where one group’s activity (even if an enumerated outstandingly remarkable recreational values) specifically degrades these **“esthetic, scenic...features”** for many other users, they can and should be restricted---under the explicit language of the statute. This has been the policy of the Forest Service on the Chattooga for over thirty years.
- 227) Also, the joint Secretarial Guidelines instruct the managing agency that a management plan must state the “kinds and amounts of public use which the river area can sustain without impact to the values for which it was designated[,] and specific management measures which will be used to implement the management objectives for each of the various river segments and protect esthetic, scenic, historic, archeologic, and scientific features” 47 Fed. Register 39454, 39455 (Sept 7, 1982).
- 228) While whitewater enthusiasts might not perceive their sport as destructive of this esthetic, the test for whether a recreational activity degrades the “esthetic, scenic...features” of a river must be considered from the perspective of users other than the recreational activity in question. How could the Forest Service

- otherwise make any determination of what constitutes the “esthetic, scenic.....features” that must be protected?
- 229) In the case of whitewater “paddling” the distinctions are many and obvious. Whitewater paddlers must by necessity team to conquer challenging currents and hydraulics on a river. This often results in groups of half a dozen or more individuals running a river together. They intensely use the river by pre-positioning their tools and safety equipment on the river or along its banks. They monopolize key locations on the river to the detriment of anybody else. All of this substantial interference with the natural condition of the river destroys its inherent beauty for many others.
- 230) In the case of the Chattooga, the public record unequivocally establishes a zero “esthetic” tolerance for boating on the upper Chattooga by various other recreational groups. This zero tolerance derives from an entirely objective and relevant criteria---namely the degradation of both their sense of solitude and scenic beauty that flows from the intense social interaction and grouping characteristics that whitewater running necessitates in order for the river to be conquered.
- 231) A thorough and vigorous analysis of the impact of boating on the lower Chattooga would substantiate the adverse impact of boating on both the esthetic, scenic.....features as well as the biophysical condition of the river. There are individuals who have already gone on the record to state their unequivocal opposition to boating on the upper Chattooga based on what they have witnessed on the lower Chattooga.
- 232) The Chief’s appeal also states that “there is no basis in law, regulation or policy, to exclude a type of wilderness-conforming recreation use due to concerns relative to safety, and search and rescue.” Decision for Appeal by American Whitewater of the Sumter National Forest Land and Resource Management Plan Revision #04-13-00-0026 at page 6.
- 233) The Chief erred by misconstruing the significance of the joint Secretarial Guidelines.
- 234) These guidelines require a consideration of the public health and safety in determining the quantity of visitor use that an area can sustain without causing adverse impact to the values that the statute was designed to protect and enhance.(the “Carrying Capacity”). Specifically, the guidelines defined Carrying Capacity as “the quantity of recreation use which an area can sustain without adverse impact on the outstandingly remarkable values and free-flowing character of the river area, the quality of recreation experience, and public health and safety.” Fed. Register 39454, 39455( Sept. 7, 1982).
- 235) The Ninth Circuit has implicitly suggested that these public health and safety concerns are still applicable in conducting a user capacity analysis although the Secretarial Guidelines predated Congress specifically amending § 1274 (d) in 1986 to add “address ....user capacities”. Friends of Yosemite v Kempthorne, 520 F.3d 1024, 1028 (9<sup>th</sup> Cir. 2008)(Footnote 1 explains how Congress in amending § 1274(d) in 1986 to add language instructing the Forest Service to “address ....user capacities” basically adopted the same

- concepts previously enumerated in the joint Secretarial Guidelines but referred to as carrying capacity)
- 236) Consequently, the Forest Service also has discretion to restrict boating on any segment of any river based on public health and safety concerns.
- 237) In addition to these problems with the Chief's appeal decision, neither the prior EA nor current EA adopt a sufficiently broad geographic scope of review to evaluate the overall impact of boating on the degradation that has been allowed to occur on the lower Chattooga River.
- 238) The absence of scrutiny of this essential history precludes any decision from being founded on a reasonable evaluation of all the relevant factors. Consequently, introducing boating would be arbitrary and capricious.
- 239) Finally, the relevant Federal district courts and Courts of Appeal have yet to consider the merits of the boaters' substantive complaint---namely that the Forest Service can not place a total ban on boaters from using the upper Chattooga while allowing other recreational uses solely on its desire to separate directly incompatible recreational uses.
- 240) However, the Ninth Circuit has signaled that "the plain meaning of the phrase 'address...user capacities,' is simply that the CMP must *deal with or discuss the maximum number of people that can be received* at a WRS." Friends of Yosemite v Kempthorne, 520 F.3d 1024, 1029 (9<sup>th</sup> Cir. 2008)(quoting Friends of Yosemite v Norton, 348 F. 3d. 789, 797 (9<sup>th</sup> Cir. 2003))
- 241) The Ninth Circuit went on to comment that "[h]owever, the plain meaning does not mandate 'one particular approach to visitor capacity.'" Id. "The Secretarial Guidelines, however, do not require one particular method of limiting user capacity." Id. "They do not mandate, for example, a numerical cap on visitors." Id. "The Secretarial Guidelines, do not specify that this obligation can be satisfied only by capping the number of visitors". Id.
- 242) Consequently, even if the upper Chattooga is not being utilized at its determined maximum user capacity, the Ninth Circuit has neither implicitly nor explicitly suggested that a managing agency need grant access to a brand new recreational user because there is unused capacity. The Forest Service is left with significant latitude in establishing user capacities---and in how it defines user capacity.
- 243) The Forest Service may choose to define maximum user capacity by specific user group segment instead of totaling across all user groups.
- 244) In fact, this is precisely the manner in which user capacity limits are set on the lower Chattooga. User capacities apply only to two types of user groups (private and commercial boaters). EA at p. 65
- 245) Consequently, the Forest Service could choose to allow the maximum user capacity of the upper Chattooga to be allocated entirely to the currently approved users of the upper Chattooga rather than to allocate any of this user capacity to any yet to be approved recreational pursuit such as horseback riding, mountain biking, or whitewater kayaking.
- 246) The Ninth Circuit did not question the viability of using absolute spatial zoning to separate incompatible recreational uses and thus avoid social conflict. Neither have the Fourth or Eleventh Circuits suggested that the

Forest Service can not continue to use absolute spatial zoning restrictions to avoid disharmony and potential conflict between incompatible recreational users.

- 247) Neither court orders nor court precedents exist to compel the Forest Service to abandon a thirty year old management policy that has protected the “esthetic, scenic....features” of the upper Chattooga.
- 248) Nevertheless, presumably to satisfy political pressures, the Forest Service now proposes to aggregate user capacity across all user groups. In other words, even though it does just the opposite on the lower Chattooga, the Forest Service now blithely plans to redistribute user capacity that rightfully belongs to a variety of groups to a single elite subset of the most dominant user group on the Chattooga River. Ironically, the Forest Service now suggests that this is equitable.
- 249) To protect our national forest resources and to assure harmonious and fair access for all user groups (including minority user groups rather than just the largest, loudest and perhaps most well financed user groups), the Forest Service has a compelling interest in protecting its authority to apply discretion in managing the national forests of this county. The Forest Service must maintain its unquestionable right to impose reasonable restrictions on different recreational activities through zoning of space regulations in order to preserve harmony and to avoid conflict between incompatible user groups.
- 250) If necessary, to preserve this management discretion, the Forest Service should litigate the merits of its ban on boating above Highway 28 to the highest court in the land.
- 251) In conclusion, the Forest Service should not de facto abandon this important legal duty and public responsibility by bowing to the political pressures being applied by powerful lobbyists of the kayaking and whitewater rafting industries.
- 252) In conclusion, I urge the Forest Service to continue the absolute ban on boating north of the Russell Bride on Highway 28. Anything less will degrade the “esthetic, scenic....features” of the Wild and Scenic Chattooga



**EXHIBIT "A" PICTURES AUG 2011**  
**LOWER CHATTOOGA RIVER**

**USER CREATED ROCK DAM TO POOL WATER AT  
BOATER PUT IN TAKE OUT AT WOODALL SHOALS**





**NO PARKING ZONE  
AT WOODALL SHOALS  
PARKING LOT**



**WILDWATER**

NO  
PARKING  
ANY  
TIME  
→

3800  
DT48E



**WILDWATER**

SOUTH CAROLINA  
**BU15226**  
W.C.S.

NO  
PARKING  
ANY  
TIME  
←



**USER CREATED PORTAGE TRAIL  
TO BOATER PUT IN TAKE OUT  
WOODALL SHOALS**

TRAIL CLOSED TO  
PREVENT EROSION  
NEW TRAIL LOCATED  
TO THE RIGHT  
REFORESTATION  
IN PROGRESS







**SEVERE EROSION FROM USER CREATED TRAIL AT  
BOAT PUT IN AT WOODALL SHOALS**





**SEVERE EROSION USER CREATED TRAIL  
AT BOATER PUT IN TAKE OUT  
WOODALL SHOALS**



A black, curved piece of a boating shoe, likely a sole or a part of the upper, lies on a ground covered with small, light-colored gravel and some dry leaves. The piece is oriented horizontally, with the curved end pointing towards the right. The background is a mix of grey and white gravel, with some darker patches of soil or organic matter.

**LITTERED PIECE OF BOATING SHOE  
ON PORTAGE TRAIL TO WOODALL SHOALS  
PARKING LOT SHUTTLE PICKUP**



A photograph of a sandy beach at night. In the center, there is a dark, elongated, and somewhat curved object that appears to be a piece of a shoe sole or a boot sole. The sand is light-colored and scattered with small, dark debris, including leaves and twigs. The lighting is dim, creating a dark, grainy image.

**ADDITIONAL LITTER PIECE OF BOATER SHOE ON  
BEACH AT BOATER PUT IN TAKE OUT WOODALL SHOALS**



A photograph showing a discarded blue and white beer can lying on a sandy shore. The shore is cluttered with numerous pieces of driftwood and sticks. In the background, there is a rocky bank with some green grass and small plants. The water is shallow and murky. The text "BEER CAN LITTER JUST BELOW BOATER PUT IN TAKE OUT AREA WOODALL SHOALS" is overlaid in red at the bottom of the image.

**BEER CAN LITTER JUST BELOW  
BOATER PUT IN TAKE OUT AREA  
WOODALL SHOALS**



A photograph of a shoreline. In the upper right, a large, light-colored rock with some moss or lichen sits at the edge of a body of water. The foreground is a mix of sand, small rocks, and a large amount of driftwood (sticks and branches). A discarded, crushed aluminum soda can lies on the ground in the center. The text "SODA CAN LITTER JUST BELOW BOATER PUT IN TAKE OUT WOODALL SHOALS" is overlaid in red, bold, capital letters in the lower-left quadrant of the image.

**SODA CAN LITTER JUST BELOW  
BOATER PUT IN TAKE OUT  
WOODALL SHOALS**



A photograph of a dirt clearing in a forest. The clearing is a light brown, sandy area in the center of the frame. It is surrounded by dense green foliage and trees. On the left, a large tree trunk is visible with a small yellow tag. The background is filled with more trees and greenery, slightly out of focus. Overlaid on the bottom center of the image is red text.

**USER CREATED CAMPSITE  
EARLS FORD BEACH AREA**



A photograph of a dirt trail in a forest. The trail is light brown and leads from the bottom center towards the middle of the frame. It is surrounded by dense green foliage, including ferns and various trees. Some trees have thick, dark trunks. The lighting is dappled, suggesting sunlight filtering through the canopy. In the bottom left corner, there is red text.

**USER CRATED TRAIL**  
**EARLS FORD ACCESS**



# EXHIBIT "B"

## EXHIBIT "B"

<http://www.orgt.gatech.edu/whitewtr/rivers.html>

Georgia Tech Student Website

### **Southeast Whitewater Rivers**

This Page and any subsequent sub-pages will hopefully contain

-River Descriptions

-Maps

-River Level Information

-River Safety

**The following is a list of the most popular rivers within three hours of Georgia Tech:**

- [Lower Chattahoochee](#)
- [Upper Chattahoochee](#)
- [Hiawassee](#)
- [Cartecay](#)
- [Nantahala](#)
- [Chattooga Section III](#)
- [Chattooga Section IV](#)
- [Ocoee](#)
- [Tellico](#)

- Please e-mail me any comments or updates.

[ORGT White Water Kayaking](#)

[White  
Water  
Homepage](#)

[Meetings/  
Roll  
Practice](#)

[Schools  
Equipment](#)

[Rivers](#)

[Links](#)

[Contact US](#)

[ORGT  
Home](#)

---

## **Lower Chattahoochee**

### **Description:**

This is a very good first time river. It is also good for afternoon getaways during hot Georgia summer days.

### **Maps and Directions**

### **Flow Level Information:**

- Chattahoochee Outdoor Center 395-5861
- [Gopher site - U of I Weather Machine](#)

**Ideal Level Range:**

- Practically any level

**Permit/Logistics:**

- No permit required

**Setting Safety:**

- Recommended for beginners at the sluice

**Emergency:**

**Help/Phones:**

- Chattahoochee Outdoor Center
- Park rangers

**Emergency phone #'s:**

- Metro Atlanta -911

**Nearest hospital:**

- West Paces Ferry

**Walk - Out points:**

- Almost anywhere

[River List](#)

---

## Upper Chattahoochee

**Description:**

**Maps and Directions**

**Flow Level Information:**

- Wildwood Shop (706) 865-4451
- Riverside (706) 776-6026

- [Gopher site - U of I Weather Machine](#)

**Ideal Level Range:**

- 1.5 - 3.5 feet

**Permit/Logistics:**

No permit required. Wildwood Shop at the take-out can run shuttle for you, as can Riverside. There is a fee for shuttle and parking.

**Setting Safety:**

Recommended at Smith Island, 1st ledge, 3rd ledge and Horseshoe.

**Emergency:**

**Help/Phones:**

- Wildwood shop at put-in or take-out.

**Emergency phone #'s:**

- On river left: Habersham County civil defense - (706) 778-9500.
- On river right: White County - (706) 865-3855.
- **These counties do not have 911.**

**Nearest hospital:**

- Habersham Hospital - (706) 754-2161

**Walk - Out points:**

- 1/2 mile after smith Island on the left
- Canoe eating rock
- Several houses along banks

[River List](#)

---

## Hiawassee

**Description:**

The Hiwassee River is a Tennessee State Scenic River. The river is controlled by the TVA and therefor runs during those dry hot summer days. Call the TVA for



release dates. This is a mild river with an overall class II rating. It is a good instruction river and provides great fun for family outings in canoes, rafts, and even intertubes. This is a 5.5 mile very scenic run with very cold water.

### [River List](#)

---

## **Cartecay**

### **Description:**

### **Maps and Directions**

### **Flow Level Information:**

- Mountain Outdoor Expeditions (706) 635-2524

### **Ideal Level Range:**

- 2 - 3 feet

### **Permit/Logistics:**

No permit required. MOE will run shuttle ( fee required). You can also shower and change there.

### **Setting Safety:**

Recommended at First Falls ( S-Turn) and Blackberry Falls.

### **Emergency:**

### **Help/Phones:**

- MOE
- Blackberry Falls Resort

### **Emergency phone #'s:**

- 911

### **Nearest hospital:**

- North Georgia Medical Center, Jasper Rd., Ellijay (706) 276-4741

### **Walk - Out points:**

- Several houses along banks.

## [River List](#)

---

# Nantahala

### Description:

Welcome to the "River of the Noon Day Sun". This is eight miles of continuous class II - III water. While there are only a couple of "rapids" on this river, the water is continuous enough to provide fast water with many, many fun standing waves and tight eddies. This is a very good river to work on the basics - eddie turns, peel-outs, and ferrys, with the added benefit of some great surfing waves. The river trip ends with Nantahala Falls, a fun little class III rapid in which some nice enders can be had.

### Maps and Directions

### Flow Level Information:

- NOC - (704) 488-2175
- Nanny Power and Light recording (704) 321-4504

### Ideal Level Range:

- Up to 4 ft.

### Permit/Logistics:

- Self register at river, free shuttle in summer.

### Setting Safety:

- Recommended at Lesser Wesser, and lunch play spot.

### Emergency:

### Help/Phones:

- NOC at takeout.

### Emergency phone #'s:

- NOC
- Bryson City Sheriff - (704) 488 2197

**Nearest hospital:**

- Swain County Hospital
- Bryson City (704) 488-2155

**Walk - Out points:**

- Anywhere

[River List](#)

---

## Chattooga Section III

---



---

**Description:**

The Chattooga is a beautiful and exciting river which was included in the Wild and Scenic Rivers system in 1974. Section three requires skill levels to be of an intermediate to advanced level. This section offers 12.5 miles of fast water with numerous rapids ranging from class III to class IV. This is one of the most beautiful rivers around so let's keep it that way.

**Maps and Directions****Flow Level Information:**

- Chattooga Whitewater Shop (803) 647-9083
- NOC Chattooga Outpost (803) 647-9014
- [Gopher site - U of I Weather Machine](#)

**Ideal Level Range:**

- 1.5 - 3.0 feet

**Permit/Logistics:**

Self register at put-in. For official trips, register as "Georgia Tech". Only one Tech group on the river per day. Group size no more than 12 boats. This is a wilderness river, and we're trying to cooperate to keep it that way!

**Setting Safety:**

- Throw rope(s) recommended at:
  - The Narrows (on S.C. side)
  - 2nd Ledge
  - Bull Sluice
- Portage or sneak required at:
  - Bull Sluice for first timers, must also be accompanied by T.L. for first decent.
  - Woodall Shoals (portage left, sneak right) above 1.2.

**Emergency:**

**Help/Phones:**

- Chattooga Whitewater Shop - about 1 mile from 76 bridge on the S.C. side.
- Southeastern Expeditions - about 1 mile from the 76 bridge on the Georgia side.

**Emergency phone #'s:**

- 911 on either side of the river.

**Nearest hospital:**

- Rabun County Hospital in Clayton - (706) 782-4233

**Walk - Out points:**

- From "canoe eating rock", a trail parallels the river on the S. C. side and leads back to Earl's Ford.
- At First Ledge, a trail begins at the top of the Dick's Creek waterfall and goes back to Warwoman Road.
- Jeep trails come down to the river at Sandy Ford on both the Georgia and South Carolina sides.
- On the South Carolina side, at the head of Accelerator, a jeep trail leads back to the Fall Creek Road.
- About a quarter of a mile below Keyhole, the Rogue's Ford road leads back to U.S. 76 on the S.C. side.
- At Z-Turn, a trail leads to U.S. 76 on the South Carolina side.

(For more information on Chattooga walk-out trails, see "Evacuation Maps of the Chattooga", on file at the triangle.)

**Backboard/Litter Locations:**

- Second Ledge on river right, behind huge boulder.
- Keyhole on river right.

[River List](#)

---

## Chattooga Section IV

**Description:**

The Chattooga Section IV is the ultimate river being both technically challenging as well as beautiful and scenic. This section requires advanced-intermediate skills below 1.8 feet and expert skills above 1.8 feet. The water here is very pushy and there are many very dangerous spots. Several good boaters have died while running this section of the river.

**Maps and Directions**

**Flow Level Information:**

- Chattooga Whitewater Shop (803) 647-9083
- NOC Chattooga Outpost (803) 647-9014
- [Gopher site - U of I Weather Machine](#)

**Ideal Level Range:**

- 1.5 - 2.5 feet

**Permit/Logistics:**

Self register at put-in. For official trips, register as "Georgia Tech". Only one Tech group on the river per day. Group size no more than 12 boats. This is a wilderness river, and we're trying to cooperate to keep it that way!

**Setting Safety:**

- Throw rope(s) recommended at:
  - Bull Sluice
  - Seven Foot Falls (on Georgia side)
  - Every drop in Five Falls with particular care at Corkscrew and Jawbone.

- Portage or sneak required at:
  - Bull Sluice for first timers, must also be accompanied by T.L. for first decent.
  - Woodall Shoals (portage left, sneak right) above 1.2.
  - Sock'em Dog (portage left) above 1.6.

**Emergency:**

**Help/Phones:**

- Chattooga Whitewater Shop - about 1 mile from 76 bridge on the S.C. side.
- Southeastern Expeditions - about 1 mile from the 76 bridge on the Georgia side.

**Emergency phone #'s:**

- 911 on either side of the river.

**Nearest hospital:**

- Rabun County Hospital in Clayton - (706) 782-4233

**Walk - Out points:**

- A jeep trail leads out on the South Carolina side from Woodall Shoals.
- A logging road leads back to Long Creek community at the top of the cliff below Raven Rock rapid. There is a trail up to the road from the beach on the S.C. side around the bend from Raven Rock cliff.
- On the Georgia side above Entrance a trail goes up Camp Creek to a parking lot, connected by dirt road to U.S. 441.
- About a quarter of a mile down river from Shoulder Bone (at the point where the river flows into Tugaloo Lake) the Possum Creek Trail leads back to the
- Section IV shuttle road along Possum Creek on the S.C. side.

(For more information on Chattooga walk-out trails, see "Evacuation Maps of the Chattooga", on file at the triangle.)

**Backboard/Litter Locations:**

- Long Creek on river right, 50 yards upstream. Stokes litter, backboard, traction splint, and spare paddles.
- 7-ft Falls on river right behind real big rock below falls. Stokes litter, backboard, traction splint, paddles.
- Corkscrew on river left, bottom of rapid, up the bank about 15-20 feet above water level.

## [River List](#)

---

### Ocoee

---

---



---

---

#### **Description:**

The Ocoee is one of the Southeast's greatest river runs. Controlled by the TVA, the river runs all summer long when everything else is dried up. Contact the TVA for release dates. The river is made up of continuous class III-IV water in a pool drop format with very small pools. The river provides six miles of continuous white water and is a playboater's dream. At normal flow (1000 to 2000 cfs) advanced-intermediate skill levels are required. The most dangerous spots on the river are the hundreds of floating undercuts. They may be a pain in your side, but it's there money that keeps the river running.

#### **Maps and Directions**

#### **Flow Level Information:**

- TVA Water Resources - (614) 632-2264

#### **Ideal Level Range:**

- 1000 - 5000 cfs

#### **Permit/Logistics:**

No permit required for canoes and kayaks. Permits may be required for rafts (615) 338-4133. Raft trip participants will be required to show ID's at the river. Special first aid kit requirements must be met for raft trips.

#### **Setting Safety:**



# EXHIBIT "C"

friday, july 24, 2009

## New Record Set on Bull Sluice

Chattooga River history was made this Wednesday, as one NOC guide, Chris guided all seven rafts in his trip through Bull Sluice rapid on Section III. As you can see, Chris even had an audience cheering him on from the South Carolina side of the river.

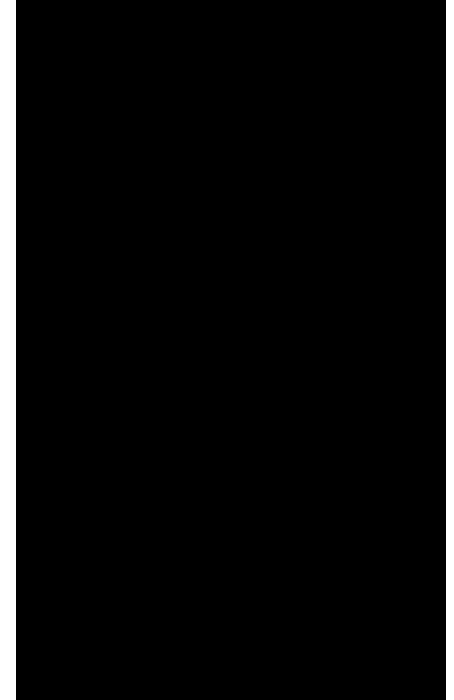


NOC's own Chris is better known by his nickname Gerbic. He undertook this fearsome rapid seven times, all by himself. The crowd of rafters, including his fellow guides cheered him from Georgia Rock as he raced up and down the shore, sprinting towards another raft of spirited crews, desperately trying to beat the Forest Service clock—seven rafts in an allotted 30 minutes. Raft after raft of gung-ho guests reveled with gusto in this epic sprint for glory.



With grit and fierce determination, Gerbic entered Bull Sluice Rapid knowing full well the challenge before him. The mighty Bull did not take kindly to this challenge. At one point, it reached out and with a shrug of it's broad shoulders, sent Gerbic and his raft into the maelstrom. As Burt Reynolds

[follow us on twitter](#)



[your outdoor forecast](#)

Bryson City, NC

[Get the 10 day forecast](#)



**72°F**

Partly Cloudy

**Feels Like: 72°F**

**Humidity: 63%**

**Wind: NE at 8 mph**

Enter city/zip



[Outdoors Guide](#)

[Sky Watch](#)

[Weather Maps](#)

[Best Ways to Wash Your Car](#)

[noc blogs](#)

character said in the movie *Deliverance*, "You don't beat this river". Undaunted by his setback, Gerbic swam to shore and resumed his all-out assault. Gerbic's cheering guests and fellow guides exalted in his accomplishment.



Ecstatic after his record-setting day, Gerbic topped it off by a victorious leap into the river.

posted by barbra rodichok at 9:14 am

labels: bull sluice, chattooga, ga rafting, rafting, sc rafting, whitewater, wild and scenic

**0 comments:**

**Post a Comment**

Comment as:

**Post Comment**

**Preview**

[Home](#)

[Older Post](#)

Subscribe to: [Post Comments \(Atom\)](#)

[noc blog](#)

[noc fishing blog](#)

[noc paddling school blog](#)

[outfitter's store blog](#)

## links

[NOC Rafting on Facebook](#)  
[American Whitewater](#)

## labels

[bull sluice \(1\)](#)  
[chattooga \(4\)](#)  
[cheoah river \(2\)](#)  
[french broad rafting \(2\)](#)  
[ga rafting \(3\)](#)  
[gatlinburg \(1\)](#)  
[great smoky mountains \(1\)](#)  
[hot springs \(1\)](#)  
[mountain rest \(1\)](#)  
[nantahala falls \(1\)](#)  
[nantahala river \(5\)](#)  
[nc rafting \(3\)](#)  
[noc \(2\)](#)  
[pigeon river \(1\)](#)  
[r1 \(1\)](#)  
[raft guide \(1\)](#)  
[raft guide training \(1\)](#)  
[rafting \(11\)](#)  
[river \(3\)](#)  
[river clean-up \(1\)](#)  
[river rescue \(1\)](#)  
[rivers end restaurant \(1\)](#)  
[robbinsville \(1\)](#)  
[sc rafting \(3\)](#)  
[section iii \(1\)](#)  
[sock-em-dog \(1\)](#)  
[spring \(2\)](#)  
[tn rafting \(1\)](#)  
[wesser \(1\)](#)  
[whitewater \(5\)](#)  
[whitewater \(1\)](#)  
[wild and scenic \(3\)](#)

## blog archive

▼ [2009 \(22\)](#)  
 ▼ [july \(2\)](#)  
   [new record set on bull sluice](#)  
   [summertime on the pigeon river](#)  
 ► [june \(2\)](#)  
 ► [may \(8\)](#)  
 ► [april \(5\)](#)

"Chattooga Conservancy"  
<info@chattoogariver.org>

08/30/2011 01:28 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Upper Chattooga EA comments

Please see the attached.

Chattooga Conservancy  
[info@chattoogariver.org](mailto:info@chattoogariver.org)  
706-782-6097

8 Sequoia Hills Lane



Clayton, GA 30525 Upper Chattooga comments on EA dated July 15, 2011 v1.doc

### **Chattooga Conservancy's Comments on Upper Chattooga River Environmental Assessment**

**August 30, 2011**

Forest Supervisor's Office  
Francis Marion - Sumter National Forest  
4931 Broad River Road  
Columbia, South Carolina 29212

I am writing to enter the following comments on the Upper Chattooga River Environmental Assessment (EA) dated July 15, 2011, on behalf of the Chattooga Conservancy. The Chattooga Conservancy is a 501(c)(3) conservation organization and land trust dedicated to the protection and enhancement of the native ecological integrity of Chattooga River watershed since 1994. The Chattooga Conservancy recognizes the pending decision regarding recreation uses in the headwaters of the Chattooga River as being arguably the most important management decision since the Chattooga River was included in the National Wild and Scenic River System in 1974.

#### **The Chattooga Conservancy is Opposed to the Preferred Alternative (Alternative 12) Offered by the Forest Service in the EA for the Following Reasons:**

- The preferred alternative will create undue risk of irreparable harm to the Outstandingly Remarkable Resource Values of the headwaters section of the Chattooga River including the opportunity for solitude, and the rich natural resources and biological diversity of the Upper Chattooga River backcountry, and especially the Chattooga Cliffs Reach.
- The preferred alternative is arbitrary and capricious because it excludes boaters from the section of the headwaters from Lick Log Creek to Highway 28, and during the boating season from March 1 to December 1 from Bull Pen Bridge to Lick log Creek, without just cause.

- The preferred alternative does not assure the “non degradation” of the Outstandingly Remarkable Values (ORV) of the Upper Chattooga River, since no comprehensive biological study has been conducted for the Upper Chattooga River.
- The preferred alternative does not provide the public with all the necessary documents required to make an informed decision about the proposed alternative.
- The preferred alternative is arbitrary and capricious since many important conclusions rely on outdated, insufficient, faulty, or non existent information.
- The preferred alternative states that any future damage to the resource will be monitored, and if erosion and sedimentation occur from the unauthorized user-created portage trails, damage to the federally listed Threatened & Endangered Species or other rare or sensitive biological resources, and/or if too many encounters to meet compliance with the requirements to protect the back country experience are documented, then at this time these threats will be dealt with by implementing “adaptive management.” While it may be true that certain documented occurrences of erosion or sedimentation may be corrected, it is certainly not true that damage to federally listed Threatened & Endangered Species and sensitive or rare plants can be tolerated or mitigated.
- The preferred alternative within the current EA never addresses the “inconsistencies” identified by the Forest Service in the original EA that was used to support the first decision issued for managing the recreation uses in the upper Chattooga River in 2008, and that was withdrawn for that reason. This is extremely troubling since the preferred alternative in the current EA is based on fatal flaws in the original EA, that have never been addressed!
- The supporting reasons for the preferred alternative proposed by the Forest Service in the EA for managing recreation uses in the Upper Chattooga are so illogical, so inconsistent, and so inadequate that the inevitable result of this alternative, if implemented, will unquestionably violate the Administrative Procedures Act, which directs responsible agencies to comply with federally enacted regulations and to comply with the Wild and Scenic Rivers Act, the Wilderness Act, the National Environmental Policy Act and the National Forest Management Act—all of which are designed to protect the Chattooga National Wild and Scenic River and the Ellicott Rock Wilderness Area from degradation and mismanagement.

#### **Supporting Reasons for the Chattooga Conservancy’s Opposition to the Preferred Alternative:**

- **Undue Risk and Potential Irreparable Harm to ORVs**

**Solitude:** We feel strongly that the Forest Service’s “turn them loose, see what happens and make corrections later” alternative is taking an unacceptable and dangerous risk of inflicting irreparable harm to the Outstandingly Remarkable Value of solitude, which currently exists in the Upper Chattooga River backcountry.

“Information gathered from the public during the LAC process indicates that solitude is one of the most valued, if not *the* most valued quality of the backcountry recreation experience in the upper segment of the Chattooga WSR Corridor.” (EA, p. 63).

“To protect these backcountry opportunities, the agency must ensure use levels and resulting impacts do not reach unacceptable levels.” (EA, p. 79).

“After the 2008 Merced decision, and consideration of ongoing debate among river professionals, the agency recognized the need to explicitly identify numeric capacities as well.” (EA, p. 64).

“Although the potential exists for whitewater boaters and scenic-oriented boaters/tubers to recreate in the backcountry on the upper segment of the Chattooga WSR, Use Estimation Workshop

attendees did not have the appropriate expertise to speculate about the likely numbers of boater groups per day in any of the backcountry reaches.” (EA, p. 69).

“Determining the accuracy of these competing demand estimates may not be possible unless boating is allowed on the river and the agency monitors use.” (EA p. 100).

In fact, the Forest Service has good indicators that were calculated in the EA for capacity-based restrictions to protect solitude:

“With limited river-specific studies about the relationship between use and encounters, the US Forest Service estimated current encounter levels in different reaches and seasons by applying assumptions and logic-based calculations to use estimates (groups at one time) from the Use Estimation Workshop (with additional consideration given to vehicle count based estimates from 2006 and 2007). The estimates are provided in Table 3.2.1-6; Appendix D provides more details about encounter and use estimates.” (EA, p. 71).

The Chattooga Conservancy averaged the existing encounter levels from Table 3.2.1-6 and discovered that the average number of groups per day in all reaches is exactly 6 groups per day. The Forest Service has established that the acceptable group size for boaters is 6 boaters per group.

“Public comments during the Limits of Acceptable Change process suggest general tolerance for existing levels of use and encounters (even during high use months of the year), but people do not want these levels to noticeably increase.” (EA, p. 71).

If the Forest Service adds a new user group (boaters) to the reaches of the Upper Chattooga River, the result would be an inevitable increase in encounters. However, since optimum flow levels for boating usually occur during the winter months when other users are less prevalent, a logical capacity level for boaters should be less than the existing encounter levels of 6 groups per day with 6 boaters per group. The Chattooga Conservancy recommends that boater restrictions should be 4 groups per day with a maximum of 6 boaters per group. This is a logic-based proposal that would satisfy public desires to keep current encounter levels close to what they are now, without risking harm to the Outstandingly Remarkable Value of solitude.

### ***Biology:***

“The botany component of the Biology ORV is composed of the Southern Appalachian endemics, spray cliff communities and old growth forests. These were considered rare when botanical values were designated. They include liverworts, rock gnome lichen, Blue Ridge bindweed, Fraser’s loosestrife, Manhart’s sedge, Biltmore’s sedge, pink shell azaleas, mountain camellia, Oconee bells and divided leaf ragwort.” (EA, p. 16).

“Spray cliff plant communities occur on vertical to gently sloping rock faces that are constantly wet from the spray of waterfalls. They are inherently rare and dominated by mosses, liverworts and algae with vascular herbs having substantially less cover.” (EA, p. 17).

“...70% of all rare species known or with potential to occur in the Chattooga River Watershed are restricted to the upper portion of the watershed above the Highway 28 Bridge.” (EA, p.16).

“Recreation impacts to Large Woody Debris (LWD) can indirectly affect endangered, sensitive and locally rare plants and aquatic habitats which are tied to the botany and fisheries components of the Biology ORV. These impacts could be exacerbated in the future by the expected input of more LWD from dying hemlock. Recreationists getting around this woody material could create trails or result in unlawful removal of this material which is critical to aquatic habitat.” (EA, p. 40)

“Based on potential portaging along currently inaccessible stretches of the river, the boating alternatives have viability concerns for the following sensitive species: *Lophocolea appalachiana*

and *Lejeunea bloomquistii* on the CONF and *Cephalozia macrostachya* ssp. *australis*, *Plagiomnium carolinianum*, *Lophocolea appalachiana* and *Plagiochila sullivantii* var. *sullivantii* on the NNF. Locally rare species with forest distribution concerns include *Chiloscyphus muricatus*, *Homalia trichomanoides* and *Bryoxiphium norvegicum* for NNF and *Listera smallii* for CONF. All of these species have few populations (less than 5) known across the respective forests. All documented populations are very small, typically consisting of less than 20 individuals or extending only over a few square centimeters. They all are limited within the Chattooga River watershed. Increased portaging in the more inaccessible areas could potentially eliminate these small populations.” (EA, p. 349).

“Trampling and disturbance to vegetation may occur more often in accessible areas since there would be more people using the river; they may also extend into the most inaccessible parts of the river. As a result, there could be direct effects of trampling or scouring individuals of additional rare species, including *Hydrothyria venosa*, *Cephalozia macrostachya* ssp. *australis*, *Lophocolea appalachiana*, *Plagiomnium carolinianum* and *Ephebe solida*. The most noteworthy effect of these alternatives is the need for portaging, particularly in the Chattooga Cliffs Reach where Eastern hemlocks are denser and trees are already dead. Logs that jut out or span the river can create obstructions that could force boaters to portage around the obstacle. In certain locations, this could lead to impacts (from trampling and crushing) to rare bryophytes and lichens that are adhered to rocks and boulders primarily on the river’s edge. In addition, portaging could lead to trampling terrestrial herbaceous species, such as *Listera smallii*, *Carex manhartii*, and *Lygodium palmatum*.” (EA, p.349).

The Chattooga Cliffs Reach is the most biologically rich section of the Upper Chattooga River. It is also the least accessible. Boating in the Chattooga Cliffs Reach would require numerous portage trails due to the presence of large numbers of dead and dying hemlocks. Boating under alternative 12 would be allowed with no flow restrictions, resulting in low water runs with the highest likelihood of portage. There are no numerical restrictions for boating under alternative 12 and the Forest Service admits in the EA that there is no way to predict how many people will show up on “opening day.”

No comprehensive study of the biologically rich spray cliffs and other suitable habitats for rare species has been conducted in the Chattooga Cliffs Reach. Further, the Forest Service failed to properly analyze the one, existing spray cliff study conducted by Pittillo and Zartman, in stating that no spray cliffs were found in the Chattooga River Corridor when, in fact, the first example in the Pittillo-Zartman study was for Ammons Branch at Bull Pen Bridge. The Pittillo-Zartman study did not explore the Chattooga Cliffs Reach, where many rare plants are likely exist in spray zone habitat that is plentiful (EA, p. 209). In addition, of particular interest is a statement on p. 213 of the EA that states, “Spray Cliff Communities are not impacted because they are not located within the WSR Corridor.” This statement is false, and indicative of the Forest Service’s fragmented and compartmentalized approach, leading to a flawed and insufficient EA for the Upper Chattooga River.

Alternative 12 as related to allowing unrestricted boating in the most remote and biologically sensitive reach of the Upper Chattooga is a recipe for disaster. The outstanding biological values of the Chattooga Cliffs Reach are immeasurable. This 4-mile section of the Upper Chattooga should be zoned for no boating, since this use would in all likelihood do irreparable harm to the outstandingly remarkable biological values of the Chattooga Cliffs Reach.

“Also, an additional boater put-in site and connector trail in the upper portion of the Chattooga Cliffs Reach at the Green Creek confluence has the potential to impact vegetation and introduce another point where litter would be present. This would reduce the sense of seclusion and detract from the aesthetics and unspoiled nature in this area.” (EA, p.227).

“User created trails often lead off a designated trail and go down steep slopes to a major stream or the Chattooga River.” (EA, p. 48).

“In addition to the existing use, the five boating alternatives could increase negative impacts to the rare bryophytes if a large number of portage trails are required to get by fallen hemlock log stringers or log jams. These impacts are anticipated to be greater in the uppermost portion of the

corridor because the river width is less, hemlocks are dense (a large portion of them are dead) and rare liverwort habitat is more suitable.” (EA, p. 218).

#### ***Soils:***

Other examples of the Forest Service’s flawed and insufficient EA include the fact that the soil types for the area where the proposed 1-mile Green Creek access trail would be built were not revealed in the EA. In fact, the Chattooga Conservancy researched the Natural Resources Conservation Service’s soil survey data, which showed the soil type to be Plott fine sandy loam, 30-50% slopes, stony, (PwE). The NRCS rates this soil type as “very limited” for paths and trails, while numerically assigning this soil feature at the NRCS’s very highest level for its severe limitations as well as greatest negative impacts from paths and trails.

The EA contains no specific maps of the proposed trail where the Green Creek access would be built. In addition, the new access trail would encourage year-round use by all user groups. The Forest Service also states that boating in the Chattooga Cliffs Reach would likely result in numerous portage trails, where damage control would be dealt with after the fact with “adaptive management.” This would present unacceptable risks to ORVs in the Chattooga Cliffs Reach.

- **Boating Between Lick Log Creek and Highway 28 and During All Seasons:**

“Because boating is allowed at flows of 450 cfs and greater in this alternative [Alternative 11], there would be minimal need for portage trails and therefore, there would be minimal impact on the soil resource. Many of the obstacles that would require portage around under lower flows would be under water at this flow. Therefore, it is likely that very few portage trails would be needed. As a result, the potential for soil disturbance would be minimal under this alternative. Under this alternative soil impacts along portage trails may be alleviated during the period when flows are lower than the required flow for boating.” (EA, p. 278).

The EA table on page 75 clearly shows that at the flow level of 450 cfs, boating is optimum and there are no fly fishermen on the river. Further proposed restrictions by the Chattooga Conservancy of no more than 4 boater groups with a maximum of 6 boaters per group would not spoil the solitude for other users in the backcountry and wilderness area between Bull Pen Bridge and the Highway 28 Bridge. The 450 cfs cut off would also reduce portage trails and the threat to the biological diversity of the Upper Chattooga River. Therefore, a flow level cut off is far better than the unrestricted, reach-zoning approach to eliminating encounters and therefore conflict between users. A river flow level approach to separating uses would also reduce potential biological damage to sensitive resources.

- **Monitoring and Adaptive Management:**

“The system uses an ‘implement-monitor-adapt’ strategy that provides management flexibility it needs to account for inaccurate assumptions, to adapt to changes in environmental conditions or to respond to subsequent monitoring (FSH 1909.15, Chapter 10, 14.1)”, (EA, p.38).

In fact, inaccurate management assumptions based on insufficient supporting information is fraught throughout the EA including conclusions about future boating use levels, the absence of a comprehensive study of spray cliffs and other biological studies, and the information related to the feasibility and effects to Outstandingly Remarkable Values of solitude, and biological damage from the increased year round access created at Green Creek. Monitoring in the absence of critical baseline information, and adaptive management as a mitigation tool for damage control to fragile ORVs that can tolerate no damage, is flawed and unacceptable.

- **Inconsistencies:**

The Forest Service EA does not address the reason for withdrawing the original decision for managing recreation uses in the Upper Chattooga River in 2009. In the original decision, the Forest Service chose to allow boating with no restrictions on the number of boaters allowed, whereas the original EA and accompanying Biological Evaluation



(BE) were based on a preferred alternative when boater numbers would be restricted. These documents—the original EA & BE—were withdrawn, and are therefore moot.

Consequently, the USFWS and the public do not have a BE for the Upper Chattooga EA, to consider in making comments on the current EA. While the biology of the Upper Chattooga is an extremely important ORV, the fact is that the Forest Service never mentions or addresses this important inconsistency in the current EA. If the USFWS cannot make a determination in the absence of a BE, then it is certainly a violation of NEPA to ask the public to make this important decision and determination without all the important information contained in a BE available.

- **Non Degradation:**

“Section 10(a) of the WSRA is interpreted as a “nondegradation and enhancement policy for all designated river areas, regardless of classification” (Wild and Scenic River Interagency Guidelines). Existing uses on federal lands may continue where they do not conflict with river protection. Adverse effects to the ORVs, free-flowing condition and water quality on federal and non-federal lands must be identified in management proposals along with mitigation measures to resolve these potential adverse impacts. To achieve a nondegradation standard, the river-administering agency must document baseline resource conditions and monitor changes to these conditions.” (EA, p.14).

*If alternative 12 is implemented by the Forest Service, it will surely result in a degradation of the Outstandingly Remarkable Values of the Upper Chattooga River corridor for all the reasons stated above and that do not comply with Section 10 of the Wild and Scenic Rivers Act, since the obvious adverse effects of this alternative have not been adequately addressed in management decision-making.*

#### **Chattooga Conservancy’s Proposed Remedy:**

The preferred alternative offered in the EA for managing recreation uses in the Upper Chattooga should be re-written to take into account the fact that there presently exists many unknown factors, including potential damage to biological resources that have not been adequately inventoried, and more detailed analyses of the potential effects of building new access into the remote Chattooga Cliffs Reach, and potential portage trail damage, that should be studied and addressed more carefully. In addition, we assert strongly that river flow restrictions should be used for controlling user conflict, and that restrictions on boater group size, numbers of boaters per group, and use based on river flows should be implemented first, to reduce the risk of irreparable damage to the Outstandingly Remarkable Values of the Upper Chattooga, rather than the proposed “adaptive management” scenario that is tantamount to playing Russian Roulette with an extremely important resource.

The Chattooga Conservancy proposes an amended alternative that would take the above concerns into account. The Chattooga Conservancy’s alternative would prohibit building new access and all boater use in the Chattooga Cliffs Reach, because it is the last, relatively inaccessible section in the whole 57-mile Wild and Scenic River Corridor. The Forest Service’s position that building the proposed, new 1-mile access trail at Green Creek would not harm the Outstandingly Remarkable Values, including the chance to experience solitude, or would not harm biological diversity in the area, is flawed and also does not take into account the whole host of other uses that a new access trail would bring into the Chattooga Cliffs Reach during all seasons of the year.

We propose that boating is a legitimate wilderness mode of travel that should be allowed from Bull Pen Bridge to Highway 28 Bridge during all seasons, above the river flow level of 450 cfs. This approach is a more logical choice to eliminate conflict between fishermen in the Delayed Harvest area between Lick Log Creek and the Highway 28 Bridge, because it allows both uses to continue at the optimum flow levels for each respective use. This approach would also restrict boaters during lower flow levels, when exposed strainers and undercut rocks would require portage trails. This is especially important in the upper reaches, when the inevitable increase in strainers due to hemlock trees that have succumbed to the effects of the Hemlock Woolly Adelgid will die and fall into the river.

We also propose that boating in the headwaters be restricted to no more than 4 groups per day, and no more than 6 boaters per group, and be allowed from Bull Pen Bridge to Highway 28, in order to insure that the elements of solitude be preserved in the back county reaches of the Upper Chattooga River. Note that the Chattooga Conservancy's proposal for restricted boating would be simple and inexpensive to administer. The Forest Service could implement a permit system such as is used by the SC Forestry Commission to administer burn permits, where requests are reviewed and approved via telephone, and a registration number is issued and recorded for enforcement purposes. This, coupled with monitoring and enforcement, would be a simple and cost effective system that would also be effective in working to protect the Upper Chattooga's ORVs.

The preferred alternative in the EA that does not require these restricted use levels, therefore does not take into account the agency's own conclusion in the EA that boater use levels cannot be determined. Logically, given this unknown, it would be a much better strategy to err on the side of insuring "non degradation" to resources than to risk irreparable harm.

The Chattooga Conservancy respectfully requests that the Forest Service should alter Alternative 12 for managing recreation uses in the Upper Chattooga River to include the recommendations we have made above to protect the Outstandingly Remarkable Values of the Chattooga River while being fair to all users.

Sincerely,

Buzz Williams, Executive Director  
Chattooga Conservancy  
8 Sequoia Hills Lane  
Clayton, Georgia 30525  
706-782-6097  
[info@chattoogariver.org](mailto:info@chattoogariver.org)

**"Asbell, David"**  
**<David.Asbell@gtri.gatech**  
**.edu>**

08/30/2011 01:30 PM

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>  
cc  
bcc

Subject Chattooga management plan

I have been paddling the Chattooga River since 1976, but have never boated above Highway 28. By the time I was good enough to do it, it was illegal.

My comments here are simple:

Boating has less environmental impact than virtually any other activity in the watershed. Boats leave ripples. Boaters do of course use access trails, as do all users. We do not typically use trails that run along the river.

Boaters are legitimate users of the Wild and Scenic area. The fact that other users might prefer not to see boaters does not change that. Segregation is no longer acceptable in America.

I believe that natural user preferences of water level will minimize conflict between boaters and fishers.

Any other conclusion should be based on data from an extended trial period.

If, against my expectations, there is excessive conflict, the two groups should be treated equally. Boaters should not be denied river time to a greater extent than fishers. Long term, I believe all will prefer minimum interference by the USFS.

Threats and acts of violence by one user group against another should be dealt with as the serious offenses that they are.

In summary, I believe that paddling should be allowed on all of the Chattooga and its tributaries, without restriction.

O. David Asbell  
672 Londonberry Rd  
Atlanta, GA 30327

"Lynn Dicks"  
<rockbrookga@earthlink.net>

08/30/2011 01:47 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Chattooga River

USDA Forest Service Supervisor's Office

4931 Broad River Road

Columbia, S.C. 29212

Subject: Comments on Alternative 12 from the July 2011 EA

Dear Reviewing Officer,

Thank you for taking the time to consider my comments on the 2011 EA.

The topography along the North Carolina Chattooga varies from steep gorges to low gradient banks. Yet, only assessment of the steep gorge areas is included when considering capacity for anglers. By only considering the most difficult access spots, the assessment underestimates the ability of the Chattooga to accommodate angling during higher flows. Fly-fishing the area around Bull Pen Bridge remains acceptable at flows as high as 600cfs, as documented within the

Forest Service 2007 report.

Many of the smaller tributaries simply cannot accommodate casting due to the overhanging vegetation. These tight tributaries do not offer an alternative for fisherman displaced by boating and associated disturbances. Only the Chattooga still offers an opportunity to enjoy fishing in North Carolina without disturbance.

If the proposed alternative was to allow boating only below Bull Pen Bridge, at least some of the North Carolina angling opportunities would remain available year-round. Unlike boaters, anglers are required to purchase expensive out-of-state licenses when fishing in other states. The Sumter Forest Service should continue to offer diverse recreational opportunities in each state, especially during the higher flows. The entire Chattooga should be monopolized by a paddling monoculture.

Finally, the EA proposes boating initiates at Greens Creek, without providing the details on how boats will arrive at this location. Without assessing the impacts associated with paddlers influx to the confluence of Greens Creek, it is impossible to comment on the proposed new access point.

Thank you,

Robert E. Dicks, M.D.

**Alan Jenkins**  
<[aj@jenkinsatlaw.com](mailto:aj@jenkinsatlaw.com)>

08/30/2011 01:23 PM

To "comments-southern-francismarion-sumter@fs.fed.us"  
<comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Comments of Rust family and Whiteside Cove  
Association on EA

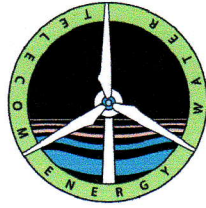
Attached please find the comments on behalf of the Rust family and Whiteside Cove Association on the environmental assessment on Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor. Thanks

Alan Jenkins  
Jenkins at Law, LLC  
2265 Roswell Rd., Suite 100  
Marietta, GA 30062  
(770) 509-4866  
[aj@jenkinsatlaw.com](mailto:aj@jenkinsatlaw.com)

The information contained in this e-mail is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this e-mail is strictly prohibited. If you have received this e-mail in error, please immediately notify us and delete the original message. Thank you.



comments.pdf



## Jenkins at Law, LLC<sup>1</sup>

2265 Roswell Road, Suite 100

Marietta, GA 30062

[www.jenkinsatlaw.com](http://www.jenkinsatlaw.com)

(770) 509-4866

August 30, 2011

The US Forest Service requests comments on its July 15, 2011 Environmental Assessment ("EA") but unfortunately makes plain in that assessment that the Forest Service will continue to ignore comments from private landowners, as well as individuals and groups concerned with the impact of allowing boating in environmentally sensitive areas above Bull Pen Bridge. In what is likely another vain attempt to placate a litigious minority from the boating community, the Forest Service proposes to extend the reach of the recreation amusement park that once was a wild and scenic area, despite the environmental impacts that this proposal would cause, and without documenting impacts the proposal would have on constitutionally-protected private property interests. Indeed, the Forest Service goes so far as to threaten that it could allow recreational use of private property, directly contrary to law.

In prior comments, the Rust family (Family) and the Whiteside Cove Association (WCA) pointed out numerous errors and inconsistencies in the Forest Service's prior proposals and 2009 environmental assessment. The Forest Service simply ignored those comments and repeats these same errors in its 2011 EA. For example, the Family and WCA previously pointed out how the Forest Service has mischaracterized previously published statements and referenced data associated with publicly-owned lands as if they also apply to the private section. The 2011 EA changes the historic definition of "Chattooga Cliffs" from one extending up to Norton Mill Creek to a definition that would include the reach all the way up to Grimshawes Bridge, apparently in order to lay a pretext for further litigation attempts to extend this recreation playground onto private property. These geographic shifts from previous Wild and Scenic River documentation create considerable confusion within the voluminous EA and are used to misapply data erroneously to the private reach.<sup>1</sup> At this point, there is no need to re-submit these comments at length as they are already in the public record that the Forest Service has repeatedly ignored.

The WCA also provided detailed data collected over many decades that demonstrate that fishing occurs at flow levels (700cfs) much higher than the levels cited in the biased "expert panel" field assessment (450 cfs).<sup>2</sup> Instead of using the actual data to eliminate, or at least offset the low-fishing-level bias of the pro-boating consultants, the Forest Service now proposes to extend the reach of boating up to Green Creek based on a "discovery" that bait fishing is not

<sup>1</sup> The EA (p.19) also includes a curious erroneous statement that the "original WSR study team travelled the entire river in small rafts." To the contrary, the 1971 study team documented the upper Chattooga as being "non-floatable" with canoeing not being feasible. 1971 Study (p.62). More recently, the 2007 *Expert Panel Report* (p.28) provided that the "boaters felt that this reach [above Bull Pen] could not feasibly be rafted."

<sup>2</sup> These reports were produced by consultants hand-picked by boaters and, as pointed out in earlier comments, reflect that bias.



allowed above Bullpen Bridge. According to the EA, this "new information regarding angling opportunities above Bullpen Road Bridge" means that optimal fishing only occurs at flows below 350 cfs - even below the pro-boating consultant estimates and disregards the numerous angling methods permitted under current regulations (EA pp.42, 75). In light of documented evidence collected over a 45-year period of fishing occurring at much higher levels, this conclusion plainly is arbitrary and capricious decision-making driven not by facts but by a bias for expanding boating.

In rushing headlong to extend boating ever northward toward the headwaters of the Chattooga, the Forest Service ignores not only the comments and concerns of private property interests, but also its own data and evidence, and the comments of numerous individuals and groups interested in protecting the environment and preserving at least some vestige of wilderness along the Chattooga. For example, the EA itself points out that allowing boating above Bull Pen Bridge would cause increased loss of large woody debris (p.165), impact vegetation (p.227), introduce a new litter source (p.227), compact soils (p.230), increase erosion (p.230), damage scenery (p.231), and even entirely eliminate populations of rare and endangered species (p.349). And all of this environmental impact would occur from the increased boating activity alone, before considering the additional environmental impact from the trail(s) and parking facilities that would be needed to create a new access point at Green Creek.

Ironically, the Forest Service asks for comments on this proposal to push boating up to Greens Creek without providing the public with any detailed information on the location of the new trail and/or parking facilities, and only provided to those so requesting a trail map terminating 100 yards from the river and 250 yards below Greens Creek. The paucity of information regarding this new access raises numerous questions. Where is the new trail? What parking facilities would be needed? Is the proposed site suitable for access? Where is the cost/benefit analysis of extending a new trail up river to Greens Creek from the current trail? What are the direct, indirect and cumulative effects of this part of the agency's proposed alternative? And the obvious question, how can the public comment on a proposal it knows so little about?

The USDA has already published the unsuitability of the slopes along the North Carolina stretch of the Chattooga for supporting new recreational uses. Thus, according to the Natural Resources Conservation Service (NRCS), this area is "poorly suited to outdoor recreational uses," the "trails are very slick during wet periods because of the slope and content of organic matter," which creates a "severe hazard of erosion [especially] during wet periods."<sup>3</sup> The same soil report also notes: "Trout streams are especially sensitive to damage caused by sediment"(p143); "soil properties [in this area] are unfavorable and that limitations can be offset only by costly soil reclamation, special design, intensive maintenance, limited use or by a combination of these measures"(p150); and there is a "severe hazard of erosion associated with [scouting and portage] paths and trails on these steep slopes" (p153, 150). Therefore the Forest Service proposal to add new recreational uses and access that would be concentrated during the periods when the soils are most saturated will create a "severe hazard" for erosion causing increased sedimentation into the Chattooga. Plus, as cited above, the EA makes clear that trampling and erosion from this new recreation access could eliminate rare species.

In addition to trampling on sensitive plant communities, the Forest Service would also

---

<sup>3</sup> *Soil Survey of Jackson County North Carolina*, USDA, NRCS (1997) pg. 58.



trample on private property rights. Whereas the EA states that the "Forest Service does not encourage trespass on private lands" (p. 12), the practical effect of the EA is to do just that – encourage trespass. First, as mentioned above, the Forest Service avoided reassessment of how each alternative would impact property rights with some of the alternatives appearing to invite trespass. Indeed, this failure to evaluate carefully and document the effect of its actions on property rights violates the Constitution, NEPA, the Wild and Scenic River Act, Executive Orders 12630 & 13352,<sup>4</sup> and other applicable law.

Second, the EA fails to clarify, as previously requested, that it will remain illegal to float the Chattooga River outside of the proposed float zones and times. Any recreational restriction is established in nullity, effectively establishing no restriction at all.

Third, the EA fails to include language consistent with that found in other river management plans, whereby the Forest Service agrees to "increase awareness of private land along the corridor to reduce trespass and resource damage caused by such trespass," also as previously requested.

Fourth, the EA states "navigability and public access rights on this reach have not been formally analyzed by any federal or state agency or authority, nor has its navigability been adjudicated by a court of law." This professed ignorance of any formal analysis is remarkable in light of the fact that it was the Forest Service's legal duty to document ownership (including title to the riverbed) before and after WSR designation and to provide such information to Congress and other federal agencies for review and approval. The agency made an initial determination that the Chattooga in North Carolina was non-navigable in 1971, and that the riparian owner would therefore own the streambed under North Carolina law. Then, it published this conclusion with citation to the relevant opinion of the North Carolina attorney general, and sent this determination and conclusion to other agencies and Congress for review, and ultimately approval, at the time of Chattooga WSR designation.

Notably, the Forest Service now claims that a judicial ruling is required before completing analysis, while simultaneously resisting such adjudication by filing (in federal court in the 2009 AW complaint proceeding) a motion to dismiss the Family's request that the court make a final adjudication that this stretch is non-navigable. In doing so, the Forest Service is ignoring its own guidelines which compel the agency to consider rivers non-navigable, until adjudicated otherwise, and to include in its environment assessments the impact to private property based on non-navigability.

Taken together, the Forest Service's anti-private property statements and actions speak much louder than its boilerplate statement that it does not encourage trespass on private lands. The agency cannot simply take an idle role with respect to private property within a Wild and Scenic corridor. The agency is required to work with landowners and to have documented boundaries between public and private lands. Action that will impact private property, property owners, or leaseholders, requires due consideration by the agency, and the Constitution requires that any action that would substantially damage those recognized rights requires due compensation.

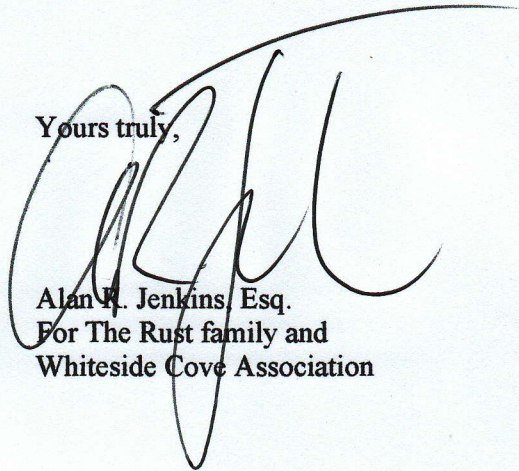
---

<sup>4</sup> The agency must "take appropriate account of, and respect, the interests of persons with ownership in the land and natural resources." [http://ceq.hss.doe.gov/nepa/regs/Executive\\_Order\\_13352.htm](http://ceq.hss.doe.gov/nepa/regs/Executive_Order_13352.htm)



The Rust family reiterates that it has had a long and painful history of seeing the federal government trample the inalienable property rights supposedly protected by the Constitution. The family will not stand idly by and watch a special-interest lobby pressure a federal agency to confiscate the family property.

Yours truly,

A large, stylized handwritten signature in black ink, likely belonging to Alan R. Jenkins, Esq. The signature is fluid and cursive, with a prominent loop at the end.

Alan R. Jenkins, Esq.  
For The Rust family and  
Whiteside Cove Association

**Jenkins at Law, LLC**  
2265 Roswell Rd., Suite 100  
Marietta, GA 30062  
(770) 509-4866  
[aj@jenkinsatlaw.com](mailto:aj@jenkinsatlaw.com)



"Susan Corbett"  
<jscorbett@mindspring.com>

08/30/2011 02:27 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc "Harry Gregory" <harrycgregory@gmail.com>, "kurt henning" <khenning.sierra.club@gmail.com>, "Tom Manning" <ramanning@yahoo.com>

bcc

Subject Comment on Opening Chattooga River's headwaters to boating

Dear Supervisor Paul Bradley, 29 August, 2011  
I am writing to say that the South Carolina Chapter of the Sierra Club, with 5400 members around our state, is **strongly opposed to any alternative that would open the Chattooga River's upper headwaters to boating.** This part has been closed to boats for more than thirty years and the ban should remain in place.

The reason for the ban is because the Upper Chattooga bisects the Ellicott Rock Wilderness, and Rock Gorge. These areas are the premier wild areas left in the eastern United States. They are one of the few refuges for wildlife, the public, and the best back country trout streams in America.

Opening the river for boating through the Ellicott Rock Wilderness is inconsistent with the goals of the Wilderness Act. If you were to allow boating through the Rock Gorge section of the river, from the Highway 28 bridge to Burrell's Ford, you would severely damage this area's currently relatively unspoiled nature and potential for future wilderness designation.

By opening the area to boaters, you are opening the area to their vehicles which would further overwhelm this fragile ecosystem. The current use is impacting the fragile ecosystem as already reported as "impaired" in your own Forest Service's Reed Creek/Chattooga River Watershed Conditions report. Opening any of this section to boating will make this impaired situation worse.

We believe watershed protection is a cornerstone of the Forest Service Land and Resource Management Plan for our National Forests. Opening this area to boating would seem to us to be in conflict with the goals of that plan as well.

Whitewater boaters already have access to the majority of swift rapids in the area, including the entire West Fork of the Chattooga, and all of the Chattooga below the Highway 28 bridge.

Overflow Creek all the way to North Carolina is also already open to boating. Given the Forest Service's shortage of personnel to police and protect this fragile and important ecosystem we see no way that adding additional users of any type is helpful.

The Forest Service's highest priority should be protecting the Upper Chattooga's existing biology, geology, water quality and, especially, the public's opportunity to have solitude, somewhere.

Again, we are **opposed** to any boating on the headwaters of the Chattooga River.

Sincerely,

*Susan Corbett*

Susan Corbett, Chapter Chair  
South Carolina Sierra Club  
1314 Lincoln Street, Suite 201  
Columbia, SC 29201

**"Samuel Ramsdell  
Mershon"**  
<smershon@warren-wilson.edu>

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

08/30/2011 03:07 PM

Subject Upper Chattooga comment

I'm sending this comment because I believe paddling should be allowed on all wilderness and Wild and Scenic rivers, including the upper Chattooga. I am very frustrated by the fact that I am excluded from enjoying the river in my mode of choice (kayak). I see no reason to favor one user group over another, especially when paddlers have a minimal impact on the land because for the most part we are only in the water. I wish the Upper Chattooga would be available for all users to recreate, cherish, and conserve.

Thank You,  
Sam Mershon  
101 Lanier Ln.  
Swannanoa, NC 28778

"mrmck@yahoo.com"  
<mrmck@yahoo.com>

08/30/2011 03:22 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga Headwaters

To whom it may concern,

I am a resident of Greenville County, SC and have spent many, many, MANY hours and days in the Chattooga area, hiking, paddling, and swimming. At this point, I've also spent way too many hours and days sitting in meetings, hearings, and workshops trying to convince you to follow your own guidelines and directives, and trying to convince what seems to be a rather unreasonable group of anglers that the vast majority of them will never see a boat or boater on the Upper Chattooga, even if ALL restrictions are lifted.

For the record, I am not in favor of lifting all restrictions. Quite the contrary, I believe some groups should be *more* restricted in order to preserve the area for generations to come; however, I also believe that all user groups considered and studied should receive equal treatment from a government agency that we all support.

The FS would be better served in this day of declining funding and increasing pressure to commercialize everything to spend its valuable resources uniting the user groups as they do in other forest areas and quit trying to pit us against one another.

Private boating should be allowed on the upper stretches of the Chattooga River. Your own EA studies have indicated that boatable days are already severely limited by nature. All users should be restricted by some numbers to avoid over-use of the area, but only by quantity, and restricted equally as users with equal rights.

Thank you in advance for your careful consideration of your own guidelines, the Wild and Scenic River Act, and equality for all users.

Michelle Miller  
Mauldin, SC [29662](tel:29662)  
[mrmck@yahoo.com](mailto:mrmck@yahoo.com)

*Sent from my mobile device.*

O Kennedy  
<surfuke@gmail.com>

08/30/2011 04:17 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Comments on the Upper Chattooga EA

I am writing to express my support for Alternative 8, with the modification that canoeing/kayaking be allowed with no limitations throughout the year. I visit your management area on a regular basis, as a hiker and a whitewater kayaker. I also present these comments as a resource management professional.

I resent the drabble that your 'preferred' Alternate 12, makes of scientific management (evidence-based) principles for resource management. Your lack of support for the boating option is not based on evidence, but 'gut-feelings' and a desire to appease the local group of fishermen who have traditionally been catered to.

The last time that I provided input for your decision making, I contended that the Whittaker and Shelby compilation that is used to support 'your' (Management Unit) suggested alternative was flawed, and showed bias towards a non-boating perspective. An example of this is shown in the section on Existing Impacts to the Environment. Within the Backcountry Angling section, page 80, it was stated that "Nationally, projections show fishing participation is likely to grow." Within the Whitewater Boating section, page 81, it was stated "About 1 to 2% of the national population participates in whitewater kayaking," and went further into a unsubstantiated statistical breakdown of different types of kayakers. If Whittaker and Shelby were unbiased, and used the same examination protocols for each user group, I would consider that the impacts would have been supported in a consistent fashion. What was given was a vague feeling of positive growth for the angler group, contrasted with a pseudo-analytical dissection of the boater group. Whittaker and Shelby cannot claim a unbiased report if they try to demonize a user group.

The focus of your management plan also places a focus on the maintenance of the management area's 'Condition at time of Designation.' If your management plan is truly for Wild and Scenic, and Wilderness designated areas, shouldn't your management focus be on attainment of pre-use, natural conditions?

A focus on 'historical use' of your area is used as a justification for the stocking of non-native fish within portions of the Chattooga and within its watershed. This was a condition at the time of designation. Fish stocking of non-native species is antagonistic in attaining a natural condition; furthermore, it is antiquated resource management. Fred A. Westerman, who was once a president of the American Fisheries Society, wrote in the late 30's that there was a paradigm shift in fishery management, in which the focus that was purely on fish propagation was moving towards a focus on placing fish within their 'natural' environment, causing less environmental impact, and making existing populations more robust. Stocking non-native fish within the

Chatooga, as currently allowed, is a reversion to management principles that were considered as 'passe' in the 1930s. Please bring your resource management into the current millennia, and stop this practice.

My last issue to raise was with your description of navigability issues in Chapter 2. You state that "Public access rights and navigability are complex topics..." and that FSM2354.14 directs you to "consider a waterway non-navigable until adjudicated otherwise." Concerning boating within the upper reaches, you state "Navigability and public access rights on this reach have not been formally analyzed by any federal or state agency or authority, nor has its navigability been adjudicated by a court of law." My response, is that you cannot fall back on the non-navigable directive, due to current allowances for navigation. With a conflicting issue, you, as an agency, can request an answer for the issue using appropriate interagency communications. As an Executive Branch agency, you have an available option to get an answer to these questions through communication channels with the Department of Justice. You have had plenty of time to reach findings on both navigability and trespass. If you wish to utilize FSM 2354.14, you would have to apply non-navigability equitably throughout your management area, which you have refused to do. With due respect, your review team has had more than ample time on this management plan to include a response to this issue. Please do not present the use of an agency directive into consideration when you have the capacity to provide a legitimate answer to issues that can be otherwise addressed.

Sincerely,

Oren Kennedy  
418 N. Fairview  
Lansing, MI 48912



**Benjamin Peters**  
<benjamin.peters@ymail.com>

08/30/2011 07:14 PM

To comments-southern-francismarion-sumter@fs.fed.us  
cc  
bcc

Subject Upper Chattooga River Access Comments

Dear United States Forest Service,

I'm writing to submit my comments to urge the U.S. Forest Service to open boating to all of the Chattooga River throughout the year. I'm a avid hiker, fisherman, paddler and care deeply for the environment that we live in. I feel it is important to protect our resources but to single out a particular group of people is wrong based on false beliefs.

Why should paddlers be banned from a river that is protected as a Wild and Scenic River under federal laws that is meant to allow all users to enjoy the river? I think paddlers should be able to enjoy the spectacular upper reaches of the Chattooga without any restrictions. Fishermen and hikers say that if the river is opened to paddlers, they will flock to the waterway in huge numbers, create damage to the river and its surroundings and also conflict with fisherman by ruining the natural peaceful setting. Fishermen create more damage along the river by wading in and out the river creating new trails, eroding the shoreline, and damaging the bottom of the riverbed with their boots. Hikers camp along the river and leave their trace behind with trash and destroyed vegetation from their campsites. The only trails paddlers use are the trails to the put in, take out and the occasional need to scout and portage an unsafe rapid. I don't see any trails along Section 3 and Section 4 created by paddlers that damage the river and its surroundings. The paddlers that will come to paddle the river will do so in small numbers as it requires exceptional skills and lower number of days of reliable flow to run the sections included in the waterways north of Highway 28. The claim that there would be conflicts with fishermen along the river is unfounded. On the days that there is adequate flow for paddlers, there would be a small number of fishermen on the river as the flow would unsuitable for fishing. An example would be the North Fork of the French Broad River. I have never seen a fishermen along the banks fishing when the water flow is high enough for paddling.

Please open the Upper Chattooga to paddlers throughout the whole year without any limitations and settle the differences between outdoor groups. Let us show that paddlers will continue to make the Upper Chattooga River a spectacular place to be enjoyed by all.

Benjamin Peters  
Greenville, SC

"h. r. miller"  
<ronyaker@bellsouth.net>

08/30/2011 07:21 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject allow boaters on the upper chatooga

Of the various user groups under consideration for the chatooga, the boaters/kayakers/canoeists are the group which has the least impact on the area. We are primarily IN the water, not on shore any more than we have to be. We are not the folks who litter the banks with fishbait containers, beer/alcohol (boaters don't drink while boating, due to dangers of hypothermia), or lead sinkers and the like. As a group, boaters are very conservation-minded and would leave the least impact there.

It astounds me that this very group is the one targeted by the forest service to NOT be allowed our legal, rightful , opportunity to enjoy this resource.

Ron miller,  
Winston-salem, nc

**Ken Dubel**  
<kendubel@gmail.com>

08/30/2011 07:40 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Upper Chattooga usage comments

Hi.

I imagine you've read plenty of comments on the usage policies for the upper reaches of this wonderful river. I'll try to not be boring with mine.

I'm a pretty regular guy who enjoys paddling rivers through beautiful places. I pick up trash. I teach classes in water safety. If I happen to be on a river at a level which is good for both whitewater and fishing at the same time then I give a friendly nod to the fisherman and pass by with as wide a berth as possible. If he or she feels chatty then I talk. Almost always it turns out I'm there at a time of day when the fish aren't biting anyway. They are mostly just out there enjoying the surroundings.

We get along.

For the most part I leave no trace. Beyond that, I leave less trace than anyone on foot would as I float along. If I have to tread on the banks here and there I try to step on rocks, not plants, when I can.

I can empathize with local folks feeling a sense of ownership of this river. It's a misplaced sense of ownership though. It's owned by our nation and should be available to all of us with, perhaps, some reasonable limitations.

I like to think I'm one of the good guys. I pay my taxes willingly. I work hard. I try to be a gentleman of honor. I do volunteer work. Lot's of it.

One of these days I'd like to be able to paddle through the upper sections of the wonderful Chattooga. It baffles me why I can't already.

I promise to be polite on my way through.

Yours,

Ken Dubel

**"Andrew Jubal Smith"**  
**<smithlaw@mindspring.com>**

08/30/2011 07:45 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc "patrick hinchey" <patrickhinchey6@hotmail.com>,  
"Chattooga Conservancy" <info@chattoogariver.org>

bcc

Subject In Support of the Comments Proffered by the Chattooga  
Conservancy

I am a land owner in Oconee County SC – 350 Earl's Ford Road, Mountain Rest SC 29664. My wife and I guided on the Chattooga from 1986-1989 and have recreated there for more than 25 years.

I wholeheartedly support the comments proffered by the Chattooga Conservancy. The Conservancy's comments are well thought out, do not avoid the realities of existing scientific study and the lack thereof, have an accurate understanding of the importance and mandate to preserve the values that the U.S. Congress sought to preserve by designating the Chattooga River a National Wild and Scenic River, and prudently blend the opportunities for multi-use with the commitment to maintaining the ecological and social values that make the Chattooga a great American resource. The Chattooga is a national resource that is too important to lose!

Thanks,

Andrew Jubal Smith  
PO Box 369  
Apalachicola, Florida 32329  
229-400-0212

Gary DeBacher  
<g2debacher@bellsouth.net>

08/30/2011 08:47 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga Headwaters

I have paddled the sections of the Lower Chattooga occasionally since 1976.

Because I could not paddle the Headwaters, in 1993 and subsequently I began wading and swimming sections 00, 0, and 1 in order to experience them. I took over 700 photos, an almost continuous photographic record of the Headwaters. My wife and I have been back to the Headwaters often since then. Our visits brought us an awareness of where people access the Headwaters, and what they do there.

I do not recall ever seeing a fisherman or hiker/wader except near the major access sites, Bullpen Bridge, Burrells Ford, the Big Bend road approaches, and highway 28. Frankly I find your talk about "seeking solitude" rather contrived, similar to the false-minded Clemson survey conducted on the lower Chattooga. People who want solitude can easily find it, even at Five Falls, by just going earlier in the day, or getting away from the major access points. So, if you think the parking arrangements need revision, don't justify it as a way to promote "solitude" by deterring visitation.

Paddling the Headwaters, at those rare times when the water level is high enough, is not going to detract significantly from anyone's solitude. And as you know, it isn't going to affect fishing, hiking, or camping. After an initial surge of the curious, there will be few paddlers running the Headwaters even when the water is high, because paddlers will prefer to run other, more action-oriented streams such as Overflow Creek.

Overflow Creek is a clear demonstration that there is no actual conflict between paddlers and fishermen, whatever conflicts some fishermen harbor in their minds. The water goes up, a few paddling parties run Overflow. The water goes down, and Overflow belongs to the fishermen and hikers. My wife and I have hiked in to see Overflow twice, at relatively low water, and there actually were few people fishing.

I find your proposed alternative 12 entirely too restricting to paddling. Mother nature restricts us enough, by water level. I prefer alternative 8, but it also has irrational restrictions. We should be able to paddle the Headwaters, especially section 1, the most suitable section for the widest range of paddlers, *whenever the water is sufficient*.

I was surprised by the emphasis put on the last section of the Headwaters, from below Rock Gorge to highway 28. I've been in or next to those waters several times, and have never seen more than a few people fishing. That was on weekends. But if you want to reduce paddler impact, then arranging for paddlers to carry in from Big Bend Road and to take out at Lick Log Falls would leave both the section just below Burrells Ford and the section below Lick Log free for fishing, for the few who are fishing when the river is high enough for paddling.

I am attaching a few pictures of spots you may never have seen.

Gary DeBacher Ph.D., retired psychologist





abb140.JPG abb188.JPG



**WILLIAM CLAY**  
<clay\_butch@bellsouth.net>

08/30/2011 08:52 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Butch Clay comments, attached and copied into body of email

August 30, 2011

Francis Marion and Sumter National Forests  
Broad River Road  
Columbia, SC 29212

Dear Chattooga Analysis Team,

Re: Call for Comments on the July 2011 Revised Environmental Assessment

My comments here will be very brief as I simply do not have any more time to devote to an "environmental assessment" which reveals itself as much as does this one to be the product of a flawed, biased attempt to reach a *political* solution to an issue which so clearly demands the fullest, fairest, most unstinting and far-sighted *ecological* treatment possible.

For all of the elaborate, expensive "analyses" that are now represented here, the USFS has still not answered two very basic yet pre-eminent questions:

--Why has this EA only considered the headwater reaches and not the entire river?

--Why has not this issue been accorded the full treatment of an EIS, instead of this protracted, ludicrously convoluted sub-measure, this mere EA?

Whereas I once supported the USFS analysis and agreed to support "the process," as I was asked to do, I now would like to add my voice to those calling for an investigation by the CEQ of the way that this issue has been handled by its analysis team.

I will *never* consider any compromise solution of this issue until there is a full EIS in place, which treats the entire river, all sections, and not just the headwater reaches. This treatment fails to do that, despite the fact that the original appeal decision called for all Chattooga River sections to be analyzed as integral to this issue.

To conclude, I do not agree with the findings of the Environmental Assessment, nor do I support the proposed "Alternative 12," the selection of which confirms, I believe, the inadequacy of the biological, economic and management analyses held up to support that



alternative.

Until a full EIS may be conducted, which treats the entire river, I do not support any alternative or plan that would allow boating in the headwater reaches, or that would allow any intensified "opening up" of the headwaters backcountry areas other than by foot travel only access.

For a fuller and more elaborate representation of my views on this particular EA, please reference the comments of Georgia Forest Watch, submitted in response to the request by the USDA Forest Service for comments on the USFS EA released July 15, 2011.

Lastly, I support the growing coalition that will appeal **any** USFS decision to expand boating into the Chattooga headwaters.

Thank You for the opportunity to comment.

Sincerely,

Butch Clay

125 Apple Orchard Road

Mountain Rest, SC 29664



clay\_aug2011\_comments\_Chattooga.doc

August 30, 2011

Francis Marion and Sumter National Forests  
Broad River Road  
Columbia, SC 29212

Dear Chattooga Analysis Team,

Re: Call for Comments on the July 2011 Revised Environmental Assessment

My comments here will be very brief as I simply do not have any more time to devote to an "environmental assessment" which reveals itself as much as does this one to be the product of a flawed, biased attempt to reach a *political* solution to an issue which so clearly demands the fullest, fairest, most unstinting and far-sighted *ecological* treatment possible.

For all of the elaborate, expensive "analyses" that are now represented here, the USFS has still not answered two very basic yet pre-eminent questions:

--Why has this EA only considered the headwater reaches and not the entire river?

--Why has not this issue been accorded the full treatment of an EIS, instead of this protracted, ludicrously convoluted sub-measure, this mere EA?

Whereas I once supported the USFS analysis and agreed to support "the process," as I was asked to do, I now would like to add my voice to those calling for an investigation by the CEQ of the way that this issue has been handled by its analysis team.

I will *never* consider any compromise solution of this issue until there is a full EIS in place, which treats the entire river, all sections, and not just the headwater reaches. This treatment fails to do that, despite the fact that the original appeal decision called for all Chattooga River sections to be analyzed as integral to this issue.

To conclude, I do not agree with the findings of the Environmental Assessment, nor do I support the proposed "Alternative 12," the selection of which confirms, I believe, the inadequacy of the biological, economic and management analyses held up to support that alternative.

Until a full EIS may be conducted, which treats the entire river, I do not support any alternative or plan that would allow boating in the headwater reaches, or that would allow any intensified "opening up" of the headwaters backcountry areas other than by foot travel only access.

For a fuller and more elaborate representation of my views on this particular EA, please reference the comments of Georgia Forest Watch, submitted in response to the request by the USDA Forest Service for comments on the USFS EA released July 15, 2011.

Lastly, I support the growing coalition that will appeal *any* USFS decision to expand boating into the Chattooga headwaters.

Thank You for the opportunity to comment.

Sincerely,  
Butch Clay  
125 Apple Orchard Road  
Mountain Rest, SC 29664

Roger Nott  
<rogernott@att.net>

08/30/2011 10:24 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga Headwaters (Corrected comments)

This is a slightly edited version of comments I submitted about 23 minutes ago. There are no additions, but a few typo's and other small edits have been made:

I wish to express my **support to reopening the Chattooga River upstream of GA Hwy. 28** at Russell Bridge to private boating without limitation, as is lawfully permitted in the eastern United States on all other rivers flowing through U. S. Forest Service lands. I see no reasonable justification for limiting boater's access, though future studies might convincingly provide such. There is no human use of the Chattooga Headwaters which promises less physical impact on the river and its riparian environment than private boating, and there is no public group which is more interested in preserving the wilderness character of the headwaters area and able to do so more than experienced river boaters.

I am a retired Georgia peace officer and have canoed the Chattooga River hundreds of times since 1974. Fortunately one of those trips many years ago was on Section I, from Burrell's Ford to Hwy. 28 on a cloudless winter day in the 60's and 70's when the Hwy. 76 USGS gauge read about 2.3 or 2.4. We found this to be a high medium level at which all the rapids were easily runnable. We boated the entire river, except for one rapid whose main chute was blocked by a large fallen tree trunk, where we portaged quickly across rocks on river left, and at Big Bend Falls. There we all for safety sake decided to portage, which took ten to fifteen minutes lining our boats along the shallows near the right bank. We had no upsets or unplanned swims.

To my knowledge our group of two kayakers and two open canoeists were the only boaters on the river that day. We saw a large number of fishermen, perhaps a hundred, in the three quarter's of mile immediately downstream of Burrell's Ford and no one else on the river other than a man and child hiking at Nicholson Ford. None of them expressed any hostility towards us, and many of them gave us friendly greetings and expressed interest in our trip. We had a wonderful trip without any capsizes or other mishaps. We had each previously paddled the entire river from Hwy. 28 to Tugaloo Lake and all agreed that Section I was more beautiful and more fun to paddle than any part of the Chattooga downstream. To this day Section I is still my favorite section of my favorite of the 239 rivers I have paddled in my 66 years. I hope to paddle it legally again while I am still able to do so.

Many early members of my club, the Georgia Canoeing Association, worked very hard and were very instrumental in getting the Chattooga protected under the Wild and Scenic Rivers Act, and we rejoiced greatly when Congress approved that protection in 1974.

I was very upset when I learned in 1976 that the river above Hwy. 28 had been closed by the Forest Service. A ranger explained to me at the time that he considered Section I too remote, difficult, and dangerous for the general public to paddle. He added that the USFS was concerned with the many accidental deaths which had occurred on the river since Deliverance had popularized it. He told me stories of inexperienced boaters who had entered the river at Burrell's Ford unprepared for the difficulties of Section I, had soon realized that they were in over their heads, and had become stranded. At that time a river ranger lived at the old Russell homestead near Russell Bridge, and I was told stories of his being awakened in the middle of the night to search for some of these stranded paddlers. I understood the concern of the Forest Service planners but disagreed with their decision to close Section I, since the river's difficulties there are no greater than in Section IV and because I thought the public could better be protected through education and signage. He made no mention of any other reasons that the USFS had for excluding paddlers from the Headwaters other than their own protection and the costs and difficulties of search and rescue. I do not think that any user group, such as trout fishermen, were opposed in 1976 to boaters being allowed in the headwaters.

In the thirty-five years since the USFS excluded boaters from the Chattooga headwaters there have been great advances in whitewater boat design and a tremendous increase in the number of experienced boaters who could safely paddle Sections 00, 0 and I upstream of Hwy. 28. Nowadays it seems unwarranted to keep these sections of the headwaters closed to boaters out of safety concerns. However, there seems to be a vocal minority of non-paddling headwaters users who are afraid of change and are predicting dire, unwarranted consequences if paddlers are allowed back on their headwaters. I think some of those in opposition see in their minds an unrealistic scenario wherein hordes of boaters similar to those seen passing through Bull Sluice on a warm spring day, would be invading the headwaters spoiling the wilderness experience with their presence, noise, and lack of respect for others. This view I believe is very far from what I think would happen.

Firstly, if allowed access to the Headwaters private boaters would primarily be present on weekends and only a few times each year. The bare minimum for boating on Section I (Burrell's Ford to Hwy. 28) on the USGS Hwy. 76 gauge is probably at least 1.8. Presumably the river upstream of Burrell's Ford requires more water. There are only a few weekends a year which have enough water to run the Headwaters, most predictably in March. There have been no weekend days this year since 5/15/2011 when the Hwy. 76 gauge has reached 1.8.

Private boaters with the experience to paddle the headwaters are in my experience a quiet group. Any encounters between them and others on the river would be brief. Most of the private boaters who paddle Section II and Section III of the Chattooga would not feel competent to paddle the Headwaters. Because of this, the difficulty in planning a trip to the headwaters because of uncertainty as to having an adequate water level, and the fact that adequate water levels would mostly occur in cold weather, the number of boaters who would choose to paddle the headwaters would be small, particularly after a year or two. Immediately after paddlers are allowed to boat the headwaters, many boaters who have felt deprived of the headwaters experience for 35 years may make a special effort to visit the river there by boat. Thereafter I would expect less use by

boaters, especially since the headwaters are a long way from large population centers.

Since the headwaters is mostly boatable in the winter and early spring when days are short, most boaters would probably put in before noon and arrive at their take-out points between 3 and 5 p.m. Thus encounters between boaters and others along the river at any point would only occur for a few hours each day. Fishermen who do not want to see boaters could easily avoid them, even on the few days they would be present. For instance someone fishing at Burrell's Ford who did not want to encounter paddlers could easily succeed in this goal by fishing above the bridge till 1 p.m. and below the bridge thereafter.

The presence of boats does not in my experience hinder the success of fishermen. My most frequent canoeing companion, Kevin McInturff, is an avid trout fisherman and catches and releases trout from his canoe in Section II of the Chattooga with great frequency in the cool months. I have often seen him catch and release multiple fish within a few minutes while other boaters are surfing nearby on the Chattooga and on many other frequently paddled rivers.

Boaters with the experience to paddle the Headwaters are nearly always river conservationists and lovers of natural rivers. I have since 1980 led at least one river clean-up each year, 12 times on GCA's adopted section of the Chattooga, from Thrift's Ferry to Hwy. 76. Paddling groups regularly clean the entire Chattooga from Hwy. 28 to Lake Tugaloo. They would do the same in the Headwaters if given legal access to it.

Thank you for your consideration,  
Roger E. Nott, 2335 Stephens Circle, Gainesville, GA 30506 (678-316-4935)  
rogernott@att.net

"Eric Davis"  
<eric.davis@spartanburgparks.org>

08/31/2011 06:55 AM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Upper Chattooga Comments

Dear Sirs and Madams,

Paddlers should have equal access with all other users to all portions of the Chattooga Wild and Scenic River. Discrimination against paddlers will not ultimately hold up in court. Therefore, please quit wasting taxpayer dollars in attempting to draw out the process. Any paddler will tell you that a very small percentage of paddlers have the desire or skill to run this whitewater jewel, therefore preventing a heavy volume of boaters from ever being encountered on the Upper Chattooga. Flows that allow kayaking this section occur when fishing is highly inadvisable and unsuccessful, therefore naturally preventing conflicts between user groups. Lastly, from my experience, paddlers are much less destructive to the natural environment than other users that would be allowed under the current FS proposal. Thank you for considering the rights of all users.

Sincerely,  
Eric Davis

**Eric C. Davis**

Greenways Coordinator

Spartanburg Parks

9039 Fairforest Rd.

Spartanburg, SC 29301

**Office:** 864-804-5816

**Mobile:** 864-384-3568

**Spartanburg Parks Info Line:** 864-595-5356

visit: [www.spartanburgparks.org](http://www.spartanburgparks.org)



Please consider the environment before printing this email.

This e-mail message (including any file attachment) is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged and/or confidential. Email communications with the *Spartanburg Parks* may be subject to disclosure under the Freedom of Information Act. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by reply e-mail and delete or destroy all copies of this message and any file attachment. Thank you!



---

± Font size -

---

## comments on alternative twelve from the July 2011 EA

---

**From :** Canie Lynn <canielynn@frontier.com>

Wed, Aug 24, 2011 04:11 PM

**Subject :** comments on alternative twelve from the July 2011 EA

**To :** comments-southern-francismarion-sumpter@fs.fed.us

Dear Reviewing Officer:

Thank you for considering my comments concerning the 2011 EA.

After years of study, meetings and enormous expense, the Forest Service appears to have reversed course under pressure from the Kayak Lobby.

Although some trout waters in South Carolina above Highway 28 are protected; no provision is made for anglers in North Carolina particularly above the iron bridge at Bull Pen.

Even worse, the area between Sliding Rock and Greens Creek is apparently ignored which guarantees conflict between trout fishing and boaters. Is there to be nothing left of the wild and scenic river entrusted to you many years ago?

The North Carolina Chattooga waters should not be monopolized by the American Whitewater Association.

Respectfully,  
Canie B. Smith  
Cashiers, NC

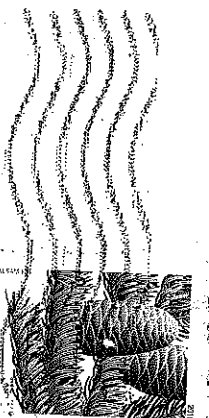




Mr. Camie B. Smith  
PO Box 1980  
Cashiers, NC 28717-1980

ASHEVILLE NC 288

25 AUG 2001 144 1 F



2579 Forest Service Supervisor's Office  
4931 Broad River Road  
Columbia, S.C. 29212

416291141043

**patrick hinchey**  
<patrickhinchey6@hotmail  
.com>

08/31/2011 09:10 AM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject Upper Chattooga

Recreation should always take a backseat to conservation. That having been said, I believe that allowing limited user days for kayaking on this fantastic resource should be reasonable, at times of high water, as to minimize the impact of kayaking versus fishing. No new trails as there are existing ones that can suit all users. Do not degrade this outstanding resource by allowing commercial activity of any kind. No horses fouling the water and destroying the resource. Study fishing spots and water levels and related kayaking user days to water level to minimize conflict/interaction between fishing and kayaking. No rafting ever.

Thanks you,

Patrick Hinchey  
628 S. Pine Street  
New Smyrna Beach, Florida 32169

**"chris hellmann"**  
**<hellmania@insightbb.co**  
**m>**

08/31/2011 01:53 PM

To <comments-southern-francismarion-sumter@fs.fed.us>

cc

bcc

Subject comment on boating in the headwaters

Option 12 still has way too many restrictions on boating. Why cant boating and fishing be treated equally? I still fail to understand why there are perceived boating and fishing conflicts on the Chattooga when its not an issue on every other stream I have ever paddled and/or fished on. There is less environmental impact from boating than fishing - no gear left behind ( fishing line), no footprints. Few of the masses even have the skills to paddle the class 4/5 whitewater of the headwaters so there would be no crowds to speak of.

Chris Hellmann

**larry walker**  
<dixienamos@yahoo.com>

08/31/2011 06:48 PM

To comments-southern-francismarion-sumter@fs.fed.us

cc

bcc

Subject Chattooga Alt 12 comments

In recent years there was a big billboard sign along US 441 as you entered Rabun County that advertised "North Georgia's Roller Coaster". It was a lure to boating on the lower 2/3 of the Chattooga River.

It is an appropriate way to think of boating. Noisy, raucous, and invasive.

That's fine for some places. Six Flags is fine. I have enjoyed Six Flags's roller coasters. I've enjoyed the lower Chattooga's noisy rides.

BUT, the upper part of the Chattooga does not need to be added to the roller coaster environment. It deserves to be kept peaceful and serene as it is legally designated to be. The environmental analysis did not adequately consider the noise pollution the boaters will bring to the upper portion of this precious river and watershed.

And by the way, in addition to the human objection to the noise, what about the peace and solitude the animals are used to on this part of the river during the winter. Will the hibernating bears and other animals who seek solitude in this area be affected by the boaters. I don't think the environmental assessment considered that.

The USFS needs to go back to its initial belief that this very special section of the Chattooga should provide a peaceful, serene place for humans and critters. Alternative 3 is best. Alternative 12 is a cave-in to a predatory lawyer driven society.

Be strong USFS. Do what you know is right. Can 12 and stick with 3.

Larry Walker  
321 Hawk Hill Lane  
Lakemont, Ga  
30552  
706-2444345

USDA - FOREST SERVICE  
4931 Broad River Rd.  
Columbia, SC 29212

8/30/11

FOREST SERVICE SUPERVISOR

RE: UPPER CHATGUA EA

My recommendations earlier, and now, is to prohibit boats above Hwy 28. The original USFS plan had it right. Over the last several years the USFS has spent (wasted) untold dollars to "scratch" a political itch.

However Alternative 12 has some merit, if you insist.

Please consider these points—

- THE LOWER TAKE OUT POINT HAS BEEN, ~~EVER~~ ON USFS MAPS, PIG PEN BRANCH AND FALLS.
- THE PARKING AREA BETWEEN PIG PEN AND HIGH HOG IS LIMITED AND REMOTE FROM THE RIVER.
- THE UPPER CHATGUA IS RUGGED Country that is difficult to patrol to enforce regulations.

WJ

UPPER CHATHOON FA

- THE UPPER SEGMENT IS DIFFICULT TO ACCESS FOR SEARCH AND RESCUE. HAVE YOU INFORMED THE EFFECTED COUNTIES? HAVE YOU PLANNED FOR THE EXTRA COST'S FOR THIS CHANGE?
- UNDER Art. 12-6, YOU SAY NO BOATING IN THE NICHOLSON FILIPS REACH. HOWEVER YOU LIST CAPACITIES UNDER TABLE 2.2-6.?

MY BEST WISHES TO THE USFS IN ALL THINGS.

Donald Sanders  
DONALD SANDERS  
488 Hwy 107  
Mtn. Rest, SC 29664



USA FOREVER

**PAGE**

[illegible]