



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Asheville Field Office
160 Zillicoa Street
Asheville, North Carolina 28801

August 20, 2013

Mr. John Richard Lint
Forest Supervisor
Francis Marion and Sumter National Forests
4931 Broad River Road
Columbia, South Carolina 29212

Dear Mr. Lint:

Subject: Scoping Comments on Three Proposed River Put-ins on the Chattooga River,
Nantahala Ranger District, Nantahala National Forest, Jackson and Macon Counties,
North Carolina

In your letter of July 24, 2013 (received via email on July 26, 2013), you requested our comments on the subject projects. We previously provided comments on these projects in a letter to District Range Mike Wilkins (Nantahala Ranger District) on September 11, 2012. The following comments are provided in accordance with the provisions of the National Environmental Policy Act (42 U.S.C. § 4321 et seq.); the Migratory Bird Treaty Act, as amended (16 U.S.C. 703); and section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) (Act).

According to your letter, the U.S. Forest Service (USFS) is proposing to designate and construct, where needed, long-term sustainable trails for paddler access and to designate put-in areas. These trails would allow boaters to put-in and take-out of the river during the season and water level established by the January 2012 decision¹ in a manner that maintains and protects physical, biological, and social resources.

The following proposals are being considered as designated trails and access locations:

¹ In January 2012, a Decision Notice and Finding of No Significant Impact was issued for the Environmental Assessment that addressed Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor, authorized paddling the river on the North Carolina section from December 1st to April 30th.

- Greens Creek - A foot trail would be constructed on an existing road bed that connects the Chattooga Trail to the river. The road bed intersects the river about 700 feet downstream of the confluence of Greens Creek and the Chattooga River. The trail length would be about 0.28 mile. The road bed is sometimes used by fishermen and hunters and has saplings growing in some sections. Paddlers would be authorized to put-in within 200 feet of the trail-to-river intersection. This trail would also provide egress to people fishing upstream towards the northern boundary of National Forest lands.
- Norton Mill Creek (formerly County Line) - A road bed would be designated as an official USFS trail. The road bed is in fair condition and water control structures are mostly functioning, though the trail would need some work. The road bed connects Whiteside Cove Road (State Route 1106) with the Chattooga Trail, and follows the Chattooga Trail north to a flat area along the river with numerous rocks and eddies where put-in would be easy. The road bed is open and almost brush free and receives regular use by fishermen, hunters and hikers. The trail would be about 1.2 miles long. Paddlers would be authorized to put-in from Norton Mill Creek to 300 feet downstream of the Chattooga River.
- Bull Pen Bridge - Upstream of the Bull Pen Bridge and on river right, the Macon county side, is an existing designated short trail of less than 100 feet that is in a good location and provides easy access. For boaters that do not wish to put-in and immediately experience a highly technical section, the USFS proposes constructing a short trail below the bridge on river left to get paddlers off Bull Pen Road (Forest Service Road 1128), down the steep road bank to the river.

Without more details about the proposed construction techniques and design, we can only provide the following general recommendation for the proposed projects:

1. Excavation and fill should not extend below the ordinary high-water mark.
2. Retain as much natural riparian vegetation as possible.
3. Any necessary revegetation should be accomplished with deep-rooted species such as silky dogwood or river birch.
4. Stringent erosion control measures should be in place prior to any ground-breaking activity.
5. Run-off from the parking areas should be diverted to a vegetated area prior to entering the river.

In meetings held on June 7, 2007 and December 12, 2007 the National Forests in North Carolina agreed to provide our office with an opportunity to review and comment on projects on national forests at the 35-, 70-, and 95-percent design stages, not just at the programmatic level. We would like to review the subject site designs when they are available.

Please be aware, the proposed projects must comply with the terms and conditions listed in our Biological Opinion (BO) of April 7, 2000 (as amended), for the Indiana bat including:

(1) retaining as many snags and den trees as practicable², (2) designating and retaining living residual trees in the vicinity of one third of all large (>12 inches in diameter at breast height [dbh]) snags with exfoliating bark to provide them with partial shade and some protection from windthrow; (3) limiting openings in the upper canopy to single tree gaps within 30 feet each side of intermittent streams, with a distance of at least 75 feet between openings; (4) retaining standing³ live trees that have more than 25% exfoliating (separated from the cambium) bark and are greater than 3 in. dbh and; (5) retaining as many shellbark, shagbark, and bitternut hickories as practicable, regardless of size or condition (live, dead, or dying).

The Chattooga River Gorge harbors many rare species, particularly non-vascular plants, such as the federally endangered rock gnome lichen (*Gymnoderma lineare*). We recommend that the project impact areas be thoroughly surveyed before any on-the-ground impacts occur to prevent any rare species from being inadvertently negatively affected. Attached is a complete list of the federally listed endangered and threatened species, candidate species, and federal species of concern known from Jackson and Macon Counties. In accordance with section 7 (a)(2) of the Endangered Species Act and 50 CFR Part 402.01, before any federal authorization/permits or funding can be issued for this project, it is the responsibility of the appropriate federal regulatory/permitting and/or funding agency (ies) to determine whether the project may affect any federally endangered or threatened species (listed species) or designated critical habitat. If it is determined that this project may affect any listed species or designated critical habitat, you must initiate section 7 consultation with this office. Please note that federal species of concern are not legally protected under the Endangered Species Act and are not subject to any of its provisions, including section 7, unless they are formally proposed or listed as endangered or threatened. We are including these species in our response to give you advance notification and to request your assistance in protecting them.

We appreciate the opportunity to provide these comments and request that you continue to keep us informed as to the progress of the proposed projects. If we can be of assistance or if you have any questions, please contact Mr. Allen Ratzlaff of our staff at 828/258-3939, Ext. 229. In any future correspondence concerning this project, please reference our Log Number 4-2-12-257.

cc:

Mr. David McHenry, Mountain Region Reviewer, North Carolina Wildlife Resources
Commission, 20830 Great Smoky Mtn. Expressway, Waynesville, NC 28786

²Practicable is defined, for the term and conditions of the Biological Opinion, as not intentionally removing. The U.S. Fish and Wildlife Service (Service) recognizes that occasionally individual trees (live, dead, or dying) will be incidentally knocked down or felled and that these acts should not constitute a violation of these term and conditions. Further, the Service realizes that some projects have few or no options for where or when they can occur (rights-of-way, roads, landings) that may require the intentional removal of snags; see Condition 5.

³Standing trees are those that are not root sprung.

Endangered Species, Threatened Species, Federal Species of Concern, and Candidate Species, Macon County, North Carolina



Updated: 01-05-2012

Critical Habitat Designations:

Spotfin chub (=turquoise shiner) - *Erimonax monachus* - Little Tennessee River, main channel from the backwaters of Fontana Lake upstream to the North Carolina-Georgia state line.
Federal Register Reference: September 22, 1977, Federal Register, 42:47840-47845.

Appalachian elktoe - *Alasmidonta raveneliana* - The main stem of the Little Tennessee River (Tennessee River system), from the Lake Emory Dam at Franklin, Macon County, North Carolina, downstream to the backwaters of Fontana Reservoir in Swain County, North Carolina. The main stem of the Little Tennessee River (Tennessee River system), from the Lake Emory Dam at Franklin, Macon County, North Carolina, downstream to the backwaters of Fontana Reservoir in Swain County, North Carolina. Within these areas, the primary constituent elements include: (i) Permanent, flowing, cool, clean water; (ii) Geomorphically stable stream channels and banks; (iii) Pool, riffle, and run sequences within the channel; (iv) Stable sand, gravel, cobble, boulder, and bedrock substrates with no more than low amounts of fine sediment; (v) Moderate to high stream gradient; (vi) Periodic natural flooding; and (vii) Fish hosts, with adequate living, foraging, and spawning areas for them.

Federal Register Reference: September 27, 2002, Federal Register, 67:61016-61040.

Common Name	Scientific name	Federal Status	Record Status
Vertebrate:			
Appalachian Bewick's wren	<i>Thryomanes bewickii altus</i>	FSC	Historic
Appalachian cottontail	<i>Sylvilagus obscurus</i>	FSC	Current
Bachman's sparrow	<i>Aimophila aestivalis</i>	FSC	Historic

Bog turtle	<i>Clemmys muhlenbergii</i>	T (S/A)	Current
Carolina northern flying squirrel	<i>Glaucomys sabrinus coloratus</i>	E	Current
Cerulean warbler	<i>Dendroica cerulea</i>	FSC	Current
Eastern small-footed bat	<i>Myotis leibii</i>	FSC	Current
Green salamander	<i>Aneides aeneus</i>	FSC	Current
Hellbender	<i>Cryptobranchus alleganiensis</i>	FSC	Current
Indiana bat	<i>Myotis sodalis</i>	E	Probable/ potential
Northern saw-whet owl (Southern Appalachian population)	<i>Aegolius acadicus</i> pop. 1	FSC	Current
Olive darter	<i>Percina squamata</i>	FSC	Current
Olive-sided flycatcher	<i>Contopus cooperi</i>	FSC	Historic
Pygmy salamander	<i>Desmognathus wrighti</i>	FSC	Current
Rafinesque's big-eared bat	<i>Corynorhinus rafinesquii</i>	FSC	Current
Red crossbill (Southern Appalachian)	<i>Loxia curvirostra</i>	FSC	Probable/ potential
Seepage salamander	<i>Desmognathus aeneus</i>	FSC	Current
Sicklefin redhorse	<i>Moxostoma</i> sp. 1	C	Current
Smoky dace	<i>Clinostomus funduloides</i> ssp.	FSC	Current
Southern Appalachian eastern woodrat	<i>Neotoma floridana haematoreia</i>	FSC	Current
Southern rock vole	<i>Microtus chrotorrhinus carolinensis</i>	FSC	Current
Southern water shrew	<i>Sorex palustris punctulatus</i>	FSC	Current
Spotfin chub (=turquoise shiner)	<i>Erimonax monachus</i>	T	Current
Yellow-bellied sapsucker (Southern Appalachian population)	<i>Sphyrapicus varius appalachiensis</i>	FSC	Current
wounded darter	<i>Etheostoma vulneratum</i>	FSC	Current
Invertebrate:			
Appalachian elktoe	<i>Alasmidonta raveneliana</i>	E	Current
Brook floater	<i>Alasmidonta varicosa</i>	FSC	Current
Diana fritillary (butterfly)	<i>Speyeria diana</i>	FSC	Current
Little Tennessee mussel	<i>Lexingtonia</i> sp. cf. <i>dolabelloides</i>	FSC	Current
Little-wing pearlymussel	<i>Pegias fabula</i>	E	Current
Lost Nantahala Cave spider	<i>Nesticus cooperi</i>	FSC	Current
Margarita River skimmer	<i>Macromia margarita</i>	FSC	Obscure
Southern Tawny Crescent butterfly	<i>Phyciodes batesii maconensis</i>	FSC	Current
Vascular Plant:			

Blue Ridge Ragwort	<i>Packera millefolium</i>	FSC	Current
Butternut	<i>Juglans cinerea</i>	FSC	Current
Cuthbert turtlehead	<i>Chelone cuthbertii</i>	FSC	Historic
Darlington's spurge	<i>Euphorbia purpurea</i>	FSC	Current
Dwarf aster	<i>Eurybia mirabilis</i>	FSC	Historic
Dwarf polypody fern	<i>Grammitis nimbata</i>	FSC	Current
Fraser's loosestrife	<i>Lysimachia fraseri</i>	FSC	Current
Gorge filmy fern	<i>Hymenophyllum tayloriae</i>	FSC	Current
Granite dome goldenrod	<i>Solidago simulans</i>	FSC	Current
Gray's saxifrage	<i>Saxifraga caroliniana</i>	FSC	Current
Mountain catchfly	<i>Silene ovata</i>	FSC	Current
Piratebush	<i>Buckleya distichophylla</i>	FSC	Current
Small whorled pogonia	<i>Isotria medeoloides</i>	T	Current
Sweet pinesap	<i>Monotropsis odorata</i>	FSC	Obscure
Torrey's Mountain-mint	<i>Pycnanthemum torrei</i>	FSC	Historic
Virginia spiraea	<i>Spiraea virginiana</i>	T	Current
Nonvascular Plant:			
Anderson's Melon-moss	<i>Brachymenium andersonii</i>	FSC	Historic
a liverwort	<i>Plagiochila sharpii</i>	FSC	Current
a liverwort	<i>Porella wataugensis</i>	FSC	Current
a liverwort	<i>Cephaloziella obtusilobula</i>	FSC	Historic
a liverwort	<i>Plagiochila sullivantii</i> var. <i>sullivantii</i>	FSC	Historic
a liverwort	<i>Plagiochila virginica</i> var. <i>caroliniana</i>	FSC	Historic
Lichen:			
Rock gnome lichen	<i>Gymnoderma lineare</i>	E	Current

Endangered Species, Threatened Species, Federal Species of Concern, and Candidate Species, Jackson County, North Carolina



Updated: 01-05-2012

Critical Habitat Designations:

Appalachian elktoe - *Alasmidonta raveneliana* - The main stem of the Tuckasegee River (Little Tennessee River system), from the N.C. State Route 1002 Bridge in Cullowhee, Jackson County, North Carolina, downstream to the N.C. Highway 19 Bridge, north of Bryson City, Swain County, North Carolina. Within these areas, the primary constituent elements include: (i) Permanent, flowing, cool, clean water; (ii) Geomorphically stable stream channels and banks; (iii) Pool, riffle, and run sequences within the channel; (iv) Stable sand, gravel, cobble, boulder, and bedrock substrates with no more than low amounts of fine sediment; (v) Moderate to high stream gradient; (vi) Periodic natural flooding; and (vii) Fish hosts, with adequate living, foraging, and spawning areas for them.

Federal Register Reference: September 27, 2002, Federal Register, 67:61016-61040.

Common Name	Scientific name	Federal Status	Record Status
Vertebrate:			
Appalachian Bewick's wren	<i>Thryomanes bewickii altus</i>	FSC	Historic
Bog turtle	<i>Clemmys muhlenbergii</i>	T (S/A)	Probable/ potential
Carolina northern flying squirrel	<i>Glaucomys sabrinus coloratus</i>	E	Current
Eastern small-footed bat	<i>Myotis leibii</i>	FSC	Current
Green salamander	<i>Aneides aeneus</i>	FSC	Current
Hellbender	<i>Cryptobranchus alleganiensis</i>	FSC	Current
Indiana bat	<i>Myotis sodalis</i>	E	(W)*

Northern pine snake	<i>Pituophis melanoleucus melanoleucus</i>	FSC	Current
Northern saw-whet owl (Southern Appalachian population)	<i>Aegolius acadicus</i> pop. 1	FSC	Current
Olive darter	<i>Percina squamata</i>	FSC	Current
Pygmy salamander	<i>Desmognathus wrighti</i>	FSC	Current
Red crossbill (Southern Appalachian)	<i>Loxia curvirostra</i>	FSC	Current
Sicklefin redhorse	<i>Moxostoma</i> sp. 1	C	Current
Smoky dace	<i>Clinostomus funduloides</i> ssp.	FSC	Current
Southern Appalachian black-capped chickadee	<i>Poecile atricapillus praticus</i>	FSC	Current
Southern Appalachian eastern woodrat	<i>Neotoma floridana haematoreia</i>	FSC	Current
Southern rock vole	<i>Microtus chrotorrhinus carolinensis</i>	FSC	Historic
Yellow-bellied sapsucker (Southern Appalachian population)	<i>Sphyrapicus varius appalachiensis</i>	FSC	Current
wounded darter	<i>Etheostoma vulneratum</i>	FSC	Current
Invertebrate:			
Appalachian elktoe	<i>Alasmidonta raveneliana</i>	E	Current
Diana fritillary (butterfly)	<i>Speyeria diana</i>	FSC	Current
French Broad crayfish	<i>Cambarus reburus</i>	FSC	Current
Southern Tawny Crescent butterfly	<i>Phyciodes batesii maconensis</i>	FSC	Current
Spruce-fir moss spider	<i>Microhexura montivaga</i>	E	Current
Whitewater crayfish ostracod	<i>Dactylocythere prinsi</i>	FSC	Obscure
a harvestman	<i>Fumontana deprehendor</i>	FSC	Current
Vascular Plant:			
Blue Ridge Ragwort	<i>Packera millefolium</i>	FSC	Current
Butternut	<i>Juglans cinerea</i>	FSC	Current
Cuthbert turtlehead	<i>Chelone cuthbertii</i>	FSC	Current
Darlington's spurge	<i>Euphorbia purpurea</i>	FSC	Current
Fraser fir	<i>Abies fraseri</i>	FSC	Current
Fraser's loosestrife	<i>Lysimachia fraseri</i>	FSC	Current
Gorge filmy fern	<i>Hymenophyllum tayloriae</i>	FSC	Current
Granite dome goldenrod	<i>Solidago simulans</i>	FSC	Current
Gray's saxifrage	<i>Saxifraga caroliniana</i>	FSC	Historic
Lobed Barren-strawberry	<i>Waldsteinia lobata</i>	FSC	Historic
Mountain Thaspium	<i>Thaspium pinnatifidum</i>	FSC	Historic

Mountain bitter cress	<i>Cardamine clematitis</i>	FSC	Current
Mountain catchfly	<i>Silene ovata</i>	FSC	Current
Radford's sedge	<i>Carex radfordii</i>	FSC	Current
Small whorled pogonia	<i>Isotria medeoloides</i>	T	Current
Southern Oconee-bells	<i>Shortia galacifolia</i> var. <i>galacifolia</i>	FSC	Historic
Swamp pink	<i>Helonias bullata</i>	T	Current
Sweet pinesap	<i>Monotropsis odorata</i>	FSC	Current
Tall larkspur	<i>Delphinium exaltatum</i>	FSC	Current
Torrey's Mountain-mint	<i>Pycnanthemum torrei</i>	FSC	Historic

Nonvascular Plant:

Gorge moss	<i>Bryocrumia vivicolor</i>	FSC	Historic
a liverwort	<i>Plagiochila sharpii</i>	FSC	Current
a liverwort	<i>Plagiochila sullivantii</i> var. <i>spinigera</i>	FSC	Historic
a liverwort	<i>Plagiochila sullivantii</i> var. <i>sullivantii</i>	FSC	Historic
a liverwort	<i>Plagiochila virginica</i> var. <i>caroliniana</i>	FSC	Historic
a liverwort	<i>Sphenolobopsis pearsonii</i>	FSC	Historic

Lichen:

Rock gnome lichen	<i>Gymnoderma lineare</i>	E	Current
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Definitions of Federal Status Codes:

E = endangered. A taxon "in danger of extinction throughout all or a significant portion of its range."

T = threatened. A taxon "likely to become endangered within the foreseeable future throughout all or a significant portion of its range."

C = candidate. A taxon under consideration for official listing for which there is sufficient information to support listing. (Formerly "C1" candidate species.)

FSC = federal species of concern. A species under consideration for listing, for which there is insufficient information to support listing at this time. These species may or may not be listed in the future, and many of these species were formerly recognized as "C2" candidate species.

T(S/A) = threatened due to similarity of appearance. A taxon that is threatened due to similarity of appearance with another listed species and is listed for its protection. Taxa listed as T(S/A) are not biologically endangered or threatened and are not subject to Section 7 consultation. See below.

Threatened due to similarity of appearance [T(S/A)]:

In the November 4, 1997 Federal Register (55822-55825), the northern population of the bog turtle (from New York south to Maryland) was listed as T (threatened), and the southern population (from Virginia south to Georgia) was listed as T(S/A) (threatened due to similarity of appearance). The T(S/A) designation bans the collection and interstate and international

commercial trade of bog turtles from the southern population. The T(S/A) designation has no effect on land management activities by private landowners in North Carolina, part of the southern population of the species. In addition to its official status as T(S/A), the U.S. Fish and Wildlife Service considers the southern population of the bog turtle as a Federal species of concern due to habitat loss.

Definitions of Record Status:

Current - the species has been observed in the county within the last 50 years.

Historic - the species was last observed in the county more than 50 years ago.

Obscure - the date and/or location of observation is uncertain.

Incidental/migrant - the species was observed outside of its normal range or habitat.

Probable/potential - the species is considered likely to occur in this county based on the proximity of known records (in adjacent counties), the presence of potentially suitable habitat, or both.



www.americanwhitewater.org

Kevin Colburn
National Stewardship Director
2725 Highland Drive
Missoula, MT 59802
406-543-1802
kevin@americanwhitewater.org

August 26, 2013

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212
comments-southern-north-carolina-nantahala-nantahala@fs.fed.us

Re: Chattooga River Boating Access

Dear Chattooga Team,

We have reviewed your scoping document regarding trail access to the Upper Chattooga River, and are pleased to offer these comments.

We support you designating and formalizing the existing trail at Green Creek for hiking (including relatively few paddlers hiking to the river). The Forest Plan commits the USFS to closing or designating user created trails as well as allowing for new trail construction, and we agree that this trail should be designated to allow the public to enjoy the Wild and Scenic River downstream of the private property boundary. We appreciate the USFS prioritizing this trail as partial mitigation for your senseless ban on paddling from Grimshaw's Bridge.

The proposed County Line Trail is a well-established but undesignated hiking trail that at this time is of little or no value to paddlers. We do not request or oppose the designation of this existing trail for use by hikers (including paddlers hiking with boats). If the trail is to remain open for use however, we request that it be designated and actively managed for environmental sustainability and recreational quality.

The access at Burrells Ford Bridge includes existing multi-use trails for anglers, swimmers, paddlers, and other visitors to access the Chattooga River. They are not solely paddling access trails. The proposed Burrells Ford Trail is a short, established multi-use trail. We support its designation and support addressing the multitude of parallel user created trails in the vicinity. Like elsewhere in the corridor, addressing user-created trails in this vicinity is in keeping with the Forest Plan.

We support the designation and creation of the Licklog trail as partial mitigation for your senseless ban on floating the remaining 4 miles of the upper Chattooga River to Highway 28.

We see no ecological problems with designating any of the proposed trails, and in fact designating them will begin the important process of addressing the Forests' 19 miles of user created trails in the river corridor. Many of the proposed trails are near redundant user created trails and campsites in violation of setbacks from the river and side streams. Designation provides an opportunity to remove and close these trails and campsites resulting in a net positive for the river corridor.

Lastly, designating launch points in the backcountry, or even in the frontcountry for the extremely small number of kayakers paddling the headwaters is unnecessary and unprecedented. Nowhere else in the nation are such regulations in place or needed. Paddlers should be able to hike any trail and launch where they wish, as is the case across the Forest Service system. We are not sure why this new idea appears as part of the management of the Chattooga. Anglers, hikers, swimmers, and others are subject to no such limit on where they may enter the Chattooga River. Please consider doing away with the unprecedented idea of designated launch areas or points.

Thank you for considering these interests and ideas.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. R. Colburn', with a stylized, flowing script.

Kevin R. Colburn
National Stewardship Director
American Whitewater



North Carolina Department of Environment and Natural Resources
Office of Conservation, Planning, and Community Affairs

Beverly Eaves Perdue
Governor

Linda Pearsall
Director

Dee Freeman
Secretary

August 2, 2013

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

Subject: Chattooga River Boating Access

Dear team:

We previously commented on the access areas under consideration in North Carolina. The issues we addressed then are still important. Some of them will apply to the South Carolina and Georgia portions of the project as well as North Carolina.

The upper Chattooga River gorge, in the area of this project, is home to a large number of rare species, including several aquatic species in the river and a large number of rare plants. Of particular note are at least seven species of rare bryophytes. The North Carolina portion is recognized as a Special Interest Area in the Forest Plan. The Forest Service signed a registry agreement, placing it on the state's Registry of Natural Heritage Areas and agreeing to protect its significant features.

There is no need to avoid public access in the indicated areas, and use of existing trails and road beds greatly limits the potential for damage. But there is a need for care in placing the new facilities along the river. The potential for impact will depend on fine-scale details of what is present at the site. The distribution of the rare bryophytes is not well known, but most have been found on moist rocks or tree bases near the river. Trampling of rock outcrops, and even people leaning against vertical rocks, are likely to eventually destroy them in heavily visited areas. Most rare bryophytes are reported from near Bull Pen Bridge, where access was easiest. But they might be anywhere where appropriate habitat occurs, and might be rare or locally abundant along the river. We encourage expert surveys to be done to get better data on the distribution and abundance of these species, at least at the sites where there could be new impacts. Extending surveys to other parts of the could give a better perspective on populations, and help indicate how important any t impacts at the access sites would be. In the absence of such detailed information, the Forest Service should avoid increasing public traffic near cliffs, grottos, and other moist rock outcrops in the gorge.

Sincerely,

Michael P. Schafale
Natural Heritage Program

Mailing address: 1601 Mail Service Center, Raleigh, North Carolina 27699-1601
Location: 217 W. Jones Street, Raleigh NC 27604
Phone: 919-707-8600 Webpage: www.oneNCSNaturally.org
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One
North Carolina
Naturally
Natural Resources Planning and Conservation

From: [Michael Bamford](#)
To: [FS-comments-southern-francismarion-sumter](#)
Cc: [Bail, Kristin M -FS; R8@fs.fed.us](#)
Subject: Chattooga River Boating Access.
Date: Tuesday, August 27, 2013 5:00:56 PM
Attachments: [WSA Trails scoping reponse August 2013.pdf](#)

To The Chattooga Forest Planners, the Nantahala Supervisor and Sothern Regional Forester.

The Forest Service continues to disregard concerns from adjacent landowners regarding what has become a volatile situation on the upper Chattooga. Recently one member of the Whiteside Cove Association was confronted on private property by a trespasser brandishing a firearm, claiming a 'right' to be on private property because it is a Wild and Scenic River. This situation appears to have been incited by the Forest Service ambiguous policy, miss-drawn maps and clear misrepresentation of the law and Forest policy to the public.

The 2012 Forest Service Decision Notices continued the prohibition on boating above highway 28, except under certain conditions, and never above Greens Creek or on the Tributaries. Despite this published policy, the recent Sumter scoping letter and at least one North Carolina District Ranger are under the misapprehension that no boating 'prohibition' exists for the upper Chattooga. The Forest Plan is being disregarded by the local Forest Rangers, or not enforced; there exists a communication breakdown within the agency that should be remedied. Such misinformation encourages trespass onto private property and instigates the type of unnecessary altercations as described above.

The Forest Service should clarify their policy and make clear where boats remain prohibited under the Forest Plans and in the Chattooga WSR Plan. Any discrepancies between the Forest Plans and CFRs should be corrected by implementing temporary closure orders that enforce the Forest Plan as written. Local foresters should be educated as to where boating remains prohibited.

More substantive comments from the Whiteside Cove Association on the trails NEPA are attached.

Michael Bamford

For the Whiteside Cove Association.

Cc: Forest Supervisor Ms. Bail, & Regional Forester Ms. Agpaoa

Whiteside Cove Association
PO Box 2725 Cashiers NC

To Forest Planners

The Forest Service continues to disregard concerns from adjacent landowners regarding what has become a volatile situation. The 2012 Decision Notices continued the prohibition on boating above highway 28, except under certain conditions, and never above Greens Creek or on the Tributaries. Despite this clear policy, dissemination of recreational policy for the upper Chattooga has been incongruent to the Forest Plan, including information within the scoping letter. The North Carolina District Ranger is under the misapprehension that no ‘prohibition’ exists for the upper Chattooga. At least one ranger from the Nantahala Forest Service have notified the public that there is no ‘prohibition’ on recreation for the North Carolina section of the Chattooga Wild and Scenic River, nor any rules about ‘only’ putting in at designated spots. If the Forest Plan is being disregarded by the local Forest Rangers, there exists a breakdown within the agency that should be remedied immediately.

Ambiguity and lack of clarity by the USFS which does encourages trespass onto private property is a clear violation of the law. The Forest Service should clarify their policy and make clear where boats remain prohibited under the current Plan. Any discrepancies between the Forest Plans and CFRs should be corrected by implementing temporary closure orders that enforce the 2012 Forest Plan Amendments as written.

Substantive comments from the Whiteside Cove Association on the NEPA are included below.

Michael Bamford
/s/ Michael Bamford
Whiteside Cove Association

Boating Remains Prohibited above Greens Creek and upon the Tributaries

The 2012 Decision Notices revised the three Forest management plans for the Chattooga Wild and Scenic River including the Sumter, Nantahala and Chattahoochee . The Decisions continued the prohibition on floating upstream of highway 28 except under certain conditions (by Flow, Season, below the Private Segment). ¹ The three Plans establish a federally enforceable law where no floating is allowed on the Chattooga above Greens Creek or on any tributary within the National Forest System at any time.

During the SC District court hearings (AW v. Tidwell case # 8:09-2665), the Court found the “the 2012 Plan only permits boating below the confluence of Green Creek” (EN#275 p 34), and that the Forest Service “does not authorize boating above Green Creek, the location of the Rust Family property.” id p.33. The court upheld the agency Decision to not allow boating above Greens Creek because segments of the Chattooga upstream are privately owned. As the Forest Service argued in court: **“the [2012] decisional documents here are very clear that you cannot boat above the Green Creek confluence because that is private property and that would be considered trespass.”** (2/27/2013 Transcript p.102 AW v. Tidwell. #8:09:2665). If this statement were not true, the Forest Service has defrauded the Federal Court, and the Court Order can be voided.

The Location of the *Proposed Action* requires Clarity:

Despite clarity as to where boating remains prohibited, the recent scoping letter misrepresents the Greens Creek access trails as providing for access to the “entire upper segment of the Chattooga WSR.” Since private property is included in the upper Segment of the Chattooga WSR, providing access to the ‘entire’ upper Chattooga would be a property rights violation. The absence of geographic limits outlined in the ‘proposed action’ section, further illustrates the error in the scoping letter. These errors should be corrected and the public notified that the entire Chattooga is not open for

¹ Sumter Decision Notice AR:#404, Nantahala Decision Notice AR:#403 (AR = Administrative Record)

recreational floating, specifically on any of the Chattooga upstream of Greens Creek.

Allowing Boating from Greens Creek Invites Trespass:

This NEPA review includes a letter from American Whitewater advising the USFS that some floaters will prefer to initiate their trip from Grimshawes Bridge, through our Private Property. (AW letter June 25th 2012). American Whitewater also recently lobbied the Nantahala Forest Service during the current planning cycle to allow boating on the Forest Service land at Grimshawes Bridge (upstream of private property), because some slothful floaters wish to avoid any hike to access the upper-most segment. The kayak lobby letters have informed the Forest Service that USFS policy will encourage trespass onto the private property, because some floaters will prefer to trespass through private property rather than hike the trail. These letters highlight a significant impact to the human environment from Forest Service policy not previously documented in the 2012 Decision, that must be evaluated into this Decision in order to be compliant with NEPA. A deficient Assessment is clear procedural violation; the Forest Service cannot established a policy without due consideration of reasonably foreseeable impacts. It also highlights that the Forest Service may have embellish their own assessment in Federal court pleadings by claiming such consideration of trespass and impacts to private property were considered too ‘remote’ to evaluate and mitigate. That is certainly not the situation in this NEPA review of proposed boater access trails.

The Forest Service Should Not Incite Trespass Onto Private Property

The Whiteside Cove Association has already experienced a significant increase in trespass since the Forest Service published factually inaccurate statements about streambed ownership, navigability laws and public trust rights in the 2012 EA. The US Forest Service poorly sited trail locations, and misinformation disseminated by the local Forest Rangers has only compounded this problem. In addition to the nuisance, impacts

and additional litter created by trespassers, the Whiteside Cove Association has experienced property damage in the form of a broken gate, removal of fencing, and destruction of no-trespassing signs. **One hostile trespasser claimed a ‘right’ to be on the private property and brandished a firearm at a WCA member. We have advised all association members to protect their well-being in order to protect themselves from such hostility. The situation created by the ambiguous USFS policy has become V O L A T I L E.** The Forest Service has incited these encroachments by failing to document the external boundary of the National Forest System as required by law. We plan to challenge these Forest Service illegal policies targeted against private property, if they are not corrected. The Association will take all future threats seriously and will not tolerate any property damage, belligerent altercations or harassment.

The USFS did not include assessment of the location of any new access, portage or scouting trails into the original 2012 EA. In this ‘Trails NEPA’, our primary concern remains both newly created user-created and designated trails to, near, over, through or upon the Private Segment. This issue can no longer be ignored by the agency.

Any Proposal for a Greens Creek Trail Should be Abandoned.

As outlined in the USFS scoping letter, the Proposed Greens Creek trail is unsustainable and requires rerouting. The user-created ‘trail’ is already over ½ miles long² (.5 miles), on a steep slope and through sensitive habitat. During the periods of heavy rains –when floating is possible– the trail becomes an intermittent stream, allowing

² The Scoping notice mislabels the trail length of the Greens Creek Trail as .28 miles. The actual length is already over .5 miles. The trail distance was measured point-to-point and did not follow the contours of the trail as can be easily verified by looking at the map’s scale. The accurate distance should be corrected in order to avoid any further misinformation in this administrative record or to likely decision makers. This error was pointed out to District Range Mike Wilkins on June 21 2012 by email, and was apparently ignored.

excessive siltation into the Chattooga. Correcting the deficiencies in this ‘user-created trail’ will require switchbacks that only further lengthen this trail increasing the area impacted. The purported ‘need’ for this trail become pointless with this increased length, because continuing down the existing Chattooga River Trail just .6 miles beyond the Greens Creek Trail head provides direct access to the Chattooga. The Greens Creek trail is therefore redundant. The trail will needlessly increase impacts to the riparian zone and to riparian habitat. Without any new trail and associated impacts, floaters and fisherman can hike the same distance to access the Chattooga a few hundred yards downstream of where the ‘proposed Greens Creek trail would intersect the Chattooga’³. All new impacts associated with the Greens Creek Trail are mitigated by eliminating any Greens Creek Trail from further consideration. For these reasons as well as those mentioned earlier, the US Forest Service should not designate any Greens Creek trail. Any user-created trails in this location should be discouraged by mandating boaters start only at the proposed access sites, ideally below Bull Pen Bridge.

Discouraging further user-created trails can be easily corrected by removing any ambiguity in the language of the 2012 Decision Notice to require floaters to start trips only from designated put-in locations. The perfunctory 2012 policy has created confusion and encouraged access at alternative egress points, a relevant factor never explored in the 2012 Assessment or Decisions, that must be included in this NEPA. Also, the impact to the human environment including potential impacts to adjacent private property from adding the Greens Creek trail and encouraging new user-created trails into this area has not been considered.

³ (the USFS inventoried this ten foot long ‘trail’ during the 2006 Biophysical evaluation of the upper Chattooga see 2012 Administrative Record doc #165 p. AR03155)

An Alternative which would Not provide a ‘Greens Creek Trail’ is not considered.

No ‘Choice’ is provided in the scoping proposal. Not unlike the 2012 Decision no consideration was given to a more reasonable alternative where boating would remain prohibited above Bull Pen Bridge, or above Norton Mill Creek in order to mitigate potential upstream impacts. The lack of choice misrepresents the Decision under review as a choice between allowing boating to start from a highly contentious point along the upper Chattooga, or allowing no boating at all. As outlined by the scoping letter, such a premise presents a false dichotomy. Allowing boating only below Bull Pen Bridge would offer a far better alternative with less overall impacts. Unique impacts to the physical environment, or the potential economic and social harm to the private land interests could easily be avoided by starting the boaters from any point further downstream...ideally back at highway 28. Since the kayak lobby has stated some boaters will ignore Forest Service policy⁴, the agency can no longer claim impacts to private property interests are speculative or disregard them as too remote for consideration. Ignoring the adverse affects to the adjacent private property interests⁵ prevented the USFS from considering another more reasonable alternative that would have minimize these adverse effects.⁶ These foreseeable impact from allowing additional user-created trails by allowing boating from Greens Creek must be considered as part of this NEPA, including the impacts to the

⁴ The President of American Whitewater publically vowed to return to float the Upper Chattooga “whether it was legal or not.” (see 2012 administrative record AR447:19866).

⁵ The ONLY ‘impact’ considered as a result of trespass was an impact to the trespasser from being arrested (AR183:07431), absolutely no impacts to private land interests were ever considered or evaluated.

⁶ The Alternatives considered for the 2012 Decision can be classified into two set; ones that allowed boating from the private property boundary and the others that allowed no boating at all. The previous list of alternatives included starting boating from Bull Pen Bridge or from Norton Mill Creek, both were removed just prior to the final Decision, creating a false dichotomy. No alternative considered starting boating downstream of the Rust property.

private land interests upstream. At least one alternative where the elimination of the Greens Creek trail should be considered in order to mitigate these impacts.

The Forest Service should conduct a complete EIS to assess the environmental implication of this action on the social, physical and economic environment, especially impacts to the private land interests immediately upstream.

Boating Should Start Further Downstream

Finally, when amending policy the agency should make clear that the only legal method of getting to a point upstream of the uppermost put-in should be by paddling upstream as argued by the USFS attorney in the SC courtroom. The agency should make clear that floaters will not be allowed to enter or exit the Chattooga at a point other than at locations designated by this NEPA.

The Forest Service should make clear through signage, permits and web-posting the external location of the Forest Service Boundaries and where boating will remain prohibited. The agency should discourage rouge user-created trails, which may result in trespass, private nuisance, or on-stream altercations.

Importantly, the agency should also educate the local rangers as to the boating policy and prevent local Forest rangers from misrepresenting this policy to the public.

Finally, the upper-most put-in location should be set at Bull Pen Bridge, (and certainly not above Norton Mill Creek) in order to prevent future volatility between landowners and the recreating public resulting from the Forest Service Actions. The USFS should not incite trespass, and discourage recreation through private property.

In addition to these comments: the WCA incorporate all comments sent to the USFS by the association and its members on September 14 2012 and in the email to Mike Wilkins dated June 21 2012.

From: [Milena Carothers](#)
To: [Knibbs, James H -FS](#)
Subject: Please DO NOT ALLOW Chattooga River Boating Access
Date: Monday, August 12, 2013 1:24:48 PM

To Whom It May Concern:

Hello, My name is Milena, and I am sixteen years old. Ever year since I was three years old, I have been visiting my great-uncle and his property which happens to have part the Chattooga River run through it by the Bull Pen Bridge. I have memories of being really small and swimming in it and playing along the water edge. When I heard a few years ago that some kayakers wanted access to this point in the river, it scared me. I've never understood how this could actually happen, and it looks like it may. How is it not considered trespassing for people to go through someone else's private property by water? Why is there a difference? There are still taxes paid for it, and the people who live there enjoy this unique stretch of river.

Although I am young, I can see many negative impacts come as a result if these kayakers are granted access. An influx of people on an ecosystem ONLY has a negative impact. If kayakers were to pass through this river, it is guaranteed that rubbish would end up in the water, both on purpose and by accident. If there is any place in the river that is inaccessible by boat (logs, rocks, too steep a waterfall) that means that these people would be getting out of their kayaks and going around the blockage by land. I see many problems with this. Repetitive trampling on soil kills plants and results in erosion and endangers any wildlife in the area. More people in the area means that crime rates go up, and my great-uncle and his neighbors could experience burglaries because the thieves would be allowed access right through the middle of his property. If any injuries occurred in the water, I could see the land owners being possibly held responsible, even though they had no involvement other than owning the land on which the accident occurred. What's more, I don't want to be swimming around the river or at the base of a waterfall, and have to be worried that at any second, a kayak could come over the top of it and hit me, would most likely be fatal.

I sincerely hope that you take all I have said into account, and make the right choice in barring access to the boaters from accessing the private property of the landowners along the Chattooga.

Thank you for your attention,
Milena Carothers

From: [Michael Bamford](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga access
Date: Friday, July 26, 2013 12:36:53 PM

In addition to the previous comments submitted by the Whiteside Cove Associate and the Rust family, please carefully consider the following comments.

If implemented as stated in the recent scoping letter , the USFS proposal would be contrary to what was plead by the USFS in SC district court. See AW v. Tidwell

The USFS has not assessed the affects of the proposal to add the Green Creeks trail on the adjacent and upstream property interests as outline in our previous stated concerns. Further the USFS has not studied the effects on anglers, other citizens above Norton Mill Creek.

We would again ask the USFS to not designate any boating access point above Norton Mill Creek. And make clear that boating is prohibited where it is not expressly allowed.

Thank You

Michael Bamford
For: Whiteside Cove Association
And the Rust Family

From: [Jenny Carothers](#)
To: [Knibbs, James H -FS](#)
Subject: Chattooga boating access
Date: Monday, August 12, 2013 6:11:53 PM

To Whom It May Concern,

I have been enjoying the Upper Chattooga River for nearly all of my life.

I find it quite pleasant without boaters and there are other areas down river already available for their enjoyment.

I believe that their presence would change the landscape in many ways. This river is not a truly boatable waterway and would necessitate many portages and thus exasperbate erosion in one of the rainiest areas in the US. Wildlife, including otter, beaver, and birdlife would be disturbed by boaters. Trash would accidentally be left behind to wash up and where would boaters "relieve" themselves (picture riverside t.p. piles at portage spots)?

Please DO NOT allow any boating above Bull Pen Bridge if they must be allowed in the Chattooga at all.

Sincerely,
Jenny Carothers

From: [ed nicholson](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga River Boating Access Project
Date: Friday, August 02, 2013 9:12:19 PM

In re: Chattooga River Boating Access scoping

To Whom it May Concern:

Before sending specific comments about the proposals in the July 24, 2013, scoping notice for boating access on the Chattooga Wild and Scenic River, I would like clarification on two items.

Regarding the Green Creek Site, the scoping letter states that a trail of .28 miles length is to be constructed on "an old existing road bed that connects the Chattooga Trail to the river."

- It is unclear to me what the length of the carry (of a boat) from a *motor vehicle* to the river would be.

Also,

- Is the FS proposing to reconstruct this road for vehicle access within the 1/2 mile river corridor?

Thank you for your response to these questions.

Sincerely,

Ed Nicholson
1403 Mackenzie Court
Tucker, GA 30084
770.414.4410

EdTheTrombonist@gmail.com

From: [WILLIAM CLAY](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga River Boating Access.
Date: Wednesday, August 28, 2013 11:22:04 PM

USFS Planning Team
4931 Broad River Road
Columbia, SC 29212

August 27, 2013

RE: Proposed Construction of Trails for Boaters on the Upper Chattooga River

Dear USFS Planning Team,

Thank you for the opportunity to comment.

I understand that the USFS has contended in court that decisions about the official creation of boater trails to facilitate access to Chattooga headwater reaches would be considered independently from the 2012 Decision to allow boating—location of access trails and creation of new trails to be treated as an *independent action*.

Given this, it seems clear that the USFS cannot assume that the 2012 Decision to allow boating in any way enables or empowers the agency to create *any* new trail location or creation in *any* area of the headwaters. Nothing in the 2012 Decision gives the agency the legal right to locate or create new trails in order to facilitate boater access. Despite the fact that the scoping letter seems to assume that new trails should be located or created to facilitate boating per the 2012 Decision, nothing in the 2012 Decision at all *requires* the creation of trails.

In addition, the court has held to be without merit the arguments put forward by some boaters that boating is an outstanding value and that boaters have the right to float. The USFS is not enjoined to protect, provide for, or even allow boating on the upper Chattooga. Consideration or scoping of any new trail creation in the headwaters cannot therefore be presumed to be based on a *need for action*. If new boating allowed for in the 2012 Decision cannot be accommodated without direct or cumulative effects upon the Wild and Scenic resource, absent any new disturbance of the river resource that would accrue from the location or creation of boater access trails, it should not be allowed at all.

Context: Once after my own long opposition to any new boating above the Highway 28 bridge, I decided to support limited boating on the headwaters because I became convinced that this issue could only be decided by civic minded compromise. At that time, the “official” USFS position would have allowed extremely limited access—I was told—to entail as few as six boating days a year, in a short three month window, from December to the end of

February. I mistakenly assumed—and was given to believe by glib assurances from agency personnel—that any new levels of access would be so minimal as to be easily accommodated by existing access points, without significant impacts to the river resource.

However, now, the current projected arrangement of impactful access options woefully disabuses me of any inclination to accede to boater demands for new access or to compromise, likewise, on the inevitable diminishment of our irreplaceable Chattooga headwater resources that will follow from this new access. Nor am I convinced in any small degree that I should defer my concerns about the diminishment of the headwaters natural areas to the expediency of decisions taken by the agency while working within its legal decision space, much less should I defer to agency decisions that seem not only not legal but altogether too convenient.

To my mind this issue has never been about user conflicts. The issue here is ultimately not about boating; neither is it about fishing. The issue—which has yet to be addressed—is about the inevitable degradation of the Chattooga headwaters that will be the result of the new, heavier usage of the natural areas. If new usage of any kind cannot be accommodated without the diminishment of the resource that this “scoping” presages, the new use should not be allowed at all. I speak for the "users" yet unborn who will never have the chances we all have been afforded by the caprice of history and the cooperation of Congress to see this river in a truly wild state. With all due respect, I think that the USFS can and should do a better job of seeing beyond the current clamor and acting with a greater responsibility to the river resources than to its "users."

Thank you for the chance to comment.

Sincerely,

Butch Clay
125 Apple Orchard Road
Mountain Rest, SC 29664

From: [phillip patton](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga River Boating Access
Date: Wednesday, August 28, 2013 11:19:29 PM

Dear Forest Service,

Thank you for the opportunity to submit a comment concerning boating access to the Chattooga Wild and Scenic River. After long and serious consideration we feel that no new trails should be constructed and opened for access to this precious resource that exists. It should be left as wild and scenic as possible. If new trails and wider more open existing trails are allowed more and more people will invade this wild and scenic area, which would consequently defeat the very name and existence of the Chattooga Wild and Scenic River. The Chattooga watershed is too delicate and pristine to allow unlimited visitors to the area. It is the duty of the Forest Service to protect areas such as Chattooga WSR and we believe that would be impossible if more corridors were opened for boating use. Therefore, we must say that we are opposed to the proposal to allow easier boat access to the Chattooga Wild and Scenic River.

Thank you again for allowing the public to comment on such a vitally important subject. Please keep us informed of any decisions made on this matter in the future.

Sincerely,
Bart and Judy Patton
214 Charlie Mountain Rd.
Clayton, GA. 30525
706-782-2380

Robin Phillips
4338 Horse Cove Rd
Highlands NC 28741

828 526 9580 robinotter@frontier.com

24 August 2013

Chattooga Planning Team
4931 Broad River Rd
Columbia SC 29212

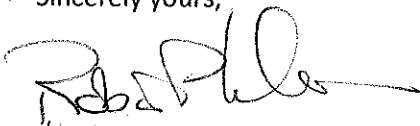
Dear Chattooga Planning Team:

It is with exasperation and no small alarm that I write you. The white water folk are not so slowly taking what they originally intended---their use of the upper Chattooga whenever and wherever they please. So, let me strenuously object to the use of the iron bridge as a put-in point for kayakers on the upper Chattooga River. The parking is inadequate for both those of us who use the iron bridge for fly fishing and hiking and those that kayak. The iron bridge is where I take my grandchildren for hikes and picnicking and identifying plants. It is where we fish. It is where we enjoy the peace and quiet of the river. It matters not that the months allowed for kayaking are currently winter ones. The winter woods are ideal for walking and the river for fly fishing. I'm under no illusion that kayakers will use this spot only when allowed. They will eventually use it whenever they wish. There is no one to police whether they are observing the legal water level or the month of the year. The falls there are probably "challenging" to them. They are an accident waiting to happen. Then, when emergency help comes, that help will be far out of range for those who need it for medical emergencies unrelated to risk taking hooligans. OK, maybe they aren't hooligans. But there are a plethora of put-in points along the Chattooga below the iron bridge. It is harder and harder for fishermen to find quiet spots to fish where their put-in spots are accessible, and where the parking is safe.

So, let me repeat. I object to the iron bridge on the Chattooga as a put-in point for kayakers.

I am

Sincerely yours,

A handwritten signature in dark ink, appearing to read 'Robin Phillips', with a long, sweeping horizontal line extending to the right.

Robin Phillips

From: [Larry Winslett](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga Trails
Date: Monday, August 26, 2013 4:10:21 PM

I am writing on behalf of the Georgia Chapter of the Sierra Club on the Forest Service plan to build/designate **5 new trails through the upper Chattooga River's wild and scenic corridor**, to provide increased river access for boaters and foot travel. **We are opposed to all these new trails.**

One of our major concerns is impacts of the proposed trails at Green Creek and Norton Mill Creek on the future of the Chattooga Cliffs reach. The Chattooga's remote headwaters provides one of the few unique backcountry experiences where one can still find solitude. This is also the most biologically rich place in the whole Chattooga River corridor. New trail construction would undoubtedly funnel more people into the once-remote headwaters and also result in the creation of countless new user-created trails, which would degrade and damage this fragile resource. In addition, the justification for these 2 trails to accommodate boaters is irresponsible because: 1) there is a huge log jam two stories high all the way across the river ¼ mile below Norton Mill Creek; and, 2) the Green Creek trail is proposed for very erodible soils that are rated at the highest level for the greatest negative impacts from paths and trails.

Then, there is also the proposed construction of a boater take-out trail at Lick Log Creek, which would require paddlers to carry boats for about 1 mile along a heavily used hiking trail to reach a parking area. This makes no sense, because there is already a major access point just a few miles downstream near the Highway 28 Bridge, which already has a large paved parking lot and boat ramp to the river.

This area is one the wildest remaining areas in Georgia and deserves more, not less, protection. So the Sierra Club can support **no** new access construction into the wild and scenic river corridor. Managing for a back country experience is one of the primary management objectives for a "wild" river, and a bedrock principle of back country management is **nothing kills wildness quicker than too much access**. A decision to go ahead with this plan would, in our opinion, be yet another example of the Forest Service's continuing mismanagement of this very special area.

Again, we **oppose** the new trails and hope the Forest Service will ultimately do the same.

Sincerely,

Larry Winslett

Wildlands Committee

Ga. Sierra Club



**213 Railroad Ave.
Whitmire, SC 29178
(803) 271 - 6701**

Chattooga Planning Team
4931 Broad River rd.
Columbia, SC 29212

RE: Public Scoping, Chattooga River Boating Access.

Whom it may concern;

As a regular visitor and angler on the Chattooga river I most always use either Burrells Ford camping and fishing access or Bull Pen Rd. camping and fishing access. My comments will be limited to the two areas that I use and am familiar with their lay out and current access.

Burrells Ford - Sumter National Forest:

I agree with most of what I have read in the proposed boating access plan. The west side of the bridge in Georgia provides the closest parking and the flattest access to the river. It is already a high traffic area for campers and fishermen, the trails are well used, I would only have an objection to the proposed placement of woody debris and large trees into the river. If there are trees that have to be removed, and I would urge that no large trees be removed unless deemed absolutely necessary, then those trees I think would be better to be completely cut and removed from the area. I do not see any advantage or improvement of river conditions by placing large trees into the river. Would seem to me to just create more opportunity for high water to dislodge the trees and move them into the river channel at some point. Then we have to remove them so the boaters can pass. Just seems like inviting trouble into the picture for little gain except to avoid having to cut up and remove the trees. So... how about we just don't cut them down in the first place? And if we absolutely have to cut a tree or two, saw them up and get them out, don't shove them into the river.

Bull Pen Rd. / Iron Bridge – Nantahala National Forest:

This is a dangerous access. The drop and hydraulic below the Iron Bridge on Bull Pen rd is likely to hurt / drown a few people. If we do install an access above the bridge, then having one below may be well suited for retrieving the injured and corpses from the river. However, the left side of the river, facing down river from the bridge is a treacherous descent. I have taken a spill or two on that climb. Looking at the map it appears that the plan is to head down around the bend but I can't tell if the plan is to create the access above or below the small rock island in the river there. In any case, this appears to me to be a difficult access to create that is going to require quite a bit of alteration to the existing lay of the land. My opinion is, if a paddler is too scared or inexperienced to make the drop under the bridge, they have no business in this section of river. Accommodating inexperienced or unprepared paddlers by offering a second access below the bridge, in my opinion, is inviting problems with inexperienced paddlers. If they see that drop and cringe, why on Earth should we give them the idea that rest of the river is any less dangerous?

Opinion: If you can't make the drop under the bridge, you have no business in the river. Don't try to accommodate unqualified paddlers or we will be fishing them out of the river in the gorge.... or maybe that's why we're putting the trees in the river at Burrells Ford? To catch the bodies of novice paddlers?

Thanks for the chance to comment.

Sincerely


Jon Durham
Director, Tyger – Enoree River Alliance
(803) 271 6701



Chattooga Conservancy
8 Sequoia Hills Lane
Clayton, Georgia 30525
706.782.6097
info@chattoogariver.org

USFS/Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212
comments-southern-francismarion-sumter@fs.fed.us

RE: Chattooga River Boating Access
File Code 1950

August 28, 2013

I am writing on behalf of the Chattooga Conservancy to register comments for the scoping notice that proposes to build/designate 5 new trails through the upper Chattooga River's wild and scenic corridor, to provide increased river access for boaters and foot travel; specifically, the trails being proposed at Green Creek, Norton Mill Creek, Bull Pen Bridge, Burrell's Ford Bridge and Lick Log Creek.

From the beginning of this protracted multi-year controversy, plowing new access trails into the National Wild & Scenic Chattooga River Corridor has been one of our primary concerns. To reiterate, a major concern is for the fate of the Chattooga Cliffs reach, due to the proposed trails at Green Creek and Norton Mill Creek, which we adamantly oppose. Here—in the Chattooga's relatively remote headwaters—there exists a unique backcountry experience where one can find solitude as well as the most biologically rich place in the entire Chattooga River corridor. Simply put, this area is the least visited segment of the Wild & Scenic Chattooga River Corridor, and should be preserved as is, with no further development. Management for a backcountry experience and solitude are two of the primary management objectives for a "wild" river, and a bedrock principle of back country management is: nothing kills wildness quicker than too much access. New trail construction would, by definition, funnel more people into the once-remote headwaters, and undoubtedly result in countless new user-created trails, which will degrade the outstandingly remarkable resource values of this fragile resource as well as damage the rich biological diversity in this area. Since commercial exploitation and development is pervasive throughout the rest of the wild and scenic river corridor, the Chattooga Cliffs reach should be preserved with no further development. Thus, we are opposed to trail construction at Green Creek and Norton Mill Creek.

In addition, it's important to note that the Forest Service's justification for creating the Green Creek and Norton Mill Creek trails to accommodate boaters is blatantly irresponsible, and should not go forward for the following reasons as well: 1) There is a huge log jam 2 stories high all of the way across the river just ¼ mile below Norton Mill Creek, that is a known and potentially lethal hazard to boaters; and, 2) the

Green Creek trail is designated for extremely erodible soils, that the State of North Carolina rates at the very highest level for the greatest negative impacts from paths and trails, such that agency guidance and plain common sense would presumably point to the fact that the area should not be further developed as a designated trail.

Regarding the trail designation/construction at Burrell's Ford, please incorporate by reference the Chattooga Conservancy's comments that were previously submitted to the Chattooga Ranger District, that emphasize the exclusive use of natural materials and hand tools for any management actions within the protected boundary of the wild and scenic river corridor, in adherence with the Wild & Scenic Rivers Act.

Then, there is the proposed construction of a boater take-out trail at Lick Log Creek, which would require paddlers to carry boats for about 1 mile along a heavily used hiking trail to reach a parking area. This makes no sense because there is already a major access point just a few miles downstream at the Highway 28 Bridge, which is an established destination point that already has a large paved parking lot and boat ramp to the river. Constructing/designating a boater take-out trail at Lick Log Creek would be a waste of taxpayer's monies, as well as create needless additional use and potential user conflicts of established hiking trails in this area. Boaters should be allowed to continue downstream just a few more miles to an already developed, established take-out area.

Other important procedural and substantive issues with the upper Chattooga trail construction proposal concern its timing and adherence to the National Environmental Policy Act (NEPA), National Forest Management Act (NFMA), Endangered Species Act (ESA), Wild & Scenic Rivers Act (WSRA), and Administrative Procedures Act (APA). By employing an arbitrary, capricious, and willful segmenting of decision-making processes, as well as consistently revising environmental assessments concerning the upper Chattooga boating issue to the point that the public either can't understand or is completely fatigued by shifting agency jargon, the Forest Service has consistently sidestepped and failed to address the true negative impacts of the proposed trail construction/designation on the Chattooga's outstanding remarkable resource values. Thus, this proposal should be rejected.

Lastly, we urge the Forest Service and other stakeholders to consider and accept the Chattooga Conservancy's alternative to the upper Chattooga controversy, which would allow boating from Bull Pen all the way down to Highway 28, year-round and when the water levels are high enough for paddling but too high for fishing, with reasonable restrictions (as outlined in previous comments) on numbers to protect the wilderness experience.

Sincerely,



Nicole Hayler
Executive Director, Chattooga Conservancy

From: [State Clearinghouse](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: EMAIL NOTIFICATION: SCH# 14-E-0000-0039
Date: Friday, August 02, 2013 11:17:33 AM

Dear Mr. Knibbs,

This is a notification to you that the N.C. State Environmental Review Clearinghouse has received the *Chattooga Wild and Scenic River* project. This project has been assigned State Clearinghouse #14-E-0000-0039 and this number should be used in all inquiries or correspondence with this office.

Copies of the environmental document are being sent to various governmental organizations for review and comment. In addition, notification of the availability of the document will appear on the North Carolina Environmental Bulletin at <http://www.doa.nc.gov/clearing/ebulletin.aspx>.

The review of this project should be completed on **August 27, 2013**. After the review has concluded, the comments and signoff letter will be email to the email address used for this message. If you have an alternate email, please email it to me at State.Clearinghouse@doa.nc.gov.

Should you have any questions, please email State.Clearinghouse@doa.nc.gov

Notice: E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

From: [Richard Melvin](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: FW: Chatooga River
Date: Friday, August 30, 2013 10:11:39 AM

From: Richard Melvin [mailto:melvin@joneskey.com]
Sent: Thursday, August 29, 2013 11:43 AM
To: 'comments-southern-francismarion-sumter@fs.fed.us'
Cc: 'info@chatoogariver.org'
Subject: Chatooga River

I recommend the proposal of the Chatooga Conservancy

Richard Melvin



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August 28, 2013

Chattooga Planning Team
4931 Broad River Road
Columbia, SC 29212

RE: Chattooga River Boating Access

Dear Chattooga Planning Team,

Please accept these comments from Georgia ForestWatch on the Chattooga River Boating Access Scoping announced on July 24, 2013. Per the Scoping Notice, the designated opportunity for submitting scoping comments is until August 28, 2013 - thus these comments are timely filed. Georgia ForestWatch has submitted comments under previous solicitations for these activities, and we would like to include all of our prior comments by reference, including but not limited to, our comments submitted on June 29, 2012, by our attorney, Rachel Doughty of Greenfire Law ("June 29 Comments").

General Comments

As noted above, the Forest Service first proposed the five boater access trails over a year ago. Since that time, little or no progress has been made in creating sustainable environmentally-sound trails to facilitate boater access even though the first boating season has come and gone. In our June 29 Comments, Georgia ForestWatch stated that user-created features should not be relied upon for access:

At the site visits, at least one ranger commented that the Forest Service would not finally identify and create access, portage, and scouting trails, and put-ins and take-outs until boaters had some experience with the sites during actual conditions. This implies that access will occur via user-created trails (existing or new), at least at first. The *Environmental Assessment: Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (January 2012) ("2012 EA") describes user-created trails as those that: "are created by forest visitors, often during recreational activities such as fishing, camping and hiking, or to access certain areas such as boating put-ins or take-outs or other specific points of interest. These trails are often poorly located, within close proximity to streams or stream banks, do not meet trail design specifications/standards, receive no maintenance and do not meet erosion control specifications. User-created trails often lead off a designated/system trail and go down steep slopes to a major stream or the Chattooga River."¹ User-created features are "chronic sediment sources."² The soils of the River area are described as having "high erosive potential."³

¹ 2012 EA, p.53.

² 2012 EA, p. 297.

³ 2012 EA, p. 300.

As stated in our June 29 Comments, it would be unusual and inappropriate for the Forest Service to simply rely on user-created trails for access. The Forest Service should follow its own trail designation, construction, and maintenance policy for access features and create sustainable, permanent access trails. It is particularly critical that permanent access routes be planned as soon as possible to prevent an increase in user-created access features since these are responsible for considerable sedimentation. However, given that user-created trails will have to be used for the 2013/2014 boating season, the Forest Service should put some effort into getting the preferred access trails, such as Green Creek, into better shape.

Has the Forest Service surveyed boaters or determined by some other means the relative amount of use of each access point during the 2012/2013 season? The permits filled out at the registration kiosks should provide a partial answer to this question if boaters have been faithfully completing the permits. Has the Forest Service sampled boaters at the various take-out points to gauge how many boaters filled out the permits? This information is critical to appropriate access planning.

Discussions with some paddler groups have indicated that they have little interest in using the County Line access point because the distance from parking to the River is too great. Green Creek appears to be the preferred launch point. Consequently, it would be prudent for the Forest Service to focus its attention for the upcoming boating season on further development of the Green Creek access trail. However, based on our visit in June 2012, this access point poses the greatest challenge in creating a sustainable trail (please see our June 28 Comments for more detail).

Has the Forest Service surveyed and marked a sustainable trail at the proposed Green Creek access point, or is the intention to convert the existing substandard user-created trail into the permanent access point? The request for comments does not make this clear. It should be noted that paddlers this past boating season had a difficult time finding the trail as the trail was poorly marked (as did the Forest Service staff on the June 2012 walk-through, who were not able to locate it).

If Green Creek is going to serve as the primary upper access point for boaters, what provisions are going to be made for parking at its trailhead? The request for comments indicates that eight spaces are available, but eight spaces probably will not suffice.

Boaters report that there are two long-term portage areas identified at Big Bend Falls and Corkscrew rapids. No portage trails are considered or discussed in the scoping notice. Will the Forest Service monitor these portage sites and other portages certain to arise as the Hemlocks fall to minimize further degradation of the natural resources? For the longer-term portage areas, will any effort be made to make these trails more sustainable or add them as system trails so that resources can be directed toward their maintenance?

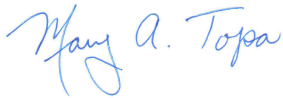
The creation of access points enables boating, but also necessitates take-out points. As the lowest access/take-out point on the Upper Chattooga, Lick Log Creek will receive heavy use. Unfortunately, this take-out requires a mile-long hike. Georgia ForestWatch has received anecdotal reports of boaters floating down to Highway 28 in order to easily exit the River and

avoid the long hike. Has the Forest Service monitored activity at the Highway 28 bridge during active floating days to determine whether boaters are observing the exclusion in that area?

The management framework that the Forest Service has created through the 2012 Decisions to protect solitude and the outstanding recreational values of the upper sections of the Wild and Scenic Chattooga River can only work with monitoring, informed adaptive management, and enforcement. If the Forest Service is going to practice adaptive management when is it going to commence? Has it established the baseline that is critical to informed adaptive management? Georgia ForestWatch would like to see further development of the management plan as applied to access, with a clear articulation of monitoring and enforcement activities.

In closing, we note that the actions proposed still do not address the fact that the current boater permitting system will encourage boaters to violate Federal Regulations. Code of Regulations title 36, section 261.77 requires boaters floating in South Carolina or Georgia to register at a variety of locations, none of which are in North Carolina. It is not logical to think that a boater launching at Green Creek, County Line, or Bullpen Bridge, and likely to float into Georgia and South Carolina, would obtain a permit at one of the designated sites located a great distance from the launch sites, particularly since the Forest Service has provided self-registration kiosks at these locations.

Sincerely,



Mary A. Topa, Ph.D.
Executive Director
Georgia ForestWatch



June 29, 2012

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Re: Site visits for boater access to the Chattooga Wild and Scenic River

Dear Decision-makers:

Thank you for hosting site visits to present proposed access for boaters to the Upper Chattooga Wild and Scenic River Corridor ("River"), and for considering these comments, submitted on behalf of **Georgia ForestWatch** ("GAFW"),¹ the **Georgia Chapter of the Sierra Club**,² and **Wilderness Watch**³ (collectively, "Advocates"). These comments are in large measure a compilation of the observations of attendees of the site visits from each of these three groups and of those familiar with the area because they regularly visit.

Those who participated in the site visits reported a distinct impression that there are many unknowns with regard to proposed access. At this point in the analysis process, this is entirely appropriate. Advocates look forward to the opportunity to comment more substantively on the specific proposals you have stated will emerge from this process,

¹ Mailing address: Georgia ForestWatch, c/o Mary Topa, 15 Tower Road, Ellijay, GA 30540; telephone: 706-635-8733.

² Mailing address: Georgia Chapter Sierra Club, c/o Colleen Kiernan or Larry Winslett, 743 East College Avenue, Suite B, Decatur, Georgia 30030; telephone: 404-607-1262, fax: 404-876-5260.

³ Mailing address: Wilderness Watch, PO Box 9175, Missoula, MT, 59807; Telephone: 406-542-2048.

including the analysis pursuant to the National Environmental Policy Act (“NEPA”) that would need to accompany any such proposals.

While GAFW has appealed the Decision Notices that set this process of evaluating potential access features in motion, as always, it looks forward to working with the Forest Service to ensure the very best management of these special public lands, including the River and the Ellicott Rock Wilderness, regardless of the outcome of the appeal process.⁴

I. GENERAL COMMENTS

II. CONSIDER ALL IMPACTS OF PROPOSED ACCESS THROUGH AN APPROPRIATE NEPA ANALYSIS.

Pursuant to the National Environmental Policy Act (“NEPA”), the Forest Service must perform a thorough analysis of access features for boaters (e.g., parking, put-ins, take-outs, trails) addressing, among other things, direct, indirect, and cumulative effects and any connected actions before a decision can be made. Because boaters can be expected to pass through several districts, access feature decisions should be coordinated to avoid ad hoc management of the River.⁵

The impacts of access features (those displayed at the site visits and others) have not been previously addressed. The Forest Service did not evaluate site-specific implementation activities in the *Environmental Assessment: Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (January 2012) (“2012 EA”), delaying that work until later.⁶ Where, an issue has not been analyzed in an earlier environmental document to which the site-specific document may tier, the scope of the required analysis in the project-specific EA is correspondingly increased.⁷ By no means should the Forest Service consider using multiple categorical exclusions to avoid its duty pursuant to NEPA to analyze the individual and cumulative impacts of boater access features.

⁴ *Decision Notice and Finding of No Significant Impact: Amendment #22 to the Nantahala and Pisgah National Forests Land and Resource Management Plan, Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (signed by Acting Forest Supervisor Diane Rubiaco on January 31, 2012) (“NCDN”); *Decision Notice and Finding of No Significant Impact: Amendment #1 to the 2004 Revised Land and Resource Management Plan Chattahoochee-Oconee National Forests, Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (signed by Forest Supervisor George Bain on January 31, 2012) (“GADN”); and *Decision Notice and Finding of No Significant Impact: Amendment #1 to the 2004 Revised Land and Resource Management Plan Sumter National Forest, Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (signed by Forest Supervisor Paul Bradley on January 31, 2012) (“SCDN”) (collectively, “Decision Notices”).

⁵ This review is made all the more important because there is no current Comprehensive River Management Plan for the River, as is required by law.

⁶ See, e.g., SCDN, p. 5 ¶ 9 (“Trails will be designated on future site-specific NEPA analysis”).

⁷ *Kern v. United States BLM*, 284 F.3d 1062, 1078 (9th Cir. Or. 2002), *Sierra Club Northstar Chapter v. Bosworth*, 428 F. Supp. 2d 942, 949 (D. Minn. 2006), *Heartwood, Inc. v. U.S. Forest Serv.*, 380 F.3d 428, 430 (8th Cir. 2004).

In establishing new trails, and particularly wilderness and riparian access trails, the Forest Service should consider, among other things, the needs and likely use patterns of anglers, hikers, and swimmers, in addition to boaters. Trails are likely to be used by visitors engaged in many different kinds of activities. Trails and River access should be clearly marked so that all users are encouraged to limit the proliferation of user-created features, which are the source of environmental degradation. Any new Spur trails should be developed as part of the overall trail system based on suitability of the topography, location of sensitive species,⁸ and how they integrate with the existing trail system. The County Line Road/Trail is part of an active timber sale. The safety and environmental implications of that situation should be addressed. Each of the proposed access features should be observed during wet weather and at high flows.

III. USER-CREATED FEATURES SHOULD NOT BE RELIED ON FOR ACCESS.

At the site visits, at least one ranger commented that the Forest Service would not finally identify and create access, portage and scouting trails, and put-ins and take-outs until boaters had some experience with the sites during actual conditions. This implies that access will occur via user-created trails (existing or new), at least at first. The *Environmental Assessment: Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (January 2012) (“2012 EA”) describes user-created trails as those that:

are created by forest visitors, often during recreational activities such as fishing, camping and hiking, or to access certain areas such as boating put-ins or take-outs or other specific points of interest. These trails are often poorly located, within close proximity to streams or streambanks, do not meet trail design specifications/standards, receive no maintenance and do not meet erosion control specifications. User-created trails often lead off a designated/system trail and go down steep slopes to a major stream or the Chattooga River.⁹

User-created features are “chronic sediment sources.”¹⁰ The soils of the River area are described as having “high erosive potential.”¹¹

The Finding of No Significant Impact for selected Alternative 13A allowing boating was based on an analysis in which it was assumed that “[a]ll put-ins and take-outs would be designated and maintained to minimize sediment input to the river.”¹² If the Forest Service intends to abandon the plan to actually designate and maintain access features, and instead rely on access dictated by users, then anticipated environmental impacts are greater, and the 2012 EA will need to be revised.

⁸ By way of example--at least one sensitive species, Oconee Bells (*Shortia galacifolia*), exists in the area of some of the potential access features that were part of the site visits.

⁹ 2012 EA, p. 53.

¹⁰ 2012 EA, p. 297.

¹¹ 2012 EA, p. 300.

¹² 2012 EA, p. 327, see also 2012 EA, pp. 39, 297, 328, 329.

**IV. THE FOREST SERVICE SHOULD FOLLOW ITS TRAIL DESIGNATION,
CONSTRUCTION, AND MAINTENANCE POLICY FOR ACCESS FEATURES.**

It would be unusual and inappropriate for the Forest Service to simply rely on user-created trails for access. The Forest Service Manual requires that the Forest Service “[f]ollow the direction in FSH 2309.18, Trails Management Handbook, chapters 10 and 20, when developing, reconstructing, or maintaining trails.”¹³ The Forest Service must “[a]pply the National Quality Standards for Trails in the planning, construction, maintenance, condition assessment, and management of NFS trails, in accordance with FSH 2309.18, section 15.”¹⁴ It must also “[c]onsider available resources and maintenance costs when deciding to construct new trails, reconstruct existing trails, or convert other types of routes to NFS trails.”¹⁵ It must “[m]anage each trail to meet the [trail management objectives (“TMOs”)] identified for that trail, based on applicable land management plan direction, travel management decisions, trail-specific decisions, and other related direction, as well as management priorities and available resources. For each NFS trail or NFS trail segment, [it must] identify and document its TMOs, including the five Trail Fundamentals, Recreation Opportunity Spectrum classifications, design criteria, travel management strategies, and maintenance criteria.”¹⁶

**V. ACCESS ROUTES SHOULD BE ESTABLISHED TAKING INTO CONSIDERATION
ACTUAL ENFORCEMENT CAPACITY**

Excellent trail placement is a necessity. There are only two river rangers. It is clear that the Forest Service will have to rely on passive direction of use rather than active enforcement of rules. The proposed put-ins and take-outs, with the exception of the Bull Pen Bridge, all require hiking for some distance with boating gear. The Forest Service must consider its actions in light of its actual enforcement capacity. Are existing or expected resources adequate to prevent access at Grimshawes Bridge or by by-passing the Lick-Log take-out and using the Route 28 Bridge as a take-out by boaters who wish to avoid hiking? Advocates note that this is not only a boater issue—numerous user-created trails and unauthorized and trashed campsites were observed on the site visits, and visitors other than boaters may use trails established by boaters and visa-versa.

**VI. ACCESS ROUTES SHOULD BE PLANNED TO PREVENT AN INCREASE IN USER-
CREATED ACCESS FEATURES.**

Advocates are concerned that the addition of boating to the Upper Chattooga may cause a sharp increase in user-created features. On the Lower Chattooga, where boating accounts for 95% of visitors to the Chattooga Corridor, user-created trails very close to the River

¹³ Forest Service Manual (“FSM”) § 2353.25.1. See also FSH § 2309.18, Trail Management Handbook, chapter 30, for direction on preconstruction and reconstruction of NFS trails. As applicable, when constructing trails, comply with EM-7720-103, “Standard Specifications for Construction of Trails,” and EM-7720-104, “Standard Drawings for the Construction and Maintenance of Trails,” FSM § 2353.26.

¹⁴ FSM § 2353.15.

¹⁵ FSM § 2353.25.2.

¹⁶ FSM 2353.12; see also FSM 2353.14 (“Use the [recreational opportunity spectrum] in trail planning, development, and operation (FSM 2310 and FSH 2309.18, Trails Management Handbook, chapter 10).”)

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Chattooga Access Site Visits

are much more common than on the Upper Chattooga (Table 1).¹⁷ As discussed above, user-created features are responsible for considerable sedimentation. Care must be taken in establishing access routes to minimize the temptation by users to create more user-created features.

Table 1: User-created trails greater in areas where boating permitted.¹⁸

Reach	Designated Trails within 100 ft. of River (mi)	User-created Trails within 100 ft. of River (mi)	Percentage of Trails that are User-created Trails within 100 ft. of River	Designated Trails within 20 ft. of River (mi)	User-created Trails within 20 ft. of the River (mi)	Percentage of Trails that are User-created Trails within 20 ft. of River
Upper Chattooga (21 miles)	9	9.8	52%	1.22	1.41	54%
Lower Chattooga (36 miles)	5.7	12.7	69%	.6	3.9	87%

VII. PROTECT THE CHATTOOGA RIVER TRAIL EXPERIENCE.

The Chattooga River Trail should continue to provide limited access to and from the River only at well-sited locations and provide no access to the River for at least the first mile from any parking area on each bank to help protect riparian resource from overuse, and continue to offer the currently-enjoyed remote experience.”

VIII. ROUTES SHOULD BE DESIGNATED CONSIDERING EMERGENCY ACCESS NEEDS.

The 2012 EA anticipates between 5 and 10 search and rescue operations per year. In developing access features, it makes sense to consider where emergency access may be needed at each point and to use that information to inform access feature selection and design. Access features will need to be made part of a search and rescue plan and a pre-accident plan that will both protect users and the River and the Ellicott Rock Wilderness. Such planning should be made part of a Comprehensive River Management Plan.

IX. BOATER ACCESS MUST BE IN COMPLIANCE WITH FEDERAL REGULATIONS.

The location of registration stations for boaters who will enter South Carolina and Georgia is prescribed by federal regulation.¹⁹ Please address compliance with this regulation when establishing access features.

¹⁷ A 2002 survey reported that the primary purpose for 95% of the visits to the lower Chattooga was to “float” the River.

¹⁸ 2012 EA, Tables 3.1-4 and 3.1-9.

¹⁹ See 36 C.F.R. § 261.77.

X. USE BY INTERMEDIATE TO EXPERT BOATERS SHOULD BE ANTICIPATED.

Only expert skill levels were considered relevant to a review of access feature needs. Although appropriate for the class V Chattooga Cliffs stretch, the 2012 EA considers the area below Bull Pen a class III-IV creek with one class V rapid. Therefore the portage and scouting needs and impacts of intermediate and advanced boaters requires consideration.

XI. USE AT A RANGE OF FLOW LEVELS SHOULD BE ANTICIPATED.

The EA 2012 documented a range of flows where boating would be expected extending as high as 1,000 cubic feet per second measured at the Burrells Ford Bridge. Whether the put-ins and take-outs that were the subject of the site visits are in fact appropriate at both lower and higher flows should be assessed.

XII. MONITORING SHOULD BE EMPLOYED TO DETECT DEGRADATION OF RESOURCES.

In light of the minimal pre-access analysis that is planned, and the high potential for degradation caused by user-created features, Advocates were disturbed to hear at least one ranger say that monitoring for biological impacts of access features is not planned. 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.”²⁰ “Impacts to vegetation in riparian areas can occur even with low to moderate usage levels.”²¹ Without monitoring of access impacts, the entire adaptive management framework will fall apart because degradation of the River and Ellicott Rock Wilderness will not be detected. Please reconsider and add a monitoring plan for access features.



Figure 1: Badly eroded user-created feature used to access the River at Greens Creek.

XIII. PROPOSED ACCESS POINTS

Below is a summary of the compiled comments of GAFW members on the specifically-proposed access features.

XIV. GREENS CREEK ACCESS

The site visit to the Greens Creek area included examination of multiple spur trails leading from the Chattooga River Trail to the River. Most are in poor condition, are overgrown, and not a few are eroded logging roads. None appear suitable for use without maintenance and/or reconstruction. Clearly some should be obliterated. The best tend to direct users onto private land belonging to a

²⁰ See, e.g., GADN, p. 2.

²¹ 2012 EA, pp. 300, 303

nearby church, which should be avoided. The proliferation of spur trails in the riparian zone indicates that even without boating the existing trail network is not meeting the need for access the water. Creating some well-constructed trails to the River while closing many of the user-created trails in this area is a good idea.

A. UPPERMOST SPUR TRAIL—FIRST SPUR TRAIL VISITED



Figure 2: First proposed spur trail is eroded down to bedrock.

This proposed access feature should be abandoned. This first and uppermost spur trail presented for potential River access was estimated at .28 miles from the main trail, but it is actually closer to half a mile through meandering, overgrown, and steep trail. It was eroded down to bedrock and slick for a long stretch. At one point during the site visit, participants had to navigate a six-foot deep gully. Hikers familiar with the area report that this trail is actually an ephemeral stream that is slippery and difficult to hike following rain events. It would be treacherous for anyone carrying equipment down to

the River, and users would probably develop alternative routes. However, once the River is attained by this route, access is from a rock bank that would be appropriate for boat launching.

This trail would require significant maintenance and probably reconstruction because it is mostly located on a steep slope that, once waterlogged by heavy rains (when boaters will visit), would create severe likelihood of erosion and sedimentation. GAFW does not support access for any significant number of users by this route, and especially not under wet weather conditions.

B. SECOND PROPOSED SPUR TRAIL



Figure 3: Riverside at the second-visited spur trail, Green Creek.

The site visit included consideration of a second spur trail, slightly downstream of the first, and located off the second switchback. This second access route utilizes more of the maintained Chattooga River Trail without changing in any significant measure the distance boaters would need to traverse to reach the River from the parking area. Access here is superior to access from the uppermost spur because of two things: (1) it would provide access to the River from the Chattooga River Trail once it becomes visible

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to hikers which might minimize new user-created features, and (2) access here would provide a designated take-out point for anglers fishing upstream from Norton Mill Creek. A trail at this location could be expected to provide, in the public perception, a designated point of entry that will reduce the proliferation of spur trails and riparian impact from anglers, hikers and, if allowed, boaters.

Advocates prefer this access to the first-visited access point because it would require less trail construction and cause a lower maintenance burden than the first-visited access point. However, it would require some new construction to mitigate steep portions of the existing user-created feature.

One problem with this access point is that, at riverside, it has little level ground. This is a sandy point above a large rock pile and subject to change as noted by the downed trees and debris braced across the River.

C. OTHER SPUR TRAIL SITES

There are additional and shorter, undesignated spur trails to the River between Norton Mill Creek and the initial switchbacks heading down to the River. Most are over banks with poor access and far further down the Chattooga River trail, and so not preferred.

XV. COUNTY LINE ROAD/TRAIL ACCESS

County Line Road/Trail is neither a designated road nor a designated trail. It is a known illegal access point to the Chattooga River for motorized vehicles. As a temporary road, it should have been (or should be) obliterated, instead of offered as an access route to the River.²²

Adding a trail at County Line will interrupt the 5.2 mile segment of the Chattooga River Trail from Whiteside Cove Rd to Bull Pen, possibly destroying the unique remote experience along a mountain stream that is not available elsewhere by introducing more people to this area.

A launch site at the campsite below Norton Mill Creek was selected as the best site entering from County Line Road. This site seems to have been chosen primarily because it is already severely impacted. The bank in this area should be monitored and, if erosion is found, it should be moved 100 feet upstream to the rocks below Norton Mill Creek. One issue that must be addressed is how will boaters and other users will be dissuaded from entering the River at other points along the Chattooga River Trail if a new access is created.

It remains unclear whether a parking lot will be constructed at this proposed access point. Although there is no established parking lot, a ranger stated at the open house that no

²² 16 U.S.C.S. § 1608(b). Part of the White Bull Timber sale project was that this temporary road would be “closed and seeded after timber harvest activities are completed.” White Bull EA, p. 25.

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Chattooga Access Site Visits

parking was planned at this location. Nevertheless, the North Carolina SOPA for January 1, 2012, to March 31, 2012 (as well as earlier SOPAs) included “County Line Trail/Road CE” where: “The proposed action is to construct a parking area at County Line Trail/Road between Whiteside Cove Road and the Wild and Scenic River boundary, for access to floating the Upper Chattooga River.” This is just another in a long stream of proposals by the Forest Service which include maintenance of this non-system road/trail. Please clarify long-term management intentions for this feature.

County Line Road/Trail is located in Management Area 3B in the Nantahala and Pisgah National Forests. Desired road density in Management Area 3B is 0.5 miles of open road per square mile. Current road density in the Chattooga River Watershed is 2.67 mi/mi².²³ Where desired road density is exceeded, the reason for the exceedance must be documented, and strategies to reduce the road density must be investigated.²⁴ When considering this addition, the Nantahala must also consider that Management Area 3B is supposed to be managed for game and non-game animals that cannot tolerate motorized disturbance.²⁵ Increasing motorized access is therefore inconsistent with the LRMP and cannot be, and has not been, justified.

Despite the problems, GAFW concedes that due to the topography and distance from a road, this access may be the least egregious potential new access point for this area, which includes the spectacular Chattooga Cliffs. That said, it is not ideal. This trail was the furthest by far from any road—requiring a hike of 1.22 miles from the parking to the Chattooga River trail and then an additional hike upriver approximately .4 more miles. At present, County Line Road/Trail is part of an active timber sale. The cumulative impacts of recreational and timber management uses should be considered. Also, the Forest Service should address whether combining these two activities is safe.

XVI. BULL PEN ACCESS

This put-in/take-out is appealing to boaters because it does not require a long hike from the road. Less skilled boaters probably will not use the designated put-in above the bridge because it would immediately thrust them into a difficult rapid. The existing user-created trail below the bridge is steep, slippery, and subject to erosion. This trail would need to be reconstructed or closed and another created.



Figure 4: Difficult rapid immediately at proposed access above Bull Pen Bridge.

²³ 2012 EA, p. 335.

²⁴ Nantahala LRMP, p. III-76.

²⁵ Nantahala LRMP, p. III

The riverbank at the above-bridge location is rock and suitable for launching boats (although the ranger at the site visit was skeptical whether it would exist in high flow conditions). Below the bridge is a sandy bank. At present the bank is fifteen to twenty feet wide, but it may change seasonally, and boating access could cause erosion.

Careful consideration should be given to access below the Bull Pen Bridge and above Burrell's Ford because this area is within the Ellicott Rock Wilderness. The Forest Service's wilderness and trail system policies set design parameters for wilderness access trails, including, for example:

- Appropriate trail width²⁶
- Appropriate number of encounters²⁷

Because this area is so wild, it contains some rare species, including spray cliff communities on Ammons Branch. For any trail construction or designation, the Forest Service should consider to what degree traffic in the area of rare communities will be increased, and the likely impact of the loss of remoteness.



Figure 5: Proposed put-in below Bull Pen Bridge

XVII. BURRELL'S FORD



Figure 6: Trails lining River at Burrell's Ford.

construction, as already discussed. The only obvious access on the Georgia side is down a very steep and narrow user-created trail—nearly a ladder, to which the Forest Service has added some steps, several feet high each, to prevent severe erosion. The river ranger conceded that boaters would be unlikely to use this access, given other options.

User trails already line the riparian area near Burrell's Ford, and should be addressed.

A. ABOVE THE BRIDGE

As in the case of below-bridge Bull Pen access, a take-out/put-in at this location is likely to provide some access into Ellicott Rock Wilderness which will pose a challenge for meeting capacity limits and trail

²⁶ See FSM § 2323, Forest Service Handbook ("FSH") § 2309.18 Ch. 20.6-1; *see also* FSH 2309.18 Ch. 23.11-Exhibit 01 (design tread width for wilderness).

²⁷ See, e.g., Nantahala LRMP, p. III-101.

June 29, 2012

Chattooga Access Site Visits

The South Carolina side of the River has available parking in close proximity to the River and an obvious and appropriate launching point. This is the best boater access point at Burrell's Ford. User conflict, rather than resource damage, is likely to be the primary issue created by adding boating at this location. The area is heavily used by anglers and hikers.

B. BELOW THE BRIDGE

A put-in/takeout below Burrell's Ford may create user conflict with campers, hikers, and front country anglers with whom this area is very popular. Access below the bridge is more easily attained from the Georgia side, where there is a parking limitation.

XVIII. LICK LOG TAKE-OUT

Boating is not allowed between the Lick Log proposed take-out and the Highway 28 Bridge, although some boaters would clearly prefer to float further downstream to the Highway 28 Bridge to exit the River. At the site visit there was some disagreement about whether there would be conflict with anglers if a Highway 28 Bridge take-out were allowed. Advocates believe there would be. Nevertheless, given access, it seems clear that some boaters will use the Highway 28 Bridge to exit the River regardless of the rules, simply because the access is much more convenient.

Getting out at the proposed take-out, as it is presently configured, will be difficult. Boaters who attended the site visit conceded this. The access requires a significant hike for a person carrying a boat--it is a little over a mile to the parking lot from the take-out. Some of this mile, especially near the River, is fairly steep. A couple of boaters indicated that they would have to drag their boats up this trail and that it would be an arduous task. This user-created section goes straight up the fall line, and is already a sediment source. Dragging boats would add to this problem. The ranger at the site visit acknowledged that the Forest Service would need to work on this section--building in some steps, for example--to make it usable. The more prudent course probably would be to redirect the trail to create some switchbacks to prevent erosion down this steep slope.

At the River there were two campsites that could work as landing sites. These are trash ridden and visitors have been cutting down live trees for their campfires. This abuse should be addressed.

June 29, 2012
Chattooga Access Site Visits

In conclusion, whether or not the Forest Service proceeds with plans to permit boating in the Upper Chattooga Wild and Scenic River Corridor there is significant work that needs to be done to address issues surrounding access to the River. This work will be made more urgent by the addition of a new use, boating.

Please include Georgia ForestWatch, the Georgia Chapter of the Sierra Club, and Wilderness Watch in any future mailings regarding management of the Chattooga River.

Sincerely,

A handwritten signature in cursive script, reading "Rachel S. Doughty". The signature is written in dark ink and has a long, sweeping horizontal line extending to the right.

Rachel S. Doughty
Attorney for Georgia ForestWatch, Georgia
Chapter of the Sierra Club, and Wilderness
Watch



North Carolina Department of Administration

Pat McCrory, Governor

Bill Daughtridge, Jr., Secretary

September 3, 2013

Mr. Jim Knibbs
USDA Forest Service
Francis Marion and Sumter Nat. Forests
4931 Broad River Road
Columbia, South Carolina 29212

Re: SCH File # 14-E-0000-0039; SCOPING; Proposed project is for the Chattooga Wild and Scenic River Access project. Project will designate and construct trails for paddler access and put-in areas within three National Forests - Chattahoochee, Nantahala and Sumter.

Dear Mr. Knibbs:

The above referenced environmental impact information has been submitted to the State Clearinghouse under the provisions of the National Environmental Policy Act. According to G.S. 113A-10, when a state agency is required to prepare an environmental document under the provisions of federal law, the environmental document meets the provisions of the State Environmental Policy Act. Attached to this letter for your consideration are the comments made by agencies in the course of this review.

If any further environmental review documents are prepared for this project, they should be forwarded to this office for intergovernmental review.

Should you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script that reads "Crystal Best".

Crystal Best

State Environmental Review Clearinghouse

Attachments

cc: Region A

Mailing Address:
1301 Mail Service Center
Raleigh, NC 27699-1301

Telephone: (919)807-2425
Fax (919)733-9571
State Courier #51-01-00
e-mail state.clearinghouse@doa.nc.gov

Location Address:
116 West Jones Street
Raleigh, North Carolina



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

MEMORANDUM

To: Crystal Best
State Clearinghouse

From: Lyn Hardison *Lyn*
Division of Environmental Assistance and Customer Service
Environmental Assistance and Project Review Coordinator

RE: 14-0039
Scoping – Proposed project is for Chattooga Wild and Scenic River Access project to include designate and construct trails for paddler access and put-in areas within three National Forests – Chattahoochee, Nantahala and Sumter Jackson and Macon Counties

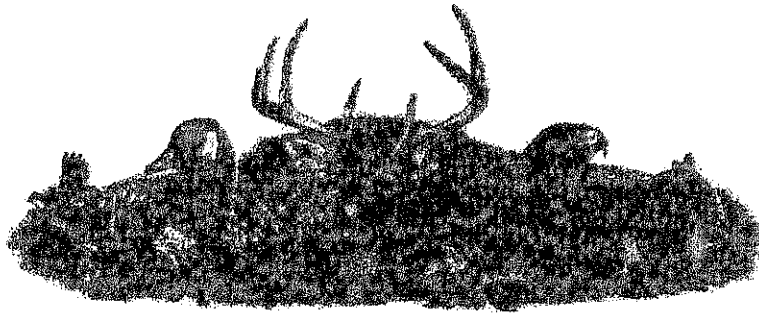
Date: August 22, 2013

The Department of Environment and Natural Resources has reviewed the proposal for the referenced project. Based on the information provided, several of the agencies have identified permits that may be required. These comments are attached for the applicant review.

The Department will provide more specific comments during the environmental review process.

Thank you for the opportunity to respond.

Attachments



☒ North Carolina Wildlife Resources Commission ☒

Gordon Myers, Executive Director

MEMORANDUM

TO: Lyn Hardison, Environmental Coordinator
Office of Legislative and Intergovernmental Affairs
North Carolina Department of Environment and Natural Resources

FROM: Dave McHenry, Habitat Conservation Biologist *D. Mc*

DATE: August 21, 2013

SUBJECT: US Forest Service Scoping for Chattooga River Boat Access Points, Jackson and Macon Counties

OLIA No. 14-0039

Biologists with the North Carolina Wildlife Resources Commission (NCWRC) reviewed the information about the proposed construction of three boat access points and connecting trails on the Chattooga River in Jackson and Macon counties. An EA is being prepared for the proposal. Comments from the NCWRC on this scoping notice are offered for your consideration under provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the North Carolina Environmental Policy Act (G.S. 113A-1 et seq., as amended; 1 NCAC-25).

The Chattooga River Gorge is a Nationally Significant Natural Heritage Area that supports rare animals such as green salamanders (*Aneides aeneus* NC-Endangered) and Chauga crayfish (*Cambarus chaugaensis* NC-Special Concern). The river supports wild rainbow and brown trout fisheries.

Access points and trails should be constructed and maintained to protect important terrestrial and aquatic habitats in the Gorge. Clearing of vegetation around rock outcrops should be avoided because green salamanders seasonally use arboreal habitats near these features. Trails may need to be monitored for erosion and maintained periodically by adding bars or other water control features. Moreover, signage at trail heads and/or other measures may be warranted to remind users to stay on designated trails and help reduce the possibility of "spider web" trail formation. User-made trails and the erosion problems they often create are not uncommon in some frequently visited areas of the National Forests in North Carolina.

Thank you for the opportunity to provide comments on this project. We appreciate being included in this

Mailing Address: Division of Inland Fisheries • 1721 Mail Service Center • Raleigh, NC 27699-1721
Telephone: (919) 707-0220 • **Fax:** (919) 707-0028

process and look forward to assisting where possible with future project developments. Please contact me at 828-400-4223 if you have any questions about these comments.

cc: Mr. David Stewart and Ms. Lori Williams, NCWRC
Mr. Powell Wheeler, NCWRC

**Department of Environment and Natural Resources
Project Review Form**

Project Number: 14-0039

County: Jackson and Macon

Date Received: 08/07/2013

Due Date: 8/22/2013

Project Description: Scoping - Proposed project is for the Chattooga Wild and Scenic River Access project. Project will designate and construct trails for paddler access and put-in areas within three National Forests - Chattahoochee, Nantahala and Sumter.

To view document go to http://www.fs.fed.us/nepa/nepa_project_exp.php?project=42568

Also refer to Project no. 14-0060

This Project is being reviewed as indicated below:

Regional Office	Regional Office Area	In-House Review	
<input checked="" type="checkbox"/> Asheville	<input checked="" type="checkbox"/> Air	<input type="checkbox"/> Air Quality	<input type="checkbox"/> Coastal Management
<input type="checkbox"/> Fayetteville	<input checked="" type="checkbox"/> Water	<input type="checkbox"/> Marine Fisheries	<input type="checkbox"/> Military Affairs
<input type="checkbox"/> Mooresville	<input type="checkbox"/> Aquifer Protection	<input checked="" type="checkbox"/> Parks & Recreation	<input type="checkbox"/> Water Quality
<input type="checkbox"/> Raleigh	<input checked="" type="checkbox"/> Land Quality Engineer	<input type="checkbox"/> Waste Mgmt	<input type="checkbox"/> Water Quality - DOT
<input type="checkbox"/> Washington	<input type="checkbox"/> UST	<input type="checkbox"/> Water Resources Mgmt	<input checked="" type="checkbox"/> Wildlife <u>Dave McHenry</u>
<input type="checkbox"/> Wilmington		<input type="checkbox"/> Water Supply Section	<input type="checkbox"/> Wildlife - DOT
<input type="checkbox"/> Winston-Salem			

Manager Sign-Off/Region:

Lyn Hardison

Date:

8-22-2013

In-House Reviewer/Agency:

Response (check all applicable)

☐ No objection to project as proposed.

☐ No Comment

☐ Insufficient information to complete review

☐ Other (specify or attach comments)

If you have any questions, please contact:

Lyn Hardison at lyn.hardison@ncdenr.gov or (252) 948-3842

943 Washington Square Mail Washington NC 27889

Courier No 16-04-01

RECEIVED
Asheville Regional Office

AUG 12 2013

NC Dept. of Environment &
Natural Resources

State of North Carolina
Department of Environment and Natural Resources

Reviewing Office: Asheville Regional Office

INTERGOVERNMENTAL REVIEW - PROJECT COMMENTS

Project Number: 14-0039
~~14-0060~~ Due Date: 8-22-2013

After review of this project it has been determined that the ENR permit(s) and/or approvals indicated may need to be obtained in order for this project to comply with North Carolina Law. Questions regarding these permits should be addressed to the Regional Office indicated on the reverse of the form. All applications, information and guidelines relative to these plans and permits are available from the same Regional Office.

	PERMITS	SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/>	Permit to construct & operate wastewater treatment facilities, sewer system extensions & sewer systems not discharging into state surface waters.	Application 90 days before begin construction or award of construction contracts. On-site inspection. Post-application technical conference usual.	30 days (90 days)
<input checked="" type="checkbox"/>	NPDES - permit to discharge into surface water and/or permit to operate and construct wastewater facilities discharging into state surface waters.	Application 180 days before begin activity. On-site inspection. Pre-application conference usual. Additionally, obtain permit to construct wastewater treatment facility-granted after NPDES. Reply time, 30 days after receipt of plans or issue of NPDES permit-whichever is later.	90-120 days (N/A)
<input type="checkbox"/>	Water Use Permit	Pre-application technical conference usually necessary	30 days (N/A)
<input type="checkbox"/>	Well Construction Permit	Complete application must be received and permit issued prior to the installation of a well.	7 days (15 days)
<input type="checkbox"/>	Dredge and Fill Permit	Application copy must be served on each adjacent riparian property owner. On-site inspection. Pre-application conference usual. Filling may require Easement to Fill from N.C. Department of Administration and Federal Dredge and Fill Permit.	55 days (90 days)
<input type="checkbox"/>	Permit to construct & operate Air Pollution Abatement facilities and/or Emission Sources as per 15 A NCAC (2Q.0100 thru 2Q.0300)	Application must be submitted and permit received prior to construction and operation of the source. If a permit is required in an area without local zoning, then there are additional requirements and timelines (2Q.0113).	90 days
<input type="checkbox"/>	Permit to construct & operate Transportation Facility as per 15 A NCAC (2D.0800, 2Q.0601)	Application must be submitted at least 90 days prior to construction or modification of the source.	90 days
<input type="checkbox"/>	Any open burning associated with subject proposal must be in compliance with 15 A NCAC 2D.1900	N/A	60 days (90 days)
<input type="checkbox"/>	Demolition or renovations of structures containing asbestos material must be in compliance with 15 A NCAC 20.1110 (a) (1) which requires notification and removal prior to demolition. Contact Asbestos Control Group 919-707-5950.		
<input type="checkbox"/>	Complex Source Permit required under 15 A NCAC 2D.0800		
<input checked="" type="checkbox"/>	The Sedimentation Pollution Control Act of 1973 must be properly addressed for any land disturbing activity. An erosion & sedimentation control plan will be required if one or more acres to be disturbed. Plan filed with proper Regional Office (Land Quality Section) At least 30 days before beginning activity. A fee of \$65 for the first acre or any part of an acre. An express review option is available with additional fees.		20 days (30 days)
<input type="checkbox"/>	Sedimentation and erosion control must be addressed in accordance with NCDOT's approved program. Particular attention should be given to design and installation of appropriate perimeter sediment trapping devices as well as stable stormwater conveyances and outlets.		(30 days)
<input type="checkbox"/>	Mining Permit	On-site inspection usual. Surety bond filed with ENR Bond amount varies with type mine and number of acres of affected land. Any acre mined greater than one acre must be permitted. The appropriate bond must be received before the permit can be issued.	30 days (60 days)
<input type="checkbox"/>	North Carolina Burning permit	On-site inspection by N.C. Division Forest Resources if permit exceeds 4 days	1 day (N/A)
<input type="checkbox"/>	Special Ground Clearance Burning Permit - 22 counties in coastal N.C. with organic soils	On-site inspection by N.C. Division Forest Resources required "if more than five acres of ground clearing activities are involved. Inspections should be requested at least ten days before actual burn is planned."	1 day (N/A)
<input type="checkbox"/>	Oil Refining Facilities	N/A	90-120 days (N/A)
<input type="checkbox"/>	Dam Safety Permit	If permit required, application 60 days before begin construction. Applicant must hire N.C. qualified engineer to; prepare plans, inspect construction, certify construction is according to ENR approved plans. May also require permit under mosquito control program. And a 404 permit from Corps of Engineers. An inspection of site is necessary to verify Hazard Classification. A minimum fee of \$200.00 must accompany the application. An additional processing fee based on a percentage of the total project cost will be required upon completion.	30 days (60 days)

PERMITS			SPECIAL APPLICATION PROCEDURES or REQUIREMENTS	Normal Process Time (statutory time limit)
<input type="checkbox"/>	Permit to drill exploratory oil or gas well	File surety bond of \$5,000 with ENR running to State of NC conditional that any well opened by drill operator shall, upon abandonment, be plugged according to ENR rules and regulations.		10 days N/A
<input type="checkbox"/>	Geophysical Exploration Permit	Application filed with ENR at least 10 days prior to issue of permit. Application by letter. No standard application form.		10 days N/A
<input type="checkbox"/>	State Lakes Construction Permit	Application fees based on structure size is charged. Must include descriptions & drawings of structure & proof of ownership of riparian property.		15-20 days N/A
<input checked="" type="checkbox"/>	401 Water Quality Certification	N/A		60 days (130 days)
<input type="checkbox"/>	CAMA Permit for MAJOR development	\$250.00 fee must accompany application		55 days (150 days)
<input type="checkbox"/>	CAMA Permit for MINOR development	\$50.00 fee must accompany application		22 days (25 days)
<input type="checkbox"/>	Several geodetic monuments are located in or near the project area. If any monument needs to be moved or destroyed, please notify: N.C. Geodetic Survey, Box 27687 Raleigh, NC 27611			
<input type="checkbox"/>	Abandonment of any wells, if required must be in accordance with Title 15A. Subchapter 2C.0100.			
<input type="checkbox"/>	Notification of the proper regional office is requested if "orphan" underground storage tanks (USTS) are discovered during any excavation operation.			
<input type="checkbox"/>	Compliance with 15A NCAC 2H 1000 (Coastal Stormwater Rules) is required.			45 days (N/A)
<input type="checkbox"/>	Tar Pamlico or Neuse Riparian Buffer Rules required.			
<p>* Other comments (attach additional pages as necessary, being certain to cite comment authority)</p> <p style="text-align: right;">WQ and classification of creek</p> <p>Depending on amount of disturbance, a trout buffer waiver may be needed. Contact Gray Hauser of DEMUR for trout buffer waiver. (RCO)</p> <p>- If fill is placed in waters for boat access, a 401 WATER QUALITY CERTIFICATION will be REQUIRED. CONTACT KEVIN BARNETT @ (828) 296-4657 for any information / QUESTIONS.</p>				

REGIONAL OFFICES

Questions regarding these permits should be addressed to the Regional Office marked below.

☐ **Asheville Regional Office**

2090 US Highway 70
Swannanoa, NC 28778
(828) 296-4500

☐ **Mooreville Regional Office**

610 East Center Avenue, Suite 301
Mooreville, NC 28115
(704) 663-1699

☐ **Wilmington Regional Office**

127 Cardinal Drive Extension
Wilmington, NC 28405
(910) 796-7215

☐ **Fayetteville Regional Office**

225 North Green Street, Suite 714
Fayetteville, NC 28301-5043
(910) 433-3300

☐ **Raleigh Regional Office**

3800 Barrett Drive, Suite 101
Raleigh, NC 27609
(919) 791-4200

☐ **Winston-Salem Regional Office**

585 Waughtown Street
Winston-Salem, NC 27107
(336) 771-5000

☐ **Washington Regional Office**

943 Washington Square Mall
Washington, NC 27889
(252) 946-6481

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

COUNTY: JACKSON
MACON

H12: OTHER

STATE NUMBER: 14-E-0000-0039
DATE RECEIVED: 08/01/2013
AGENCY RESPONSE: 08/22/2013
REVIEW CLOSED: 08/27/2013

MS CAROLYN PENNY
CLEARINGHOUSE COORDINATOR
CC&PS - DIV OF EMERGENCY MANAGEMENT
FLOODPLAIN MANAGEMENT PROGRAM
MSC # 4719
RALEIGH NC

REVIEW DISTRIBUTION

CC&PS - DIV OF EMERGENCY MANAGEMENT
DENR LEGISLATIVE AFFAIRS
DEPT OF CULTURAL RESOURCES
DEPT OF TRANSPORTATION
SOUTHWESTERN COMMISSION

PROJECT INFORMATION

APPLICANT: USDA Forest Service
TYPE: National Environmental Policy Act
Scoping

DESC: Proposed project is for the Chattooga Wild and Scenic River Access project.
Project will designate and construct trails for paddler access and put-in areas
within three National Forests - Chattahoochee, Nantahala and Sumter. - View
documents at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=42568

CROSS-REFERENCE NUMBER: 13-E-0000-0060

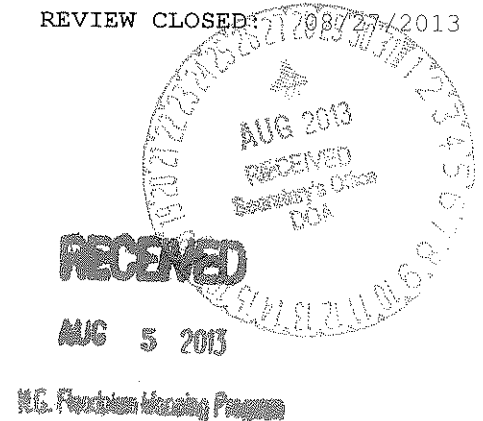
The attached project has been submitted to the N. C. State Clearinghouse for
intergovernmental review. Please review and submit your response by the above
indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☐ NO COMMENT ☒ COMMENTS ATTACHED

SIGNED BY: 

DATE: 8/21/13





North Carolina Department of Public Safety

Emergency Management

Pat McCrory, Governor
Frank L. Perry, Secretary

Michael A. Sprayberry, Director

August 21, 2013

State Clearinghouse
N.C. Department of Administration
1301 Mail Service Center
Raleigh, North Carolina 27699-1301

Subject: Intergovernmental Review State Number: 14-E-0000-0039
Chattooga River Boating Access Project, Jackson and Macon Counties

As requested by the North Carolina State Clearinghouse, the North Carolina Department of Crime Control and Public Safety Division of Emergency Management Office of Geospatial and Technology Management (GTM) reviewed the proposed project listed above and offer the following comments.

1. The project is located along and within the Special Flood Hazard Area (SFHA) of the Chattooga River.
2. All federal agencies, including the USDA Forest Service, are required to follow the guidelines of Executive Order 11988, signed May 24, 1977. Any work within the Special Flood Hazard Area of studied streams, based on the current Flood Insurance Rate Map, should follow these guidelines in order to avoid to the extent possible the long and short term adverse impacts associated with the occupancy and modification of floodplains. The guidelines address an eight-step process that agencies should carry out as part of their decision-making on projects that have potential impacts to or within the floodplain. The eight steps are summarized below.
 - a. Determine if a proposed action is in the base floodplain (that area which has a one percent or greater chance of flooding in any given year).
 - b. Conduct early public review, including public notice.
 - c. Identify and evaluate practicable alternatives to locating in the base floodplain, including alternative sites outside of the floodplain.
 - d. Identify impacts of the proposed action.
 - e. If impacts cannot be avoided, develop measures to minimize the impacts and restore and preserve the floodplain, as appropriate.

MAILING ADDRESS:
4218 Mail Service Center
Raleigh NC 27699-4218
www.ncem.org

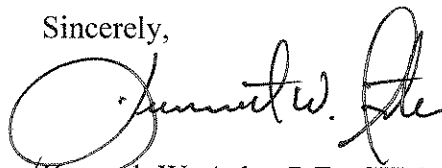


GTM OFFICE LOCATION:
4105 Reedy Creek Road
Raleigh, NC 27607
Telephone: (919) 825-2341
Fax: (919) 825-0408

- f. Reevaluate alternatives.
- g. Present the findings and a public explanation.
- h. Implement the action.

Thank you for your cooperation and consideration. If you have any questions concerning the above comments, please contact Dan Brubaker, P.E., CFM, the NC NFIP Engineer at (919) 825-2300, by email at dan.brubaker@ncdps.gov or at the address shown on the footer of this document.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth W. Ashe". The signature is fluid and cursive, with a large initial "K" and "A".

Kenneth W. Ashe, P.E., CFM

Assistant Director

Geospatial and Technology Management Office

cc: John Gerber, NFIP State Coordinator
Dan Brubaker, NFIP Engineer

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

Matt Ouesenheroy

COUNTY: JACKSON
MACON

H12: OTHER

STATE NUMBER: 14-E-0000-0039
DATE RECEIVED: 08/01/2013
AGENCY RESPONSE: 08/22/2013
REVIEW CLOSED: 08/27/2013

MS CARRIE ATKINSON
CLEARINGHOUSE COORDINATOR
DEPT OF TRANSPORTATION
STATEWIDE PLANNING - MSC #1554
RALEIGH NC

REVIEW DISTRIBUTION

CC&PS - DIV OF EMERGENCY MANAGEMENT
DENR LEGISLATIVE AFFAIRS
DEPT OF CULTURAL RESOURCES
DEPT OF TRANSPORTATION
SOUTHWESTERN COMMISSION

PROJECT INFORMATION

APPLICANT: USDA Forest Service
TYPE: National Environmental Policy Act
Scoping

DESC: Proposed project is for the Chattooga Wild and Scenic River Access project. Project will designate and construct trails for paddler access and put-in areas within three National Forests - Chattahoochee, Nantahala and Sumter. - View documents at http://www.fs.fed.us/nepa/nepa_project_exp.php?project=42568

CROSS-REFERENCE NUMBER: 13-E-0000-0060

The attached project has been submitted to the N. C. State Clearinghouse for intergovernmental review. Please review and submit your response by the above indicated date to 1301 Mail Service Center, Raleigh NC 27699-1301.

If additional review time is needed, please contact this office at (919)807-2425.

AS A RESULT OF THIS REVIEW THE FOLLOWING IS SUBMITTED: ☒ NO COMMENT ☐ COMMENTS ATTACHED

SIGNED BY:

Matt Ouesenheroy

DATE: 8/9/13

From: [Laura Garren](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Proposed Trails Along the Upper Chattooga
Date: Monday, August 26, 2013 3:44:34 PM

To Whom It May Concern:

I'm writing to request that the Foreste Service reconsider constructing new trails in the Chattooga River corridor to provide access to the upper section of the river. Some of the area needs to remain wild, and the only way is to restrict access in the more fragile, biologically diverse parts. I understand that the FS recently ruled that paddlers could access the Upper Chattooga; however, a compromise could be made by allowing them limited access from Bull Pen Bridge to the Highway 28 Bridge when water levels are appropriate.

Please, FS, protect the wilderness experience.

Sincerely,
Laura Ann Garren

From: [ed nicholson](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Re: Chattooga River Boating Access Project
Date: Wednesday, August 07, 2013 10:07:32 PM

Thanks very much. NEPA comments to follow.

EN

On Fri, Aug 2, 2013 at 9:12 PM, ed nicholson <edthetrombonist@gmail.com> wrote:
In re: Chattooga River Boating Access scoping

To Whom it May Concern:

Before sending specific comments about the proposals in the July 24, 2013, scoping notice for boating access on the Chattooga Wild and Scenic River, I would like clarification on two items.

Regarding the Green Creek Site, the scoping letter states that a trail of .28 miles length is to be constructed on "an old existing road bed that connects the Chattooga Trail to the river."

- It is unclear to me what the length of the carry (of a boat) from a *motor vehicle* to the river would be.

Also,

- Is the FS proposing to reconstruct this road for vehicle access within the 1/2 mile river corridor?

Thank you for your response to these questions.

Sincerely,

Ed Nicholson
1403 Mackenzie Court
Tucker, GA 30084
[770.414.4410](tel:770.414.4410)

EdTheTrombonist@gmail.com

From: [John Carothers](#)
To: [Knibbs, James H -FS](#)
Subject: Re: Chattooga River Boating Access Scoping
Date: Sunday, August 11, 2013 2:54:09 PM

To Whom It May Concern-

I feel as if we are facing a Sisyphean task with this kayaking issue. I've spoken at meetings and written various letters and emails. So let me be brief and to the point:

NO ACCESS ABOVE BULL PEN BRIDGE ACCESS!

And I'm reluctant to grant even that given the tenacity with which American Whitewater keeps pushing and pushing. They do not sound like reasonable folks.

Sincerely,

John Carothers

From: [Tom Robertson](#)
To: [Knibbs, James H -FS](#); robson@bellsouth.net
Cc: [Saylor, Thomas C -FS](#); leerobson@bellsouth.net
Subject: RE: Chattooga River Boating Access Scoping
Date: Tuesday, August 27, 2013 2:20:08 PM

Dear Mr. Knibbs:

Thank you for sending me the scoping document and for putting me on the email list. The email address from which I am writing is correct; but, the bellsouth one should be revised to add a first initial, so that it will read trobson@bellsouth.net.

Please consider the comments that I sent before at the District level. I will resurrect them and send them in directly as well.

While I am concerned about negative effects of the boating activities in general, I am particularly concerned about the effects of the boating access on private properties near Greens Creek.

Property that I own and property of the J. C. Cranston Estate (of which I am co-executor) directly adjoin the USFS property right at Greens Creek and the Chattooga River trail head.

Thank you for your consideration.

Sincerely,

Tom Robertson

Thomas Heard Robertson

PE, AICP, RLS

President

Cranston Engineering Group, P.C.

452 Ellis Street – Augusta, Georgia 30901

Phone: 706-722-1588

Fax: 706-722-8379

www.cranstonengineering.com

From: Knibbs, James H -FS [mailto:jknibbs@fs.fed.us]
Sent: Tuesday, August 27, 2013 12:59 PM
To: Tom Robertson; robson@bellsouth.net
Cc: Saylor, Thomas C -FS
Subject: Chattooga River Boating Access Scoping

Dear Mr. Robertson,

Here is the scoping letter that went out for the "Chattooga River Boating Access Project". I have added you to the mailing list so you will get all future correspondence.

I am getting any comments that you already submitted from Tom Saylor but you are welcome to

send them to me again if you prefer.

Thanks!

Jim Knibbs

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From: [Tom Robertson](#)
To: [FS-comments-southern-francismarion-sumter](#)
Subject: Chattooga River Boating Access
Date: Wednesday, August 28, 2013 8:36:29 AM
Attachments: [ChattoogaRiverTrailAccessComments2012-06-30.doc](#)
[ChattoogaScopingLtrComments_2012-08-29.doc](#)

Ladies and Gentlemen:

Please accept the attached two letters giving my comments applicable to your scoping letter dated July 24, 2013 on the boating access to the upper portion of the Chattooga River Wild and Scenic River Corridor.

These are the same comments that I submitted last year related to the Nantahala Ranger District scoping letter dated August 15, 2012. Although they are dated July 1, 2012 and August 29, 2012 respectively, taken together they are still applicable to the current situation.

While I am concerned about negative effects of the boating activities in general, I am particularly concerned about the effects of the boating access on private properties near Greens Creek. Property that I own and property of the J. C. Cranston Estate (of which I am co-executor) directly adjoin the USFS property right at Greens Creek and the Chattooga River trail head.

Thank you for your consideration.

Sincerely,

Tom Robertson

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July 1, 2012

Mr. Michael L. Wilkins

District Ranger

USDA Forest Service

Nantahala Ranger District

90 Sloan Road

Franklin, North Carolina 28734

Dear Mr. Wilkins:

Thank you for the opportunity of accompanying you on your site walk to provide input prior to your developing trail and boat put-in proposals.

I enjoyed making your acquaintance in person and appreciate your and Thom Saylor's taking the time to look at the site of potential private property conflicts at the entrance to where my property joins the Forest Service public land.

BACKGROUND

Please allow me to reiterate that the Robertson and Cranston families are long time supporters of the Chattooga River Wild and Scenic River Corridor, spanning more than 40 years,

exemplified by the considerable gifts of lands that each has made right at the Chattooga River Trailhead and that we have outlined in previous comments. At the same time we are concerned about the inevitable conflicts with users of the public lands from time to time and the negative effects on adjacent private properties.

COMMENTS FOR YOUR CONSIDERATION

Please consider the following comments on the Forest Service's proposed choice of boating access point and overall decision making process:

Access Point Choices and Effects Should be Elevated to be Part of the Overall Decision Process in the Environmental Assessment.

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

More specifically, the EA considered neither the "backcountry," "forecountry", nor environmental, effects of the new launch trail, site, and support facilities.

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

I believe that the choice of access points rises to a level of importance that would influence the overall selection of an alternative in this EA, and request that complete analyses of the new put-in and its vicinity be considered in the overall EA appeal decision.

All Available Boating Access Alternatives Should be Considered

You have presented three basic boating access alternatives for consideration in your secondary decision process. There are at least two other alternatives that should be considered: Garnet Hill Road and Cane Creek Road. Both have existing trails that extend right to the river bank.

Comments on Three Access Points Visited June 20, 2012

Bull Pen Road at Steel Bridge

This location is the best site of the three visited. Vehicular access is available directly at the launch site at the upper extremity of the Ellicott Rock Wilderness Area. Parking is available reasonably nearby. An existing user created trail leads to a good launch place just downstream of the bridge crossing. This trail could be rebuilt at a flatter grade for just over 100 feet in length to lessen the negative effects of trail erosion in the riparian zone within the wilderness area.

County Line

This route has an inactive logging road and existing trail for the entire length to the river. It is the second choice, after Bull Pen. It has been recently de-designated as an official trail and was described as “open and brush-free,” until the current timber sale operation blocked the way with downed trunks and limbs. We understand that the current contract does not include restoration of the trail as such. The route extends through an area that was heavily populated with the pink lady slipper orchid (*Cypripedium acaule*) before the logging operation began. Remnants of these orchid family plants survive in areas that have not yet been disturbed. We also noted during the site visit ground pine (*Lycopodium obscurum*) growing in local abundance in at least one patch along the trail. While this proposed boating access point at the County Line is usable, it is not very practical, the portage distance being over a mile from the Whiteside Cove Road to the river.

Greens Creek

This site is the poorest of the three alternatives you are considering. The access route included in your handout includes only the old logging roadbed from the Chattooga River Trail to the river, about a quarter mile, reaching the bank a short distance downstream of the mouth of Greens Creek, which is the most upstream limit of where the Chattooga River courses through public land. The route as currently defined does not include the part of the Chattooga River trail between the parking lot and the branch point. But the route to the river does not constitute a suitable or desirable put-in point for boating. The parking area is a very long way from the river itself, via a portage of not only the 0.28 mile of steep unofficial trail but also more than a mile via the main official trail. The Greens Creek alternative should consider the entire length of the route from parking to river, so as to be equivalent to the other two choices.

In addition to examining the plusses and minuses for boating access, your decision making process should consider all of the effects, including the “forecountry,” “backcountry,” and environmental effects of the new launch trail, site, and any support facilities.

On the “forecountry” subject, parking at the trail head is available for only eight to ten cars, and little suitable public land exists to expand. As I have pointed out in previous comments, my mother and Judge Wheale donated several acres of beautiful land near this location to the US Forest Service for the purpose of protecting the land and for providing a green buffer at the trail head. Any expansion of the trail head facilities would be inconsistent with the spirit of this gift.

A closer access point, but partly on private land, is at the intersection of my access road and Greens Creek Cemetery Road, where a woods road is shared by the Forest Service and my family. As I showed you in person, it is currently common to have hikers park cars here, because in doing so they can cut off the first 1/4 mile of steep trail from the official parking lot. There is only room for one car without blocking the adjacent road, which is the only access to my house. These occasional parkers have not been much of a problem to us up to now, but they are not trying to carry boats either. I believe that there will be increased parking by the new boaters (with associated trespassing and potential conflicts), if preventive measures are not taken.

But, the Forest Service states in the EA that no new parking will be developed and relies on this fact to limit access and usage to the interior trails and river. So, where do you think the added users will park? Probably in our driveway, an attractive entrance place that is much closer to the river.

What measures will the US Forest Service take to mitigate or prevent the inevitable overflow parking problem?

A “backcountry” effect of the Greens Creek portage route is potential damage to the trail itself, including the rare plants that grow along it. On the hike on June 20th, the group identified at least four colonies of Oconee Bells (*Shortia galacifolia*), which is listed as “Special Concern” and “Endangered” in North Carolina. See USDA: Natural Resources Conservation Service, *Protected Plants for All Scientific Names*, <http://plants.usda.gov/java/threat?statelist> (accessed July 1, 2012).

Environmental/Biological Values in the Corridor Should be Protected

Throughout the USFS decision making process, a lot of effort has been put toward accommodating the recreational values in the Chattooga River Corridor. Unfortunately protecting the value of the biology and environment has been given little consideration. The Oconee bells, ground pine, and lady slippers that we saw along the proposed put-in routes, as described above, are sensitive plants and do not thrive near frequented trails. The environmental value of these plants is well established, having contributed to the rationale for designating the Chattooga as a Wild and Scenic River in the first place. The 1973 Congressional Study Report noted “several rare plant species occur along the Chattooga. Mountain camellia is found rather frequently and the rare *Shortia plant* is occasionally seen. Other unusual plants include wild orchids, ground pine, ferns, lilies, trilliums and violets.” Pub. L. No. 93-279, 3010 (1973) (emphasis added). These environmental facts should be given special consideration in your

decision making process, and support my contention that the choice of access route should be elevated to the EA level under the decision that is currently under appeal.

SUMMARY

In summary, I support an access point at Bull Pen and am opposed to the access at Greens Creek. County Line is a better choice than Greens Creek, but not as good as Bull Pen.

Thank you for the opportunity of furnishing this input. Please keep me on your notification list to keep me apprised of your decision process as it progresses.

Sincerely,

Thomas Heard Robertson, Jr.

THOMAS HEARD ROBERTSON, JR.

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August 29, 2012

Mr. Michael L. Wilkins, District Ranger

USDA Forest Service

Nantahala Ranger District

90 Sloan Road

Franklin, North Carolina 28734

Re: The Nantahala Ranger District – Upper
Chattooga Wild and Scenic River Access
Project.

Dear Mike:

I am disappointed and surprised that I was not on the distribution list that received your scoping letter for the captioned project related to boating access on the Chattooga headwaters, in spite of my having attended your site walk on June 20, 2012 (at considerable personal inconvenience) and following my furnishing substantive comments timely in writing. In fact, in the interim, I have received scoping information via email on all sorts of other Nantahala Forest decision processes that seem trivial compared to this one, but not this on this important subject itself. Fortunately, someone on the distribution list did forward your scoping letter to me, which I comment on hereinafter.

You did take into account my suggestions to consider the Garnet Hill Road access and the Cane Creek Road access as alternatives, for which I thank you. However, I believe that the

reasons you stated for suspending consideration of these options to be matters of opinion. As for Garnet Hill Road, that roadway is the *original public* Bull Pen Road that extends all the way from Whiteside Cove Road not only to the Chattooga River, but also across the ridge and beyond on the east side. It may not have been in regular use for many years; nevertheless, it is probably legally still viable, as prescription does not run against the government. As for the Cane Creek Road, there is an existing trail from the road all the way to the river now.

Beyond these two additional alternatives, I stand by the comments in my earlier letter about the Greens Creek access point, which I summarize below:

- I believe that the original EA is flawed and that the choice of access points rises to a level of importance that would influence the overall selection of an alternative in this EA, and request that complete analyses of the new put-in and its vicinity be considered in the overall EA appeal decision.
- In addition to examining the plusses and minuses for boating access, your decision making process should consider *all* of the effects, including the “forecountry,” “backcountry,” and environmental effects of the new launch trail, site, and any support facilities. In particular, the US Forest Service should take in to account what steps should be taken to mitigate or prevent the inevitable overflow parking problem at the trailhead and possible conflicts with private owners.
- The environmental effect on and potential damage to the rare plant *Shortia galacifolia* (Oconee Bells), should be considered. You will recall that I pointed out to you at least four colonies of this plant located alongside the Greens Creek trail during your site walk on June 20, 2012. This plant is listed as “Special Concern” and “Endangered” in North Carolina and was noted in the original 1973 Congressional Study Report that led to the designation as the Chattooga as a Wild and Scenic River in the first place.

To make sure that the entirety of my comments are before you for consideration in your decision and are in the public record, I am attaching a fresh copy of my letter to you dated July 1, 2012.

To summarize my opinion once more, I support an access point at Bull Pen and am opposed to the access at Greens Creek. County Line is a better choice than Greens Creek, but not as good as Bull Pen.

Thank you for your consideration.

Please confirm in writing that you will place me on your notification list for future actions, as I requested last July without success.

Sincerely,

Thomas Heard Robertson, Jr.

Enclosure

Cc:

Via email: comments-southern-north-carolina-nantahala-nantahala@fs.fed.us

August 27, 2013

USFS Planning Team
4931 Broad River Road
Columbia, SC 29212

Thank you for the opportunity to provide comments on the proposed construction of trails for boaters on the Upper Chattooga River. Based on the holding of the SC Federal Court, the Rust Family wish to add the following comments into the record for this NEPA process.

The Private Segment of the Chattooga:

The Rust Family hold title to a segment of the Chattooga Wild and Scenic River above Greens Creek (the 'Private Segment'). The metes and bounds of the Rust Family deed include the Chattooga streambed and the banks within the Private Segment. In the recent legal action (AW v. Tidwell case # 8:09-2665), the SC District Court determined "the Forest Service is not authorized to manage the Rust Family property, ... that the Forest Service is not managing and concedes it is not empowered to manage the Rust Family property." (*Order* EN#274 Text). The court also upheld the Forest Service decision to remove the Private Segment from the scope of the 2012 Decision as it is not part of the National Forest. The court also upheld the agency Decision to document the streambed through Private Segment as private unless adjudicated as navigable.

The legal maxim that every person should use their own property as not to injure that of another, matches the Forest Planning requirement regarding affects to and from adjacent private property. (36 CFR 219.17). Therefore, any impacts from locating boater access anywhere that may

affect interests held by the Rust Family, requires the appropriate assessment in this NEPA.

Incorrect Presumption of the *Proposed Action*:

The 2012 EA stated the agency will be conducting a future site-specific NEPA assessment of required boater trails.

The Rust Family argued that evaluation of these user-created trails and impacts was a "connected action" to the 2012 Decision to allow any boating at all. The District Court accepted the Forest Service contention that creating boater trails would be an 'independent action'. As an independent action the agency is now required to conduct an independent assessment of possible impacts from adding new trails along the Chattooga. Despite the court Order, the scoping notice mistakenly presumes trails to 'allow boating' are necessary based on the 2012 Decision. Such a presumption would mean this NEPA action is dependent upon the 2012 Decision, and that the USFS misrepresented their actions in the SC Federal Court proceedings.

The Forest Service cannot rely on the 2012 Decision as creating a need to build new trails, without voiding the Federal Court decision. Importantly, the court held boating is not a value of the upper Chattooga at all, and that the kayak lobby purported 'right to float' are "**meritless**". The court ruled the USFS is not required to protect or even allow boating on any portion of the upper Chattooga. That the scoping letter presumes trails are required to 'allow boating' is disingenuous and legally inaccurate.

Each of the proposed access points should be assessed in the context that no trails -or even boating at all- is necessary. The ultimate decision for this action should be based entirely on the impacts associated with building and designating new trails, that are not 'needed' at all. Impacts from these trails to the riparian zones, the resource, habitat or nearby property interests, (either directly, indirectly, or

cumulatively) now require a new assessment. As the court has outlined the agency is required to take a "hard look" at the affects of their action and investigate, evaluated and documented reasonable foreseeable affects. Locating egress points for boaters which may significantly impact the resource should be evaluated under the court finding that boating is not 'required' on any segment of the upper Chattooga. The three Forest Plans should be amended to incorporate each new findings.

The Area of Biological Assessment Remains Deficient:

Norton Mill Creek was originally the uppermost proposed boater put-in site, the Greens Creek trail was not even proposed until the Fall of 2011. The 2007 and 2009 biological inventory was based entirely upon the segment below Norton Mill Creek. The 2012 Administrative Record does not support that any analysis of boater-created impacts was ever conducted above Norton Mill Creek, including above Greens Creek the location of the Rust Family property. Any assessment above Norton Mill Creek remains deficient. see(2012 Admin Rcrd 171: 20725.) Creating any new trails above Norton Mill Creek without a complete assessment would require the agency to make an arbitrary and capricious decision.

Not all the required boater trails have been assessed.

The Forest Service conducted an analysis of existing trails accommodating present recreational activities below Norton Mill Creek. No assessment was ever conducted for new boater-trails.

Creek boating is an amphibious activity, yet only access trails are being evaluated under this NEPA. Portage trails were specifically noted as requiring designation in the 2012 Decision documents. Additional user-created trails that would only be required if boating were allowed include portage, scouting, resting, rescue, bladder relief, as well the put-in and take-out trails. Impacts resulting from these new riparian impacts throughout the upper Chattooga have not been assessed. The

Forest Service is required to protect the Outstanding and Remarkable Values of the Chattooga and place primary emphasis on protecting the river's biological and aesthetic features. Since the court held there is no entitlement to float and that floating is not a 'value' of the Chattooga, the USFS can now properly prioritize boating below the resource-related features as required by law (16 USFS 1281). The need to create any new riparian impacts must be assessed on the basis that allowing boating is prioritized below the protection of riparian zones as outlined by the 2004 Sumter Forest Plan. Because of the court Order, the agency no longer needs to 'balance' creek boating against the protection of other real values or the riparian habitat. The USFS priority for this assessment was made clear by the court recognizing *allowing boating* is not an agency mandate. The Agency should now assess this proposed action accordingly.

Sincerely,
Micahel Bamford
/s/ Michael Bamford
Property Asset Manager;Goodenow LLC



Rabun Chapter of Trout Unlimited

P O Box 371
Clayton, GA 30525
www.rabuntu.org

August 26, 2013

USFS Planning Team
4931 Broad River Road
Columbia, SC 29212

Thank you for allowing the Rabun Chapter of Trout Unlimited (Rabun TU) the opportunity to provide comments on the proposed construction of access points for boaters on the Upper Chattooga River. Rabun TU represents over 200 conservationists that regularly visit the Upper Chattooga River in the pursuit of solitude while enjoying angling and other outdoor activities. Our comments to the scoping letter, with concerns in italics, follow:

Proposed Action:

The 2012 Decision Notice and Plan Amendments continued the prohibition on boating between Lick Log Creek and Highway 28 under any conditions. The three Plans establish a federally enforceable law where no boating is allowed upstream of Highway 28, except under certain condition including and no boating would be allowed between Lick Log Creek and Highway 28 at all times.

Despite this clarity as to where boating will remain prohibited at all times, the Proposed Action section of the scoping letter does not make this clear. *The Proposed Action should be rewritten to state with clarity that the section of the Chattooga between Lick log Creek and Highway 28 will remain closed to boating in order to protect the solitude experience of the anglers.*

Green Creek Trail:

The scoping letter states the Green Creek Trail will provide access to the “entire upper segment of the Chattooga WSR.” This is not true; boating is prohibited between Licklog Creek and Highway 28. *This statement should be rewritten to state that only the sections, seasons, and conditions of the Upper Chattooga River as identified in the 2012 Decision Notice will be accessed by this trail.*

Norton Mill Creek Trail:

The scoping letter states that boaters will authorized to put-in along a 300 foot stretch of the Chattooga River. This will invite multiple user-created trails that are used during

rainy, wet ground conditions, which would introduce siltation into the river. *There should be just one designated put-in at the end of this trail section.*

Bull Pen Bridge Trail:

The scoping letter states that this trail will be accessible from a 6 vehicle parking area just west of the bridge. However the new trail construction on “river left” would invite parking along the shoulder of the road just east of the bridge, creating an unsafe traffic hazard. *The 6 vehicle parking area should be designated as the only parking area for boaters.*

Burrells Ford Bridge Trail:

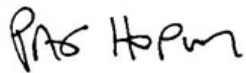
The scoping letter states this trail would be cleared to a width of six feet, hardened with gravel or mulch, the area treated for non-native invasive species, and armoring the river bank at the put-in location. This is much more disturbance, and thus impacts to vegetation, soil and water, than at the other trail locations. It is not clear why this trail requires a higher level of construction. In fact, this location has the most level terrain and has user-created trails already in place, and so should require the least construction of any trail. *The six foot clearing width, NNIS treatment, and surface and bank hardening should be eliminated, and the trail be constructed to the same standards as other trails.*

Due to the high use of this area by all recreationists, this trail location should be the only authorized put-in and take-out for boaters at the Burrells Ford area.

Lick Log Creek Trail:

The signage at this take-out location should include the statement that no boating is allowed from Lick Log Creek to Highway 28.

Again, thank you for the opportunity to provide comments.



Pat Hopton
Rabun TU President