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Date: June 28, 2012

CERTIFIED MAIL R.R.R.

Greenfire Law
ATTN: Ms. Rachel S. Doughty
231 Mullen Avenue
San Francisco, CA 94110

Re: Appeal of Forest Supervisor George M. Bain's, Acting Forest Supervisor Diane Rubiaco's and Forest Supervisor Paul L. Bradley's January 31, 2012, Decision for Amendments 1, 22 and 1, Respectively, for Management of Boating Activities in the Upper Chattooga River Land and Resource Management Plan

Dear Ms. Doughty:

Pursuant to the authority granted to me by Title 36 Code of Federal Regulations (CFR) Part 219 Interim Appeal Regulations, this is my Decision on your Notice of Appeal (NOA) for the subject Decision. Your appeal is to the Decision to amend the Land and Resource Management Plan (LRMP) to regulate boating in the Upper Chattooga River Corridor. I have consolidated your Appeals 12-08-03-0013 (Chattahoochee-Oconee Amendment 1); 12-08-11-0014 (Nantahala Plan Amendment 22); and 12-08-12-0015 (Sumter Plan Amendment 1) into a single response.

BACKGROUND

On January 31, 2012, Chattahoochee-Oconee National Forests (NFs) Forest Supervisor George M. Bain, NFs in North Carolina Acting Forest Supervisor Diane Rubiaco, and Francis Marion-Sumter NFs Forest Supervisor Paul L. Bradley, signed the respective Decisions for this Project, amending the existing LRMP. On March 19, 2012, I received your electronically-filed NOA, which was accepted by acknowledgement on March 23, 2012.

RELIEF REQUESTED

You request that the Decisions be abandoned to allow interim boating, and prepare a comprehensive management plan which develops adaptive management.



DECISION

I based my Decision upon a thorough review of your NOA, the Decision Notice (DN), Finding of No Significant Impact (FONSI), Environmental Assessment (EA) and other project record documents for these Part 219 LRMP Amendments. In addition, I also considered intervenor comments filed on your appeals by American Whitewater and Whiteside Cove Association.

I find that the Forest Supervisors complied with the relevant legal authorities, such as the National Environmental Policy Act (NEPA), National Forest Management Act (NFMA) and Wild and Scenic River Act (WSRA). Therefore, I am affirming the Forest Supervisors' January 31, 2012, Decision. I have enclosed a detailed discussion of the issues raised in your appeals and the rationale which supports my findings for each issue.

This constitutes the final administrative determination of the Department of Agriculture unless the Chief, on his own volition, elects discretionary review of the Decision (36 CFR 219).

Sincerely,

/s/ Ken S. Arney

KEN S. ARNEY
Reviewing Officer
Deputy Regional Forester

Enclosure

DISCUSSION OF ISSUES

Issue 1 Whether the decisions are based on an existing Comprehensive River Management Plan (CRMP).

Appellant contends that “There is no current comprehensive, integrated management plan for the Chattooga Wild and Scenic River. “The WSRA requires a single, comprehensive plan that collectively addresses all the elements of the plan—both the ‘kinds’ and ‘amounts’ of permitted use—in an integrated manner.” Plans developed prior to 1986 were required to be updated by 1996. A CRMP was prepared in 1977 for the Chattooga and last updated in 1980 (“1980 Chattooga CRMP”). Since 1980, the 1980 Chattooga CRMP has not been updated, and no new CRMP has been prepared. The three Decision Notices are not consistent with the out-of-date plan. Without a current CRMP for the Chattooga decisions regarding river management are by definition arbitrary.” (Appeal, pp. 6-7)

The Sumter Revised FLRMP (pp. 2-24 to 26; pp. 3-8 to 3-17) contains a comprehensive river management plan, standards, and desired future conditions for the entire WSR corridor (2004 Sumter Revised FLRMP Goals; Management Areas 2.A; Management Area 2.A.1; and Management Area 2.A.2). The previous Sumter FLRMP from 1985 contained the comprehensive river management plan as Appendix M (1985 Sumter FLRMP, pp. M1-M32) and three subsequent Plan Amendments updated portions of the CRMP (Amendment #1 dated March 24, 1986; Amendment #11 dated 10/24/1999; and Amendment #14 dated August 23, 2002). In addition, the Land and Resource Management Plan for the Chattahoochee-Oconee National Forest (pp. 3-19 to 3-43), and the Land and Resource Management Plan Amendment 5 for the Nantahala and Pisgah National Forests in North Carolina (pp. III-167 to III-172) address visitor impact management issues in the entire Chattooga WSR corridor. Management Areas 2.A and Management Area 2.B on the Francis Marion and Sumter NFs and Chattahoochee-Oconee NFs, and Management Area 15 on the Nantahala and Pisgah NFs, contain Standards and Guidelines for managing the corridor.

The EA (pp. 1-3) describes the purpose and need for the proposed action: to respond to the 2005 Appeal Decision on the Sumter’s FLRMP, to provide consistent management of the upper segment of the Chattooga WSR on all three National Forests, and to preserve the upper segment’s free-flowing condition, protect its water quality and protect and enhance its ORVs, and preserve the wilderness character of Ellicott Rock Wilderness.

The Wild and Scenic Rivers Act states (WSRA, §1274(d)(1) that the CRMP “*shall be incorporated with and may be incorporated into resource management planning for affected adjacent Federal lands.*” Furthermore, a document issued by the Interagency Wild and Scenic Rivers Coordinating Council entitled “*A Compendium of Questions and Answers Relating to Wild & Scenic Rivers*” dated May 2011 (Compendium, p. 64; Project Record #413) states:

“...there is no statutory requirement that a CRMP be revisited in a specified timeframe...In some cases, this may include updating the CRMP during the agency unit-plan revision cycle.”

Finding

I find that the Comprehensive River Management Plan exists within the 2004 Sumter Revised FLRMP as Management Area 2A, the 2004 Chattahoochee-Oconee FLRMP as Management Areas 2A and 2B, and the Nantahala NF 1994 FLRMP Amendment 5 and that these FLRMPs provide consistent management of the entire WSR corridor among the three National Forests.

Issue 2 Whether the decisions adequately address user capacity.

- A. Appellant contends that “Current capacity guidelines are arbitrary and permit degradation. The WSRA requires that the CRMP for each river shall address user capacities. The Secretarial Guidelines define carrying capacity as “[t]he quantity of recreation use which an area can sustain without adverse impact on the [ORVs] and freeflowing character of the river area, the quality of the river experience, and public health and safety.” The Forest Service must show that its capacity “[l]imits place ‘primary emphasis’ on the protection of the [Chattooga] River’s esthetic, scenic, historic, archeological, and scientific features’ as required by §1281(a).” Recreation is not on this list. The CRMP must establish a “concrete measure of use.” Caps can be based on facility limits, so long as it has been shown that those limits describe an actual level of visitor use that will not degrade the river. The direction for establishing capacity limits applies to both interim and final limits.**

The capacity guidelines for the Upper Chattooga WSR Corridor are based on 2007 parking lot capacity. A range of capacities was not examined (also a violation of the National Environmental Policy Act, “NEPA”).

The Forest Service “has a responsibility under the ‘protect and enhance’ requirement of the WSRA to address both past and ongoing degradation. It has failed to explain how 2007 parking area in the Upper Chattooga correlates to protection of the esthetic, scenic, historic, archeological, and scientific features of the Upper Chattooga WSR Corridor, especially given existing degradation of the Chattooga River Corridor.” (Appeal, pp. 8-9)

The Wild and Scenic River Act (WSRA, §1274 (d)(1)) states a CRMP “*shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes...*”. The EA states (EA, p. 67) that agencies have broad discretion interpreting this mandate (e.g., which visitor impact framework to use, or whether capacities must be expressed as a number or linked to indicators or standards for ORVs). The report *Capacity Reconsidered: Finding Consensus and Clarifying Differences* (Project Record #342; Abstract, *Capacity Reconsidered*) points out that work on capacity issues “has evolved considerably since the late 1960s as a result of environmental planning, court proceedings, recreation management practice, and recreation research.” The EA recognizes

(p. 67) that consensus about visitor capacity related concepts, principles and approaches appears to be emerging among researchers and resource professionals. In considering visitor capacity levels, the analysis drew from several sources (EA, p. 68):

- Use estimation workshop (Berger and CRC 2007)
- Vehicle counts at access areas (Berger Group 2007a)
- General relationships between use levels and impacts (2007 Integrated Report)
- Tolerances for impacts from Chattooga studies or those from other rivers
- Logic-based calculations or other analyses that associate vehicle counts at access sites with current peak-use levels

The EA states (p. 69) that in general, capacities were developed with recognition that social impacts, such as encounters, are probably the most limiting factor for use levels in backcountry areas of the Chattooga WSR corridor. The EA analyzed varying capacity levels in the alternatives (from no capacity levels set in Alternative 1 to a range of groups per day and group sizes in other alternatives). The selected alternative (EA, p. 132) defines a capacity level designed to prevent backcountry encounters from exceeding between two and eight per day on weekdays and between four and fifteen per day on weekends. As the EA notes (p. 126) these capacities are consistent with encounter tolerances in wildernesses with higher use (Dawson and Alberga, 2003) as well as findings from a study done in the Ellicott Rock Wilderness itself (Rutlin, 1995). The EA describes (p. 73; see also Encounter Calculations, EA Appendix D, pp. 419-423) how the interdisciplinary team arrived at the use estimates presented in Table 3.2.1-5 by using vehicle-based capacities (parking lot spaces), applying a regional multiplier of 2.5 people per vehicle, and assuming one vehicle equals one group. These estimates were used to develop a range of capacity levels for frontcountry and backcountry areas in the alternatives. Parking lot capacities are described in Chapter 3, Existing Conditions (EA, pp. 69-70). The analysis notes (EA, p. 86) parking lots have *de facto* capacities that may limit use once they are filled; with increased use, visitors may experience higher levels of congestion, crowding, or a reduced sense of naturalness. The EA states (p. 103) in alternatives that set capacity limits, there would be days when use exceeds capacity; on these days, all users would compete for limited parking availability, and some would be displaced.

The EA (p. 68; and p. 452) defines capacity as the amount and type of use that protects and enhances river values. The EA describes (p. 73) how the analysis team used logic-based calculations to estimate encounter levels in the upper segment of the Chattooga and during different times, relate them to different use levels, and compare encounter levels to user tolerances for encounters; these analyses allowed the team to develop estimates of use levels that would keep encounters from impacting the desired condition, thus protecting the Recreation ORV. Monitoring of capacity levels (Appendix G-Monitoring Plan and Adaptive Management Strategy, EA, p. 482) will determine if boating contributes to higher use while still meeting current levels of opportunities for solitude without degrading the ORVs of the river. Furthermore, the DN notes (p. 5) that components of the decision relating to capacity, parking, group size limits, and actions to designate trails, campsites, put-ins and take-outs will maintain or increase opportunities for solitude.

The 2005 Decision for Appeal states the following:

Section 10(a) of the WSRA requires the river-administering agency to protect and enhance the values which caused a river to be added to the National System. These values are expressed in Section 1 (b) as the river's free-flowing condition, water quality, and outstanding remarkable values (ORVs). The Interagency Guidelines (1982) interpret the direction in Section 10(a) as a "nondegradation and enhancement policy for all designated rivers, regardless of classification." (p. 4).

Finding

I find that the decisions adequately addressed capacity issues on the upper Chattooga and considered a range of capacities within the alternatives in the EA, relying on a wide array of information sources.

Issue 3 Whether the decisions comply with the WSRA, relative to the use of guidelines vs. standards in the Upper Chattooga.

- A. Appellant contends that “Capacity limits as guidelines do not actually trigger management action before degradation occurs. The capacity “limits” for the Chattooga for all user groups on the Upper Chattooga have been designated as “guidelines” instead of enforceable “standards.” In setting capacities, “[a] standard must be chosen that does in fact trigger management action before degradation occurs. In Yosemite Valley, a management plan was found lacking because “an early warning sign [that] may call for the implementation of proactive management does not provide much assurance that such implementation will occur.” A plan that never requires management action because capacity limits are unenforceable guidelines provides no such assurance and is a violation of the WSRA.”**

The adaptive management plan states that use in excess of 2007 vehicle counts “could” trigger adaptive management but does not describe what that management would be or how changes to parking lot configuration and capacity will be scaled to 2007 vehicle counts.” No reason has been given why capacities are standards for the Lower Chattooga WSR Corridor but only guidelines on the Upper Chattooga WSR Corridor.” (Appeal, pp. 10-12)

The Decision Notice for the Sumter NF (Sumter DN, p. A-1) amends the Sumter NF Forestwide Standard *FW-81* to require dispersed camping be at least 50 feet from lakes, streams and trails, a quarter-mile from roads, and allows camping only in designated campsites in the Upper Chattooga WSR corridor and amends *Standard 2.A.1* to allow non-commercial boating on approximately 17 miles of the 21-mile main stem of the upper Chattooga and specifies seasonal, flow and reach restrictions as well as type of boats and designated put-ins and take-outs. The Amendment (Sumter DN, p. A-2) also adds three other Standards to this Management Area: *MA 2.A.-19* that sets group size limits, *MA 2.A.-20* prohibiting the removal of Large Woody Debris

without a permit, and *MA 2.A.-21* allowing camping only in designated campsites above the Highway 28 bridge.

The Decision Notice for the Chattahoochee-Oconee NF (Chattahoochee-Oconee DN, p. A-1 to A-2) makes similar changes to Standards 2.A.-1 (p. 3-21), Standard 2.A.-20, 2.A.-21, and 2.a.-22 (p. 3-25), and Guidelines G2.A.-1 (p. 3-25) in the FLRMP for the Chattahoochee-Oconee NF.

The Decision Notice for the Nantahala NF (Nantahala DN, p. A-16 to A-18) makes similar changes to Management Area 15, Dispersed Recreation Management Standards and Guidelines, pp. III-167 to III-172.

The EA (p. 68) states these are appropriate as Standards because they can be measured and enforced. User capacities are amended to the FLRMP as Guidelines in terms of Groups at One Time (GAOT) in frontcountry areas and Groups per Day in the backcountry because “turnover rates in frontcountry areas are sometimes high, which makes daily counts challenging to interpret....The timing element focused on “at one time” measures because the impacts of concern happen at peak use times that do not occur evenly throughout a given day (EA, p. 68).” The EA further notes (p. 68) that setting capacities at “groups at one time” makes more sense administratively by allowing the agency to use parking lot counts or group counts instead of counting people going through a “turnstile.” The agency developed models (Encounter Calculations, EA Appendix D, p. 419) to analyze how encounter levels might change as use levels change. The EA explains (p. 132) that capacities are designed to prevent backcountry encounters (Groups per Day) from exceeding between two and eight per day on weekdays and between four and fifteen per day on weekends.

The Decision Notices (Sumter DN, pp. A-4 to A-5; Chattahoochee-Oconee DN, p. A-4 to A-5; Nantahala DN, p. A-18 and A-22) address Adaptive Monitoring by using indirect measures first: “Indirect measures generally attempt to redistribute recreational use by encouraging users to visit lower use segments or times, or by changing infrastructure (e.g., reducing the size of some parking lots) to match capacity goals and cue users to use other areas. Direct measures regulate behavior through restrictions or formal use limit systems (e.g., permits); they can ensure a capacity is met, but also may create a more “heavy-handed” management footprint that restricts individual choice.” The DN further states: “If direct measures are needed, monitoring will help identify the specific type of use and encounters that are at issue, and develop appropriate regulations or a permit system that will address the use or impact problem”.

Finding

I find the decisions are in compliance with the WSRA and set appropriate standards and guidelines that will implement and monitor user capacity levels in the Upper Chattooga.

Issue 4 Whether the decisions are based on an adequate adaptive management framework.

Appellant contends (Appeal pp. 12-14) that “The proposed adaptive management provides neither specific indicators nor standards. ...The Decision Notices purport to “[d]evelop a monitoring program to detect when use is approaching capacities and develop more precise relationships between the amount of use and impacts; if monitoring reveals undesired consequences, adaptive management will trigger actions to keep use levels from exceeding capacity.” In reality, the adaptive management framework described in the 2012 EA and the Decision Notices would never require a management response. This is a violation of the WSRA, which requires a response to environmental degradation before it occurs.”

Specifically:

- **No specific indicators or standards to measure effects are proposed. No baseline is described. There is no guidance regarding how often periodic monitoring will occur or what it will entail. There are no triggers of management action based on monitoring results.**
- **Monitoring also asks the questions: [a]re at-one-time vehicle counts at frontcountry and backcountry parking areas changing.” What is the proportion of recreation use by type of visitor, and how this use is related to the vehicle count. Again, there are no descriptions of what monitoring results would trigger a change in management. In addition, the Forest Service is adding parking lots [indeed, already bulldozing one at County Line Road/Trail without public input], and there is no discussion of how new parking will impact the actual, physical parking capacity or how it will impact the accuracy of capacity monitoring.**
- **The proposed monitoring is focused on summer season, when boaters cannot legally be present, and so will say little about the impacts of that new use.”**

The monitoring plan included in the EA (Appendix G, p. 481) states: “... The monitoring questions below constitute the LMP monitoring decision. Below each question is the monitoring item and general technique that may be used to collect information. The monitoring items and techniques may change and will not be considered a plan-level decision.” Therefore the actual indicators to be used are outside the scope of this decision.

The Biological Assessment (BA, p. 9) states: “...periodic monitoring of the subpopulation along the main stem of the river is implemented to ensure that no impacts are occurring from implementation of this recreational proposal.” The USFWS Service concurrence letter dated December 6, 2011, (p.2) states: “Annual monitoring of the subpopulation along the main stem of the Chattooga River will also be executed to ensure that no impacts are occurring from implementation of this recreational project. Specific monitoring requirements for the Rock Gnome Lichen will include...”

The EA (Appendix G, p. 483) includes a monitoring plan for the removal/impact of large woody debris to aquatic PETS species to be reported “...annually for the first two years and then periodically thereafter...”

The EA (Appendix G, p.484) addresses management action based on monitoring results by stating as an example: “If average counts in a month are more than 10% higher than the 2007 average count for the highest use month (indicating an increasing use trend), adaptive management could be triggered.”

The Sumter NF Decision Notice (DN, pp. A-3 to A-5) adds the Monitoring Plan and Adaptive Management Strategy to the Sumter Revised FLRMP; the Chattahoochee NF Decision Notice (DN, p. A-3 to A-5) adds the Monitoring Plan and Adaptive Management Strategy to the Chattahoochee-Oconee FLRMP; and the Nantahala NF Decision Notice (DN, pp. A-18 to A-22) adds Monitoring and Evaluation items and an Adaptive Management Strategy to the Nantahala FLRMP. The respective monitoring strategies state monitoring will focus on peak times during the high-use summer season, but will also include vehicle counts during other moderate use times of the year. The EA (p. 69) notes that capacities were developed with the recognition that social impacts (especially encounters) are probably the most limiting factor for use levels in backcountry areas. The Monitoring Plan in the Decision Notice (Sumter DN, p. A-4; Chattahoochee-Oconee DN, p. A-3; Nantahala DN, p. A-18) states the agency will use information from monitoring to correlate vehicle counts to proportions of use associated different recreation uses in both frontcountry and backcountry areas. It further states (Sumter DN, p. A-4; Chattahoochee-Oconee DN, p. A-4; Nantahala DN, p. A-18) that monitoring will also show “The proportion of different types of users during high-use periods, which may help design permit systems that manage the contributions of different types of use,” noting that permit systems could establish equitable allocations within different use categories to reduce the problem or target high-use groups.

The 2005 Decision for Appeal (p. 6) of the Sumter Revised FLRMP notes that the Regional Forester may limit or restrict use within a WSR corridor or designated Wilderness area by disallowing or restricting the number of on-river and in-corridor recreation users, determine the type of recreation use, and/or dictate the timing of such use, but that this authority should be exercised only with adequate evidence of the need for such restrictions. FSM 2323.12 (WO Amendment 2300-2007-1, p. 18 of 55) indicates a preference for using indirect use limits and management actions to address impact problems before employing direct ones; the Monitoring Plans (Sumter DN, p. A-5; Chattahoochee-Oconee DN, p. A-5; Nantahala DN, p. A-22) for the respective National Forest state if direct measures are needed, monitoring will help identify the specific type of use and encounters that are at issue, and develop appropriate regulations or a permit system that will address the use or impact problem.

Finding

I find that the decisions are based on an adequate adaptive management framework.

Issue 5 Whether the EA adequately considered impacts on the character of the wilderness.

A. Appellant contends that “In the Ellicott Rock Wilderness Area there are already signs that recreational use is degrading the wilderness character of the area:

- **There are seventeen active erosion points (at trails, campgrounds and stream banks mostly) in the Ellicott Rock section of the Chattooga WSR Corridor;**
- **There are forty campsites in the wilderness area, mostly within fifty feet of the River, ranging in size up to 11,775 square feet. These “lack proper design and are not maintained” and are causing “unacceptable resource damage; and**
- **Burrells Ford, even at present use levels, “is a chronic source of sediment to the tributaries and the Chattooga River itself.**

The above degradation diminishes the untrammelled character of the wilderness. This should have been considered in the 2012 EA, but it was not.

In addition to the Wilderness Act, the National Forest Management Act governs management of wilderness areas. Management of any national forest must be consistent with its LRMP. Avoiding the requirements of the LRMPs in an effort to allow “interim” boating immediately, or longer term without proper protection, would be arbitrary and capricious. Examples of how the activities permitted by the Decision Notices are not consistent with the LRMPs include: The Decision Notices fail to set enforceable capacities that are sufficiently low to ensure compliance with these standards which were designed to protect wilderness-appropriate levels of solitude.

- **The Nantahala LRMP directs that trails are to be constructed and maintained to protect soil, water, vegetation, visual quality, user safety and long-term maintenance.**
- **The Chattahoochee LRMP requires that trails in wilderness areas be designed, constructed, reconstructed and maintained “to the minimum standard necessary to minimize or prevent resource damage.**
- **The Nantahala LRMP requires that within wilderness areas, the Forest Service must “[p]rovide maximum protection for known threatened and endangered species.” The chosen management of the Upper Chattooga “may” impact the endangered rock gnome lichen, *Gymnoderma lineare*.**
- **Any access to wilderness in the Chattahoochee is supposed to be developed in compliance with an approved wilderness plan. There is no reference in the 2012 EA to compliance with any wilderness plan.” (Appeal, p. 12-14).**

The DN/FOSNI (Section 3, p. 3) states “I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river. My decision will:

I. Establish frontcountry and backcountry capacities as follows:

Figure 1. Capacities in four frontcountry areas in the upper segment of the Chattooga WSR.

Frontcountry Areas	Groups at One Time ¹	People at One Time ..
Grimshawes/Siding Rock Bridge	25	65
Bullpen Road Bridge Area	15	40
Burrells Ford Bridge Area	80	205
Highway 28 Bridge Area	35	85

¹The number of groups at one time equals the number of designated parking spaces in each frontcountry area.

Figure 2. Capacities in four backcountry reaches in the upper segment of the Chattooga WSR.

Backcountry Reach	Average Groups per Weekday	Average People per Weekday ²	Average Groups per Weekend Day	Average People per Weekend Day ²
Chattooga Cliffs	5	10	10	15
Ellicott Rock	10	35	20	110
Rock Gorge	15	40	30	95
Nicholson Fields	15	40	30	95

²Average number of people per group varies by reach.

2. Allow non-commercial boating by issuance of a boating permit consistent with 36 C.F.R. §

261.77 on approximately 17 miles of the 21-mile main stem of the upper segment of the Chattooga WSR December 1 to April 30 from the Green Creek confluence downstream to a designated take out within one-quarter mile downstream of the Lick Log Creek confluence.

3. Allow boating from the time that flows reach 350 cfs or greater at the USGS Burrells Ford gauge

during daylight hours. Daylight hours will be 30 minutes before official sunrise to 30 minutes after official sunset. Once boating is allowed, it may continue until 30 minutes after official sunset on that same day.

4. Specify that boating opportunities (see 2 and 3 above) will be a condition of the self-registration boating permit.

5. Require boaters to use tandem/single capacity hard boats or tandem/single capacity inflatable boats.

6. Require boaters to start or complete their trip only at specific boater put-ins and takeouts, which will be designated after site-specific NEPA analysis and will be a condition of the self-registration boating permit. In the interim, require boaters to start or complete their trip only at existing trails at the following locations:

a) Within one-quarter mile downstream of the Green Creek confluence;

- b) Within 500 feet of the Norton Mill Creek confluence;
 - c) Within one-quarter mile of Bullpen Bridge;
 - d) Within one-quarter mile of Burrells Ford Bridge; and
 - e) Within one-quarter mile downstream of the Lick Log Creek confluence.
7. Specify that safety equipment for boaters will be determined at the district level as a condition of the self-registration boating permit.
 8. Require backcountry group size limits as follows: maximum 12 people per group on trails, six people per group at designated campsites, except at designated large group campsites; six people per boating group; and four people per angling group. Require a minimum of two craft per boating group.
 9. Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted. Trails will be designated based on future site-specific NEPA analysis.
 10. Allow camping only in designated campsites. Allow campfires only in designated fire rings. Campsites and fire rings will be designated based on future site-specific NEPA analysis. Allow visitors to use existing campsites until site-specific NEPA analysis is complete.
 11. Establish a desired condition where campsites accommodate no more than three tents per site, except at designated large, group campsites, are environmentally sustainable and limit encounters and conflict; where redundant campsites, campsites where resource damage cannot be mitigated and campsites that exacerbate encounters or conflict are closed or relocated.
 12. Require agency approval for large woody debris (LWD) removal.
 13. Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.
 14. Incorporate the use of adaptive management to address any problems revealed through monitoring.

In each respective decision, Section 7.0 FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS states the following:

Nantahala and Pisgah National Forest LMP

I have determined that the decision to implement Amendment 22 will not result in a significant change to the Nantahala and Pisgah National Forests Land and Resource Management Plan. I made this determination after consulting 16 U.S.C. 1604(f)(4), 36 CFR 219.10(f) (1982 regulations), FSM 1926.51– *Changes to the Land Management Plan that are Not Significant* and FSM 1926.52– *Changes to the Land Management Plan that are Significant*. Based on these planning requirements, in consultation with the two other responsible officials, I have determined that:

- This amendment will not significantly alter the levels of goods and services projected by the forest plan, nor will it prevent the opportunity to achieve those outputs in later years.

- This amendment will not affect the entire land management plan, nor will it affect a large portion of the planning area during the planning period.

Sumter National Forest RLRMP

I have determined that the decision to implement Amendment 1 will not result in a significant change to the Sumter National Forest Revised Land and Resource Management Plan. I made this determination after consulting 16 U.S.C. 1604(f)(4), 36 CFR 219.10(f) (1982 regulations), FSM 1926.51-*Changes to the Land Management Plan that are Not Significant* and FSM 1926.52 - *Changes to the Land Management Plan that are Significant*. Based on these planning requirements, in consultation with the two other responsible officials, I have determined that:

- This amendment will not significantly alter the levels of goods and services projected by the forest plan, nor will it prevent the opportunity to achieve those outputs in later years.
- This amendment will not affect the entire land management plan, nor will it affect a large portion of the planning area during the planning period.

Chattahoochee-Oconee National Forest RLRMP

I have determined that the decision to implement Amendment 1 will not result in a significant change to the 2004 Revised Land and Resource Management Plan for the Chattahoochee-Oconee National Forests. I made this determination after consulting 16 U.S.C. 1604(f)(4), 36 CFR 219.10(f) (1982 regulations), FSM 1926.51-*Changes to the Land Management Plan that are Not Significant* and FSM 1926.52 – *Changes to the Land Management Plan that are Significant*. Based on these planning requirements, in consultation with the two other responsible officials, I have determined that:

- This amendment will not significantly alter the levels of goods and services projected by the forest plan, nor will it prevent the opportunity to achieve those outputs in later years.
- This amendment will not affect the entire land management plan, nor will it affect a large portion of the planning area during the planning period.

The Decision Notice for the Sumter NF (pp. A-1 to A-2) amends Forestwide Standard *FW-81* to require dispersed camping be at least 50 feet from lakes, streams and trails, a quarter-mile from roads, and allow camping only in designated campsites in the Upper Chattooga WSR corridor; in addition, the Decision Notice adds Standard *MA 2.A.-19* which sets group size limits and *MA 2.A.-21* which allows camping only in designated campsites above the Highway 28 bridge and campfires only within fire rings; until site-specific NEPA analysis can be completed to designate campsites, visitors may use existing campsites.

The Decision Notice for the Chattahoochee-Oconee NF (p. A-1 to A-2) makes similar changes to Standards 2.A.-1 (p. 3-21), Standard 2.A.-20, 2.A.-21, and 2.a.-22 (p. 3-25), and Guidelines G2.A.-1 (p. 3-25) in the FLRMP for the Chattahoochee-Oconee NF.

The Decision Notice for the Nantahala NF (p. A-16 to A-18) makes similar changes to Management Area 15, Dispersed Recreation Management Standards and Guidelines, pp. III-167 to III-172.

The EA states (pp. 6-7) the agency utilized the Limits of Acceptable Change (LAC) planning framework to guide public meetings with stakeholders in 2005; one of the outcomes of the LAC process with the public was a description of desired future conditions on the upper segment and measurable indicators for various recreational opportunities. The Decision Notices (Sumter DN, pp. A-2 to A-3; Chattahoochee-Oconee DN, pp. A-2 to A-3; Nantahala DN, pp. A-19 to A-20) amend the FLRMPs to add the following statement to the desired future condition for designated river segments above the Highway 28 bridge:

“Within the river corridor, recreation users stay on designated trails. Trail system, including portage trails, is designed to minimize encounters and conflict while being environmentally sustainable. Redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted. Campsites are designed to accommodate no more than three tents per site, except at group-designated sites, to limit encounters and conflict and to be environmentally sustainable. Redundant campsites, campsites where resource damage cannot be mitigated, and campsites that exacerbate encounters or conflict will be closed or relocated.”

The EA states (p. 132) these capacities are designed to prevent backcountry encounters (Groups per Day) from exceeding between two and eight per day on weekdays and between four and fifteen per day on weekends. The Proposed Actions in the EA (p. 5) includes new management direction for the three respective Forest Plans regarding capacity levels:

- Maintain the quality of recreation experiences by establishing “per day” or “at-one-time” visitor use capacities for frontcountry and backcountry areas in the corridor. Backcountry capacities limit the size and number of groups per day to reduce social impacts such as encounters or competition for fishing and camping areas.
- Manage biophysical impacts to natural resources from recreation use by redesigning, relocating or closing trails and campsites, and limiting group sizes and parking. Trails and campsites that violate current or proposed forest plan standards would be closed and rehabilitated. Remaining campsites and fire rings would be designated. Camping would be limited to three tents per campsite (except for larger, designated group campsites).
- Maintain or increase opportunities for solitude and a sense of remoteness in the backcountry by establishing “per day” or “at-one-time” visitor use capacities for backcountry areas in the corridor and redesigning, relocating or closing some trails and campsites.
- Use vehicle counts at access points to monitor whether backcountry or frontcountry use is approaching capacities and correlate these to use-impact relationships in different areas and/or for different types of use.
- Manage social impacts (including potential recreation use conflicts) with separation strategies that include zoning by space (river reach), time (season) and flows.

The Biological Assessment (p. 9) addresses the one known population within the Chattooga River Corridor as being located and partially protected under a narrow rock shelf. The

Biological Assessment (p. 9) further states: “For all these reasons there are no measurable direct effects anticipated with permitting seasonal boating along this stretch of the Chattooga River.”

The USFWS Concurrence Letter (p. 3) states: “Based on the information provided in the BA and the USFS’s commitment to monitor the rock gnome lichen subpopulation in the project corridor, we concur with the BA’s assessment that the preferred alternative (Alternative 13A) is not likely to adversely affect the rock gnome lichen.”

Finally, the 2005 Decision for Appeal (p. 6) directed the agency to “conduct the appropriate visitor use capacity analysis, including non-commercial boating use, and to adjust or amend, as appropriate, the LRMP to reflect a new decision based on the findings.”

Finding

I find that the EA adequately considered impacts to the wilderness character and sets capacity limits to protect the Outstanding Remarkable Values of the river and the wilderness character.

Issue 6 Whether the decisions comply with NEPA.

- A. Appellant contends that “The ‘interim’ plan to allow boating put-ins and take-outs has not been evaluated pursuant to NEPA. The Forest Service did not evaluate site-specific implementation activities in the 2012 EA, saying that work would be completed later. As a result, the 2012 EA is insufficient to cover the implementation actions described in the Decision Notices. Nevertheless, without any additional public involvement, the Forest Service has taken implementation actions:**

- **Placed kiosks for boater registration and education**
- **Encouraged the bulldozing of a road on a nearly-decade old timber sale in precisely the location where it proposes off-system access, and**
- **Announcing that the Upper Chattooga WSR Corridor is open for boating.**

The Decision Notices purport to allow boating “in the interim” before put-ins and take-outs are designated, from “existing trails” that may or may not be designated/ system trails, and at unspecified and non-designated locations along greater than three miles of noncontiguous river bank... It is unclear for how long this “interim” plan would last, but because this “interim” plan was not analyzed in the 2012 EA it is not viable for any period of time.” (Appeal, p. 16-17)

Within in the EA, documentation occurs specifically:

- c. Boater put-ins and take-outs (EA pp. 107, 121, 133-134)

This alternative would have the following put-ins and take-outs on the upper segment of the Chattooga WSR:

1. Green Creek confluence – Boaters would access the river here via an existing user-created trail on the bed of an old logging road for trips through the Chattooga Cliffs Reach;
2. Bullpen Bridge – Boaters would access the river here from short, user-created trails from the bridge or the Chattooga Trail for taking out after running the Chattooga Cliffs Reach or as a put-in for the Ellicott Rock Reach;
3. Burrells Ford Bridge – Boaters would access the river here from short, user-created trails near the bridge for taking out from an Ellicott Rock Reach trip or putting in for a Rock Gorge/Nicholson Fields trip.
4. Lick Log Creek – It is possible that a few boaters would occasionally take out of the river at the Lick Log Creek confluence rather than floating the Class I Nicholson Fields Reach and taking out at the Highway 28 Boat Launch.
5. Highway 28 bridge – It is also possible that a few boaters would occasionally take out of the river at the Highway 28 bridge. However, it is more likely that boaters would use the existing Highway 28 Boat Launch on the lower segment as a take-out instead, which is also the current put-in for Section II.

All of these put-ins and take-outs are accessible by existing U.S. Forest Service system trails or commonly used user-created trails. Boaters would use these obvious routes to the river until the agency has identified and/or developed a preferred route that minimizes biophysical impacts, redundancy with existing trails and user conflict. The agency would designate these put-ins and take-outs only after site-specific NEPA analysis.

The DN/FOSNI (p. 3) states under Section 3.0 Decision that “I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river. My decision will:

I. Establish frontcountry and backcountry capacities as follows:

Figure 1. Capacities in four frontcountry areas in the upper segment of the Chattooga WSR.

Frontcountry Areas	Groups at One Time ¹	People at One Time ..
Grimshawes/Siding Rock Bridge	25	65
Bullpen Road Bridge Area	15	40
Burrells Ford Bridge Area	80	205
Highway 28 Bridge Area	35	85

¹The number of groups at one time equals the number of designated parking spaces in each frontcountry area.

Figure 2. Capacities in four backcountry reaches in the upper segment of the Chattooga WSR.

Backcountry Reach	Average Groups per Weekday	Average People per Weekday ²	Average Groups per Weekend Day	Average People per Weekend Day ³
Chattooga Cliffs	5	10	10	15
Ellicott Rock	10	35	20	110
Rock Gorge	15	40	30	95
Nicholson Fields	15	40	30	95

'Average number of people per group varies by reach.

2. Allow non-commercial boating by issuance of a boating permit consistent with 36 C.F.R. § 261.77 on approximately 17 miles of the 21-mile main stem of the upper segment of the Chattooga WSR December 1 to April 30 from the Green Creek confluence downstream to a designated take out within one-quarter mile downstream of the Lick Log Creek confluence.
3. Allow boating from the time that flows reach 350 cfs or greater at the USGS Burrells Ford gauge during daylight hours. Daylight hours will be 30 minutes before official sunrise to 30 minutes after official sunset. Once boating is allowed, it may continue until 30 minutes after official sunset on that same day.
4. Specify that boating opportunities (see 2 and 3 above) will be a condition of the self-registration boating permit.
5. Require boaters to use tandem/single capacity hard boats or tandem/single capacity inflatable boats.
6. Require boaters to start or complete their trip only at specific boater put-ins and takeouts, which will be designated after site-specific NEPA analysis and will be a condition of the self- registration boating permit. In the interim, require boaters to start or complete their trip only at existing trails at the following locations:
 - a) Within one-quarter mile downstream of the Green Creek confluence;
 - b) Within 500 feet of the Norton Mill Creek confluence;
 - c) Within one-quarter mile of Bullpen Bridge;
 - d) Within one-quarter mile of Burrells Ford Bridge; and
 - e) Within one-quarter mile downstream of the Lick Log Creek confluence.
7. Specify that safety equipment for boaters will be determined at the district level as a condition of the self-registration boating permit.
8. Require backcountry group size limits as follows: maximum 12 people per group on trails, six people per group at designated campsites, except at designated large group campsites; six people per boating group; and four people per angling group. Require a minimum of two craft per boating group.
9. Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted. Trails will be designated based on future site-specific NEPA analysis.
10. Allow camping only in designated campsites. Allow campfires only in designated fire rings. Campsites and fire rings will be designated based on future site-specific NEPA analysis. Allow visitors to use existing campsites until site-specific NEPA analysis is complete.
11. Establish a desired condition where campsites accommodate no more than three tents per site, except at designated large, group campsites, are environmentally sustainable and limit encounters and conflict; where redundant campsites, campsites where resource damage cannot be mitigated and campsites that

- exacerbate encounters or conflict are closed or relocated.
- 12. Require agency approval for large woody debris (LWD) removal.
- 13. Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.
- 14. Incorporate the use of adaptive management to address any problems revealed through monitoring.

Finding

I find that the decisions are in compliance with NEPA.

Issue 7 Whether cumulative impacts of the decisions has been adequately considered.

- A. Appellant contends that “The cumulative impacts of the decision to implement boating through these planning decisions have not been considered....[t]he Forest Service is treating the Decision Notices as implementation decisions, and management pursuant to that approach will cause the immediate use of the unanalyzed non-system riparian access zones, parking areas and roads by boaters and other users.
...The impacts of these access decisions were not considered in detail in the 2012 EA, because they were supposedly going to be considered at a later time. Because the Forest Service knew its Decision Notices would lead to these additional actions, indeed apparently planned that it would, analysis of their impacts should not have been delayed until some indefinite future date. The specific implementation actions (designation of put-ins, take-outs, access trails, parking areas, and the placement of permit boxes, etc), should they ever actually occur, will require additional work to comply with NEPA and NFMA. ...Although implementation is taking place, none of this analysis has been done. This is an overt violation of NEPA, NFMA, and the Forest Service’s own guidance materials.” (Appeal, p. 21-22)**

The EA (pp. 1-6) states the following:

Specific need for action statements and relevant laws are summarized below:

- A. Action is needed to respond to an appeal decision on the Sumter Land and Resource Management Plan (2004). (p. 1)
- B. Action is needed to provide consistent management of the upper segment of the Chattooga WSR on all three national forests. (p. 3)
- C. Action is needed to preserve the upper segment of the Chattooga WSR’s free-flowing condition, protect its water quality and protect and enhance its ORVs, as well as preserve the wilderness character of the Ellicott Rock Wilderness. (p. 3)
 - 1. Wild and Scenic Rivers Act (p. 3)
 - 2. Wilderness Act (p. 4)
 - 3. Potential conflict between WSRA and Wilderness Act (p. 5)

1.4 Decisions to be Made

Decisions to be made are specific to the upper segment of the Chattooga WSR. Management of the river below Highway 28 was not challenged in the 2004 Sumter RLRMP and is not subject to further review. Management activities are considered within the context of the entire Chattooga WSR and are analyzed in the cumulative effects sections in Chapter 3. (p. 6)

Within in the EA, documentation occurs specifically:

D. Past, Present and Reasonably Foreseeable Future Actions (EA, pp. 56-59)

Table 3.1-6 displays known past present and reasonably foreseeable future actions on NFS lands within the Chattooga watershed that may contribute cumulatively to the direct and indirect effects of proposed activities within the Chattooga WSR Corridor. More information about the activities listed below is available from each district.

Table 3.1-6. Past, Present and Reasonably Foreseeable Future Actions within the Chattooga River Watershed

State	Activity	Year(s) Implemented	Acres /Miles Affected	Past	Present	Reasonably Foreseeable
GA	Duck's Nest Gap Rx Burn	2010-14	1050 a	X	X	X
GA	Roach Mill Rx Burn	2010-14	695 a	X	X	X
GA	Chintilly Rx Burn	2010-14	230 a	X	X	X
GA	Rabun Bald Trail Reroute	2008-2010	3.5 mi	X		
GA	Water Gauge Yellow Pine-Oak Woodland Restoration (Rx Burn)	2010-14	232 a	X	X	X
GA	Tri-District Land Exchange	2010	157 a	X		
GA	Bartram Trail Reroute @ Wilson Gap	2009	0.5 mi	X		
GA	Satolah Soil and Water Complex	2009	5	X		
GA	Camp Creek Rx Burn	2009	1800	X		X
GA	Upper Warwoman Vegetation Management	2009-2010	200 a	X		
GA	Invasive Plant Eradication	2014	50a		X	X
GA	Herbicide Release of Young Forest Communities	2009-2012	150 a	X	X	X
GA	Vegetation Management for Forest Health	2009-2014	500 a	X	X	X
GA	Woodall Shoals Rx Burn	2010-2011	1100 a	X	X	
GA	Buckeye Branch/Lick Log Rx Burn	2010-2011	2470 a	X	X	
GA	Willis Knob Horse Trail Reroutes	2010-2014	5 mi	X	X	X
GA	Sarah's Creek Crossing Replacement	2010	0.05 mi	X		
GA	Burrells Ford North Rx Burn	2010-2015	2545 a	X	X	X
GA	Burrells Ford South Rx Burn	2010-2015	1341 a	X	X	X
GA	Willis Knob 1 Rx Burn	2010-2015	1560 a	X	X	X
GA	Willis Knob 2 Rx Burn	2010-2015	1628 a	X	X	X
GA	Willis Knob 3 Rx Burn	2010-2015	1654 a	X	X	X
GA	Hale Ridge East Rx Burn	2010-2015	834 a	X	X	X
GA	Hale Ridge West Rx Burn	2010-2015	870 a	X	X	X
GA	Tallulah Gorge Co-Op RX Burn	2010-2015	100 a	X	X	X
GA	Water Gauge Rock Mtn. Rx Burn	2010-2015	1100 a	X	X	X
GA	Water Gauge Stone Place RX Burn	2010-2015	750 a	X	X	X
GA	Ammons Culvert Replacement	2011	-		X	

State	Activity	Year(s) Implemented	Acres /Miles Affected	Past	Present	Reasonably Foreseeable
GA	Buck Branch Timber Sale	2013	50 a			X
GA	Pre-commercial Thinning	2012-2013	200 a			X
GA	Bog Restoration – Hale Ridge	2010-2015	5 a	X	X	X
GA	Bog Restoration –Hedden	2010	5 a	X		
GA	Bog Restoration – Water Gauge	2010	7 a	X		
SC	Loblolly Removal and Restoration Project	2010-2014	5605 a		X	X
SC	Crane Mountain Rx Burn	2009, 2013	300 a	X		X
SC	Earls to Sandy Rx Burn	2010	1000 a	X		
SC	Whetstone Thinning	2008-2009	64 a	X		
SC	Garland Tract Rx Burn and Dove Field Mtc	2004-2014	600 a	X	X	X
SC	FSR 719 Reconstruction	2009-2010	2.4 mi	X		
SC	Horse trail closures, relocations	2010-2011	10 mi		X	
SC	Horse camp reconstruction	2011	12 a		X	
SC	Burrells Ford Campground Reconstruction	2009-2010	6 a	X		
SC	Southern Appalachian Living Farmstead with parking area	2010-2014	20 a		X	X
SC	Outfitting and Guiding Special Use Permits	2011-2016	-		X	X
SC	Simms Field and Fishermen's Trail Reconstruction	2011	1.3 mi		X	
SC	Highway 76 Parking Lot Repaving	2010	0.75 a	X		
SC	Lick Log Creek designated take-out and associated trail to river	2012	0.5 mi			X
SC GA	Burrells Ford designated put-in/take-out	2012	100 feet			X
NC	White Bull/Blue Ox Timber Sales	2007	225	X		
NC	Bullpen/Journ McCall Paving Project (NCDOT proposal)	2008	1.5	X		
NC	Whiteside Cove Paving (NCDOT Proposal)	2008	3	X		
NC	Garnet Hill Paving (NCDOT proposal)	2008	.3	X		
NC	County Line Road Parking Lot Construction	2012	~1 a			X
NC	Silver Run Rx Burn	2012	300 a			X
NC	Ammons Branch Campground – replace pit toilet	2011	-		X	
NC	Dulaney Bog Restoration	2011-2012	5		X	X
NC	Buckwheat Vegetation Management (restoration, wildlife and timber sale projects)	2012	187 a harvest 46 a burn & plant 345 a Rx burn 74 a riparian restoration			X
NC	Green Creek designated put-in and Norton Mill Creek designated put-in/take-out and associated trails off	2012	1 mi			X

State	Activity	Year(s) Implemented	Acres /Miles Affected	Past	Present	Reasonably Foreseeable
	Chattooga River Trail to the river					
NC	Bullpen Bridge designated put-in/take-out	2012	100 feet			X
All	Wildlife Opening Maintenance	Ongoing	-		X	X
All	System Road Maintenance	Ongoing	-		X	X
All	Recreational activities including hiking, biking and driving.	Ongoing – various locations	-		X	X

Source: U.S. Forest Service – Nantahala Ranger District, Andrew Pickens Ranger District, Chattooga River Ranger District

Since cumulative effects are considered for the entire Chattooga watershed, information about existing conditions downstream of Hwy. 28 are described below. Table 3.1-7 displays information about existing dispersed campsites on the Chattooga River downstream of Hwy. 28 and the West Fork Chattooga.

Table 3.1-7 Data on the Size and Number of Existing Camps on the Lower Segment of the Chattooga WSR

Reach	# of Campsites	# of Campsites within 20 Ft. of the river	# of Campsites/ River Mile	Total Bare Ground (sq. ft.)	Total Cleared Area (sq. ft.)
Hwy 28 to Hwy 76	70	12	3.5	26,788	82,552
Hwy 76 to Tugaloo	17	1	2.5	4,414	15,099
West Fork Chattooga	14	2	2.0	940	40,188
Total	101	15	n/a	32,142 (0.7 acres)	137,839 (3.2 acres)

Sources: USFS 2007b and Whittaker and Shelby 2007

Table 3.1-8 displays existing trail mileage for the lower segment of the Chattooga WSR and the West Fork. Table 3.1-9 summarizes additional trail information associated with existing trails in close proximity to the lower segment of the Chattooga WSR and the West Fork.

Table 3.1-8. Summary of Existing Trail Information for the Lower Segment of the Chattooga WSR and the West Fork Chattooga

Reach	Designated Trails (mi)	User-created Trails (mi)
Hwy 28 to Hwy 76	36.8	18.6
Hwy 76 to Tugaloo	3.0	7.5
West Fork Chattooga	5.4	7.0
Total	45.2	33.1

Sources: USFS 2007b, and Whittaker and Shelby 2007

Table 3.1.9 Summary of Existing Trail Information for Trails in Close Proximity to the Lower Segment of the Chattooga WSR and the West Fork Chattooga River

Reach	Designated Trail Within 100 ft of River (ft)	User-created Trails Within 100 ft of River (ft)	Designated Trail Within 20 ft of River (ft)	User-created Trails Within 20 ft of River (ft)
Hwy 28 to Hwy 76	28,645	44,089	2,648	8,344
Hwy 76 to Tugaloo	1,001	6,135	307	1,690
West Fork Chattooga	254	16,704	312	10,517
Total	29,900 (5.7 mi.)	66,928 (12.7 mi.)	3,267 (0.6 mi.)	20,551 (3.9 mi.)

Sources: USFS 2007b, and Whittaker and Shelby 2007

c. Boater put-ins and take-outs (EA pp. 107, 121, 133-134)

This alternative would have the following put-ins and take-outs on the upper segment of the Chattooga WSR:

1. Green Creek confluence – Boaters would access the river here via an existing user-created trail on the bed of an old logging road for trips through the Chattooga Cliffs Reach;
2. Bullpen Bridge – Boaters would access the river here from short, user-created trails from the bridge or the Chattooga Trail for taking out after running the Chattooga Cliffs Reach or as a put-in for the Ellicott Rock Reach;
3. Burrells Ford Bridge – Boaters would access the river here from short, user-created trails near the bridge for taking out from an Ellicott Rock Reach trip or putting in for a Rock Gorge/Nicholson Fields trip.
4. Lick Log Creek – It is possible that a few boaters would occasionally take out of the river at the Lick Log Creek confluence rather than floating the Class I Nicholson Fields Reach and taking out at the Highway 28 Boat Launch.
5. Highway 28 bridge – It is also possible that a few boaters would occasionally take out of the river at the Highway 28 bridge. However, it is more likely that boaters would use the existing Highway 28 Boat Launch on the lower segment as a take-out instead, which is also the current put-in for Section II.

All of these put-ins and take-outs are accessible by existing U.S. Forest Service system trails or commonly used user-created trails. Boaters would use these obvious routes to the river until the agency has identified and/or developed a preferred route that minimizes biophysical impacts, redundancy with existing trails and user conflict. The agency would designate these put-ins and take-outs only after site-specific NEPA analysis.

Collectively, Chapter 3 Affected Environment and Environmental Consequences (EA, p. 51-399) discloses the effects on resources of the respective alternatives considered in detail. In addition, Project Record Tabs (12, 13, 89, 91, 94, 94.1, 97, 158, 160, 161, 162, 164, 165, 166, 167, 168, 171, 173, 176, 201, 201.1, 225, 230, 231, 237, 238, 336, 336.1, 342, 345, 347, 348, 349, 350, 352, 353, 354, 413, 415, 416, 417, 419, and 420) documents an extensive range of information used for the analysis and decision making process.

The DN/FOSNI (p. 3) states under Section 3.0 Decision that "I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river..." In addition, (p. 14) under Section 9.0 Finding of No Significant Impact, the following statement is made:

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.

There are no significant cumulative effects from this project when analyzed in conjunction with other past, present or reasonably foreseeable projects in the area (EA, pp. 51-397, Chapter 3).

Finding

I find the decisions are adequately supported by cumulative impacts analysis.

Issue 8 Whether the decisions comply with NEPA by considering only a portion of the Chattooga.

- A. Appellant contends that "The Forest Service should have included management of the whole Chattooga WSR Corridor in one NEPA document. Post hoc justification of project after project in the absence of a CRMP and a comprehensive NEPA analysis of river management is unsupportable." (Appeal, p. 23)**

The 2005 Decision for Appeal (pp. 4-6) states the following:

Section 10(a) of the WSRA requires the river-administering agency to protect and enhance the values which caused a river to be added to the National System. These values are expressed in Section 1 (b) as the river's free-flowing condition, water quality, and outstanding remarkable values (ORVs). The Interagency Guidelines (1982) interpret the direction in Section 10(a) as a "nondegradation and enhancement policy for all designated rivers, regardless of classification." (p. 4)

Specific to recreation as an ORV, the Interagency Guidelines direct public use "be regulated and distributed where necessary to protect and enhance...the resource values of the river area." Agency policy (FSM 2354.41) identifies factors to consider in developing direction for recreation visitor use in a wild and scenic river (WSR) corridor including the capability of the physical environment, desires of present and potential users, diversity of recreation opportunities within the geographic area, and budgetary, personnel and technical considerations. If it becomes necessary to limit use, "ensure that all potential users have a fair and equitable chance to obtain access to the river." (p. 5)

The Wilderness Act directs that areas designated as 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). Section 2(c) of the Wilderness Act defines wilderness, in part, as an area with "outstanding opportunities for solitude or a primitive or unconfined type of recreation." Additionally,

Section 4(b) states that: "Except as otherwise provided in this Act, wilderness areas shall be devoted to the public purposes of recreation, scenic, scientific, educational, conservation, and historical use." Regulations developed for administration of National Forest wilderness establish 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)). (p. 5)

After careful review of the record, particularly Appendix H, I am reversing the Regional Forester's decision to continue to exclude boating on the Chattooga WSR above Highway 28. I find the Regional Forester does not provide an adequate basis for continuing the ban on boating above Highway 28. Because the record provided to me does not contain the evidence to continue the boating ban, his decision is not consistent with the direction in Section 10(a) of the WSRA or Sections 2(a) and 4(b) of the Wilderness Act or agency regulations implementing these Acts. (p. 6)

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. (p. 6)

The EA states the following:

Specific need for action statements and relevant laws are summarized below:

- A. Action is needed to respond to an appeal decision on the Sumter Land and Resource Management Plan (2004). (p.1)
- B. Action is needed to provide consistent management of the upper segment of the Chattooga WSR on all three national forests. (p. 3)
- C. Action is needed to preserve the upper segment of the Chattooga WSR's free-flowing condition, protect its water quality and protect and enhance its ORVs, as well as preserve the wilderness character of the Ellicott Rock Wilderness. (p. 3)
 1. Wild and Scenic Rivers Act (p. 3)
 2. Wilderness Act (p. 4)
 3. Potential conflict between WSRA and Wilderness Act (p. 5)

1.4 Decisions to be Made

Decisions to be made are specific to the upper segment of the Chattooga WSR. Management of the river below Highway 28 was not challenged in the 2004 Sumter RLRMP and is not subject to further review. Management activities are considered within the context of the entire Chattooga WSR and are analyzed in the cumulative effects sections in Chapter 3. (p. 6)

Chapter 3 (pages 51-52) A. Spatial Bound for All Effects

The spatial bound for direct and indirect effects is one-quarter mile on either side of the upper segment of the Chattooga WSR and the spatial bound for cumulative effects is the Chattooga River watershed measured at two scales; the portion above Hwy. 28 and the

drainage as measured above Tugaloo Lake. The temporal bound of analysis for cumulative effects analyzes projects and land usage within the watershed that have taken place within the last five years and the foreseeable projects in the next five years (2007-2016).

The upper segment of the Chattooga WSR Corridor is divided into four reaches for analysis and reporting purposes. References to these reaches are made throughout this EA. Table 3.1-1 identifies the segments.

Table 3.1-1 Chattooga River Reaches (Source: Whittaker and Shelby 2007)

Reach Name	Location
Chattooga Cliffs	Grimshawes Bridge to Bullpen Road Bridge
Ellicott Rock	Bullpen Road Bridge to Burrells Ford Bridge
Rock Gorge	Burrells Ford Bridge to Lick Log Creek
Nicholson Fields	Lick Log Creek to Hwy. 28 bridge

The DN/FONSI states the following:

This decision (p. 1):

1. Responds to an appeal decision on the 2004 Sumter Revised LRMP;
2. Provides consistent management of the upper segment of the Chattooga WSR on all three national forests; and
3. Preserves the upper segment of the Chattooga WSR's free-flowing condition, protects its water quality and protects its outstandingly remarkable values (as required by the Wild and Scenic Rivers Act [WSRA]), as well as preserves the wilderness character of the Ellicott Rock Wilderness (as required by the Wilderness Act).

3.0 DECISION (p. 21)

I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river.

Finding

I find the decisions comply with NEPA.

Issue 9 Whether the decisions should have been based on the completion of an EIS.

- A. Appellant contends that “The Forest Service should have prepared an EIS. The Eleventh Circuit has adopted a four-part test to determine whether an agency’s decision not to prepare an EIS is arbitrary and capricious: (1) the agency must have accurately identified the relevant environmental concerns; (2) the agency must then**

take a “hard look” at those concerns when preparing the EA; (3) the agency must make a convincing case for a finding of no significant impact; and (4) if the agency does find an impact of true significance, preparation of an EIS can be avoided only if the agency finds that changes or safeguards in the project sufficiently reduce the impact to a minimum.The environmental effects of amending LRMPs for the National Forests are highly uncertain, and will remain so...” (Appeal, p. 23-27)

The 2005 Decision for Appeal (p. 6) states the following:

After careful review of the record, particularly Appendix H, I am reversing the Regional Forester's decision to continue to exclude boating on the Chattooga WSR above Highway 28. I find the Regional Forester does not provide an adequate basis for continuing the ban on boating above Highway 28. Because the record provided to me does not contain the evidence to continue the boating ban, his decision is not consistent with the direction in Section 10(a) of the WSRA or Sections 2(a) and 4(b) of the Wilderness Act or agency regulations implementing these Acts. (p.6)

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. (p. 6)

The EA (pp. 1-6) states the following:

Specific need for action statements and relevant laws are summarized below:

- A. Action is needed to respond to an appeal decision on the Sumter Land and Resource Management Plan (2004). (p. 1)
- B. Action is needed to provide consistent management of the upper segment of the Chattooga WSR on all three national forests. (p. 3)
- C. Action is needed to preserve the upper segment of the Chattooga WSR's free-flowing condition, protect its water quality and protect and enhance its ORVs, as well as preserve the wilderness character of the Ellicott Rock Wilderness. (p. 3)
 - 1. Wild and Scenic Rivers Act (p. 3)
 - 2. Wilderness Act (p. 4)
 - 3. Potential conflict between WSRA and Wilderness Act (p. 5)

1.4 Decisions to be Made

Decisions to be made are specific to the upper segment of the Chattooga WSR. Management of the river below Highway 28 was not challenged in the 2004 Sumter RLRMP and is not subject to further review. Management activities are considered within the context of the entire Chattooga WSR and are analyzed in the cumulative effects sections in Chapter 3. (p. 6)

The DN/FONSI (Sumter, p. 1) states that the Purpose and Need for the Decision is the following:

- 1. Responds to an appeal decision on the 2004 Sumter Revised LRMP;
- 2. Provides consistent management of the upper segment of the Chattooga WSR on all three national forest; and
- 3. Preserves the upper segment of the Chattooga WSR's free-flowing condition, protects its water quality and protects its outstandingly remarkable values (as required by the Wild

and Scenic Rivers Act [WSRA]), as well as preserves the wilderness character of the Ellicott Rock Wilderness (as required by the Wilderness Act).

DN/FOSNI (p. 3) states under Section 3.0 Decision that “I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river...”

Specifically, the DN/FOSNI states under Section 9.0 Finding of No Significant Impact that:

I have determined that the decision will not have a significant effect on the human environment based on the significance criteria of both context and intensity as defined by the National Environmental Policy Act in 40 CFR 1508.27. This decision, with mitigation measures and monitoring, best meets the Purpose and Need as stated in the Environmental Assessment *Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor*. I have concluded that an environmental impact statement (EIS) is not necessary.

Finding

I find that an EIS is not required for these decisions.

Issue 10 Whether the decisions to allow boating self-registration above Hwy 28 are legal.

- A. Appellant contends that “The Sumter LRMP prohibits the issuance of any new special use permits, “except for research and outfitter-guide operations in the wilderness-designated portion of the River.” Therefore, any boater planning on a trip that enters the South Carolina or Georgia portions of the Wild and Scenic River Corridor, cannot register at any station other than those listed in 36 CFR 261.77 unless in possession of a special use permit, and no special use permit may be issued for a trip that traverse the Ellicott Rock Wilderness in South Carolina.” (Appeal, p. 27)**

The Decision Notice (p. 2) implements Alternative 13A to allow private, non-commercial boating on the Upper Chattooga. The decision also requires boaters to self-register and to start and end their trips at specific boater put-ins and take-outs (DN, p. 2). The DN states (p. 5) that the appropriate District Ranger will “designate the specific put-ins and take-outs after site-specific NEPA analysis is complete.” The Decision Notices (Sumter DN, p. A-1; Chattahoochee-Oconee DN, p. A-1; Nantahala DN, p. A-17) amend the FLRMPs to address self-registration for boaters as follows:

“D. The self-registration boating permit will:

1. Specify boater put ins and take outs and safety equipment for boaters.
2. Require that boating groups be limited to a maximum group size of six people and a minimum group size of two craft.”

The EA states (p. 43) that self-registration permits can be used as a monitoring tool to measure use and relate them to impacts. The Implementation Strategy (EA, Appendix B, p. 406) states that needed projects and activities under “Boater Registration” include “develop permit;

installing permit boxes and signage; develop a database; and monitoring, data input, and enforcement.”

Finding

I find the decisions to allow boating self-registration above Hwy 28 are legal.

Issue 11 Whether the decisions are based on the use of the Recreational Opportunity Spectrum.

- A. Appellant contends that “Allowing boating on the Upper Chattooga WSR Corridor flattens the regional recreational opportunity spectrum. The Forest Service has confused the terms “equal” and “equitable.” In the 2012 Response to the 2011 EA Comments (p. 19), the Forest Service states that “In the alternatives that allow boating, ...the number of boating groups anticipated on days when boating opportunities may occur are treated equitably as part of the total capacity for each reach-they are not singled out or treated any differently than existing user groups.” (Appeal, p. 28-29)**

The Wild and Scenic River Act (WSRA, §1274 (d)(1)) states a Comprehensive River Management Plan “*shall address resource protection, development of lands and facilities, user capacities, and other management practices necessary or desirable to achieve the purposes...*” The EA states (p. 67) that agencies have broad discretion interpreting this mandate (e.g., which visitor impact framework to use, or whether capacities must be expressed as a number or linked to indicators or standards for ORVs). The EA states (p. 6; *see also* Appendix F, pp. 452-453) that the agency selected the Limits of Acceptable Change (LAC) planning framework to guide public meetings with stakeholders and existing users. The EA (p. 19) recognizes that the recreational experience is one of the components of the Recreation ORV and that many backcountry recreational opportunities depend on primitive or semi-primitive settings, while frontcountry recreational opportunities require more developed settings. The EA (p. 65–66, Table 3.2.1-1) characterizes the settings and experiences for various frontcountry and backcountry recreation. The Sumter Revised FLRMP (EA, p. 1-6 and pp. 2-21 to 2-22) attempts to provide a spectrum of high quality nature-based recreational settings and opportunities that reflect the “unique or exceptional resources of the Sumter and the interests of the recreating public on an environmentally sound and financially sustainable basis.”

The EA describes Key Issue “C” (p. 11) as a public concern about capacity limits rather than allowing boating access: “that if limits are imposed to reduce encounters, they [*the public*] believe any limits should be applied equitably to all user groups, not just boaters.” The agency’s response (EA, p. 12) to this Key Issue addresses adding boating use to the total capacity; i.e., on days when boating opportunities occur, the number of boating groups anticipated are treated equitably as part of the total capacity for each reach. In the document “*Summary of Public Comments Received on the EA*” (p. 19, Project Record #411) the agency’s response notes that in the alternatives which allow boating, boaters “...are not singled out or treated any differently

than existing user groups.” Furthermore, the Social Impact Analysis (EA, pp. 372-384 and Appendix F, pp. 446-476) examines the social and economic dynamics that led to the 1976 prohibition on boating above Highway 28 and to the appeal in 2004 of the boating prohibition.

The Decision Notices (Sumter DN, p. 4; Chattahoochee DN, p. 6; Nantahala DN, p. 4) state that although data shows that traditional uses begin to increase in March and April, use is still lower than in late spring (May), summer and fall, so the impacts of allowing boating on some days during these two months are expected to be low. The Decision Notices also state (Sumter DN, p. 4; Chattahoochee DN, p. 7; Nantahala DN, p. 5) that continuing the current management in the Nicholson Fields Reach year-round will eliminate potential for conflict associated with boating. The Decision Notices note (Sumter DN, p. 4; Chattahoochee DN, p. 6; Nantahala DN, p. 4) that this section also includes the Delayed Harvest, a fishing designation that requires catch and release fishing from November to May, which attracts the highest angling use on the upper segment of the Chattooga WSR. As for college students on spring break, other public school students and users seeking solitude, capacity levels have been designed to prevent backcountry encounters from exceeding between two and eight per day on weekdays and between four and fifteen per day on weekends. As the EA notes (p. 126) these capacities are consistent with encounter tolerances in wildernesses with higher use (Dawson and Alberga, 2003) as well as findings from a study done in the Ellicott Rock Wilderness itself (Rutlin, 1995). The EA recognizes (p. 369) that there may be some opportunities for use to grow in low-use seasons, but substantial increases are not expected.

Finding

I find the decisions have adequately considered the Recreation Opportunity Spectrum as well as the Limits of Acceptable Change planning frameworks.

Issue 12 Whether the decisions adequately addresses Large Woody Debris.

- A. Appellant contends that “However, the BE says that there would be no LWD removal to accommodate recreation, and so concludes there would be no direct, indirect or cumulative impacts on sensitive species. The LRMPs for the National Forests, as amended, do not in fact contain this restriction, and so the BE’s conclusion that there will be no indirect impacts from the removal of LWD is based on a faulty premise. Instead, the amendments allow removal at the discretion of the Forest Service.” (Appeal, p. 31)**

The Biological Evaluation (p.16) clearly states: “Direct impacts may occur through mortality or injury to individuals from trampling and scraping by recreational users. Given the remote chance of these impacts targeting one particular species over time... recreational use is not likely to cause a trend toward federal listing or a loss of viability... There should be no indirect impacts from the removal of large woody debris (LWD) to Region 8 Sensitive aquatic species... Given the remote chance of trampling and scraping impacts targeting one particular species over time

and the abundance of habitat within the watershed; it is unlikely that cumulative impacts to aquatic wildlife would occur from recreational use.”

The Biological Evaluation (p. 16) states: “There would be no LWD removal without agency approval (as in current management) and no removal to accommodate recreation.”

The Biological Evaluation (p. 18) states: “LWD recruitment and retention would be maintained and monitored; therefore cumulative impacts are unlikely to occur from loss of LWD in the watershed.”

The EA (3.2.2A, p. 157) states: “Under current management, LWD removal is permissible only in limited cases and is evaluated on a case-by-case basis by Forest Service personnel.”

The EA (3.2.2A, p.170) addresses the importance of LWD retention by stating: “LWD recruitment and retention would be maintained throughout the watershed. There would be no LWD removal without agency approval.”

The EA (3.2.2A, p. 152) states: “...personnel from the U.S. Forest Service... conducted an inventory of dead and down LWD on 32.2 miles of streams in the upper segment of the Chattooga WSR...”

The Sumter National Forest DN/FONSI (Item #12, p. 3) states: “Require agency approval for large woody debris (LWD) removal.”

The Chattahoochee-Oconee National Forest DN/FONSI (Item #12, p. 5) states: “Require agency approval for large woody debris (LWD) removal.”

The Nantahala National Forest DN/FONSI (Item #12, p. 3) states: “Require agency approval for large woody debris (LWD) removal.”

Finding

Upon review of the project record I find that the decisions adequately address Large Woody Debris.

Issue 13 Whether the decisions adequately address sedimentation.

- A. Appellant contends that “Segments of the Upper Chattooga are already described as Impaired or Functioning at Risk. Roads are a primary cause of the excessive sediment load causing this impairment. Nevertheless, the Forest Service proposes to encourage boater to access the river using non-system old, poorly placed roads to access the River, and to construct a new road and parking area at County Line Road/Trail to accommodate anticipated boater demand. There is no discussion of the fact that the flow restrictions as well as the nature of the sport means that**

boaters would use the area, including the riparian area, during or right after rain events.” (Appeal, p. 31-32)

The Sumter National Forest DN/FONSI (Item #6 and #9, pp. 2-3) states: “...start or complete their trip only at specific boater put-ins and takeouts... at existing trails at the following locations...” and “Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted.”

The Chattahoochee-Oconee National Forest DN/FONSI (Item #6 and #9, pp. 4-5) states: “...start or complete their trip only at specific boater put-ins and takeouts... at existing trails at the following locations...” and “Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted.”

The Nantahala National Forest DN/FONSI (Item #6 and #9, p. 2-3) states: “...start or complete their trip only at specific boater put-ins and takeouts... at existing trails at the following locations...” and “Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted.”

The EA (3.1 Introduction, p. 53) states: “Table 3.1-3 displays the number of miles of existing designated and user-created trails in the upper segment of the Chattooga WSR Corridor.”

The EA (Biology ORV 3.2.2A, p. 169) states: “... trails and campsites contributing sediments would be improved and potential aquatic impacts minimized.” “Impacts from campsites may be slightly greater than in Alternative 1 due to campsites being located within 50 feet of the river. In addition, there is no limit to the number of campsites along the river.”

The EA (3.3.2 Water Quality, p. 266) states: “Impacts to water quality in the Chattooga Watershed are likely higher than cited in this paper as a result of increased use and the management of impacts from these uses can improve water quality in the Chattooga watershed.”

The EA (3.4.2 Water and Riparian Corridor, p. 303) states: “Sedimentation in stream channels is the primary indirect effect of erosion from dispersed recreation.”

Finding

I find that the decisions adequately address sedimentation.

Issue 14 Whether the analysis and decisions adequately address sensitive and federally listed species.

- A. Appellants contend that “The BE upon which the Decision Notices rely is inadequate....The 2012 EA is less circumspect, concluding that increased portaging in inaccessible areas could eliminate populations [of] five sensitive and four locally rare species. For all but the federally endangered species, *Gymnoderma lineare*, the table indicates that there will be indirect or direct effects; it states that there “may” be impacts on the endangered species, *Gymnoderma lineare*, but that these impacts are not likely to adversely affect. Because the federal endangered status comes with obligations that do not attach when there are impacts to the other 26 species in the list, this conclusion is somewhat suspect. The Fish and Wildlife Service based its concurrence with the Nantahala National Forests’s “not likely to adversely affect” determination on an understanding that specific monitoring of *Gymnoderma lineare* would occur annually. ...This specific monitoring is not included in the Nantahala LRMP amendment.” (Appeal, p. 32-33)**

The Biological Assessment (p. 9) addresses the one known population within the Chattooga River Corridor as being located and partially protected under a narrow rock shelf. The Biological Assessment (p. 9) further states: “For all these reasons there are no measurable direct effects anticipated with permitting seasonal boating along this stretch of the Chattooga River.”

The USFWS Concurrence Letter (p. 3) states: “Based on the information provided in the BA and the USFS’s commitment to monitor the rock gnome lichen subpopulation in the project corridor, we concur with the BA’s assessment that the preferred alternative (Alternative 13A) is not likely to adversely affect the rock gnome lichen.”

The USFWS Service concurrence letter dated December 6, 2011, (p.2) states: “Annual monitoring of the subpopulation along the main stem of the Chattooga River will also be executed to ensure that no impacts are occurring from implementation of this recreational project. Specific monitoring requirements for the Rock Gnome Lichen will include...”

The EA (Appendix G, pp. 483) addresses the monitoring requirements for the Federally-listed Rock Gnome lichen in addition to several Sensitive plants.

The Sumter National Forest DN/FONSI (Item #13, p. 3) states: “Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.”

The Chattahoochee-Oconee National Forest DN/FONSI (Item #13, p. 5) states: “Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.”

The Nantahala National Forest DN/FONSI (Item #13, p. 3) states: “Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.”

Finding

I find the project record analysis and decisions adequately address sensitive and federally listed species.

Issue 15 Whether the decision complies with the Nantahala National Forest LRMP, relative to Road/Trail Density.

- A. Appellant contends that “County Line Road/Trail appears to be located in Management Area 3B in the Nantahala and Pisgah National Forests. The Forest Service has proposed adding this road to the system and building a parking lot of approximately one acre somewhere along its length. ...Management Area 3B is supposed to be managed for game and nongame animals that cannot tolerate motorized disturbance. Increasing motorized access is therefore inconsistent with the LRMP and cannot be, and has not been, justified.” (Appeal, p. 34)**

Within in the EA, documentation occurs specifically:

- D. Past, Present and Reasonably Foreseeable Future Actions (EA, pp. 56-59)

Table 3.1-6 displays known past present and reasonably foreseeable future actions on NFS lands within the Chattooga watershed that may contribute cumulatively to the direct and indirect effects of proposed activities within the Chattooga WSR Corridor. More information about the activities listed below is available from each district.

Collectively, Chapter 3 Affected Environment and Environmental Consequences (pp. 51-399) discloses the effects on resources of the respective alternatives considered in detail. In addition, Project Record Tabs (12, 13, 89, 91, 94, 94.1, 97, 158, 160, 161, 162, 164, 165, 166, 167, 168, 171, 173, 176, 201, 201.1, 225, 230, 231, 237, 238, 336, 336.1, 342, 345, 347, 348, 349, 350, 352, 353, 354, 413, 415, 416, 417, 419, and 420) documents an extensive range of information used for the analysis and decision making process.

DN/FOSNI states on page 3 under Section 3.0 Decision that “I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river. My decision will:

- I. Establish frontcountry and backcountry capacities as follows:

Figure 1. Capacities in four frontcountry areas in the upper segment of the Chattooga WSR.

Frontcountry Areas	Groups at One Time ¹	People at One Time ..
Grimshawes/Siding Rock Bridge	25	65
Bullpen Road Bridge Area	15	40
Burrells Ford Bridge Area	80	205
Highway 28 Bridge Area	35	85

¹The number of groups at one time equals the number of designated parking spaces in each frontcountry area.

Figure 2. Capacities in four backcountry reaches in the upper segment of the Chattooga WSR.

Backcountry Reach	Average Groups per Weekday	Average People per Weekday ²	Average Groups per Weekend Day	Average People per Weekend Day ³
Chattooga Cliffs	5	10	10	15
Ellicott Rock	10	35	20	110
Rock Gorge	15	40	30	95
Nicholson Fields	15	40	30	95

'Average number of people per group varies by reach.

2. Allow non-commercial boating by issuance of a boating permit consistent with 36 C.F.R. §261.77 on approximately 17 miles of the 21-mile main stem of the upper segment of the Chattooga WSR December 1 to April 30 from the Green Creek confluence downstream to a designated take out within one-quarter mile downstream of the Lick Log Creek confluence.
3. Allow boating from the time that flows reach 350 cfs or greater at the USGS Burrells Ford gauge during daylight hours. Daylight hours will be 30 minutes before official sunrise to 30 minutes after official sunset. Once boating is allowed, it may continue until 30 minutes after official sunset on that same day.
4. Specify that boating opportunities (see 2 and 3 above) will be a condition of the self-registration boating permit.
5. Require boaters to use tandem/single capacity hard boats or tandem/single capacity inflatable boats.
6. Require boaters to start or complete their trip only at specific boater put-ins and takeouts, which will be designated after site-specific NEPA analysis and will be a condition of the self- registration boating permit. In the interim, require boaters to start or complete their trip only at existing trails at the following locations:
 - a) Within one-quarter mile downstream of the Green Creek confluence;
 - b) Within 500 feet of the Norton Mill Creek confluence;
 - c) Within one-quarter mile of Bullpen Bridge;
 - d) Within one-quarter mile of Burrells Ford Bridge; and
 - e) Within one-quarter mile downstream of the Lick Log Creek confluence.
7. Specify that safety equipment for boaters will be determined at the district level as a condition of the self-registration boating permit.
8. Require backcountry group size limits as follows: maximum 12 people per group on trails, six people per group at designated campsites, except at designated large group campsites; six people per boating group; and four people per angling group. Require a minimum of two craft per boating group.
9. Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted. Trails will be designated based on future site-specific NEPA analysis.
10. Allow camping only in designated campsites. Allow campfires only in designated fire rings. Campsites and fire rings will be designated based on future site-specific NEPA analysis. Allow visitors to use existing campsites until site-specific NEPA analysis is complete.
11. Establish a desired condition where campsites accommodate no more than three tents per site, except at designated large, group campsites, are environmentally sustainable and limit encounters and conflict; where redundant campsites,

campsites where resource damage cannot be mitigated and campsites that exacerbate encounters or conflict are closed or relocated.

12. Require agency approval for large woody debris (LWD) removal.
13. Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.
14. Incorporate the use of adaptive management to address any problems revealed through monitoring.

EA (p. 11), Section 7.0 FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS states the following:

I have determined that the decision to implement Amendment 22 will not result in a significant change to the Nantahala and Pisgah National Forests Land and Resource Management Plan. I made this determination after consulting 16 U.S.C. 1604(±)(4), 36 CFR 219.10(±) (1982 regulations), FSM 1926.51– *Changes to the Land Management Plan that are Not Significant* and FSM 1926.52– *Changes to the Land Management Plan that are Significant*. Based on these planning requirements, in consultation with the two other responsible officials, I have determined that:

- This amendment will not significantly alter the levels of goods and services projected by the forest plan, nor will it prevent the opportunity to achieve those outputs in later years.
- This amendment will not affect the entire land management plan, nor will it affect a large portion of the planning area during the planning period.

Finding

I find the decision is in compliance with the Nantahala National Forest LRMP.

Issue 16 Whether the decision adequately address safety.

- A. Appellant contends that “...the National Forests have not done appropriate groundwork to establish a search and rescue plan and a pre-accident plan that will both protect users and the Chattooga WSR Corridor and the Ellicott Rock Wilderness, where issues of use of equipment and access are more difficult. The Decision Notices state that safety equipment will be determined at the district level, but boaters can be expected to pass through several districts. This is not a workable plan, and again demonstrates the need for a single, integrated, CRMP for the Chattooga River Corridor.” (Appeal, p. 34-35)**

The EA (p. 368) examined fatalities and Save and Rescue (SAR) rates on other rivers with similar issues as the Chattooga including Russell Fork, KY; New River Gorge, WV; Upper Youghigheny, PA; Big South Fork, TN; Cheoah, NC; Nantahala, TN; and the lower segment of the Chattooga itself. The river does not appear to be more or less hazardous when compared to similar rivers (EA, p. 367). Based on estimates from Sumter National Forest district staff (EA, p.

369), roughly 5 to 10 SAR operations are conducted each year associated with boaters on the lower segment. The EA discloses (pp. 367-371) potential direct, indirect, and cumulative effects of various alternatives to human health and safety, including estimates of SAR responses, noting that under all action alternatives increased fatalities are unlikely and the potential for a substantial increase in SAR response is still considered low. In fact, the eight-mile gorge segment of the Big South Fork in Tennessee, a segment most like the upper segment of the Chattooga (EA, p. 368), has experienced 1 fatality in about 25 years of regular boating (a 150-day season) and conducts SAR responses about two times a year; impacts from these responses have not been a substantial issue for management.

The Forest Service promotes safety on the river (EA, p. 367) by requiring recreationists to use protective equipment in certain river sections; prohibiting certain craft types in some sections; restricting paddling alone in some sections; and posting pertinent safety information on maps, brochures, websites, permits and signs. The EA notes (p. 63) that boater's skill levels and equipment have progressed since the 1970s and greater numbers of kayakers have the skill to navigate the Upper Chattooga segments safely. The Implementation Strategy (EA, pp. 406-408) focuses on actions that will implement the selected Alternative. Monitoring (Appendix G-Monitoring Plan and Adaptive Management Strategy, EA, pp. 481-485) will indicate whether capacities or other management actions need to be adjusted.

Finding

I find that the environmental analysis adequately discloses the effects of adding boating to the upper segments of the Chattooga WSR on human health and safety.

Issue 17 Whether the decisions adequately address enforcement.

- A. Appellant contends that “The Forest Service has inadequate resources to monitor use of the Upper Chattooga and to enforce even the existing bright-line standard. Adding a new user group and more complex user guidelines will make monitoring more expensive and further tax limited law enforcement resources. ...The proposed self-registration, upon which the protection of the Ellicott Rock Wilderness and the Chattooga WSR Corridor is based, is known to be unenforceable. There is a history of noncompliance with the self-registration requirement for private boaters on the Lower Chattooga WSR Corridor. Having proven its inability to persuade or compel compliance downstream, it is unclear why the Forest Service has chosen this method of “enforcement” for the Upper Chattooga.” (Appeal, p. 35-36)**

The EA states (p. 233) that educating the public and consistent new management direction on the three forests, coupled with enforcement measures, would minimize recreation impacts, and minimize LWD loss (EA, p. 235) in the long term. The EA (p. 255) also notes that under the no action alternative (current management) enforcement of current standards would close and rehabilitate many user-created campsites and trails. The Implementation Strategy (EA,

Appendix B, pp. 406-407) lists monitoring and enforcement as components of all future activities. The Monitoring Plan in Appendix G of the EA (pp.481-484) lists the items to be measured for visitor use capacities and social impacts related to the Recreation ORV. In addition, the EA discloses (p. 130) that in Alternative 13A higher boater use levels may increase the potential for conflict, or require enforcement of backcountry capacities.

The Decision Notices state that an adaptive management approach will be used to control use levels and maintain existing opportunities for solitude. The adaptive management approach outlined in the Decision Notices (Sumter DN, pp. A-4 to A-5; Chattahoochee-Oconee DN, pp. A-4 to A-5; Nantahala DN, pp. A-22 to A-23) follows agency direction to use indirect use limits and management actions before employing direct ones. If direct measures are needed, monitoring will help identify the specific type of use and encounters at issue, and develop appropriate regulations or permit system that addresses the specific problem (Sumter DN, p. A-5; Chattahoochee-Oconee DN, p. A-5; Nantahala DN, p. A-23). For example, if monitoring shows that competition for backcountry campsites or camp encounters exceeds tolerances, a permit system that targets overnight use will make more sense than an “all user” permit system. The Monitoring Plan (EA, Appendix G, p. 481) describes another example: if use on high-use days is disproportionately one type of user (e.g., day use hikers, anglers, or boaters), permit systems could establish equitable allocations within different use categories to reduce the problem, or target the highest use groups only. The EA states (p. 42) that adaptive management provides the agency with the management flexibility it needs to account for inaccurate initial assumptions, to adapt to changes in environmental conditions, or to respond to subsequent monitoring information.

As noted in the *Summary of Public Comments Received on the EA* (p. 31, Project Record #411): “The effects analysis in the EA considered the remoteness of the upper reaches relative to regulation enforcement and to human health and safety. Permits would be required for all boaters similar to current management on the lower portion of the Chattooga River. The counties are aware of the proposal for boating and impacts have been considered in Section 3.6.1 Human Health and Safety of the EA. Cost of implementation of the various alternatives has been considered and is disclosed in Appendix B – Implementation, Table B-1.”

Later in this same document (*Summary of Public Comments*, p. 92) the agency further addresses enforcement: “Appendix B of the EA, the Implementation Strategy (EA, p. 407), includes estimates of probable projects, activities, additional workloads and agency costs associated with implementation in a table of staffing needed and costs for the three Forests by alternative.” The FEIS for the Sumter Revised FLRMP (FEIS, p. L-187) also addressed law enforcement in its Response to Comments on the FEIS; the agency noted “The decision of whether to provide more law enforcement is not one which is made in a Land and Resource Management Plan. The Plan deals with natural resource questions as they are brought forward by the issues. The law enforcement program is outside that decision.”

Finding

I find the analysis adequately considered the remoteness of the upper segment relative to regulation enforcement and effects on human health and safety.

Issue 18 Whether the decisions are in compliance with NEPA.

The appellant contends that “the LRMP amendments are poorly drafted. As drafted, the LRMP Amendments do not mandate that boaters only enter the River at designated put-ins and take-outs and from designated trails. Instead, they allow, even encourage, boater access to more than three miles of river bank in the Upper Chattooga, not counting portage trails. This is because the undefined term “specific” is used to describe put-ins and take-outs.

The word “designated” should be removed from the definitions of “designated campsite,” “designated put-ins,” “designated take-outs,” and “designated trails.” Capacities should be made standards and not guidelines.

Clear adaptive management triggers for more direct limitations on all user groups should be included.

The amendments to monitoring in the Nantahala LRMP are not consistent with the direction of the Fish and Wildlife Service. Among other things, they should require annual monitoring in perpetuity.

Monitoring elements should include baseline data, specific monitoring methods and frequency, and triggers for adaptive management.” (Appeal, p. 37-38)

The DN/FOSNI (p. 3) states under Section 3.0 Decision that “I have decided to implement Alternative 13A. The scope of my decision is limited to the upper segment of the Chattooga WSR. However, I made the decision within the context of the entire river. My decision will:

I. Establish frontcountry and backcountry capacities as follows:

Figure 1. Capacities in four frontcountry areas in the upper segment of the Chattooga WSR.

Frontcountry Areas	Groups at One Time ¹	People at One Time ..
Grimshawes/Siding Rock Bridge	25	65
Bullpen Road Bridge Area	15	40
Burrells Ford Bridge Area	80	205
Highway 28 Bridge Area	35	85

¹The number of groups at one time equals the number of designated parking spaces in each frontcountry area.

Figure 2. Capacities in four backcountry) reaches in the upper segment of the Chattooga WSR.

Backcountry Reach	Average Groups per Weekday	Average People per Weekday ²	Average Groups per Weekend Day	Average People per Weekend Day ¹
Chattooga Cliffs	5	10	10	15
Ellicott Rock	10	35	20	110
Rock Gorge	15	40	30	95
Nicholson Fields	15	40	30	95

¹Average number of people per group varies by reach.

2. Allow non-commercial boating by issuance of a boating permit consistent with 36 C.F.R. §

261.77 on approximately 17 miles of the 21-mile main stem of the upper segment of the Chattooga WSR December 1 to April 30 from the Green Creek confluence downstream to a designated take out within one-quarter mile downstream of the Lick Log Creek confluence.

3. Allow boating from the time that flows reach 350 cfs or greater at the USGS Burrells Ford gauge during daylight hours. Daylight hours will be 30 minutes before official sunrise to 30 minutes after official sunset. Once boating is allowed, it may continue until 30 minutes after official sunset on that same day.
4. Specify that boating opportunities (see 2 and 3 above) will be a condition of the self-registration boating permit.
5. Require boaters to use tandem/single capacity hard boats or tandem/single capacity inflatable boats.
6. Require boaters to start or complete their trip only at specific boater put-ins and takeouts, which will be designated after site-specific NEPA analysis and will be a condition of the self- registration boating permit. In the interim, require boaters to start or complete their trip only at existing trails at the following locations:
 - a) Within one-quarter mile downstream of the Green Creek confluence;
 - b) Within 500 feet of the Norton Mill Creek confluence;
 - c) Within one-quarter mile of Bullpen Bridge;
 - d) Within one-quarter mile of Burrells Ford Bridge; and
 - e) Within one-quarter mile downstream of the Lick Log Creek confluence.
7. Specify that safety equipment for boaters will be determined at the district level as a condition of the self-registration boating permit.
8. Require backcountry group size limits as follows: maximum 12 people per group on trails, six people per group at designated campsites, except at designated large group campsites; six people per boating group; and four people per angling group. Require a minimum of two craft per boating group.
9. Establish a desired condition where the trail system (including portage trails) minimizes encounters and conflict while being environmentally sustainable and where redundant trails, trails where resource damage cannot be mitigated and trails that exacerbate encounters or conflict will be closed or rerouted. Trails will be designated based on future site-specific NEPA analysis.
10. Allow camping only in designated campsites. Allow campfires only in designated fire rings. Campsites and fire rings will be designated based on future site-specific NEPA analysis. Allow visitors to use existing campsites until site-specific NEPA analysis is complete.
11. Establish a desired condition where campsites accommodate no more than three tents per site, except at designated large, group campsites, are environmentally sustainable and limit encounters and conflict; where redundant campsites, campsites where resource damage cannot be mitigated and campsites that exacerbate encounters or conflict are closed or relocated.
12. Require agency approval for large woody debris (LWD) removal.
13. Adopt the monitoring plan in Appendix G of the EA to help determine whether my decision is producing the desired outcomes and avoiding unintended consequences.

14. Incorporate the use of adaptive management to address any problems revealed through monitoring.

All amendments are reflective of the language presented above and incorporate the adaptive management strategy along with respective monitoring plans (Appendix G of the EA). Prior to the decision, a letter of concurrence was received from US Fish and Wildlife Service on December 6, 2011 from the Asheville Field Office and January 12, 2012 from the Charleston Field Office regarding threatened and endangered species.

Within the EA (pp.42-44), Section 2.3 Monitoring and Adaptive Management identifies the system “implement-monitor-adapt” strategy which provides for flexibility to negate initial assumptions, or respond to monitoring results, or adapt to changing environmental conditions. Specifically stated on page 42:

All action alternatives include a monitoring plan (Appendix G) and adaptive management plan. Monitoring helps the agency determine whether management actions for the selected alternative are protecting the river’s ORVs. Adaptive management refers to additional management actions the agency would use to address problems revealed through monitoring. The system uses an “implement-monitor-adapt” strategy that provides the U.S. Forest Service with the management flexibility it needs to account for inaccurate initial assumptions, to adapt to changes in environmental conditions or to respond to subsequent monitoring information (FSH 1909.15, Chapter 10, 14.1).

The above information disclosed in the DN/FONSI and Section 2.3 Monitoring and Adaptive Management were made in response to the purpose and need as stated in the EA(pp. 1-5):

Specific need for action statements and relevant laws are summarized below:

- A. Action is needed to respond to an appeal decision on the Sumter Land and Resource Management Plan (2004). (page1)
- B. Action is needed to provide consistent management of the upper segment of the Chattooga WSR on all three national forests. (page 3)
- C. Action is needed to preserve the upper segment of the Chattooga WSR’s free-flowing condition, protect its water quality and protect and enhance its ORVs, as well as preserve the wilderness character of the Ellicott Rock Wilderness. (page 3)
 - 1. Wild and Scenic Rivers Act (page 3)
 - 2. Wilderness Act (page 4)
 - 3. Potential conflict between WSRA and Wilderness Act (page 5)

1.4 Decisions to be Made

Decisions to be made are specific to the upper segment of the Chattooga WSR. Management of the river below Highway 28 was not challenged in the 2004 Sumter RLRMP and is not subject to further review. Management activities are considered within the context of the entire Chattooga WSR and are analyzed in the cumulative effects sections in Chapter 3. (page 6)

Finding

I find the decisions in compliance with NEPA.