

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON DIVISION

AMERICAN WHITEWATER, et al. )  
)  
Plaintiffs, )  
v. )  
)  
THOMAS TIDWELL, in his official capacity as Chief ) Civil Action No.  
of the United States Forest Service, et al. )  
)  
Defendants. )

**DECLARATION OF DR. GLENN E. HAAS**

My name is Glenn E. Haas. I am a Professor Emeritus in the College of Natural Resources at Colorado State University and partner in the land use planning firm of Aukerman, Haas, and Associates. My areas of expertise include natural resource planning and policy, recreation planning and management, recreation supply and demand analysis, administrative decision making, and visitor capacity analysis. A summary of my credentials is set out at the end of this Declaration.

I was asked by American Whitewater to provide an expert review of the *Environmental Analysis: Managing Recreation Uses on the Upper Chattooga River (USDA Forest Service, August 2009)*. More specifically, I was tasked with assessing the adequacy of the EA with regard to the issue of visitor capacity.

In summary, I conclude the USFS is in violation of federal law, is contradicting its very own practices on other wild and scenic rivers, and violates the principles and practices of the recreation resource planning profession.

The *Environmental Analysis: Managing Recreation Uses on the Upper Chattooga River (USDA Forest Service, August 2009)* fails the test of adequacy on several fronts:

1. Visitor capacity is not adequately addressed, even in light of the compelling and convincing requirement to do so contained within the law, the EA and a 4-year “visitor capacity analysis” effort in response to the 2005 Decision of Appeal;
2. The USFS, in addressing boating capacity, was inconsistent, illogical, erratic, incomplete, and incongruous in all of the eight alternatives, and failed completely to address capacities for the other significant recreation activities identified in the EA in any of the eight alternatives;
3. A reasonable range of alternatives, including visitor capacities, were not considered and fully analyzed. Visitor capacities have to be expressed in numbers. A capacity is a maximum number

of people. The range of alternatives considered by the USFS, in terms of visitor capacity, ranged from a maximum of zero or no boating capacity to zero prescribed boating capacity being offered on some reaches but not all. No range of visitor capacity alternatives were offered for the other significant recreation activities;

4. The USFS Region and Forest was tasked “with finding the right balance” and to “find an appropriate mix of recreation uses.” Addressing visitor capacity is central to this task, and thus, the USFS failed to fulfill its legal and regulatory requirements.

### **Visitor Capacity.**

The Wild and Scenic Rivers Act of 1968 specifies that each federally designated wild and scenic river shall have a “comprehensive management plan” in place within three years of enactment and the plan should, among other aspects, address “user capacities.”

Today, it is more socially acceptable to refer to the public as visitors rather than users, and thus, the phrase visitor capacity has replaced the phrase user capacity and will be used henceforth.

While there have been minor variations in the definition of visitor capacity over the past 40 years, the one enduring commonality is that a capacity is a maximum number of people. A visitor capacity can be defined as the prescribed number(s) of recreation opportunities that will be accommodated based upon an area’s approved comprehensive management prescription (i.e., the area’s goal, objectives, desired future conditions, desired recreation experiences, planned management actions and regulations, quality standards, and budget).

Visitor capacities are (a) typically set for the important and significant recreation activities in a setting, (b) refer to the maximum number of people or groups at one time that is consistent with achieving an area’s prescription, and (c) will generally vary across times of the year and across locations within a setting. The procedural standard for visitor capacity decision making is a legally-sufficient integrated and comprehensive public planning process, while the substantive standard for visitor capacity decision making is sound professional judgment. (Federal Interagency Task Force, 2002)

Table 1 is a summary of the visitor capacities that were compared and contrasted across the eight alternatives considered in the *Environmental Analysis: Managing Recreation Uses on the Upper Chattooga River (August, 2009)*. In instances where there is no visitor capacity considered, the cell is left blank. In instances where a visitor capacity is set at zero (i.e., not permitted), the number “0” is inserted in the cell.

Table 1. A Summary of the Visitor Capacities That Were Compared and Contrasted Across the Eight Alternatives in the *Environmental Analysis: Managing Recreation Uses on the Upper Chattooga River. (August 2009)*

Significant Recreation Activities	Chattooga EA Alternatives							
	1	2	2	4	5	6	7	8
Boating on tributaries and upper 2 miles	0 (not permitted)	0 (not permitted)	0 (not permitted)	0 (not permitted)	0 (not permitted)	0 (not permitted)	0 (not permitted)	0 (not permitted)
Boating below upper 2 miles on main body	0 (not permitted)	0 (not permitted)	0 (not permitted)					
Angling								
Hiking/ Backpacking								
Camping								
Hunting								
Swimming								

Other non-significant activities and capacities included in the EA:

- no, or zero (0), capacity for commercially guided boating across all alternatives
- “no net gain in parking capacity” across all alternatives

Observations:

1. As revealed in Table 1, the EA is virtually silent on the issue of visitor capacity. It does not adequately address visitor capacity for the upper Chattooga as directed by the Wild and Scenic River Act, even with the benefit of a 4-year “visitor use capacity analysis” with extensive public involvement. A proper study would provide information to place numbers in the blank boxes.

2. For three alternatives, the EA includes a zero (0) capacity for boating on the entire upper Chattooga; that is, boating is not allowed on the entire upper Chattooga. There is no boating capacity included in alternatives 4-8 on the sections where boating is allowed, and on the prohibited sections the capacity is zero.

3. None of the alternatives address the visitor capacity for those other significant activities recognized by the USFS: angling, hiking/backpacking, camping, hunting, and swimming.

4. The alternatives considered by the USFS do not reflect a reasonable range of options or choices for rigorous analysis and public discussion. For example, it would seem reasonable that a range of alternatives might consider capacities and associated management programs for all the significant activities recognized by the USFS, and that these capacities might well vary by time of day, week, season or year; water flows; and managed by a simple timed-entry reservation system akin to systems used to reserve campsites, hotel rooms, golf outings, museum exhibits, and restaurants..

5. In section 1.1 (paragraph 3) of the EA, it is stated that “The Forest Service has been tasked with finding the right balance for the Chattooga River corridor so the overall recreation ORV is protected and enhanced.” Stated otherwise, the Forest Service is tasked with making an allocation of visitor opportunities for the corridor. In order to make allocation one must address visitor capacity. This EA does not complete the task the Forest Service was charged with.

6. There is no explanation for not addressing visitor capacity. On the contrary, the Forest Service’s numerous claims in the EA regarding substantial numbers of people, increasing use, premier whitewater destination in the world, 20% projected use increase, increasing impacts, increasing litter and social trail, excessive campsites, trails and parking, excessive encounters, conflicts, and other situations make a compelling case for addressing visitor capacity, not simply banning boating.

#### **Comprehensive Management Planning.**

The Wild and Scenic Rivers Act of 1968 specifies that each federally designated wild and scenic river shall have a “comprehensive management plan” in place within three years of enactment. Furthermore, the procedural standard for visitor capacity decision making is a legally-sufficient integrated and comprehensive public planning process.

#### **Observations:**

1. The EA in question only addresses recreation management for the upper 21-mile portion of the Chattooga Wild and Scenic River, without due consideration for the lower 36-mile river segment below Highway 28. Yet the resources, resources uses and ORVs in one segment affect, and are affected by, those in other segments. Certainly visitor capacity decisions in one segment can significantly affect visitor capacity decisions in other segments in order to respond fairly and equitably to diverse public demands and values. Partitioning of the Chattooga Wild and Scenic River for the purpose of revising the recreation management direction for only 21-mile portion is not justifiable and compromises the benefit of full, integrated and comprehensive planning.

2. The EA tiers off additional management direction for the Chattooga Wild and Scenic River. That is, to fully understand the management direction for the river one must be familiar with portions of three forest plans and the Ellicott Rock Wilderness management plan. There appears to be no single comprehensive management plan for the Chattooga WSR, and the EA does not adequately integrate all the existing management direction. This places an unreasonable burden on the public to locate, understand and meaningfully participate in any comprehensive planning process.

3. The USFS was able to issue a Finding of No Significant Impact on the EA and avoid a full EIS because, in part, it was decided (a) to address only a 21-mile segment of the 57-mile Chattooga Wild and Scenic River corridor, (b) to not address the significant issue of visitor capacity, and (c) to only consider a narrow range of alternatives. The Chattooga WSR deserves the benefit of a full environmental impact statement and a stand-alone comprehensive management plan for the entire corridor.

In closing, there are numerous examples in the United States across state and federally-managed rivers where capacity has been properly addressed, including USFS managed rivers such as the Selway, Toulumme, Salmon, Salt and Snake Rivers. Visitor capacity is a fundamental tool for recreation resource planning and management, and is one of the professional principles for recreation resource planning formally endorsed by the National Association of Recreation Resource Planners. The USFS is in violation of federal law, is contradicting its very own practices on other wild and scenic rivers, and is in violation with the principles and practices of the recreation resource planning profession.

### **Credentials**

I obtained a Ph.D. in Natural Resource Planning/Recreation and Nature-based Tourism Management from Colorado State University in 1979, a Masters in Outdoor Recreation/Tourism Management from Pennsylvania State University in 1975, a Bachelor's in Natural Resource Management from West Virginia State University in 1972, and an Associate in Forest Management from Pennsylvania State University 1970.

I was the expert witness for the plaintiff in the recent Merced WSR litigation whereby the courts found that the NPS did not adequately address visitor capacity. I also provided expert advice on the Yellowstone National Park snowmobile litigation, the Imperial Sand Dunes Recreation Area (BLM) off-road vehicle litigation, the Grand Canyon National Park/Colorado River boating litigation, and the Lake Pleasant (BOR) marina-development litigation.

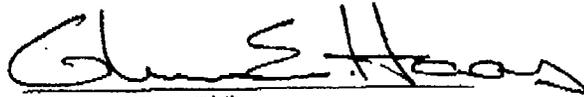
I have twice served on the national board of the National Society for Park Resources (1986-1990, 2003-2006) and six years on the national board of the National Parks Conservation Association (1992-1998), including three years as the vice-chair. I was the Chairman of the Department of Recreation Resources and Tourism at Colorado State University from 1987-1997. I am currently serving as the Vice President for Development for the National Association of Recreation Resource Planners and served as the President from 2007-09.

I have an extensive working relationship with state and federal public land and water management agencies and am relied on as an expert witness and consultant related to NEPA-compliant planning, estimating future recreation demand, and recreation carrying capacity. In 1980-81, I worked in the national office of the U.S. Forest Service and drafted the agency policy on limits of acceptable change (LAC) and worked to advance the Recreation Opportunity Spectrum system. In 2000-2002, I worked as a special advisor for the Assistant Secretary for Fish and Wildlife and Parks in the U.S. Department of the Interior, during which time I chaired of the Federal Interagency Task Force on Visitor Capacity on Public Lands and Waters involving the National Park Service, U.S. Forest Service, Fish and Wildlife Service, Bureau of

Reclamation, and Bureau of Land Management. Since 2002, I have worked closely with the Bureau of Reclamation in developing of the Water Recreation Opportunity Spectrum (WROS) system as a means for the recreation profession to inventory, plan, and manage water-based recreation opportunities. I also recently completed a manager's guidebook on estimating future recreation demand.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 8<sup>th</sup> day of October, 2009.



Glenn E. Haas, PhD