



Chattooga Conservancy
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March 19, 2012

Via E-mail

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

USDA Forest Service
Attn: Appeal Reviewing Officer
1720 Peachtree Road, NW
Suite 811 N.
Atlanta, Georgia 30309-9102

To Whom It May Concern,

I am writing representing the Chattooga Conservancy, a 501(c)(3) non-profit conservation organization that has worked since its founding in 1994 to protect, promote and restore the natural ecological integrity of the Chattooga River watershed ecosystem.

The Chattooga Conservancy is hereby filing an appeal of the Decision Notice to amend the Forest Plans for the Nantahala National Forest, the Sumter National Forest and the Chattahoochee National Forest by implementing "Alternative 13A" as a result of A Finding of No Significant Impact as the end product of the Environmental Assessment for Managing Recreational Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor, dated January 12, 2012 (EA-2012).

We demand an immediate stay of any action by the Forest Service to allow whitewater boating of any kind in the upper segment of the Chattooga Wild and Scenic River Corridor for the full duration of this final appeal period. We base this demand on the fact that the Forest Service's decision to select an alternative that was not even a part of the Environmental Assessment (EA-2012) is a direct violation of the National Environmental Policy Act (NEPA), which allows the public input on any major decision affecting federal land under their jurisdiction, and further instructs the responsible agency to provide the public with all principal documents necessary in making decisions about managing public lands. In this case, the public was never informed that an alternative to allow access for whitewater boating at specific locations, including a location approximately one quarter of a mile downstream of the confluence of Green Creek and the Chattooga River, was an option to be considered, and that was never a part of the Environmental Assessment. In fact, the option to put in at this location is a new proposal, that has never even been proposed before as a "specific put-in."

In fact, the Forest Service has stated that they would have to "conduct a full EA on any specific location to be designated as a put in for whitewater boating." Yet, an EA has not been conducted.

We make this demand to stay all actions in this matter based on the fact that Nantahala National Forest District Ranger Mike Wilkins is currently constructing a trail along the County Line Road,

and has installed a kiosk along this old logging road for the purpose of registering whitewater boaters. Ranger Wilkins has stated verbally as well as in writing that the County Line Road is not recognized as a system road, and that it has never been on the books as an officially designated trail. Thus, it is by the Forest Service's own admission that the County Line Road is a user-created trail. 36 CFR 220.6 (e)(i) concerning trail head construction, and FSH 2309.18, that also prescribes requirements for trail and parking lot construction, both indicate that **the activities now being implemented by Ranger Wilkins should require a separate environmental assessment** as a precursor to officially designating the County Line Road as a system trail, before beginning construction, and that any such environmental assessment be subject to full public participation. **Yet, an EA has not been conducted.**

Note that a decision by you—as the “deciding officer” in this matter, and who in full knowledge of the aforementioned illegal activities currently being conducted by Ranger Wilkins—that would allow the implementation of the decision that encourages and directs the public to utilize an unauthorized user-created trail, albeit “illegally” designated, would also be in and of itself illegal.

We make this demand to immediately stay any action to allow implementation of the decision to allow whitewater boating on the upper Chattooga River because the decision is arbitrary and capricious, as well as contradictory, confusing, and illogical. For instance, the Forest Service's alternative to manage boating in the headwaters states that boating would be allowed from the “confluence of Green Creek and the Chattooga River,” yet in the same document it states that whitewater boaters must put in only at designated places. A recent press release from the Andrew Pickens Ranger District lists the uppermost, official put in at approximately one quarter of a mile below the confluence of Green Creek and the Chattooga River. So, which is correct?

The Forest Service is also confusing issues by claiming that the bulldozer work currently being done on the County Line Road is to access the White Bull Timber Sale. If so, then why would the Forest Service simultaneously erect a kiosk designating the County Line Road as an official trail when it is clearly—and by their own admission—*not an official trail*? These actions are very capricious, and arbitrary. In sum, this kind of flim-flam is another version of the shell-and-pea game for which the Forest Service, unfortunately, is well known. In this case, the intent of hiding the pea obviously points to the Forest Service's violation of the basic tenets of the law to allow full public participation as per NEPA, and to follow the guidance within their own directives to carry out NEPA, as well as the National Forest Management Act and the Administrative Procedures Act, all of which work to involve and duly inform the public with all documents pertaining to making an informed decision about management activities on public land, and to refrain from making arbitrary and capricious decisions.

We make our request to stay actions to implement the chosen alternative in EA-2012 and its subsequent illegal modification, known as alternative 13A, for managing recreation use in the upper Chattooga River reach based on the fact that it will likely cause irreparable harm to the fragile ecosystem in the Chattooga River headwaters, and irreparable harm to the experience of those seeking solitude in the last relatively remote sections of the Chattooga River watershed.

The 2012 EA finds that the upper Chattooga River's Chattooga Cliffs reach harbors the rarest wildlife in the whole 57-mile Chattooga Wild & Scenic River Corridor. It is also the least used area in the whole corridor, due to the fact that it has the fewest miles of access trail. The proposed alternative to manage whitewater boating in the Chattooga River headwaters encourages the creation of additional miles of user-created trails, because it is unclear about exactly where to put in. The result will be user-created trails into the confluence of Green Creek and the Chattooga River. The proposed alternative will also encourage the use of the County Line Road, which is an illegally designated trail. It will direct boaters to a put in at Norton Mill Creek, which is one quarter of a mile above a log jam, and several mandatory portages, that will encourage even more user-created trails. **The likelihood is that all this predictable activity will undoubtedly harm the fragile ecosystem in the Chattooga Cliffs reach.** One only needs to look at the numerous

letters from non-agency scientists who oppose the current decision for managing the upper Chattooga River based on their belief that the decision will likely cause harm to the rare flora and fauna in the Chattooga Cliffs reach.

More access, less wildness, more damage to fragile ecosystems, more erosion on fragile soils, and more illegal Forest Service activity: these are all reasons for upholding our appeal, and implementing a stay of all activities regarding the implementation of the final decision to manage recreational use in the Upper Chattooga River Corridor. You—as the last appeal reviewing officer—are the last person standing who can put things right by not only granting a stay to this ill-informed decision, and a decision to uphold our appeal. We also urge you to direct the Forest Supervisors to withdraw their decision for managing the Upper Chattooga River, and to offer an alternative proposed by the Chattooga Conservancy to manage the Upper Chattooga River, which is a matter of public record and that has garnered much public support. We also tier this appeal to all comments offered in the previous letter from the Chattooga Conservancy (herein incorporated by reference, and attached) commenting on the EA dated July 2011, which offers the same proposed alternative selected by the Forest Service with the aforementioned modifications. Our comments here are mere additions to those comments on the same subject, with fresh additions that address the Forest Service's new modification to the final decision/alternative that we were not given an opportunity to consider. We ask for your due consideration.

Buzz Williams, Executive Director
Chattooga Conservancy

USDA-Forest Service (REF. FSH 1509.12 CFR 219)
APPEAL NOTICE RECORD
Part A - Notification to Responsible Official

Date: March 20, 2012

To: Francis Marion-Sumter NFs

Mr. Buzz Williams, Executive Director of the Chattooga Conservancy, has filed an appeal of Forest Supervisor Paul L. Bradley's January 31, 2012, Decision for Amendment #1 to the Sumter NF LRMP, for managing recreation uses in the upper segment of the Chattooga Wild and Scenic River Corridor.

This appeal is filed under regulation (36 CFR 219).
12-08-12-0024 is the assigned control number. Please refer to it when corresponding.

Stay requested: Yes No
Oral presentation requested: Yes No

Kenneth S. Arney is Appeal Reviewing Officer
Jim Bennett is Team Coordinator and
Rick Ledbetter is Legal Instruments Examiner for this appeal

Forward all information and Record material to **J. Rick Ledbetter** (jledbetter@fs.fed.us). for this appeal, Region 8, Planning, 811-N, directly referencing the assigned control number. Please forward an electronic (signed and dated) and hard-copy (signed and dated) of the DN-FONSI and EA ASAP.

Part B - Acknowledgment by Responsible Official

Note: Please forward record and transmittal letter within 30 days of receiving copy of NOA. This office will reply to any stay request with acknowledgment

-Legal notice of Decision publication date is: _____ ; Published in _____

-This Decision has had major public, media or Congressional interest at the:

Regional Level: Yes No ; Forest Level: Yes No ; District Level: Yes No

Negotiation is planned w/parties to resolve issues: Yes No

Local staff work on this appeal will be the responsibility of:

/s/ *Mary Morrison*

Appeal Coordinator,
FM&S NFs

Phone # _____
Fax # _____
Email Address _____