



**AMERICAN
WHITEWATER**

www.americanwhitewater.org

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

August 28, 2012

Michael Crane
District Ranger
Andrew Pickens District
112 Andrew Pickens Circle
Mountain Rest, South Carolina 29664
comments-southern-francismarion-sumter-andrewpickens@fs.fed.us

Re: Lick Log Trail Construction Project

Dear Mike,

We have reviewed your scoping document regarding trail access to the Upper Chattooga River at Lick Log Creek. Your boating bans on the Wild and Scenic Upper Chattooga River and its tributaries are illegal, without any defensible rationale, are not in the public interest and directly cause this trail need. Allowing paddlers to exit the river at the existing river access area at Highway 28 would eliminate the need for this trail construction. There is no justification to eliminate paddling between Lick Log Creek and the Highway 28 bridge solely to protect an artificial trout park experience maintained by the stocking of exotic trout. As we understand it, these fish are caught multiple times during the delayed harvest and concurrent paddling seasons and fresh “inexperienced” trout are added weekly to provide easy catching for the trout park visitors. The Forest Service has provided no evidence the addition of nature based paddling would impact the trout park visitor experience or catch rate.

With this said, we support the Lick Log Creek Trail access option as described, with one additional caveat. While we support this existing trail being formalized to reduce current user impacts and to provide river access for corridor visitors, paddlers should not be limited to specific launch locations. To limit backcountry (and low-use frontcountry) river access locations is not consistent with USFS policy or practice – and is inequitably and unfairly applied to paddlers in your proposal. There is no difference in effects between a hiker, angler, or paddler walking to and/or from the river’s edge. Simply provide a nice and sustainable way to access the river to paddle, fish, swim, or just be, and the vast majority of people will use it.

The Forest Service is reasonable in providing permit stations at a limited number of locations to minimize the cost of maintaining the permit boxes. However, once a permit is obtained, a boater should be free to utilize the WS corridor in the same manner as any other visitor. If you are going to limit paddlers in this manner you must limit all visitors

in the same manner, per the Forest Service Manual's requirement for fair and equitable use limits. There are numerous trails that cross the river and to imply that boaters may only use selected trails is both inequitable and presents safety risks in that boaters may feel reluctant to use "undesigned" points for safe river travel.

Importantly, formalizing this trail allows for restoration and sustainable management of the existing portion of the trail that already sees use and impacts from fishermen and hikers. This action is expected to have potential water quality benefits by reducing current and potential sedimentation.

We must reiterate that we support sustainably managed river access sites for paddlers, anglers, swimmers, and other river visitors, but any direct regulatory limits on where visitors can access the river must be fairly and equitably applied to all visitors.

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



www.americanwhitewater.org

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

June 25, 2012

Mike Wilkins
District Ranger
90 Sloan Road
Franklin, NC 28734
mwilkins@fs.fed.us

Greg Borgen
Andrew Pickens District
gborgen@fs.fed.us

Re: Upper Chattooga River Access Trails

Dear Mike and Greg,

American Whitewater appreciates this opportunity to offer comments on the proposed river access trails and/or use of existing trails and lands for the purpose of canoeing, kayaking, and rafting access. We also appreciate the USFS hosting site visits, each of which American Whitewater representatives attended. Our comments are as follows.

First and foremost paddlers have a comparable or lesser environmental footprint when compared to other frontcountry and backcountry visitors and should be managed as such. Paddlers should be granted the same geographical freedoms to access the upper Chattooga as hikers, anglers, swimmers, picnickers and other visitors.

Green Creek Trail: Paddlers should be allowed to put in at Grimshawes Bridge rather than being forced to hike in on the Green Creek Trail, thus missing a desirable portion of the Chattooga Wild and Scenic River. When the USFS grants this use, a significant percentage of paddlers will launch at Grimshawes Bridge. Access at Green Creek will offer a suitable alternative for paddlers, and important interim access to a portion of the river. We support the use and enhancement (as needed) of the trail at Green Creek for access to the lower portions of the Chattooga Cliffs reach.

In addition, like other hikers, people carrying boats should be allowed to hike upstream from Bullpen Bridge on existing trails to access the river.

County Line Trail: The County Line Road has been severely impacted by active and ongoing logging operations, provides parking for only 4 vehicles, and is a very long hike in for paddlers. The "trail" is a muddy, log-strewn, active logging road, and does not

offer paddlers a route to the river suitable for a Wild and Scenic River experience. We do not believe use of this trail is necessary, or at this time appropriate.

Burrells Ford Bridge: Paddlers should be afforded the same rights to utilize the streambank in the vicinity of Burrells Ford Bridge as other visitors. We expect paddlers will choose to take out 100 feet downstream of the bridge at the sandy beach. Allowing maximum flexibility will allow paddlers to utilize a specific area of their choice for access or egress that is unoccupied by other visitors, and suitable for various water levels, their individual skill level, and their recreational interests.

Licklog Creek Trail: Paddlers should be able to take out at the existing river access area at the Highway 28 Bridge rather than being forced to hike out the 1.1 mile Licklog Creek Trail. We feel however, that the Licklog Creek Trail will provide suitable interim access until the Forest Service allows paddling to Highway 28.

Thank you for considering these comments.

Sincerely,

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

Kevin R. Colburn
National Stewardship Director
American Whitewater

Michael Bamford
PO Box 2725
Cashiers, NC 28717

September 14, 2012

Mr. Michael L. Wilkins
90 Sloan Road
Franklin, North Carolina 2873

RE: *The Nantahala Ranger District - Upper Chattooga Wild and Scenic River Access Project.*

Dear Mr. Wilkins:

The Whiteside Cove Association has leased property in the Chattooga Cliffs for over 50 years. The association consist of families and guest whom enjoy fishing, hiking, swimming and nature viewing in and along the Chattooga throughout North Carolina. Whiteside Cove Association members have intimate knowledge relative to flows, trails and use of Chattooga above Bull Pen Bridge, and have kept journals of these activities since 1968.

Thank you for the opportunity to comment on this site specific NEPA. The Whiteside Cove Association feels the best direction would have kept paddling access below the Bull Pen area: representing the *no action* alternative or the *environmental* alternative; that would not designate any new trails in the riparian zone. Allowing access only at Norton Mill Creek would require no new trails in the riparian zone, simply the designation of county line road as a system trail for the USFS. Boats can enter just below or at Norton Mill Creek representing the uppermost point for which the USFS conducted the recreational Study and the uppermost point for which the USFS conducted the 2007 botanical inventory; this should be the uppermost spot for boating.

Any alternative being considered which would designate a trail above Norton Mill Creek should not be considered until the botanical inventory and PETS is completed for the area above

Norton Mill Creek, and the proposal takes due consideration of the affects such policy may have to property interests.

The scooping letter proposes where trails should be located for boaters, we feel the question is what trails if any and what user-created trails should be closed to best accommodate visitors to the upper Chattooga without damaging the environment. The only alternatives being proposed is an alternative to the Greens Creek access; it offers only one alternative trail location. The Whiteside Cove association prefers the Bamford trail between these two choices as outlined below, but feels any access above Norton Mill Creek would be inappropriate, illegal and unsuitable for the reasons listed in their comments below.

Thank you for your time and consideration. Detailed comments are listed below.

Sincerely,

/s/ *Michael Bamford*

Michael Bamford and as
River Stewardship Director
Whiteside Cove Association

Comments on NEPA specifics

Scope of the site specific NEPA:

The Sumter and Nanathala Decision Notices (now final actions) require **recreational users to stay on the designated trails.** (file code 1950/1920 pA-2) , the amendment specifically **includes portage trails** and the new policy applies equally to all visitors.

The NEPA *need for action* is defined as *proposing to designate and construct, where needed, long-term sustainable trails for padlers and to also designate the put-in areas* We strongly object to the focus on only the needs of one activity (boating) and the disregard for all other visitor needs. The *need for action* should be: To consider, and if suitable designate, river access sites that will provide sustainable river access while limiting impacts to the highly diverse biological conditions in the Chattooga Cliffs reach. (2012 FONSI file code 1950/1920 p.3)

The scope of this site specific NEPA is to determine if any new river access trails should be designated at all (and if so where), which user-created trails will be closed, where portage trails should be designated, and to assess the effects these actions will have on the social and biological environmental.

The Scoping suggests the trails are for ‘*seasonal*’ access. This appears counter to the direction regarding ‘equitable access’ that the boating lobby has whined about for a decade. If these trails are to be improved and designated at all, access for all potential users must be considered and the cumulative impacts from such action needs assessment. Location of designated trails and closure of user-created trails, should be suitable for all potential visitors, with all potential impacts being documented.

Oconee Bells:

During the site visit to assess river access trails, multiple patches of Oconee Bells were sited and identified. There is no mention of this significant fact in the scoping letter.

In 1974 Congress designated the Chattooga a Wild and Scenic River, in part because of the rare plants requiring protection. One of the few species mentioned within the Chattooga designation literature is Oconee Bells (*shortia*); This rare endemic plant is recognized as one of

the biological values for the Chattooga (2012 EA.pg 220), but was recently documented as “*Not present in the W&S corridor*” id.

Fortunately the 2012 EA was in error. During the public site visit, multiple patches of Oconee Bells were sited and identified within the WSR corridor. Some of the sites were along the Chattooga River trail, while others were within the proposed Greens Creek trail. These sites are well suited for Oconee Bells and obviously provide suitable habitat for these rare endemics, which are no longer found anywhere else within the WSR Chattooga river corridor.

The WSR statutes provide clear guidance when reviewing alternative access locations. 16 U.S.C. § 1281(a) envisions the need to vary intensity of use based on the “special attributes of the area”. WSR guidelines interpret this as follows “Public use will be regulated and distributed where necessary to protect and enhance the resource values of the river. Public access may be controlled by limiting access to the river FR 47#173 9,7,1982 p. 39459 Additionally, guidelines interpret §1281 to require a “no degradation and enhancement policy for all designated river areas, ...while providing for public recreation and resource uses which do not adversely impact or degrade those values. ” *Id.* at 39,458-9 By statute, recreation is subordinate to protecting the resource, and the designation of a new trail location can only be allowed IF the resource is not degraded.

Further we support a Stay of implementing any boating above Norton Mill Creek until the deficiency between the plant inventory published as part of the 2012 Decision, and the existence of rare species on these sites is re-reviewed and corrected.

Upper Most spur Trail Decision/Comparison

One decision to be made outlined within the 8/15/2012 scoping letter, is to determine the location of the uppermost trail for river access; Defined as either the ‘Green Creek’ spur trail, or the ‘Bamford’ (switchback) spur trail.

The scoping letter does not accurately compare the choice between these two proposed uppermost boater put-ins.

- 1) Stating the switchback trail (Bamford trail) requires 500 to 900 feet of new trail construction is disingenuous. This spur trail to the river has been in existence for at least 50 years and was documented by the USFS as a *user-created* trail in the 2006 *Upper Chattooga Bio. Data collection report* pg 3, (reference Court doc #165 p. AR03155). The Brown hash-line depicts the user-created switch back trail now labeled 'bamford' trail.



Missing from the 2006 documentation of trails is the Greens Creek trail; indicating a deficiency in the assessment of biological impacts underlying the 2012 Decision.

The reality is both these trails are overgrown and infrequently-used; both are user-created, improperly sited and not maintained. Both trails would require some rerouting to mitigate impacts prior to designation, the Bamford trail requires far less. Stating one trail requires 'new trail construction, while describing the other as following an old roadbed, is misleading.

- 2) Claiming the Greens Creek trail follows an 'old road bed' is also misleading. The current user created trail meanders around, and near, what was once an *old road bed* for part of the trail. The actual roadbed is overgrown with trees some over two foot in

diameter. The last 150 yards of Green Creek 'trail' is nowhere near the "old road"; the actual roadbed diverts from the trail; the agency staff actually became lost at that point in following the trail to the river. The last 150 yards of the Greens Creek user-created trail is overgrown, deeply rutted, and extremely steep (almost vertical) as it approaches the 4 ft drop to the stream bedrock; all this within the riparian zone. Just a comparison of the final 150 yards of the Greens creek in comparison to the lower spur trail would lead an objective decision maker to select the lower (bamford) spur trail, or to not designate any trail above Norton Mill Creek suitable for access.

3) Trails should be designed for ALL users, and the lower spur trail is closer to the river from the well-designed Chattooga River trail. Hikers, anglers and wildlife viewers have long chosen the switchback trail to enter the river because it is the first time the river is visible to anyone walking south along the Chattooga River trail, it is also easier to hike up to the main trail from the switchback (bamford) trail. The Chattooga is relatively flat in this area and is easy to walk up or down stream along this stretch. Because the switchback trail is closer to the Main Chattooga River trail, it is far better situated for anglers, hikers and other dispersed visitors to get up to and down from the main trail from the Chattooga with minimal potential increase in erosion.

4) The distance between the two proposed river access points was measured at 400 feet by GPS the day of the public site visit. Following the meandering of the Chattooga the distance measures is no greater than 520 feet; The river distance between the access point of these trails is far less than 1000 ft as stated in the scoping letter.

5) The Greens creek trail would permit access 'within 200 ft' of where the trail intersects the stream. As written this statement envisions boaters will impact up to 400ft of the riparian zone. A 400' wide impact to stream banks would not be aligned with Management prescriptions for the Chattooga Wild and Scenic River. Protecting riparian zones superseded other WSR Forest goals, including recreation. *"Where the riparian corridor management prescription area overlaps with lands that have been allocated to Management Prescriptions Wilderness, Wild/Scenic/Recreational River, Special Areas, and Rare Communities; then whichever management direction is the most restrictive will*

apply.” P-3-42 Sumter 2004 RRLMP. Each sites should provide launch sites no wider than 10 feet wide in order to reduce overall impact to the riparian zone.

When reviewing which of these two trails to designate, the USFS have a clear choice.

Steepness at the Riverbanks:

Other than the trail directly above Bull Pen, all the trails have an extremely-steep, easily-erodible final approach to the River.

While the scoping letter determined the proposed Cane Creek trail would require *“new trail construction to access the river at an acceptable grade [and] result in more environmental impacts and would present more safety issues to the public.”* Similar impacts resulting from the steep grades, are just as severe on sections of the proposed trails and not mentioned, this is especially true of the steeper lower bull pen site that was not even part of the 2012 Decision.

Environmental impacts and safety concerns should be consistently applied throughout the scoping letter.

Moving the Norton Mill Creek access point upstream 100 feet (just below the confluence of Norton Mill Creek) would eliminate the steep approach to the river at the camping site.

Flow Levels:

According to the 2012 EA, boaters would be visiting the area between 350 and up to 1,000 cfs; yet only review of these sites at 100-200cfs have been conducted. The only site that will not be a problem at the higher levels will likely be the put-in just above Bull Pen Bridge. All other sites will have the bedrock at the launch site under a raging current at the higher water levels.

Higher water levels were not considered in the 2012 Decision and are again missing from the site-specific NEPA .

The Greens Creek propose boat launching site is located on the outside edge of an acute stream curve; during higher flows the water will be swift making this location dangerous to launch at this site (as indicated by the undercuts of the tree root system at this proposed site). The American Canoe Association warns against attempting access at this type of location. Safety of launching at higher flows is relevant but not considered in the scoping document.

Portage & Scouting Trails:

The 2012 Biological Evaluation notes all trails will be designated as part of the trail system in the site specific NEPA; “including portage trails [AR 16649]. The final agency decision notices require designation of portage trails (1950/1920 p A-2), or to exclude activities needing these trails. This site specific NEPA is not addressing the 2012 EA deficiency it is supposed to be following and is tiered to.

On February 8, 2012 the agency published that “*Any proposed trails to be constructed or designated as a Forest Service system trail would require site-specific NEPA analysis including analysis of resource impacts and informing the public.” [p. 37 *Responses to Public Comments on draft EA*]. Clearly needed trails for boating were supposed to have been part of this site-specific analysis; as directed per the assessment, these trails require designation. ELSE the 2012 EA is deficient.*

Portage trails were discussed during the site visit; Ranger Wilkins informed the public that boaters could make trails wherever boaters wished...and if the agency approved the locations the agency would designate those trails. Such a trail system policy is incongruent with the 2012 decision and violates a host of WSR and other environmental laws. Especially in the wilderness area.

The scouting/portage trail at the logjam and the decapitating ‘sieve rapid’ at the mouth of the Chattooga Cliffs are two of the numerous new trails required to accommodate even expert boaters,. Sadly these scouting and portage trails that were not considered within the 2012 EA. Even, the Chattooga Study sent to congress states experienced boatman (yes it says boatman) must portage many of the rapids upper Chattooga. The necessity of portage and trails associated with portage require consideration and assessment.

Prior to initiating ANY boating in North Carolina, a site-specific trail NEPA is required as outlined in the Decision literature.

Net loss in trail system:

The 2012 EA, to which this NEPA is tiered, from determined that the 2012 Decision would result in a net decrease of riparian trails, because only use of designated trails would be legal. This site specific NEPA discussed designating new trails, without a discussion of which trails will be closed and what the likely impact to hikers, birder, hunters and anglers might be from closing those trails to accommodate boating trails.

As documented in the Decision Notices, River Access anywhere but at designated trails is illegal. Any decision to build new trails for just boaters while making illegal river access accommodating other users would be highly biased, and abuse of agency discretion and a complete omission of the relevant and pertinent issues underlying this NEPA.

Not all Paddlers Skill Levels were considered in the 2012 Decision:

An additional trail is being proposed below Bull Pen for less experienced paddlers. The trail is located in a designated Wilderness area, on a very-steep easily erodible grade.

First, this additional trail expands the scope of the 2012 Decision to offer intermediate skill level paddlers access to the Chattooga. Since the 2012 Assessment did not include the effects from intermediate paddlers on the environment (and stated emphatically would not be paddling the upper Chattooga), providing new access for less experienced paddlers expands the scope of the 2012 Decision and underlying assessment. Providing access to a group never assessed as part of the 2012 Decision establishes a policy outside of the scope of the 2012 Decisions. If the site-specific NEPA chooses to expand its scope beyond the 2012 Decision, it should reassess the impacts of expanding that scope to include less skilled paddlers and their associated impacts to the riparian zone from increased scouting and portaging. . The difficulty of the Chattooga was presented as limiting boater-use, but this scoping letter undermines that statement. Adding new trail to accommodate intermediate paddlers cannot be within the scope of this assessment

Floaters entering the river at Bull Pen Bridge should be forced to run the class five rapids or perish; thereby limiting impacts to the downstream riparian zone through the Wilderness area.

Boundaries:

One NEPA statute 40 CFR 1508.27 requires that “*an action must be analyzed in several context [including] the affected region, [and] the affected interests*”. The Whiteside Cove association’s 50+ year interest with fishing, swimming and relaxing along the NC Chattooga, predate the Wild and Scenic Designation; we are one element of the *affected interests*.

Additionally, the association leases the property adjacent to the Forest Service land upstream of Greens Creek which may be within the *affected region*, depending on the trail location/s.

We again ask the USFS to make clear the boundaries between private and public land make sure the public is aware of these boundaries through proper policy, signage and maps.

Saylors, Thomas C -FS

From: Wilkins, Mike -FS
Sent: Thursday, June 28, 2012 8:58 AM
To: Saylors, Thomas C -FS
Subject: FW: Chattooga River

Print this and put it in the file folder. I got a section for comments.

From: Susan Caster [<mailto:susan.caster@gmail.com>]
Sent: Thursday, June 28, 2012 8:39 AM
To: Wilkins, Mike -FS
Subject: Chattooga River

Dear Michael Wilkins,

I attended the meeting/hike on Wednesday June 20th to the upper portions of the Chattooga River. I was shocked to learn that the forest service has determined to allow boats in this area. The trail we walked is not suitable for boaters. Endangered Oconee Bells grow along this trail. Sections of trail are eroded and the soil is not suitable for trails. The river is beautiful with moss covered rocks and clear water. Allowing even a few boaters would be detrimental to the moss covered rocks, endangered plants and eroding trails.

More importantly, I feel it is totally the wrong precedent to give boaters or any group additional access, especially unlimited access, to this area if we want to preserve it for future generations. We need large areas of natural, undeveloped land in order to have clean air and water. Please protect the upper sections of the Chattooga River. There should be NO boating access and no opportunity for access in the future.

Susan

—
Susan Caster
[404-512-5621](tel:404-512-5621) (c)
Susan.Caster@gmail.com

“A thing is right if it tends to preserve the beauty, integrity and stability of the biotic community; it is wrong when it tends otherwise.” Aldo Leopold

Ingram, Gwyn A -FS

From: Tom Ward <tommickyward@yahoo.com>
Sent: Monday, September 03, 2012 11:47 AM
To: FS-comments-southern-francismarion-sumter-andrewpickens
Subject: Lick Log Trail Construction Project

To whom it may concern,

I am writing in response to the written invitation to provide public comment on the proposed Lick Log Trail Construction Project. While the proposed project appears to be rather small in scope, I was unable to determine the rationale, nor the estimated cost for this project anywhere in the written notice I received or on the Andrew Pickens District portion of the Sumter National Forest website. In fact, I could find no reference to this project on your website.

The required announcement of this proposed construction project in a local newspaper is just that, a minimum legal requirement. I'm curious as to why a new trail construction project inside of a Wild and Scenic River corridor stemming from a highly contentious rule change on said river doesn't warrant a focused announcement/notification and solicitation of public comment on your website? It would cost less than the newspaper announcement and would be available to anyone in the world. Had I not made the effort to get on a notification mailing list, I would know nothing about this project. In this day and age of efficient electronic communications and information sharing, failing to maintain this level of transparency is unacceptable. The general public is the primary stakeholder and deserves to know.

With regard to the actual proposed project, without knowing the stated rationale and cost for this project the public is not in a position to provide intelligent input. What is clear is that the amount of time, energy and money spent on the decision making process for opening the upper Chattooga to boating has been, and continues to be counterproductive. This is especially true given the ongoing resource constraints on the USFS and the small number of individuals who will benefit from this ruling. If the public knew the complete cost, both direct and indirect, of this entire administrative process, taxpayers would object, strongly.

The area proposed for construction of this spur trail is one that I frequent regularly. There is easy access from the river to the established trail at numerous locations directly below Lick Log. Diverting scarce resources to construct this spur trail is simply unnecessary. Boaters exiting at Lick Log must carry their boats 7/10 of a mile to the nearest parking area. Spending scarce resources to minimally shorten that distance for small population on a very limited number of days per year simply makes no sense.

I recently backpacked from Burrell's Ford down to Lick Log and then over to Oconee State Park. While I saw evidence of some limited trail work that had been recently done, the trail and the established camp sites along the river are in need of maintenance and restoration attention before any new projects should be funded - especially projects that benefit a small but vocal and litigious group of stakeholders.

Specifically, the group site at Sims Field reflects serious overuse, abuse and neglect. I buried 3 large piles of used toilet paper that I came upon directly in the campsite. The garbage, overuse and abuse of living trees for firewood made me not want to return to that once pristine location. Remote sites all over the country have installed self-composting toilets and restricted use of

endangered areas to address these kinds of problems. Affordable solutions to well known problems that effect everyone. And I'm certain these efforts would cost far less than the construction of a new spur trails designed only to convenience a small number of boaters on a small number of days each year. If this project is approved, funded and constructed, what will be next inside the Wild and Scenic River corridor?

Sincerely,
Tom Ward
235 Windrush Trail
Walhalla, SC 29691
(864) 718-7362
Tommickyward@yahoo.com



North Carolina Department of Administration

Beverly Eaves Perdue, Governor

Moses Carey, Jr., Secretary

September 20, 2012

Mr. Thomas Saylors
USDA Forest Service
Nantahala National Forest
Nantahala Ranger District
90 Sloan Road
Franklin, North Carolina 28734-9064

Re: SCH File # 13-E-0000-0060; SCOPING; Proposed project is for the Upper Chattooga Wild and Scenic River Access project. Project will designate and construct trails for paddler access and put-in areas.

Dear Mr. Saylors:

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

Beverly Eaves Perdue
Governor

Dee Freeman
Secretary

TO: Zeke Creech
State Clearinghouse

FROM: Lyn Hardison *Lyn*
DEAO Permit Assistance Coordinator

FOR: Melba McGee
Project Review Coordinator

RE: 13-0060 Scoping
Scoping – Upper Chattooga Wild and Scenic River Access Project
Jackson County

Date: September 19, 2012

The Department of Environment and Natural Resources has reviewed the proposal for the referenced project. The NC Natural Heritage mentions that the Upper Chattooga River gorge has many rare species, aquatic and plants, located within the project site. All of the comments are attached for the applicant's consideration.

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

Thank you for the opportunity to respond.

Attachment



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 20, 2012

Michael L. Wilkins
District Ranger
Nantahala Ranger District
90 Sloan Road
Franklin, NC 28734

Subject: Upper Chattooga River Access Project

Dear Mr. Wilkins:

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 area 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 a great need for care in placing new facilities here. We support the use of existing trails and old road beds for access, and believe impacts can be limited if facilities are kept to their existing footprints and erosion is prevented. But we also emphasize the need for particular care near the river. 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 and even leaning against 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 locally rare or locally abundant. Ideally, expert surveys should be done to get better data on the distribution and abundance of these species throughout the gorge, to see whether the limited area affected by accesses is likely to be a problem. In the absence of such information, the Forest Service should avoid increasing public access 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.oneNCNaturally.org


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One
North Carolina
Naturally
Natural Resources Planning and Conservation

Division of Water Quality
Asheville Regional Office
Surface Water Protection Section
September 11, 2012

Memorandum

To: Melba McGee, Environmental Coordinator

From: Susan A. Wilson, Environmental Engineer 

Subject: Nantahala Ranger District – Upper Chattooga Wild and Scenic River Access Project
Environmental Review Comments
Project No. : 13-0060
Jackson County

The Forest Service proposes options for trail access to the Upper Chattooga in the Nantahala Ranger District, Jackson County. Several options are proposed.

Based on the project information provided, the following concerns may need to be addressed:

1. NPDES Construction Stormwater Permit NCG010000 – This permit is issued concurrently with an approved Sediment and Erosion Control plan to control stormwater discharges from construction activities. If greater than one acre is disturbed (and an approved Erosion and Sediment Control Plan is required by the Division of Land Resources or a delegated program), an NCG010000 is required.

If an approved Sediment and Erosion Control Plan is not required, the Forest Service and/or its agents should ensure that sediment is not lost to surface waters during and after trail construction activities.

Thank you for the opportunity to comment. Please contact me at (828) 296-4665 or susan.a.wilson@ncdnr.gov should you have any questions regarding this memo.

cc: ARO file

S:\SWPJackson\Z-Loose Docs\A95 EA Scoping docs\Nantahala Ranger Dist - Chattooga R Trail Access.9 2012.doc

INTERGOVERNMENTAL REVIEW - PROJECT COMMENTS

Project Number:

13-0060

Due Date:

9-14-2012

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 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 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>★ Trout buffer waiver may be required through DENLR.</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

☐ Mooresville Regional Office
610 East Center Avenue, Suite 301
Mooresville, 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

Mcgee, Melba

From: McHenry, David G.
Sent: Tuesday, September 11, 2012 2:48 PM
To: Mcgee, Melba
Subject: 13-0060, Jackson - wrc no comment

Please accept a WRC no comments on this one Mrs. McGee.

Thanks

Dave McHenry
NCWRC Habitat Conservation Biologist
828/452-0422 x24

Email correspondence to and from this sender is subject to the N.C. Public Records Law and may be disclosed to third parties.

NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

Jessica McClure

COUNTY: JACKSON

H12: OTHER

STATE NUMBER: 13-E-0000-0060
DATE RECEIVED: 08/20/2012
AGENCY RESPONSE: 09/14/2012
REVIEW CLOSED: 09/19/2012

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 Upper Chattooga Wild and Scenic River Access project.
Project will designate and construct trails for paddler access and put-in areas.

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:

[Signature]

DATE:

8/29/2012

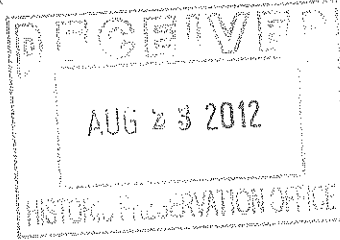


NORTH CAROLINA STATE CLEARINGHOUSE
DEPARTMENT OF ADMINISTRATION
INTERGOVERNMENTAL REVIEW

COUNTY: JACKSON

H12: OTHER

STATE NUMBER: 13-E-0000-0060
DATE RECEIVED: 08/20/2012
AGENCY RESPONSE: 09/14/2012
REVIEW CLOSED: 09/19/2012



MS RENEE GLEDHILL-EARLEY
CLEARINGHOUSE COORDINATOR
DEPT OF CULTURAL RESOURCES
STATE HISTORIC PRESERVATION OFFICE
MSC 4617 - ARCHIVES BUILDING
RALEIGH NC

REVIEW DISTRIBUTION

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

SIGNED BY:

Renee Gledhill-Earley

DATE:

8-28-12



AUG 24 2012



AUG 23 2012

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 20, 2012

Michael L. Wilkins
District Ranger
Nantahala Ranger District
90 Sloan Road
Franklin, NC 28734

Subject: Upper Chattooga River Access Project

Dear Mr. Wilkins:

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 area 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 a great need for care in placing new facilities here. We support the use of existing trails and old road beds for access, and believe impacts can be limited if facilities are kept to their existing footprints and erosion is prevented. But we also emphasize the need for particular care near the river. 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 and even leaning against 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 locally rare or locally abundant. Ideally, expert surveys should be done to get better data on the distribution and abundance of these species throughout the gorge, to see whether the limited area affected by accesses is likely to be a problem. In the absence of such information, the Forest Service should avoid increasing public access 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.oneNCNaturally.org
An Equal Opportunity \ Affirmative Action Employer

One
North Carolina
Naturally
Natural Resources Planning and Conservation

Ingram, Gwyn A -FS

From: Tom Swaynham <SwaynhamT@dnr.sc.gov>
Sent: Wednesday, September 19, 2012 9:14 AM
To: FS-comments-southern-francismarion-sumter-andrewpickens
Cc: RankinD@dnr.sc.gov; Richard Morton; Mary Bunch
Subject: Lick Log Trail Construction Project

The SCDNR has reviewed the proposed activity and has no objection to this project. We suggest that any erosion issues be closely monitored and that the trail be designed for a width appropriate for carrying boats.

Thanks for the opportunity to comment on this project. Please let us know if you have any questions.



Help SCDNR conserve South Carolina's natural resources by checking off your contribution to the Endangered Species or SC's Department of Natural Resources Fund this tax season.
<http://www.dnr.sc.gov/admin/taxbreak>

Tom Swaynham
SCDNR Regional Wildlife Coordinator
311 Natural Resources Drive
Clemson, SC 29631
864-654-1671, Ex. 21
SwaynhamT@dnr.sc.gov



South Carolina Department of Natural Resources



DNR

Alvin A. Taylor
Director

Emily C. Cope
Deputy Director for
Wildlife and Freshwater Fisheries

June 25, 2012

JUN 26 2012

Mr. Mike Wilkins
USFS
90 Sloan Road
Franklin, NC 28734

RE: Chattooga River Access Points

Dear Mr. Wilkins:

The SCDNR has reviewed the proposed locations for boater access on the Chattooga River in SC at Burrell's Ford and Lick Log Creek. We offer the following comments on this proposal.

1. We recommend botanical surveys be conducted before boating access points are established. Any plants of concern should be protected from damage by the boating activity.
2. We suggest selecting a take-out site at Burrell's Ford slightly upstream from the Bridge to minimize conflicts between boaters and anglers. The immediate area at the bridge is a very steep banked area and additional use by boaters could cause erosion issues. We also suggest the "put-in" site for boating at Burrell's Ford (i.e. those running the Rock Gorge reach) be at the lower-most reach of Burrell's Ford Campground. This would encourage use on a hardened surface (the existing road) and the campground area offers low banked areas to minimize erosion. This approach would also minimize conflicts between anglers, campers and boaters.
3. The Lick Log take-out site has very steep banks in the immediate area of Lick-Log Creek and the trail is a distance up the bluff from the river. We suggest that boaters take out downstream of Lick Log at a point where the banks are low and where the hiking trail is in close proximity to the river to minimize erosion.

Thank you for allowing us to comment on your project. Do not hesitate to let me know if I can provide you with any additional information.

Sincerely,

Thomas Swaynham
Regional Wildlife Coordinator



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Asheville Field Office
160 Zillicoa Street
Asheville, North Carolina 28801

September 11, 2012

Mr. Mike Wilkins
District Ranger
Nantahala Ranger District
90 Sloan Road
Franklin, North Carolina 28734

Dear Mr. Wilkins:

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

In your letter dated August 15, 2012 (received via email on August 13, 2012), you requested our comments on the subject projects. 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 Nantahala Ranger District 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:

- 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

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.

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.

- Bamford - This alternative to Greens Creek would require 500 to 900 feet of new trail construction and would provide about 1000 feet less of the Chattooga River open to paddlers. It would require less construction than Green's Creek.
- County Line - A road bed would be designated as an official U.S. Forest Service (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 USFS 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.

As you are 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.

Robert L. Alexander
P.O. Box 1928
Clayton, GA 30525
October 1, 2012
C: 706-490-1402

Mr. Edward Hunter Jr.
District Ranger, Chattooga dist.
9975 Hwy. 441 So.
Lakemont, GA 30552

Ref: Burrells Ford Boater Access on the Chattooga river:
Addendum to Letter sent on September 24, 2012.

Dear Mr. Hunter:

A few thoughts have come to mind concerning the boaters, fishermen, aged, handicapped, and the Chattooga river that I wish to share with you.

It appears the Forest Service is **subsidizing** the Whitewater companies and the boaters by building and/or **constructing** and/or **financing** various user entities along The River in the Burrells Ford area, and just about the entire River, to the neglect of other Users. The Forest Service has changed/will change the makeup of the lands, road accesses, and banks of the River.

In providing places of entry to The River for one set of people and closing off the River to another set is pure **discrimination**. The **Fishermen** have the right to free access, without undue stress, of the Chattooga River just as the boaters will have. Therefore an **equal amount** of money for road construction to access the same areas as the boaters will need to be provided. I believe access to the The River below Big Bend Falls, Salt Trough, and in the Rock Cliff area will need to be provided. The Forest Service has **closed** the roads that we had free access to, and drove in the 1940's to 1960's and now the Fishermen must **walk** as much as 6-8 miles which in reality is untenable and provides hours of extra labor and is a hardship. We used to drive from the Hwy 28 Bridge on the Georgia side, past Reed Creek, cross the two Jewel Nicholson fords, cross the mountain and camp at Salt Trough. We had direct access to the Rock Cliffs until probably the mid-nineteen sixties. This is discrimination pure and simple. Also, we used to drive into the Muscadine area from Pool Creek and fish. The Forest Service has **closed** the access roads to the River and one needs to walk two or three miles where the Boaters have free access as provided by the Forest Service.

The **Elderly** and the **Handicapped** have **no** access, which they did for years, because the Forest Service has **closed** the roads. This is in **violation** of the **American Disabilities Act**. When the Forest Service provides money for the Boaters, and opens access to them, they must in turn provide access money for the **Aged** and those who are **Disabled**, including our **Veterans**. The Forest Service cannot, by Congressional Law Designation, discriminate against these people which it is and has been for years.


The Forest Service has thwarted the Law, and the intent of the Wilderness Designation by making a "For Profit" venture out of the Chattooga River. The Wilderness Designation was to protect the River and its surroundings. The Forest Service has opened access to The Chattooga River as a **money making scheme** to the detriment of the Wilderness Act. Therefore, the Forest Service is operating outside the Law. I believe even the Federal Judges are forgetting this point or "Politics" is involved. The past attitude of various Forest Service personnel as expressed to me is "so what" or they couldn't care less!

The intent of the Wilderness Designation was not for the Government to become involved in "Profit" making (charging fees or tolls) or to dole out money for the cause of Special Interest Groups just to satisfy their whims while **neglecting** and **discriminating** against the other segments of people in Society.

The Forest Service thus cannot by Law give **special treatment** to one set of people while **neglecting** the ability of the others to access and enjoy the same land mass. The whole money making scheme needs to be closed down on the entire Chattooga River until the situation is rectified to satisfy the Laws of the United States.

Respectfully Submitted:

Sincerely,

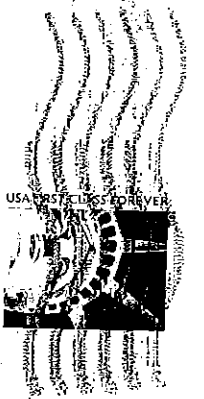
A handwritten signature in cursive script, appearing to read "Robert L. Alexander".

Robert L. Alexander

Robert L. Alexander
P.O. Box 1928
Clayton, GA 30525

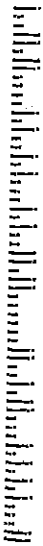
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Mr. Edward Hunter Jr.
District Ranger
9975 Hwy 441 So.
Lakemont, GA 30552

30552301275



Miller, Janice P -FS

From: Campbell, John W -FS
Sent: Tuesday, October 02, 2012 8:54 AM
To: Miller, Janice P -FS; Polk, Alan -FS
Cc: Hunter, Edward -FS
Subject: RE: Burrell's Ford Boater Access Scoping Letter

Good letter – the proposed actions will be great to get done.

I would possibly reconsider calling this area a trailhead. Currently, there are no system trails that leave this area and just having the 200 foot trail designated by this decision would still be a little misleading. I don't know what the best classification would be, Day Use area, River Access, or something like that.

I would need a little more info on the 3rd trail decommission. Is this the one that lead downriver to the start of the campsites? Is the plan to direct campers down the new trail then along the river to the campsites?

The proposed widening to 10' seems a little high. The design parameters for a Trail Class 4 (double lane) have a trail width of 6' and clearing width of 6'. I think a Trail Class 4 would be appropriate for this type of trail and the expected high use.

Hope this helps. Let me know if you have any questions.

Thanks

John W. Campbell
Dispersed Recreation Program Manager
Trails, Wilderness and Wild & Scenic Rivers
Chattahoochee-Oconee NF's
1755 Cleveland Hwy
Gainesville, GA 30501
770.297.3066 (o) 706.540.0870 (m)
770-297-2939 (f)
www.fs.usda.gov/conf

From: Miller, Janice P -FS
Sent: Friday, September 28, 2012 10:30 AM
To: Polk, Alan -FS; Campbell, John W -FS
Cc: Hunter, Edward -FS
Subject: FW: Burrell's Ford Boater Access Scoping Letter

Alan/John....Per Ed's instructions see attachment for Burrells Ford Boater Access Scoping Letter. This was mailed out last Friday, 21 Sep.

"Jp"

From: Hunter, Edward -FS
Sent: Friday, September 28, 2012 9:55 AM
To: Miller, Janice P -FS
Subject: Burrell's Ford Boater Access Scoping Letter

Hey Jp,

If the S.O. was not scoped on this project, please forward them a copy of the scoping letter and associated documents. Also, include the dates this letter was mailed and published in our newspapers.

Thanks,

Edward Hunter, Jr.
District Ranger
Chattooga River Ranger District, Chattahoochee-Oconee National Forest
9975 Hwy 441 South
Lakemont, GA 30552
(706) 754-6221 (office)
(706) 754-1021 (fax)
(706) 490-3515 (cell)
ehunter@fs.fed.us

Robert L. Alexander
P.O. Box 1928
Clayton, GA 30525
September 24, 2012
C: 706-490-1402

Mr. Edward Hunter Jr.
District Ranger
Chattooga Ranger District
9975 Highway 441 So.
Lakemont, GA 30552

Mr: Edward Hunter Jr:

Ref: Burrell's Ford Boater Access, File code 1950, 9/20/2012.

In viewing the map area of the Burrell's Ford Bridge I make the following comments. I see no legitimate reason to place camping areas and widen the road along the River to encampments 1-3 on the Georgia side.

At the Bridge on the South Carolina side there are very wide areas, beside, and on the left and right of the Bridge. These would save the Forest Service money and could be utilized rather than going down stream on the Georgia side. All that is needed is to level the ground and put in one access point South of the Bridge on the SC side.

Personally I believe that the Forest Service should abandon the idea of Boater Access any higher than the Hwy 28 Bridge. This has always been a a fishing area and I have fished that section over the years since about 1950 or so. The boaters can have their fun South of the Hwy 28 Bridge and still leave the Wilderness atmosphere Northward. The Wilderness peace, and tranquility will be destroyed below the Burrell's Ford Bridge. Should a Boater get hurt there is no reasonable access off the River for medical help. The Canoeists will leave red, green, yellow marks on the rocks, their broken paddles on the bottom, and their trash along the River.

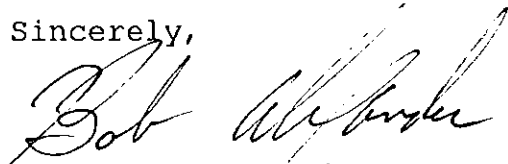
I got into a discussion with one of the High-echelon Rafters from one of the Major Companies and he stated a few years ago that he did not care what the laws and regulations were that he was, even at that time, rafting the Chattooga below the Burrell's Ford Bridge whenever he wanted to. That is belligerence and the Forest Service does not have the equipment nor the monitory funds to provide law enforcement of the Boater Access. Thus the Laws cannot be practically enforced.

If when the Forest Service flies into the South Carolina or Georgia areas they could swing their planes and helicopters a few miles north and view the Upper Section of the River to catch some of the rats. If the times of access could be totally kept from December 1st until March 31st and the laws could be enforced, there may be some leeway as to my comments. However it is my preference that no Boat Traffic be allowed between Burrell's Ford Bridge and the Highway 28 Bridge. The so Called Wilderness Area has been so enhanced by various Forest Service projects, and it appears for monitory gain, that the semblance of Wilderness is a thing of the past: there is no such attainment! There is no tranquility to the fishermen at this time. And, there has been none since the Boaters have taken over the River.

My son and I were fishing a particular section of the River a few years ago when Canoeist's floated by with a very seriously injured young lady. They had no idea how to get her to the Hospital. We stopped our fishing and led them to an old road and personally took her to the Hospital. With the numerous deaths on the River over the past number of years I would believe it to be in the best interests of the public that no Rafter, Canoeists, or Boaters of any kind be allowed below the Burrell's Ford Bridge at any time of year. The narrow Rock Cliff passage is no place for Boaters' of any kind, at any time.

These are my comments respectfully submitted.

Sincerely,



Robert L. Alexander

Robert L. Alexander
P.O. Box 1928
Clayton, GA 30525

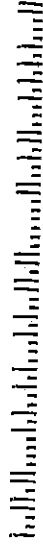
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22 SEP 2012 PM 81



Mr. Edward Hunter Jr.
District Ranger
Chattahoochee Ranger District
9975 Hwy 441 So.
Lakemont, GA 30552

30552301275





Chattooga Conservancy
8 Sequoia Hills Lane
Clayton, Georgia 30525
tel. 706-782-6097
info@chattoogariver.org

October 26, 2012

Re: Scoping Notice / Burrells Ford Boater Access

The Chattooga Conservancy believes it is premature to construct or modify any access trails to the Chattooga River, including at Burrells Ford in the Chattahoochee-Oconee National Forest, until the lawsuit (specifically, American Whitewater's ongoing navigability lawsuit) is decided regarding the ban on boating in the Chattooga Headwaters. If American Whitewater prevails, then the Grimshaws Bridge option is again a viable option, in which case no new access trails would be necessary. Moreover, any new trail construction within the Wild & Scenic River Corridor could cause irreparable and unnecessary harm to the Outstandingly Remarkable Values of the National Wild and Scenic Chattooga River.

In the premature instance that you proceed with the proposed action at Burrell's Ford, do not use gravel on the trail because it will stand out like a sore thumb; in addition, do not use gravel to "armor and stabilize" the river bank. Find another way to do it that uses indigenous or visually harmonious materials. Do not remove any vegetation outside the tread of the trail, including "hazard trees," and in decommissioning the other two user-created trails, re-vegetate them entirely.

Sincerely,

Nicole Hayler
Executive Director, Chattooga Conservancy

30527

Clasificación

George H. W. Bush

Figure 1

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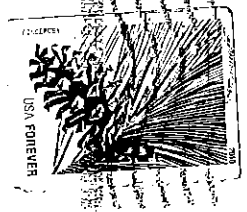
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ELIZABETH CRANSTON CLECKLER
& MIKE CLECKLER
91 Windsor Drive
Birmingham, AL 35209
205-222-1962

September 10, 2012

Mr. Michael L. Wilkins
District Ranger
USDA Forest Service
Nantahala Ranger District
90 Sloan Road
Franklin, North Carolina 28734

RE: USFS letter File Code 1950 dated August 15, 2012

Dear Mr. Wilkins,

I am the sister of Catherine Cranston Whitham, who wrote to you a few days ago about the "scoping letter" regarding access to the Chattooga River near Greens Creek (See Catherine's letter set forth below in its entirety). First, let me say that I agree entirely with what Catherine wrote in her letter. I also fully agree with the communications Tom Robertson has had with the forest service.

In addition to those comments, I would like to add a few of my own. My husband, Mike, and I were staying at the house on Greens Creek last week. Mike actually hiked the county line trail from Whiteside Cove Road, down to the Chattooga River trail and then upstream to the trailhead. Although there is currently some logging underway along the upper portion of the county line trail, the trail is perfectly passable and could be put back in excellent shape with very little effort, once the logging is completed. It provides excellent access to the river.

As others have stated, we believe that the best access is at the Steel Bridge on the Bullpen Road. The next best access is over the county line trail. The least practical and most problematic access route is the proposed Greens Creek trail.

If our father, Craig Cranston, were still alive, he would be most distressed that, after so many years of cooperation with, and generosity

toward, the USFS, it seems that the family's valid concerns are being ignored.

I thank you for your continued consideration of this matter.

Sincerely,

Elizabeth Cranston Cleckler
Property Owner

(LETTER FROM CATHERINE WHITHAM)

I am writing to express my grave concern over your recommendations in the scoping letter relative to the potential effects of creating new access to the Chattooga River for kayakers at Greens Creek in Whiteside Cove.

Please allow me to reiterate that my family (the Cranston family) along with our longtime friends and neighbors the Robertson family 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.

Your scoping letter concerns me on several counts. I believe the original Environmental Assessment 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. The decision to create a new trail near Greens Creek is the least effective access of all the options. You do not take

into account the impact of increasing parking at the trailhead nor the impact of creating a new trail through rare flora in the area.

What I do not understand is why you would select this site over the **County Line Trail**, which **already exists** and would require minimal improvement for access to the river. Your scoping letter states: “The old road bed is open and almost brush free and receives regular use by fishermen, hunters and hikers.” County Line access is far LESS costly and infinitely LESS disruptive than creating a new trail through a fragile and delicate ecosystem off the Greens Creek trailhead. The rare Oconee Bells, *Shortia Galacifolia*, which were pointed out to you specifically on your walk, is listed as “Endangered” and “Special Concern” in North Carolina and was noted in the 1973 Congressional Study Report that resulted in the designation of the Chattooga River as a Wild and Scenic River in the first place.

Why would the USFA want to spend MORE taxpayer money and disturb rare flora when a perfectly good trail already exists?

To summarize my opinion, I believe that access at the Steel Bridge on the Bull Pen Road remains the best choice followed by access at the County Line Road. I am opposed to access via Greens Creek.

Thank you for your consideration.

Sincerely,

Catherine Cranston Whitham

Property owner

Ingram, Gwyn A -FS

From: Tom Colkett <tcolkett@gmail.com>
Sent: Thursday, September 27, 2012 7:26 PM
To: FS-comments-southern-francismarion-sumter-andrewpickens
Cc: Rachel Doughty
Subject: Lick Log Trail Construction

Re: The Nantahala/ Andrew Pickens Ranger District-Upper Chattooga Wild and Scenic River Access Project (Licklog Trail Construction)

Dear Decision maker:

Thank you for taking citizen comments regarding this project. I think it's very important in a Democracy that all voices are heard, and all opinions considered when making decisions that could harmfully impact the stewardship of our natural resources.

I was a participant on the day that the Forest Service graciously guided us around the Lick Log trail and described the details of the plan to use it as an out-take for boaters coming down the Upper Chattooga River. I do think there are some important problems here. It seems to me that the plan is to clean up the user created trail at the bottom of the existing trail, but, as I remember it, this was a very straight steep path basically denuded by users. Just cleaning up this trail is not going to be enough to prevent serious erosion and siltation. If this project is to be done properly, this section needs some serious improvements, including redirection of the trail away from a direct descent down the fall line, perhaps creating two or three 90 degree turns. Also, the path should include solid log steps and the entire area needs to be replanted with grass and shrubberies sufficient to control run-off and to discourage cut-throughs by the various users. With the increased usage including boaters dragging their kayaks up the steeper slopes (as some of them said they would have to do) this slope will just erode into a deep gully and silt the river in the process.

There is also the issue of the landing area itself. There is an immediate, sharp step-up from the prescribed landing site to the existing camping area. This shelf needs to be protected as well to prevent degradation and siltation.

Enforcement: Another issue for me is that the district plainly is not able, and/or cannot afford to properly supervise the additional activity that will result from opening the river. There is a clear threat of increased damage to the natural environment from these users as witnessed by the wanton destruction already present in the campsites due to present level of usage. What will be the Districts recourse once it's decided that illegal and damaging activities have increased beyond expectations? How would we be able to stop it at that point? I urge you to consider these objections in whatever decisions you make regarding this project.

Thank you and good luck!

--

Thomas Colkett
5265 Bay Circle
Cumming, GA 30041
770-316-7609

Catherine Cranston Whitham
536 Whit's End Road * Highlands, NC. 28741
23 Libbie Avenue * Richmond, VA 23226
cwhitham@comcast.net

SEP 14 2012

September 7, 2012

Mr. Michael L. Wilkins, District Ranger
USDA Forest Service, Nantahala Ranger District
90 Sloan Road
Franklin, North Carolina 28734

Project Thom
File —

RE: USFS letter File Code 1950 dated August 15, 2012

Dear Mr. Wilkins:

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Please allow me to reiterate that my family (the Cranston family) along with our longtime friends and neighbors the Robertson family 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.

Your scoping letter concerns me on several counts. I believe the original Environmental Assessment 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. The decision to create a new trail near Greens Creek is the least effective access of all the options. You do not take into account the impact of increasing parking at the trailhead or the impact of creating a new trail through rare flora in the area.

What I do not understand is why you would select this site over the **County Line Trail**, which **already exists** and would require minimal improvement for access to the river. Your scoping letter states: "The old road bed is open and almost brush free and receives regular use by fishermen, hunters and hikers." County Line access is far LESS costly and infinitely LESS disruptive than creating a new trail through a fragile and delicate ecosystem off the Greens Creek trailhead. The rare Oconee Bells, *Shortia Galacifolia*, which were pointed out to you specifically on your walk, are listed as "Endangered" and "Special Concern" in North Carolina and were noted in the 1973 Congressional Study Report that resulted in the designation of the Chattooga River as a Wild and Scenic River in the first place.

Why would the USFA want to spend MORE taxpayer money and disturb rare flora when a perfectly good trail already exists?

To summarize my opinion, I believe that access at the Steel Bridge on the Bull Pen Road remains the best choice followed by access at the County Line Road. I am opposed to access via Greens Creek.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, reading "Catherine Whitham". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Catherine Cranston Whitham
Property owner

Via e/mail: www.comments-southern-north-carolina-nantahala-nantahala@fs.fed.us

Date 6/29/2012

To: Michael Wilkins, District Ranger

JUN 29 2012

Thank you for taking the time and making the effort to inform the public regarding the intended access for kayaking the Upper Chattooga.

I would like to say that I am opposed to any additional impact on the Upper Chattooga river.

In particular, I feel that once the paddlers have access at 350cfs during a limited time, they will then want access all the time and/or at other cfs levels. As the representative from American Whitewater freely stated that it could and should be run at lesser levels, this is obviously their intent.

Below are my comments and concerns.

Diane Freer



300 Drena Dr

Ellijay, GA 30540

Upper Chattooga Access Trail Review

General Comments:

The river above Bull Pen Bridge does not look challenging. One paddler said that the section would be desirable because of the solitude. Question: Is this the only place that this solitude could be acquired? What is the 'normal' experience on Overflow Creek or other comparable water in the area?

The Chattooga River Trail currently has dispersed camping. This proposal would determine specific campsites and they would be created and maintained. Other campsites would not be allowed.

Question: Would this be for the entire length of the trail or only near put-in/take-out points? If the change in camping regulations are point oriented, within what range would the new regulations take place?

The put-in/take-out sites reviewed on 6/20 would all require trail development and maintenance.

Question: Would there be specific requirements for "winter" trails; as this would be the period of most usage.

The FS stated that no new parking would be created. They felt that the parking was adequate.

However, something would have to be done on the County Line Road access. Question: How long will the logging continue? What sort of hazard would that be? What liability would the boater have crossing an active logging area? What, if any, 'clean up' would occur to the logged area in the name of trail maintenance?

The FS maintains the restrictions on the paddling (i.e. time of year and flow levels) are an attempt to regulate and mitigate conflict. Question: Is the FS's mission conflict management?

If the FS maintains the restrictions are necessary to preserve the solitude, then why are there no restrictions on the number of fishermen and/or hikers?

If the FS maintains the restrictions (i.e. flow levels and multi-boater parties) are for safety, then why no concern for the fishermen safety requirements (flow level) or hiker registration check-in kiosks?

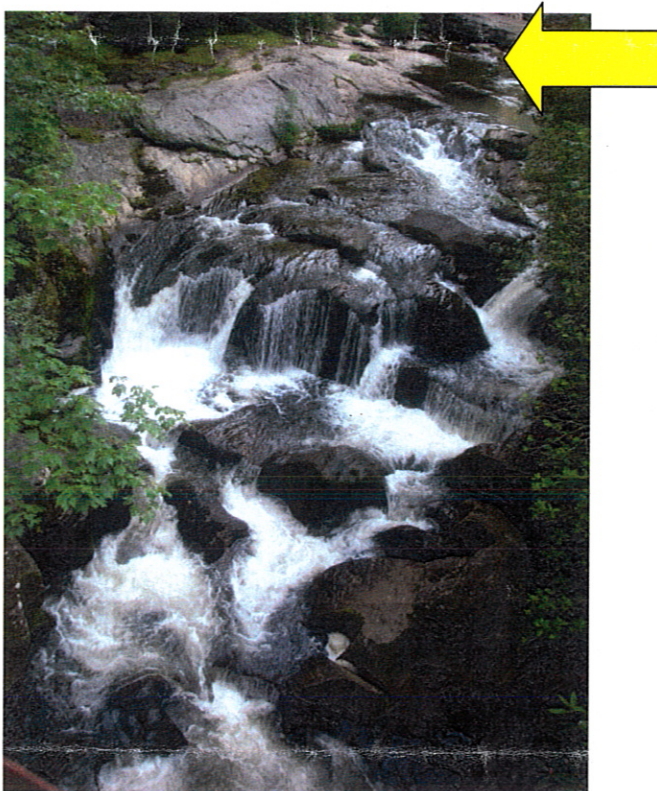
What will stop the paddlers from using the Grimshaw bridge as an access point or by-passing the Lick-Log takeout and using the Route 28 take-out? The proposed put-in and take-outs with the exception of the Bull Pen Bridge are all over 1 mile of trail. This begs a work-around from paddlers in an area that is remote and not likely to be patrolled.

Comments regarding the 6/20 trip purpose of determining trails and put-in/take-out points:

Bull Pen Bridge

Parking: The Bull Pen Bridge area is desirable for paddlers. It has little parking at the site, but more is available a short walk away. Rescue and emergency care would be more accessible here than any other place in this area.

Trail: The proposed put-in/take-out site above the bridge has the advantage of a short trail that will require little maintenance. On the negative side, the take-out point is *immediately* above the falls and if anyone misses the eddy, there is a potential for injury. Eddy area where the arrow is pointing.



The proposed put-in/take-out site below the bridge is steep. The trail would need to be constructed. The current 'user made' trail is steep, slippery, and subject to erosion.



The ranger's comment regarding identifying the proper placement of trails was very disquieting. He stated that he would not be comfortable identifying and creating a trail until the users had some experience with the site during actual conditions (i.e. high water, catching eddies, wet winter footing). This causes concerns as it implies that the current user created trails would be used. When questioned directly about having the budget and the manpower to create/maintain trails before the proposed December usage, the ranger allowed that they would not be built before the usage.

Riverside: The area above the bridge was rock and suitable for paddlers

The area below the bridge was a sandy bank. This could come and go. The bank was about 15-20 foot wide and if it were washed away would leave only a perpendicular rock face at the bottom of the trail.



Greens Creek Access

Parking: There is adequate parking in an established gravel lot.

Trail: The trail from the parking area to the established Chattooga River trail and that trail itself is very usable. The 'user created' trail branching down to the river is unmarked. This branch trail was eroded down to the bare rock and slick for a long stretch. In one area where it crossed a gully it was obvious that foot holds were kicked into the dirt and had also eroded. In general, significant work would have to be done to create a trail.

Riverside: The river bank was a rock section that would be suitable for paddlers to launch.



Secondary access proposed by Mike Barnsford (sp?) from Whiteside Cove Homeowners Assoc.

Parking: Same as Green Creek

Trail: The secondary access was approximately the same distance from the parking lot, but utilized more of the Chattooga River trail. The user trail emanated from a switchback point. This user trail was steep, and came to the river at a point where the river ran straight for some ways. A trail would have to be developed to run further along the slope to mitigate the angle of the trail. There would be considerably less trail to build and maintain than the Green Creek option.

Riverside: The access point 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.

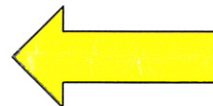


County Line Road Access

Parking: There was no established parking lot. There was parking along the roadside. This is also the site where logging was taking place. The ranger said that a parking lot would not be developed. Also, he stated that the logged area will not be cleaned up. This would be a hazard.

Trail: The top end of the trail was mushy from the logging equipment, but would be fine once the work was done. The trail joined the Chattooga River trail. The Chattooga River trail winds down toward the riverbank and there would be little or no trail necessary at the put-in/take-out point. This trail was the longest by far being 1.22 from the parking to the Chattooga River trail and then upriver approximately .4 more miles.

Riverside: This proposed access point was the best so far. Located just downstream from the Norton Mill Creek bridge, the river was wide and there were rocks to serve as put-in/take-out points.



Other Considerations: This access point has a campsite that would have to be dealt with (upgraded/removed).



September 17, 2012

Rachel S. Doughty, Esq.
231 Mullen Avenue
San Francisco, CA 94110
828.333.4703 828.424.2005 (cell)
rdoughty@greenfirelaw.com

VIA E-MAIL

Comments-southern-north-carolina-nantahala-nantahala@fs.fed.us

**Re: The Nantahala Ranger District—Upper Chattooga Wild and
Scenic River Access Project**

Dear Decision-maker:

These comments are submitted on behalf of **Georgia ForestWatch** ("GAFW"),¹ the **Georgia Chapter of the Sierra Club** ("GASC"),² and **Wilderness Watch** ("WW")³ (collectively, "Advocates").

1. Background & Introduction

In January 31, 2012, a joint decision was made to amend the current Land and Resource Management Plans ("LRMP") of the Nantahala and Pisgah ("Nantahala LRMP"), Chattahoochee-Oconee ("Chattahoochee LRMP"), and Sumter ("Sumter LRMP") National Forests ("Amendments"). The documents within which these decisions were memorialized (hereinafter collectively referred to as "Decision Notices") are:

- 1) *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").
- 2) *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").
- 3) *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").

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, GA 30030; telephone: 404-607-1262, fax: 404-876-5260.

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

The Findings of No Significant Impact for the Amendments were supported by the *Environmental Assessment: Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (January 2012) (“2012 EA”).

Advocates and others, including several groups of boaters, appealed the Amendments.⁴ Advocates’ appeal was based in significant part on their concerns about impacts they anticipated would arise from boater access (and others using boater access facilities). Their appeal was denied, in part because the Forest Service said it would consider the site-specific impacts of access at the time of their designation.⁵ The Amendments are presently under review by a federal court in South Carolina in an action brought by boaters seeking greater access to the Upper Chattooga than the Amendments would allow.⁶ GAFW is an intervenor in that lawsuit.

In the summer of 2012 the Forest Service hosted a number of site visits at proposed access locations. Members of GAFW, GASC, and WW attended each of these site visits and Advocates together submitted comments on June 29, 2012 (“Site Visit Comments”). In their Site Visit Comments, Advocates urged the Forest Service to:

- Analyze all of the impacts of its proposed access points, including connected and cumulative impacts, and to do so as a coordinated effort among the three National Forests responsible for managing the Chattooga Wild and Scenic River;
- Avoid use of, and encouragement of creation of, user-created features because they are known to be chronic sediment sources and the area is known to have high erosive potential;
- Follow the Forest Service Manual and Forest Service Handbook direction for the designation and construction of trails;
- Consider enforcement capacity when establishing trails;
- Avoid changing the character of the Chattooga River Trail;
- Plan for the needs and likely impacts of rescuers in emergency situations, particularly in the Ellicott Rock Wilderness area;
- Make sure access is in compliance with federal regulations, the Sumter LRMP, and the Chattahoochee LRMP which restrict where permits may be obtained by boaters planning to enter the Chattahoochee and Sumter National Forests;
- Anticipate a range of boater skill levels and environmental conditions; and
- Make sure monitoring is in place to detect indicators of future degradation so that the adaptive management described in the Decision Notices can be implemented before degradation occurs.

Advocates’ letter also addressed concerns specific to each of the proposed access points.

On August 15, 2012, the Nantahala Ranger District sent a two page letter (“August 15 Letter”) seeking public input regarding four proposed designated trails and

⁴ Advocates’ appeal is incorporated herein by reference.

⁵ *Response to Appeal of Forest Supervisor George M. Bain’s, Acting Forest Supervisor Diane Rubiaco’s and Forest Supervisor Paul L. Bradley’s January 3, 2012, Decision for Amendments 1, 22 and 1, Respectively, for Management of Boating Activities in the Upper Chattooga River Land and Resource Management Plan* (“Appeal Response”), pp. 14, 25 (June 28, 2012).

⁶ *American Whitewater et al. v. Tidwell et al.*, Civil Action No. 8:09-cv-02665-JMC.

access locations: Bamford, Greens Creek, County Line, and Bull Pen Bridge.⁷ Together these trails would form an access network in the Nantahala Ranger District to the Chattooga Wild & Scenic River, the Chattooga Cliffs, the Ellicott Rock Wilderness, and the Rock Gorge Roadless Area for boaters ("Access Network"). The August 15 Letter does not address downstream impacts of providing this Access Network.

The August 15 Letter fails to state which (if any) categorical exclusion will be used to avoid preparation of an Environmental Assessment ("EA") or Environmental Impact Statement ("EIS") for the Access Network decision. However, Nantahala District Ranger Michael Wilkins stated in a telephone call with Advocates' attorney that the action was being proposed under 36 C.F.R. § 220.6(e)(1):

Construction and reconstruction of trails. Examples include, but are not limited to:

- (i) Constructing or reconstructing a trail to a scenic overlook, and
- (ii) Reconstructing an existing trail to allow use by handicapped individuals.

Advocates greatly appreciate that the Forest Service is making an effort to designate trails rather than rely on user-created features. However, concerns remain. Advocates respectfully request that the following issues, discussed in greater detail below, be addressed:

- Compliance with the National Environmental Policy Act, including analysis of connected actions and cumulative impacts;
- Compliance with 36 C.F.R. § 261.77;
- Consistency with the Nantahala & Pisgah, Chattahoochee and Sumter LRMPs, as amended by the Decision Notices;
- Consistency with the Comprehensive River Management Plan ("CRMP") for the Chattooga Wild & Scenic River, if one does in fact exist;
- Compliance with the Wilderness Management Plan for the Chattahoochee; and
- Compliance with water quality law.

2. National Environmental Policy Act

The Forest Service has never analyzed the site-specific impacts of access features. 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.⁸ The NCDN stated that "[s]pecific

⁷ As a preliminary matter, the August 15, 2012, letter states that the scoping record, associated maps, and a list of proposed actions for the Upper Chattooga Wild and Scenic River Access Project ("Access Project") may be obtained from the Forest Service's web page. There is no reference to the Access Project at the designated location, and so these comments necessarily address only the information shared with the public in the two-page letter sent to interested parties.

⁸ *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).

put-ins and take-outs will be designated after site-specific NEPA analysis.”⁹ The NCDN memorialized the selection of Alternative 13A from the 2012 EA, which did not analyze the impacts of these specific implementation actions regarding access. In response to the concern, raised by Advocates in their comments, “that if boating were allowed, new access points or user-created portage trails and their related impacts would develop” the 2012 EA included this response:

All action alternatives require that all trails be designated by the U.S. Forest Service. In alternatives 8, 11, 12, 13, 13A and 14, long-term portage trail needs would be addressed on a site-specific basis to ensure trail sustainability and adequate protection of biophysical resources. In addition, alternatives 8, 11, 12, 13, 13A and 14 have designated put-ins and take-outs for boating.¹⁰

And when again Advocates expressed concern regarding access (e.g., erosion, solitude, impacts to threatened, endangered, or sensitive species, and compliance with 36 C.F.R. § 261.77) in their appeal of the Decision Notices, the Forest Service’s response was that it would perform site-specific NEPA analyses prior to designating trails.¹¹

Now the Forest Service proposes to categorically exclude the very impacts it has repeatedly promised it would consider at the time of implementation. “It is hardly fair to ward off objections to a proposed project by assuring future consideration, and then decline to revisit the issue later on the grounds that it has already been decided.”¹² The time has finally arrived when the Forest Service must analyze the impacts of providing access to the Chattooga for boaters.

A. Failure to Consider Connected Actions and Cumulative Impacts

The Forest Service has proposed put-ins without considering the downstream impacts of boating. If a boater puts in he or she must take out at some point, and perhaps portage at multiple points in between. Most boaters will use parking facilities at both end of their trip. Some will camp along the way. Federal agencies must consider connected and cumulative actions such as these when determining the scope of an EIS or EA.¹³

When actions are “connected” or “cumulative,” they should be discussed in the same [NEPA document]. Actions are “connected” if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.

⁹ NCDN, pp. 2 ¶ 6, 13-14, ¶ 6.

¹⁰ 2012 EA, pp. 12-13.

¹¹ Appeal Response, pp. 14, 25.

¹² *Washington Trails Ass’n v. United States Forest Serv.*, 935 F. Supp. 1117, 1124 (W.D. Wash. 1996).

¹³ 40 C.F.R. § 1508.25.

(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.¹⁴

Segmentation of a large or cumulative projects into smaller components in order to avoid obligations imposed by NEPA is unlawful.¹⁵ The environmental significance of the access trails cannot be accurately assessed unless the potential for increased use resulting from the cumulative impacts of the projected *network* of trails planned for the entire corridor is considered.¹⁶ The August 15 Letter addresses only trail and put-in sites located on the Nantahala Ranger District. It fails to analyze the connected and cumulative impacts of portage and take-out access points that will necessarily result downstream, as well as parking areas, including those impacts discussed in Advocates' Site Visit Comments and below.

1. Portage and Take-out Compliance with 36 C.F.R. § 261.77 and the Sumter LRMP

The proposed access points will encourage violation of a federal regulation. Code of Regulations title 36, section 261.77 ("Section 261.77") designates specific locations for registration stations for boaters who will enter South Carolina and Georgia: Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge.¹⁷ None of these permitted registration locations is in North Carolina or near the boater registration kiosks the Forest Service constructed soon after it amended the LRMPs to allow boating, including on a logging road to the White Bull Timber Sale and near Burrells Ford Bridge. However, boaters putting in at the Bamford, Greens Creek, County Line, or Bull Pen Bridge access points could reasonably be expected to portage or finally take out in the Sumter National Forest and/or the Chattahoochee National Forest in violation of Section 261.77.

¹⁴ *D'Agnillo v. United States HUD*, 738 F. Supp. 1443, 1447 (S.D.N.Y. 1990) (quoting 40 CFR § 1508.25(a)(1)).

¹⁵ *Susquehanna Valley Alliance v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 240 (3d Cir. 1980); see also *Fla. Wildlife Fed'n v. United States Army Corps of Eng'rs*, 401 F. Supp. 2d 1298, 1313 (S.D. Fla. 2005).

¹⁶ See *Washington Trails Ass'n*, 935 F. Supp. at 1123.

¹⁷ See 36 C.F.R. § 261.77:

(a) Using or occupying any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit. . . .

(d) Entering, going, riding, or floating upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind of description, unless authorized by a permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

The NCDN (p. A-16) amended the Nantahala LRMP also to require any floating above the Highway 28 Bridge to be by "issuance of a self-registration boating permit consistent with 36 C.F.R. § 261.77."

Section 261.77 does allow boating without a permit obtained through one of these locations, but only if “authorized under a special use permit.” There are very specific procedures for the application for, and evaluation of, special use permits, none of which have apparently been initiated.¹⁸

Even were the Forest Service to decide to allow boating by issuing special use permits, the Sumter LRMP prohibits the issuance of any new special use permits, “except for research and outfitter-guide operations in the wilderness-designated portion of the River.”¹⁹ The boundary of the Ellicott Rock Wilderness is at the proposed Bull Pen Bridge access point, and boaters putting in there have no obvious take out point until Burrells Ford Bridge in the Sumter National Forest. Placing a put in at Bull Pen Bridge therefor virtually assures that boaters will violate the Sumter LRMP, Section 261.77, or both. Nevertheless, there has been no effort to change Section 261.77 or to comply with it. Ignoring it is not a legal option.

2. Parking

The August 15 Letter does not address where the new user group will park, either at the put-in or at probable downstream take-outs. This is very important because limiting parking capacity was chosen as the method for limiting biophysical impacts to natural resources from boating (and all recreational use) when the Nantahala LRMP was amended.²⁰ The current Schedule of Proposed Actions (“SOPA”) for the National Forests in North Carolina contains a proposed project: “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”--also projected to be categorically excluded.²¹

B. Decision to use categorical exclusion

The decision to categorically exclude consideration of the Access Network has apparently been made already. “Scoping is the means to identify the presence or absence of any extraordinary circumstances that would warrant further documentation in an EA or EIS.”²² Scoping will reveal that a categorical exclusion is inappropriate because of the existence of extraordinary circumstances, the highly uncertain nature of the choice, and the lack of an appropriate categorical exclusion to cover the Access Network decision.

There are a number of extraordinary circumstances related to the proposed actions, precluding the use of a categorical exclusion:²³

- The 2012 EA concluded that increased portaging in inaccessible areas could eliminate populations of five sensitive and four locally rare species: *Lophocolea appalachiana*, *Lejeunea bloomquistii*, *Cephalozia macrostachya ssp. australis*, *Plagiomnium*

¹⁸ See, e.g., 36 C.F.R. § 251.54.

¹⁹ Sumter LRMP, p. 3-5.

²⁰ NCDN, p. A-18 (now part of the Nantahala LRMP, p. IV-4) (monitoring and adaptive management based on vehicle counts).

²¹ <http://www.fs.fed.us/sopa/components/reports/sopa-110811-2012-07.html> (last accessed September 11, 2012).

²² Forest Service Handbook 1909.15, Ch. 31.3.

²³ See 36 C.F.R. § 220.6.

carolinianum, *Lophocolea appalachiana*, *Plagiochila sullivantii* var. *sullivantii*, *Chiloscyphus muricatus*, *Homalia trichomanoides*, *Bryoxiphium norvegicum*, *Listera smallii*;²⁴

- The Chattooga and its tributaries are classified as trout waters and outstanding resource waters by the State of North Carolina;²⁵
- Access to the River is by definition in the riparian corridor, which, for the Chattooga, is mostly classified as 100-year floodplain where “soils are sensitive to ground disturbing activities, including dispersed recreation” of the kind proposed.²⁶ Access will occur primarily when soils are wet and when the erosive potential is greatest. Portions of the Chattooga are already impaired due to sediment;
- The proposed access trails will funnel boaters and other users into the Ellicott Rock Wilderness and the Rock Gorge Roadless Area; and
- The purpose of the proposed access trails is to provide access to the Chattooga Wild and Scenic River.

More analysis than a scoping is required where the environmental effects of a proposed agency action are highly uncertain, as is the case here, for reasons including the following:²⁷

- There is no CRMP for the Chattooga WSR Corridor, and so no comprehensive vision for management of the River against which to measure the decisions to construct access features;
- There is no official (public) estimate anywhere how many boaters may use the Upper Chattooga, or how the proposed access features will influence those numbers. In a statement to the press, a Sumter National Forest spokeswoman said that 60 to 100 boaters at one time could be expected—a number that would easily cause capacity limits to be exceeded;²⁸
- Monitoring and enforcement capability is highly uncertain and so unlikely to yield reliable data or serve as a sound basis for future adaptive management. Already Ranger Wilkins has said that monitoring has been delayed until future years and there is no coordinated plan in place for the three National Forests;
- Because of the ecology of the area, “[i]mpacts to vegetation in riparian areas [of the Chattooga] can occur even with low to moderate usage levels;”²⁹
- Segments of the Upper Chattooga are already described as Impaired or Functioning at Risk due to sediment;³⁰

²⁴ 2012 EA, p. 365.

²⁵ 15A N.C.A.C. 2B.0303 (Lexis 2012).

²⁶ 2012 EA, p. 299.

²⁷ *Wilderness Soc’y & Prairie Falcon Audubon, Inc. v. United States Forest Serv.*, 2012 U.S. Dist. LEXIS 22482, 19-20 (D. Idaho Feb. 21, 2012).

²⁸ See Attachment O to Advocates Supplemental Appeal (March 16, 2012), Karen Chavez, “Upper Chattooga now open to boaters,” *Asheville Citizen Times* (March 14, 2012)(available at: <http://www.citizen-times.com/article/20120315/OUTDOORS/303150014/Boaters-hit-Upper-Chattooga?odyssey=tab%7Ctopnews%7Ctext%7CFrontpage>) (last accessed March 15, 2012) in which spokeswoman for the Sumter National Forest, Michelle Burnett stated that 60 to 100 boaters at one time are expected. See also, NCDN, pp. A-17 – A-18 (capacity limits, including averages of 15 to 110 total people—not just boaters—in backcountry in Upper Chattooga Wild and Scenic River Corridor).

²⁹ 2012 EA at pp. 300, 303.

³⁰ See Watershed Condition Framework.

- The Forest Service has concluded that boating on the tributaries to the Chattooga would be harmful to natural resources, would unacceptably increase user encounter levels and user-created trails, and would create enforcement and management issues.³¹ The main stem environment is similar to that of the tributaries, but no reason has been provided why the proposed Access Network will not cause or increase these same impacts there; and
- The Chattooga is located in an area where the Woolly Adelgid is expected to kill 90% of existing hemlock, which, in turn, is expected to cause a change in species composition and age structure and to change large woody debris (“LWD”) recruitment on the Chattooga and its tributaries.³² It is unclear how recreational users will impact forests in this fragile transition, especially boaters who have been known to remove LWD and with whom increased riparian trails are associated. In directing user access, this reality of the local ecology should have been considered.³³

Finally, the selected categorical exclusion does not apply to the proposed project. The two examples given are: constructing or reconstructing a trail to a scenic overlook, and reconstructing an existing trail to allow use by handicapped individuals. Neither of these is of the scope or size of the proposed Access Network, which involves at four distinct locations (more if portage and take-out trails are considered, as they should have been), several miles of trail construction and reconstruction, and parking facilities for at least one of those locations.

3. Wild and Scenic River Act

Advocates have repeatedly protested decisions regarding the Chattooga Wild and Scenic River in the absence of a current Comprehensive River Management Plan (“CRMP”) for the Chattooga, as is required by the Wild & Scenic Rivers Act.³⁴ Boating above the Highway 28 Bridge is not permitted in the latest CRMP (dated 1980), much less access features to facilitate that boating.³⁵ Without a current CRMP for the Chattooga decisions regarding river management, including access, are by definition arbitrary. “The absence of a predetermined plan that sets forth allowable degrees of intrusion upon the river’s ORV’s renders [a management agency’s] claim of no significant impact on the river’s ORV’s arbitrary because the basis for that determination is lacking.”³⁶ Absent some “objective, pre-determined criteria for describing and assessing” impacts, any assertion that the impacts of proposed actions are “*de minimus*” or are justified by the overall good accomplished

³¹ SCDN, p. 6.

³² 2012 EA, p. 301.

³³ See Site Visit Comments, Table 1.

³⁴ *Friends of Yosemite Valley v. Kempthorne* (“*Yosemite III*”), 520 F.3d 1024, 1036 (9th Cir. Cal. 2008); see also Attachment A to Advocates’ Appeal, the Declaration of Glen E. Haas (October 8, 2009).

³⁵ 1980 Chattooga CRMP, pp. 10, 11, 30. The Forest Service may argue that the plan is contained in the many NEPA documents it has produced over the years and in the three LRMPs, but a court rejected (repeatedly) a cross-referencing approach adopted by the Park service: “it is required to prepare a single plan, not issue supplemental volumes that simply cross reference thousands of pages of material from [earlier plans].” *Yosemite III*, 520 F.3d 1024, 1036-1037.

³⁶ *Sierra Club v. Babbitt*, 69 F. Supp. 2d 1202, 1256 (E.D. Cal. 1999).

or that, on the balance, the project enhances the river's ORV's" are merely "post hoc justification for project outcomes."³⁷

The proposed Access Network demonstrates the arbitrary decision-making a CRMP is supposed to prevent, including:

- As discussed above, the Nantahala Ranger District is proposing put-ins apparently without addressing the downstream impacts, including those on wilderness and roadless areas; where boaters will take out or portage; or where boaters and other users of these trails will park;
- At the same time, a ranger in Sumter National Forest's Andrew Pickens' District has proposed a take out near Lick Log Creek, apparently without consulting with the Nantahala Ranger District. It is unknown whether the access features at Lick Log Creek are appropriately scaled for the number of users the Nantahala District access features are likely to funnel to that sole designated (?) take-out;
- No access features have been proposed at Burrells Ford in the Andrew Pickens' notice, although boaters putting in in North Carolina are very likely to take out at this location; and
- It is unclear whether the Andrew Pickens' District is prepared to deal with violations of Section 261.77 or the Sumter LRMP with regard to boaters entering from North Carolina who do not have appropriate permits.

4. Wilderness Protection

In the Ellicott Rock Wilderness Area there are already signs that recreational use is degrading the wilderness character of the area. The 2012 EA identified seventeen active erosion points (at trails, campgrounds and stream banks mostly) in the Ellicott Rock section of the Chattooga WSR Corridor.³⁸ It also reported forty campsites in the wilderness area, mostly within fifty feet of the River, ranging in size up to 11,775 square feet. These "lack proper design and are not maintained" and are causing "unacceptable resource damage."³⁹ Such scenes do not evoke an image of an area "untrammelled by man,"⁴⁰ and funneling more users to these precise areas (proposed put-in at County Line) will not improve the situation. To make matters worse, where boating is more prevalent, so are increased trails near the River.⁴¹ The impact of the proposed access points on this already-degraded area, including the potential for user-created portage and increased camping should have been considered.

The intensity and distribution of use by boaters using the proposed access points should have been considered. For example, the Nantahala & Pisgah LRMP sets standards for encounters in Wilderness based on trail access type. Where there are no trails, as along long stretches of the Chattooga in the Ellicott Rock Wilderness, encounters are set to an 80% chance of 0 per day.⁴² The effects of the proposed

³⁷ *Id.*, 69 F. Supp. 2d at 1256.

³⁸ 2012 EA, p. 274.

³⁹ *Id.* at pp. 274, 306.

⁴⁰ Taken from the definition of "wilderness" in The Wilderness Act: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man." 16 U.S.C. §1131(c).

⁴¹ See Site Visit Comments, Table 1.

⁴² Nantahala LRMP, p. III-101.

access features, particularly the one at Bull Pen Bridge, which is very close to the wilderness boundary, on this encounter standard intended to protect wilderness-appropriate levels of solitude, should be considered.

Any access to wilderness in the Chattahoochee is supposed to be developed in compliance with an approved wilderness plan.⁴³ Boaters accessing the Chattooga in the Nantahala Ranger district are very likely to float into the Chattahoochee portion of the Ellicott Rock Wilderness. There is no discussion in the August 15 Letter of compliance with the wilderness plan for the Chattahoochee.

5. Monitoring and Adaptive Management

Implementation of development of a three-forest monitoring plan has been delayed again.⁴⁴ 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.”⁴⁵ It hasn’t happened. “Impacts to vegetation in riparian areas can occur even with low to moderate usage levels.”⁴⁶ 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, and establish a baseline before increasing or changing uses.

6. Water Quality

The Chattooga and its tributaries are classified as Class B-trout outstanding resource waters (“ORW”) waters by the State of North Carolina.⁴⁷ The turbidity of trout waters and their tributaries cannot exceed 10 Nephelometric Turbidity Units (NTU).⁴⁸ If the turbidity exceeds these levels due to natural background conditions, the existing turbidity level cannot be increased.⁴⁹ No new discharges or expansions of existing discharges are permitted in ORW waters.⁵⁰ There has been no discussion of what current turbidity is, or whether construction of new trails, or especially increased wet-weather use of existing user-created trails this season without prior maintenance and construction, will cause an increase in turbidity.

7. National Forest Management Act

The Forest Service’s planning regulations require that “[e]very project and activity must be consistent with the applicable plan components.”⁵¹ To do so,

⁴³ Chattahoochee LRMP, p. 3-12.

⁴⁴ Conversation with Ranger Wilkins (“Actually had it in budget for last two years, but chose to drop it each year”).

⁴⁵ *See, e.g.*, GADN, p. 2.

⁴⁶ 2012 EA, pp. 300, 303

⁴⁷ 15A N.C.A.C. 2B.0303(d)(2) (Lexis 2012).

⁴⁸ *Id.* at 2B .0211 (3)(k).

⁴⁹ *Id.*

⁵⁰ *Id.* at 2B.0225 (c)(1).

⁵¹ 36 C.F.R. § 219.15(d).

[a] project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

- (1) Goals, desired conditions, and objectives. The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.
- (2) Standards. The project or activity complies with applicable standards.
- (3) Guidelines. The project or activity:
 - (i) Complies with applicable guidelines as set out in the plan; or
 - (ii) Is designed in a way that is as effective in achieving the purpose of the applicable guidelines (§ 219.7(e)(1)(iv)).
- (4) Suitability. A project or activity would occur in an area:
 - (i) That the plan identifies as suitable for that type of project or activity; or
 - (ii) For which the plan is silent with respect to its suitability for that type of project or activity.⁵²

This exercise was not undertaken for the Access Network Project.

The proposed access features are not consistent with the LRMPs for the Nantahala and Pisgah, Chattahoochee, and Sumter National Forests, nor is the August 15 Letter sufficient to meet the requirements of the planning regulations. For example:

- The Nantahala LRMP directs that trails are to be constructed and maintained to protect soil, water, vegetation, visual quality, user safety and long-term maintenance.⁵³ The soils of the Chattooga area are described as having “high erosive potential” that may make them inappropriate even for well-designed system trails.⁵⁴ As discussed below and in Advocates Site Visit Comments, the access features present erosion problems that Ranger Wilkins acknowledges may not be addressed before the December arrival of boaters.
- The NCDN (p. A-16) amended the LRMP for the Pisgah and Nantahala National Forests to require any floating above the Highway 28 Bridge be by “issuance of a self-registration boating permit consistent with 36 C.F.R. § 261.77.” As discussed above, the problems with complying with Section 261.77 have not been addressed.⁵⁵
- As discussed above, the Nantahala & Pisgah LRMP sets the probability of an encounter where there are no trails to an 80% chance of 0 per day.⁵⁶ The effects of the proposed access features, particularly the one at Bull Pen Bridge, which is very close to the wilderness boundary, on this encounter standard, designed to protect wilderness-appropriate levels of solitude, was not addressed.⁵⁷
- The Decision Notices amended the LRMPs for each of the National Forests to include capacity limits as guidelines. If 60 to 100 boaters use the River in one

⁵² *Id.*

⁵³ Nantahala LRMP, p. III-104.

⁵⁴ 2012 EA, p. 300.

⁵⁵ See above, section I.A.1.

⁵⁶ Nantahala LRMP, p. III-101.

⁵⁷ See above, section 4.

day, as stated by a Sumter spokeswoman, those capacity limits will be overwhelmed.⁵⁸

- Any access to wilderness in the Chattahoochee is supposed to be developed in compliance with an approved wilderness plan.⁵⁹
- There is no plan to complete trail work before December, when boating is anticipated to commence, in violation of Nantahala LRMP guideline 1b.2, which states that “within the river corridor, recreation users stay on designated trails (Note: ‘Designated trails’ are defined as ‘Trails that are planned, designed and maintained to minimize biophysical impacts’). This direction covers even portage trails.⁶⁰

8. Specific Put-Ins being considered as designated trails and access locations

The August 15 Letter and conversations with Ranger Wilkins demonstrate acknowledgement on behalf of the Forest Service that there are problems with the proposed Access Network. The proposed access trails are eroded and/or consist of unplanned and poorly located networks of user-created trails. There seems to be a willingness to address these problems, which is welcomed, however, it is unclear that this will be accomplished before December when the boaters may first access the area. The evaluation of impacts should have examined how, in both the short term and long term, each of the proposed trails would be constructed and maintained to protect soil, water, vegetation, visual quality, user safety and long-term maintenance.⁶¹

The trail management objective (“TMO”) for each of the proposed trails (including the County Line proposed trail, if it is not going to be subject to a roads analysis) as well as the trails to which they connect, including the Chattooga Trail, should have been disclosed and discussed. It is unclear whether bikes, ATVs, or hand-powered boat trailers be permitted on the new routes, or if the impacts of other users accessing the River by these trails have been considered.

Below are a few new comments for each of the proposed access locations, to be added to those previously made in the Site Visit Comments, which are incorporated herein by reference.

A. Bamford & Greens Creek

The many user created trails in this area are badly eroded (see photos in the Site Visit Comments). Trail construction, maintenance, and signing need to occur before the first boating season. Boating occurs when soils are waterlogged and at their most erodible. If the work is not done prior to the first season, the many user-created trails in the area will become more entrenched and this access point may become a significant sediment source to the River.

⁵⁸ See above, fn. 28.

⁵⁹ Chattahoochee LRMP, p. 3-12.

⁶⁰ NCDN, p. A-18; see below, section 8, regarding Access Network implementation plans.

⁶¹ Nantahala LRMP, p. III-104.

B. County Line

The August 15 Letter does not provide an adequate description for commenting. For example,

- The letter says that this trail “would need some work,” but does not elaborate on what work that might be, when it might occur, what the funding source might be, or alternatives to achieving the “work.”
- The designated access point is described only as some flat area at some point north of where the Chattooga Trail intersect the old road bed leading from Whiteside Cove Road. It is unclear whether this is at the Norton Mill Creek confluence, or some other “flat area,” including the already badly eroded area near a campsite below the Creek.

As is true for the other sites, there is no discussion of where boaters will park. The omission is more critical here, however, because the connected actions of constructing or maintaining parking are under present consideration, and there is virtually no existing parking. Apparently there are current plans to use an area of the road widened by White Bull Timber Project loggers as parking. That area should have been restored to pre-logging conditions. It is unlikely that it was constructed with long term parking in mind, and so safety, sedimentation, adequacy of size, consistency with the Nantahala LRMP (e.g., road density), and convenience for users appear to have not been considered, and certainly have not been publically considered in a roads analysis. Also, as discussed above, the most recent SOPA describes a planned “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.”⁶² Would this parking area be in addition to or a replacement for the White Bull Timber Sale area? How would either or both of these parking areas fit into the adaptive management plan for preventing degradation of the Chattooga, which is based on parking area counts? The impacts of these alternatives need to be considered before either is implemented.

County Line Road/Trail is located in Management Area 3B, as defined by the Nantahala LRMP. 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. Where desired road density is exceeded, the reason for the exceedance must be documented, and strategies to reduce the road density must be investigated. Management Area 3B is supposed to be managed for game and non-game animals that cannot tolerate motorized disturbance. Increasing motorized access, by constructing either parking area, and certainly on that will require an access road, is therefore inconsistent with the Nantahala LRMP.

For years, the Nantahala District has been seeking to keep the County Line Road alive without adding it to the system. This maintenance of a zombie road is not appropriate. Ranger Wilkins stated in a phone call that he intends for the portion of the County Line Road/trail that is the temporary logging road accessing the White Bull Timber sale to be maintained for mower access to a wildlife opening. Maintaining the road without adding it as a system road is not an option.⁶³ In order to add a road (classified or unclassified) to the travel management atlas, the Forest

⁶² See above, section I.A.2.

⁶³ 16 USCS § 1608(b).

Service must go through two processes: (1) a NEPA documentation/process and (2) an evaluation required by the Forest Service's own regulations.⁶⁴

Bull Pen Bridge

It is this put-in, located just above the border of the Ellicott Rock Wilderness, for which Advocates have the greatest concerns that downstream portage and take-out locations have not been identified or analyzed. As is discussed in multiple sections above, resource and user experience impacts have not been evaluated for downstream and portage impacts and it is unclear that the take-out point chosen by boaters will be compliant with the Chattahoochee and Sumter LRMPs or Section 261.77.

As for the put-in itself, in a conversation with Joe Gatins, Ranger Wilkins agreed to construct a new river left trail below the bridge of less steep grade than the existing user-created access, which is dangerous and erosive. This is a welcome improvement. Please close the old trail prior to boating season so that it will not become established as a boater access route.

Please feel free to contact me if you have any questions regarding these comments. Also, please include Georgia ForestWatch, the Georgia Chapter of the Sierra Club, and Wilderness Watch in any future mailings regarding management of the Chattooga Wild & Scenic River, the Chattooga Cliffs, Rock Gorge Roadless Area, and or the Ellicott Rock Wilderness.

Sincerely,

/s/ Rachel S. Doughty

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

⁶⁴ See 36 C.F.R. § 212.1.



September 27, 2012

Rachel S. Doughty, Esq.
231 Mullen Avenue
San Francisco, CA 94110
828.333.4703 828.424.2005 (cell)
rdoughty@greenfirelaw.com

VIA E-MAIL

Comments-southern-francismarion-sumter-andrewpickens@fs.fed.us

**Re: The Andrew Pickens Ranger District—Lick Log Trail
Construction Project**

Dear Decision-maker:

These comments are submitted on behalf of **Georgia ForestWatch** ("GAFW"),¹ the **Georgia Chapter of the Sierra Club** ("GASC"),² and **Wilderness Watch** ("WW")³ (collectively, "Advocates").

1. Background & Introduction

In January 31, 2012, a joint decision was made to amend the current Land and Resource Management Plans ("LRMP") of the Nantahala and Pisgah ("Nantahala LRMP"), Chattahoochee-Oconee ("Chattahoochee LRMP"), and Sumter ("Sumter LRMP") National Forests ("Amendments"). The documents within which these decisions were memorialized (hereinafter collectively referred to as "Decision Notices") are:

- 1) *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").
- 2) *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").
- 3) *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").

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

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

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

The Findings of No Significant Impact for the Amendments were supported by the *Environmental Assessment: Managing Recreation Uses in the Upper Segment of the Chattooga Wild and Scenic River Corridor* (January 2012) (“2012 EA”).

Advocates and others, including several groups of boaters, appealed the Amendments.⁴ Advocates’ appeal was based in significant part on their concerns about impacts they anticipated would arise from boater access (and others using boater access facilities). Their appeal was denied, in part because the Forest Service said it would consider the site-specific impacts of access at the time of their designation.⁵ The Amendments are presently under review by a federal court in South Carolina in an action brought by boaters seeking greater access to the Upper Chattooga than the Amendments would allow.⁶ GAFW is an intervenor in that lawsuit.

In the summer of 2012 the Forest Service hosted a number of site visits at proposed access locations. Members of GAFW, GASC, and WW attended each of these site visits and Advocates together submitted comments on June 29, 2012 (“Site Visit Comments”). In their Site Visit Comments, Advocates urged the Forest Service to:

- Analyze all of the impacts of its proposed access points, including connected and cumulative impacts, and to do so as a coordinated effort among the three National Forests responsible for managing the Chattooga Wild and Scenic River;
- Avoid use of, and encouragement of creation of, user-created features because they are known to be chronic sediment sources and the area is known to have high erosive potential;
- Follow the Forest Service Manual and Forest Service Handbook direction for the designation and construction of trails;
- Consider enforcement capacity when establishing trails;
- Avoid changing the character of the Chattooga River Trail;
- Plan for the needs and likely impacts of rescuers in emergency situations, particularly in the Ellicott Rock Wilderness area;
- Make sure access is in compliance with federal regulations, the Sumter LRMP, and the Chattahoochee LRMP which restrict where permits may be obtained by boaters planning to enter the Chattahoochee and Sumter National Forests;
- Anticipate a range of boater skill levels and environmental conditions; and
- Make sure monitoring is in place to detect indicators of future degradation so that the adaptive management described in the Decision Notices can be implemented before degradation occurs.

Advocates’ letter also addressed concerns specific to each of the proposed access points.

On August 23, 2012, the Andrew Pickens Ranger District sent a two page letter (“August 23 Letter”) seeking public input regarding a single access location—at Lick

⁴ Advocates’ appeal is incorporated herein by reference.

⁵ *Response to Appeal of Forest Supervisor George M. Bain’s, Acting Forest Supervisor Diane Rubiaco’s and Forest Supervisor Paul L. Bradley’s January 3, 2012, Decision for Amendments 1, 22 and 1, Respectively, for Management of Boating Activities in the Upper Chattooga River Land and Resource Management Plan* (“Appeal Response”), pp. 14, 25 (June 28, 2012).

⁶ *American Whitewater et al. v. Tidwell et al.*, Civil Action No. 8:09-cv-02665-JMC.

Log Creek—intended for boater take-out only (“Lick Log Take-Out”). The August 23 Letter does not address upstream impacts of providing a take-out at this location.

The August 23 Letter states that the project “may be categorically excluded from further analysis and documentation in an environmental impact statement or environmental assessment only if there are no extraordinary circumstances related to the proposed action,” and cites 36 C.F.R. § 220.6(e)(1) as the categorical extension within which the project fits. That categorical exclusion reads:

Construction and reconstruction of trails. Examples include, but are not limited to:

- (i) Constructing or reconstructing a trail to a scenic overlook, and
- (ii) Reconstructing an existing trail to allow use by handicapped individuals.

Advocates greatly appreciate that the Forest Service is making an effort to designate trails rather than rely on user-created features. However, concerns remain. Advocates respectfully request that the following issues, discussed in greater detail below, be addressed:

- Compliance with the National Environmental Policy Act, including analysis of connected actions and cumulative impacts;
- Compliance with 36 C.F.R. § 261.77;
- Consistency with the Nantahala, Chattahoochee, and Sumter LRMPs, as amended by the Decision Notices;
- Consistency with the Comprehensive River Management Plan (“CRMP”) for the Chattooga Wild & Scenic River, if one does in fact exist;
- Compliance with the Wilderness Management Plan for the Chattahoochee; and
- Compliance with water quality law.

2. National Environmental Policy Act

The Forest Service has never analyzed the site-specific impacts of the access features for boater access to the Upper Chattooga and now proposes to categorically exclude those impacts from analysis. 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 The SCDN stated that “[s]pecific put-ins and take-outs will be designated after site-specific NEPA analysis.”⁸ The SCDN memorialized the selection of Alternative 13A from the 2012 EA, which did not analyze the impacts of these specific implementation actions regarding access. In response to the concern, raised by Advocates in their comments, “that if boating were allowed, new access points or user-created portage trails and their related impacts would develop” the 2012 EA included this response:

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).

⁸ SCDN, pp. 2 ¶ 6, 13-14, ¶ 6.

All action alternatives require that all trails be designated by the U.S. Forest Service. In alternatives 8, 11, 12, 13, 13A and 14, long-term portage trail needs would be addressed on a site-specific basis to ensure trail sustainability and adequate protection of biophysical resources. In addition, alternatives 8, 11, 12, 13, 13A and 14 have designated put-ins and take-outs for boating.⁹

And when again Advocates expressed concern regarding access (e.g., erosion, solitude, impacts to threatened, endangered, or sensitive species, emergency access plans, and compliance with 36 C.F.R. § 261.77) in their appeal of the Decision Notices, the Forest Service's response was that it would perform site-specific NEPA analyses prior to designating trails.¹⁰

Now the Forest Service proposes to categorically exclude the very impacts it has repeatedly promised it would consider at the time of implementation. "It is hardly fair to ward off objections to a proposed project by assuring future consideration, and then decline to revisit the issue later on the grounds that it has already been decided."¹¹ The time has finally arrived when the Forest Service must analyze the impacts of providing access to the Chattooga for boaters.

A. Failure to Consider Connected Actions and Cumulative Impacts

The Forest Service has proposed the Lick Log Take-Out without considering the upstream impacts of boating. If a boater is taking out, he or she must have used a put-in at some point, and perhaps portage at multiple points in between. Most boaters will use parking facilities at both end of their trip. Some will camp along the way. Federal agencies must consider connected and cumulative actions such as these when determining the scope of NEPA analysis.¹²

When actions are "connected" or "cumulative," they should be discussed in the same [NEPA document]. Actions are "connected" if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.¹³

Segmentation of large or cumulative projects into smaller components in order to avoid obligations imposed by NEPA is unlawful.¹⁴ The environmental significance of the Lick Log Take-Out cannot be accurately assessed unless the potential for increased use resulting from the cumulative impacts of the projected *network* of

⁹ 2012 EA, pp. 12-13.

¹⁰ Appeal Response, pp. 14, 25.

¹¹ *Washington Trails Ass'n v. United States Forest Serv.*, 935 F. Supp. 1117, 1124 (W.D. Wash. 1996).

¹² 40 C.F.R. § 1508.25.

¹³ *D'Agnillo v. United States HUD*, 738 F. Supp. 1443, 1447 (S.D.N.Y. 1990) (quoting 40 CFR § 1508.25(a)(1)).

¹⁴ *Susquehanna Valley Alliance v. Three Mile Island Nuclear Reactor*, 619 F.2d 231, 240 (3d Cir. 1980); see also *Fla. Wildlife Fed'n v. United States Army Corps of Eng'rs*, 401 F. Supp. 2d 1298, 1313 (S.D. Fla. 2005).

trails planned (and unplanned but likely to develop as a result of use) for the entire Wild & Scenic Corridor is considered, or at very least those upstream put-ins and portage trails most likely to be associated with this specific take-out.¹⁵ The August 23 Letter addresses only the Lick Log Take-Out located on the Andrew Pickens Ranger District. It fails to analyze the connected and cumulative impacts of portage and put-in access points that will necessarily occur upstream, as well as parking areas, including those impacts discussed in Advocates' Site Visit Comments and in Advocates' response to an August 15, 2012, letter from the Nantahala Ranger District regarding upstream access ("Nantahala August 15 Letter" is enclosed with this letter). Perhaps the most striking omission is Burrell's Ford. This is likely to be a take-out location for boaters putting in in North Carolina and a put-in location for boaters seeking to access the Rock Gorge area and then take out at Lick Log.

1. Portage and Take-out Compliance with 36 C.F.R. § 261.77 and the Sumter LRMP

The proposed Lick Log Take-Out will encourage violation of a federal regulation. Code of Regulations title 36, section 261.77 ("Section 261.77") designates specific locations for registration stations for boaters who will enter South Carolina and Georgia: Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge.¹⁶ None of these permitted registration locations is located upstream of the proposed Lick Log Take-Out. There is no upstream designated put-in in South Carolina, and no put-ins whatsoever are discussed in the August 23 Letter. However, boaters putting in at the locations suggested in the Nantahala August 15 Letter at the Bamford, Greens Creek, County Line, or Bull Pen Bridge access points could reasonably be expected to portage or finally take out in the Sumter National Forest and/or the Chattahoochee National Forest in violation of Section 261.77.

Section 261.77 does allow boating without a permit obtained through one of the listed locations, but only if "authorized under a special use permit." There are very

¹⁵ See *Washington Trails Ass'n*, 935 F. Supp. at 1123.

¹⁶ See 36 C.F.R. § 261.77:

(a) Using or occupying any area of the Sumter National Forest or the Chattahoochee National Forest abutting the Chattooga River for the purpose of entering or going upon the River in, on, or upon any floatable object or craft of every kind or description, unless authorized by permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit. . . .

(d) Entering, going, riding, or floating upon any portion or segment of the Chattooga River within the boundaries of the Chattahoochee National Forest in, on, or upon any floatable object or craft of every kind of description, unless authorized by a permit obtained through registration at Forest Service Registration Stations abutting the Chattooga River located at Highway 28, Low-Water Bridge, Earl's Ford, Sandy Ford, Highway 76, Woodall Shoals, or Overflow Bridge or unless authorized under special use permit.

The SCDN (p. A-1) amended the Sumtetr LRMP also to require any floating above the Highway 28 Bridge to be by "issuance of a self-registration boating permit consistent with 36 C.F.R. § 261.77."

specific procedures for the application for, and evaluation of, special use permits, none of which have apparently been initiated.¹⁷

Even were the Forest Service to decide to allow boating by issuing special use permits, the Sumter LRMP prohibits the issuance of any new special use permits, “except for research and outfitter-guide operations in the wilderness-designated portion of the River.”¹⁸ The boundary of the Ellicott Rock Wilderness is at the proposed Bull Pen Bridge access point, and boaters putting in there have no obvious take out point until Burrells Ford Bridge in the Sumter National Forest (for which no site-specific NEPA analysis has been performed to date). Placing a put in at Bull Pen Bridge therefor virtually assures that boaters will violate the Sumter LRMP, Section 261.77, or both. Nevertheless, there has been no effort to change Section 261.77 or to comply with it. Ignoring it is not a legal option.

2. Parking

The August 23 Letter does not address where the new user group will park, either at the Lick Log Take-Out or at probable upstream put-ins, including those in North Carolina and Burrell’s Ford. This is very important because limiting parking capacity was chosen as the method for limiting biophysical impacts to natural resources from boating (and all recreational use) in the Amendments.¹⁹ The current Schedule of Proposed Actions (“SOPA”) for the National Forests in North Carolina contains a proposed project: “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”--also projected to be categorically excluded.²⁰ The Forest Service should consider how adding this new capacity will impact the proposed capacity measurements for the Chattooga corridor, as well as how increased parking capacity may impact associated put-ins, take-outs (including at Lick Log), and portages. If there is more parking capacity at an upstream put-in, has downstream parking in South Carolina and Georgia been increased at take-out points? Which ones?

B. Decision to use categorical exclusion

Scoping will reveal that a categorical exclusion is inappropriate for authorization of the Lick Log Take-Out because of the existence of extraordinary circumstances, the highly uncertain nature of the choice, and the lack of an appropriate categorical exclusion to cover the entire network of put-ins, portage trails, and take-outs that are necessarily connected to this decision.

There are a number of extraordinary circumstances related to the proposed action, precluding the use of a categorical exclusion:²¹

- The 2012 EA concluded that increased portaging in inaccessible areas could eliminate populations of five sensitive and four locally rare species: *Lophocolea appalachiana*, *Lejeunea*

¹⁷ See, e.g., 36 C.F.R. § 251.54.

¹⁸ Sumter LRMP, p. 3-5.

¹⁹ E.g., SCDN, p. A-3-5 (monitoring and adaptive management based on vehicle counts).

²⁰ <http://www.fs.fed.us/sopa/components/reports/sopa-110811-2012-07.html> (last accessed September 11, 2012).

²¹ See 36 C.F.R. § 220.6.

bloomquistii, *Cephalozia macrostachya* ssp. *australis*, *Plagiomnium carolinianum*, *Lophocolea appalachiana*, *Plagiochila sullivantii* var. *sullivantii*, *Chiloscyphus muricatus*, *Homalia trichomanoides*, *Bryoxiphium norvegicum*, *Listera smallii*;²²

- The Chattooga and its tributaries are classified as trout waters and outstanding resource waters by the State of North Carolina;²³
- South Carolina classifies the portion of the Chattooga from the North Carolina State line to Opossum Creek as an Outstanding Resource Water;²⁴
- Access to the River is by definition in the riparian corridor, which, for the Chattooga, is mostly classified as 100-year floodplain where “soils are sensitive to ground disturbing activities, including dispersed recreation” of the kind proposed.²⁵ Access will occur primarily when soils are wet and when the erosive potential is greatest. Portions of the Chattooga are already impaired due to sediment;
- The proposed Lick Log Take-Out, together with the Nantahala Ranger District-proposed put ins, will funnel boaters and other users into the Ellicott Rock Wilderness and the Rock Gorge Roadless Area; and
- The purpose of the proposed Lick Log Take-Out is to provide access to the Chattooga Wild and Scenic River.

More analysis than a scoping is required where the environmental effects of a proposed agency action are highly uncertain, as is the case here, for reasons including the following:²⁶

- There is no CRMP for the Chattooga WSR Corridor, and so no comprehensive vision for management of the River against which to measure the decisions to construct access features—the manner in which access is being proposed demonstrates this clearly;
- There is no official (public) estimate anywhere how many boaters may use the Upper Chattooga, or how the proposed Lick Log Take-Out will influence those numbers. In a statement to the press, a Sumter National Forest spokeswoman said that 60 to 100 boaters at one time could be expected—a number that would easily cause capacity limits to be exceeded;²⁷
- Monitoring and enforcement capability is highly uncertain and so unlikely to yield reliable data or serve as a sound basis for future adaptive management. Already Nantahala District Ranger Wilkins has said that monitoring in North Carolina has been delayed until future years and there is no coordinated plan in place for the three National Forests;

²² 2012 EA, p. 365.

²³ 15A N.C.A.C. 2B.0303 (Lexis 2012).

²⁴ South Carolina Department of Health & Environment, R. 61-69 (available at: <http://www.scdhec.gov/environment/water/regs/r61-69.pdf>).

²⁵ 2012 EA, p. 299.

²⁶ *Wilderness Soc’y & Prairie Falcon Audubon, Inc. v. United States Forest Serv.*, 2012 U.S. Dist. LEXIS 22482, 19-20 (D. Idaho Feb. 21, 2012).

²⁷ See Attachment O to Advocates Supplemental Appeal (March 16, 2012), Karen Chavez, “Upper Chattooga now open to boaters,” *Asheville Citizen Times* (March 14, 2012)(available at: <http://www.citizen-times.com/article/20120315/OUTDOORS/303150014/Boaters-hit-Upper-Chattooga?odyssey=tab%7Ctopnews%7Ctext%7CFrontpage>) (last accessed March 15, 2012) in which spokeswoman for the Sumter National Forest, Michelle Burnett stated that 60 to 100 boaters at one time are expected. See also, SCDN, pp. A-2 (capacity limits, including averages of 15 to 110 total people—not just boaters--in backcountry in Upper Chattooga Wild and Scenic River Corridor).

- Because of the ecology of the area, “[i]mpacts to vegetation in riparian areas [of the Chattooga] can occur even with low to moderate usage levels;”²⁸
- Segments of the Upper Chattooga are already described as Impaired or Functioning at Risk due to sediment;²⁹
- The Forest Service has concluded that boating on the tributaries to the Chattooga would be harmful to natural resources, would unacceptably increase user encounter levels and user-created trails, and would create enforcement and management issues.³⁰ The main stem environment is similar to that of the tributaries, but no reason has been provided why the proposed Access Network will not cause or increase these same impacts there; and
- The Chattooga is located in an area where the Woolly Adelgid is expected to kill 90% of existing hemlock, which, in turn, is expected to cause a change in species composition and age structure and to change large woody debris (“LWD”) recruitment on the Chattooga and its tributaries.³¹ It is unclear how recreational users will impact forests in this fragile transition, especially boaters who have been known to remove LWD and with whom increased riparian trails are associated. In directing user access, this reality of the local ecology should have been considered.³²

Finally, the selected categorical exclusion does not apply to the proposed project. The two examples given for the categorical exclusion are: constructing or reconstructing a trail to a scenic overlook, and reconstructing an existing trail to allow use by handicapped individuals. Neither of these is of the scope or size of the proposed Chattooga access network, of which the Lick Log Take-Out is part, which involves access at a minimum at five distinct locations (more if portage trails and Burrell’s Ford are considered, as they should have been), several miles of trail construction and reconstruction, and parking facilities for at least one of those locations.

3. Wild and Scenic River Act

Advocates have repeatedly protested decisions regarding the Chattooga Wild and Scenic River in the absence of the current Comprehensive River Management Plan (“CRMP”) for the Chattooga that is required by the Wild & Scenic Rivers Act.³³ Boating above the Highway 28 Bridge is not permitted in the latest CRMP (dated 1980), much less access features to facilitate that boating.³⁴ Without a current CRMP for the Chattooga decisions regarding river management, including access, are by definition arbitrary. “The absence of a predetermined plan that sets forth allowable degrees of intrusion upon the river’s ORV’s renders [a management

²⁸ 2012 EA at pp. 300, 303.

²⁹ See Watershed Condition Framework.

³⁰ SCDN, p. 6.

³¹ 2012 EA, p. 301.

³² See Site Visit Comments, Table 1.

³³ *Friends of Yosemite Valley v. Kempthorne* (“*Yosemite III*”), 520 F.3d 1024, 1036 (9th Cir. Cal. 2008); see also Attachment A to Advocates’ Appeal, the Declaration of Glen E. Haas (October 8, 2009).

³⁴ 1980 Chattooga CRMP, pp. 10, 11, 30. The Forest Service may argue that the plan is contained in the many NEPA documents it has produced over the years and in the three LRMPs, but a court rejected (repeatedly) a cross-referencing approach adopted by the Park service: “it is required to prepare a single plan, not issue supplemental volumes that simply cross reference thousands of pages of material from [earlier plans].” *Yosemite III*, 520 F.3d 1024, 1036-1037.

agency's] claim of no significant impact on the river's ORV's arbitrary because the basis for that determination is lacking."³⁵ Absent some "objective, pre-determined criteria for describing and assessing" impacts, any assertion that the impacts of proposed actions are "*de minimus* or are justified by the overall good accomplished or that, on the balance, the project enhances the river's ORV's" are merely "post hoc justification for project outcomes."³⁶

The proposed Lick Log Take-Out demonstrates the arbitrary decision-making a CRMP is supposed to prevent, including:

- As discussed above, the Nantahala Ranger District is proposing put-ins apparently without addressing the downstream impacts, including those on wilderness and roadless areas; where boaters will take out or portage; or where boaters and other users of these trails will park.
- The SOPA for the Forests in North Carolina proposes additional parking for a boater put-in location, but there has been no discussion of how that will impact parking at take-out locations, including at Lick Log Take-Out, or how it will impact monitoring and planned adaptive management based on parking lot counts;
- It is unknown whether the access features at Lick Log Creek are appropriately scaled for the number of users the Nantahala District access features are likely to funnel to that sole designated take-out;
- No access features have been proposed at Burrells Ford at this time, although boaters putting in in North Carolina are very likely to take out at this location; and
- It is unclear whether the Andrew Pickens' District is prepared to deal with violations of Section 261.77 or the Sumter LRMP with regard to boaters entering from North Carolina who do not have appropriate permits.

4. Wilderness Protection

In the Ellicott Rock Wilderness Area there are already signs that recreational use is degrading the wilderness character of the area. The 2012 EA identified seventeen active erosion points (at trails, campgrounds and stream banks mostly) in the Ellicott Rock section of the Chattooga WSR Corridor.³⁷ It also reported forty campsites in the wilderness area, mostly within fifty feet of the River, ranging in size up to 11,775 square feet. These "lack proper design and are not maintained" and are causing "unacceptable resource damage."³⁸ Such scenes do not evoke an image of an area "untrammelled by man,"³⁹ and funneling more users to these precise areas (proposed put-in at County Line) will not improve the situation. To make matters worse, where boating is more prevalent, so are increased trails near the River.⁴⁰ The impact of the proposed access points on this already-degraded area, including the potential for user-created portage and increased camping should have been considered. The SCDN stated that redundant trails causing environmental damage

³⁵ *Sierra Club v. Babbitt*, 69 F. Supp. 2d 1202, 1256 (E.D. Cal. 1999).

³⁶ *Id.*, 69 F. Supp. 2d at 1256.

³⁷ 2012 EA, p. 274.

³⁸ *Id.* at pp. 274, 306.

³⁹ Taken from the definition of "wilderness" in The Wilderness Act: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man." 16 U.S.C. §1131(c).

⁴⁰ See Site Visit Comments, Table 1.

would be removed; the conclusion of the 2012 EA relied on the same assumption.⁴¹ Although there are many such trails in the area of the Lick Log Take-Out (and at Burrell's Ford), these are not addressed in the proposal. Drawing more users to an area with poor user-created trails will cause those features to become more permanent on the landscape and enlarge their negative environmental impact. A different use will create new trails to facilitate that use and those trails may then be adopted by other user groups, expanding the problem.

The intensity and distribution of use by boaters using the proposed access points should have been considered. For example, the Nantahala LRMP sets standards for encounters in Wilderness based on trail access type. Where there are no trails, as along long stretches of the Chattooga in the Ellicott Rock Wilderness, encounters are set to an 80% chance of 0 per day.⁴² The effects of the proposed access features, including the Lick Log Take-Out together with the Bull Pen Bridge put-in proposed by the Nantahala District, which together funnel boaters through the Ellicott Rock Wilderness, on this encounter standard intended to protect wilderness-appropriate levels of solitude, should be considered.

Any access to wilderness in the Chattahoochee is supposed to be developed in compliance with an approved wilderness plan.⁴³ Boaters accessing the Chattooga in the Andrew Pickens Ranger district are very likely to float into the Chattahoochee portion of the Ellicott Rock Wilderness. There is no discussion in the August 23 Letter of compliance with the wilderness plan for the Chattahoochee.

5. Monitoring and Adaptive Management

The August 23 Letter mentions no three-forest monitoring plan, and the ranger for the Nantahala District says there currently is no such plan.⁴⁴ 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."⁴⁵ It hasn't happened. "Impacts to vegetation in riparian areas can occur even with low to moderate usage levels."⁴⁶ Without monitoring of access impacts, the entire adaptive management framework falls apart because degradation of the River and Ellicott Rock Wilderness will not be detected. Please reconsider and add a monitoring plan and establish a baseline before increasing or changing uses as part of development of access features, including Lick Log Take-Out. Please work with the Chattahoochee and Sumter National Forests to accomplish this.

6. Water Quality

The Chattooga is classified by the State of South Carolina as an Outstanding Resource Water ("ORW").⁴⁷ Upstream, it is classified by North Carolina as a Class B-

⁴¹ SCDN, pp. A-2 – A-3.

⁴² Nantahala LRMP, p. III-101.

⁴³ Chattahoochee LRMP, p. 3-12.

⁴⁴ Conversation with Ranger Wilkins ("Actually had it in budget for last two years, but chose to drop it each year").

⁴⁵ See, e.g., GADN, p. 2.

⁴⁶ 2012 EA, pp. 300, 303

⁴⁷ South Carolina Department of Health & Environment, R. 61-69.

trout stream as well as an ORW.⁴⁸ In North Carolina, the turbidity of trout waters and their tributaries cannot exceed 10 Nephelometric Turbidity Units (NTU).⁴⁹ If the turbidity exceeds these levels due to natural background conditions, the existing turbidity level cannot be increased.⁵⁰ No new discharges or expansions of existing discharges are permitted in North Carolina's ORW waters.⁵¹ There has been no discussion of what the current turbidity of any portion of the Chattooga is, or whether construction of new trails, or especially increased wet-weather use of existing user-created trails this season without prior maintenance and construction, will cause an increase in turbidity.

7. National Forest Management Act

The Forest Service's planning regulations require that "[e]very project and activity must be consistent with the applicable plan components."⁵² To do so,

[a] project or activity approval document must describe how the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

(1) Goals, desired conditions, and objectives. The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.

(2) Standards. The project or activity complies with applicable standards.

(3) Guidelines. The project or activity:

(i) Complies with applicable guidelines as set out in the plan; or

(ii) Is designed in a way that is as effective in achieving the purpose of the applicable guidelines (§ 219.7(e)(1)(iv)).

(4) Suitability. A project or activity would occur in an area:

(i) That the plan identifies as suitable for that type of project or activity; or

(ii) For which the plan is silent with respect to its suitability for that type of project or activity.⁵³

This exercise was not undertaken for the Lick Log Take-Out.

The Lick Log Take-Out and the upstream access features proposed by the Nantahala District are not consistent with the LRMPs for the Nantahala and Pisgah, Chattahoochee, and Sumter National Forests, nor are the Andrew Pickens' August 23 Letter and the Nantahala's recent planning efforts sufficient to meet the requirements of the planning regulations. For example:

- The Decision Notices amended the LRMPs for each of the National Forests to include capacity limits as guidelines. If 60 to 100 boaters use the River in one

⁴⁸ 15A N.C.A.C. 2B.0303(d)(2) (Lexis 2012).

⁴⁹ *Id.* at 2B.0211 (3)(k).

⁵⁰ *Id.*

⁵¹ *Id.* at 2B.0225 (c)(1).

⁵² 36 C.F.R. § 219.15(d).

⁵³ *Id.*

- day, as stated by a Sumter spokeswoman, those capacity limits will be overwhelmed.⁵⁴
- The SCDN (p. A-1) amended the LRMP for the Sumter National Forest to require any floating above the Highway 28 Bridge be by “issuance of a self-registration boating permit consistent with 36 C.F.R. § 261.77.” As discussed above, the problems with complying with Section 261.77 have not been addressed.⁵⁵
 - The Nantahala & Pisgah LRMP sets the probability of an encounter where there are no trails to an 80% chance of 0 per day.⁵⁶ The effects of the proposed Lick Log Take-Out, when combined with upstream put-ins may direct more users than this standard allows to remote portions of the River.⁵⁷
 - Any access to wilderness in the Chattahoochee is supposed to be developed in compliance with an approved wilderness plan.⁵⁸
 - There is no plan to complete trail work before December, when boating is anticipated to commence, in violation of the recent amendment of the Sumter LRMP, which now states that “within the river corridor, recreation users stay on designated trails (Note: ‘Designated trails’ are defined as ‘Trails that are planned, designed and maintained to minimize biophysical impacts’). This direction covers even portage trails.⁵⁹
 - The Chattahoochee LRMP requires that trails be located, designed, and constructed outside the ephemeral stream zone (25 feet on either side).⁶⁰ However, new construction of trails is allowed within the ephemeral stream zone “when needed to *replace* existing trail configuration and improve access.”⁶¹ Although boaters may portage along the Georgia side of the River, or take out at Burrell’s Ford on that side as a foreseeable result of the planned access network (including the Lick Log Take-Out), no consideration has been given compliance with the Chattahoochee LRMP’s requirement that any new trail be a *replacement* rather than an *addition* to the trail system.
 - Recreation uses within riparian corridors in the Chattahoochee must comply with the riparian corridor management prescription.⁶² Trails should not “adversely affect soil and water resources.”⁶³ Since the River forms the border between the two forests (Chattahoochee and Sumter) and the Forests are required to manage the River as a unit (one Wild and Scenic River under one CRMP), consideration of the Chattahoochee’s riparian standards and goals should be made.

8. Burrell’s Ford

The Nantahala District is proposing put-ins above Burrell’s Ford, and the August 23 Letter proposes the Lick-Log Take-Out below Burrell’s Ford. Burrell’s Ford was one of the locations of site visits in the spring of 2012. Boaters coming from North Carolina may choose to take out at this access point because of the close proximity

⁵⁴ See above, fn. 27.

⁵⁵ See above, section I.A.1.

⁵⁶ Nantahala LRMP, p. III-101.

⁵⁷ See above, section 4.

⁵⁸ Chattahoochee LRMP, p. 3-12.

⁵⁹ SCDN, p. A-2 – A-3.

⁶⁰ Chattahoochee LRMP p. 2-24, FW-083

⁶¹ Id. at p. 2-35, FW-148 (emphasis added).

⁶² Id. at p. 2-33, FW-120.

⁶³ Id. at p. 2-32.

to roads and parking areas. For the same reason of ease of access, boaters planning to take out at Lick Log Take-Out may choose to use Burrell's Ford as a put-in, especially those wishing to access Rock Gorge. Boaters may also put in at this location if they intend to take out illegally at the Highway 28 Bridge.

Burrell's Ford is a favorite destination for fishermen, and it is already impacted by heavy visitor use (See Site Visit Comments). The banks of the River are already lined with trails. Furthermore, this is an area where conflict, or at least competition, between user groups may be a problem.

One side of the River at Burrell's Ford is in the Chattahoochee National Forest. Nevertheless, there has been no discussion of impacts on that Forest, or compliance with its LRMP.

Despite the many clear reasons this area should have been discussed in conjunction with any proposal regarding the Lick-Log Take-Out, there is no mention of Burrell's Ford in the August 23 Letter. Access in the area of Burrell's Ford should be considered along with access at Lick-Log Take-Out and upstream access proposed in North Carolina. All three National Forests should work together on considering the impacts of proposed access and the effects of that access.

9. The Lick Log Take-Out

The trails at the Lick Log Take-Out that were presented at the site visits earlier this year were steep and eroded. The area had an unplanned and poorly located network of user-created trails and campsites. Some boaters at the site visits said they would need to drag their boats to get up some steep sections, meaning these trails are clearly too steep for the intended use by at least some boaters. The evaluation of impacts should have examined how, in both the short term and long term, the proposed access trail would be constructed and maintained to protect soil, water, vegetation, visual quality, user safety and long-term maintenance.⁶⁴ It also should have addressed how to most effectively close user-created features that are causing resource damage and how to prevent new harmful features from forming (e.g., plant grasses, harden trail features, drag downed wood to cover user-created trails).

There may be conflict or competition with other user groups at this location. The Foothills Trail is becoming increasingly popular, and users of that trail may access the River using the new boater access trail. Because of the relatively high use of the area, the analysis of boater access here should include parking, camping, and trail capacity. Smart trail construction could minimize some potential problems. For instance—boaters and fishermen could be directed to different parking areas to avoid competition, and access for boaters could be provided in the direction on the Chattooga River Trail least used by hikers.

The trail management objective ("TMO") for the proposed Lick Log Take-Out, as well as the trails to which it would connect, including the Chattooga Trail, should

⁶⁴ Nantahala LRMP, p. III-104.

have been disclosed and discussed. It is unclear whether bikes, ATVs, or hand-powered boat trailers will be permitted on the new Lick Log Take-Out or if the impacts of other users accessing the River by this trail have been considered. Please provide the trail management objectives ("TMOs") for this new trail.

There is no discussion of the timing of construction of the proposed new section of trail at Lick Log Take-Out. At the site visit, Plino Beres (a river ranger) stated that the steep sections of the access trail would need to have stairs constructed to prevent resource degradation. Given the slope of the trail shown to participants in the site visit, switchbacks may also be required. Trail construction, maintenance, and signing need to occur *before* the first boating season. Boating occurs when soils are waterlogged and at their most erodible. If the planned work is not done prior to the first season, the many user-created trails in the area will become more entrenched and this access point may become a significant sediment source to the River.

Before adding an additional user group, misuse and overuse by existing users should be addressed. For example, some of the many illegal and poorly maintained campsites in the area should be restored to natural conditions. A steep embankment between the take out point at Lick Log and the existing campsite should be shored up to keep it from being torn apart and eroding into the River.

As is discussed in multiple sections above, resource and user experience impacts have not been evaluated for upstream (including Burrell's Ford) and portage impacts and it is unclear that the take-out point chosen by boaters will be compliant with the Chattahoochee and Sumter LRMPs or Section 261.77.

Existing access at the proposed Lick Log Take-Out requires a long walk by tired boaters over a root-filled and, at times, very steep trail. Some boaters may be tempted to continue downstream to the Highway 28 Bridge to take out. Enforcement capacity to address boating restrictions should be addressed, as well as planned access for emergency rescue so that resource damage can be minimized in that eventuality.

September 27, 2012
Andrew Pickens District Lick Log Trail

Please also include with these comments those previously made in the Site Visit Comments, which are being sent with these comments. Feel free to contact me if you have any questions regarding these comments or earlier comments. Also, please include Georgia ForestWatch, the Georgia Chapter of the Sierra Club, and Wilderness Watch in any future mailings regarding management of the Chattooga Wild & Scenic River, the Chattooga Cliffs, Rock Gorge Roadless Area, and or the Ellicott Rock Wilderness.

Sincerely,

/s/ Rachel S. Doughty

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



June 29, 2012

Rachel S. Doughty, Esq.
231 Mullen Avenue
San Francisco, CA 94110
828.333.4703 828.424.2005 (cell)
rdoughty@greenfirelaw.com

Supervisor George M. Bain
Chattahoochee-Oconee National Forest
gbain@fs.fed.us

Supervisor Paul Bradley
Sumter National Forest
pbradley@fs.fed.us

Supervisor Kristin M. Bail
Nantahala-Pisgah National Forest
kmbail@fs.fed.us

Ranger Mike Wilkins
Nantahala Ranger District
Nantahala-Pisgah National Forest
mwilkins@fs.fed.us

Ed Hunter
Chattooga River District
Chattahoochee-Oconee National Forest
ehunter@fs.fed.us

Ranger Mike Crane
Andrew Pickens District
Sumter National Forest
mcrane@fs.fed.us

Thomas Saylor
Nantahala Ranger District
Nantahala-Pisgah National Forest
tsaylor@fs.fed.us

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.

June 29, 2012

Chattooga Access Site Visits

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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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

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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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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

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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

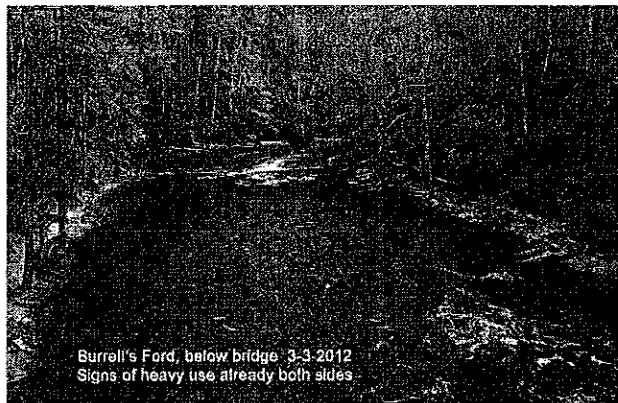


Figure 6: Trails lining River at Burrell's Ford. construction, as already discussed. The only obvious access on the Georgia side is down a very steep and narrow user-created trail—nearly a ladder, to which the Forest Service has added some steps, several feet high each, to prevent severe erosion. The 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.

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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.

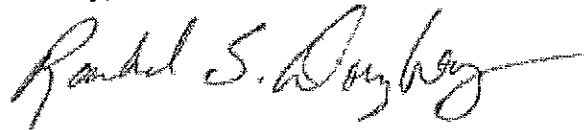
At the River there were two campsites that could work as landing sites. These are trash ridden and visitors have been cutting down live trees for their campfires. This abuse should be addressed.

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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 is positioned above the printed name and title.

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

JUN 22 2012

James R. Kautz

2048 Rose Creek Road
Franklin, NC 28734
21 June 2012

Mike Wilkins, District Ranger
Nantahala Ranger District
90 Sloan Road
Franklin, North Carolina 28734

Dear Mr. Wilkins:

Thank you and Thom Saylor for the time and attention given to those of us who walked the trails along the Upper Chattooga yesterday.

I am an experienced paddler, hiker, and environment advocate who has published a book on William Bartram's travels. I have no interest in paddling the Upper Chattooga.

After consideration, I offer the following observations and suggestions:

- Develop a suitable trail below the Bull Pen bridge, in the general area we observed;
- Permit access at the County Line to Norton Mill trail during the next window for boating;
- Plan and execute trail improvements from Whiteside Cove/Green Creek parking lot to one of the two sites we visited, but do not permit access on this route until the trail is improved.

The last suggestion is based on my observation of the existing manways from the Chattooga River Trail to the river. These are quite vulnerable to erosion and will be more susceptible during and after heavy rain events when boating activity is expected. Such wear will likely increase opposition to access from those who are concerned for the good of the forest.

Thank you for your consideration to these remarks

Sincerely,



James R. Kautz III

828-524-6593

Ingram, Gwyn A -FS

From: Tom Swaynham <SwaynhamT@dnr.sc.gov>
Sent: Wednesday, September 19, 2012 9:14 AM
To: FS-comments-southern-francismarion-sumter-andrewpickens
Cc: RankinD@dnr.sc.gov; Richard Morton; Mary Bunch
Subject: Lick Log Trail Construction Project

The SCDNR has reviewed the proposed activity and has no objection to this project. We suggest that any erosion issues be closely monitored and that the trail be designed for a width appropriate for carrying boats.

Thanks for the opportunity to comment on this project. Please let us know if you have any questions.



Help SCDNR conserve South Carolina's natural resources by checking off your contribution to the Endangered Species or SC's Department of Natural Resources Fund this tax season.
<http://www.dnr.sc.gov/admin/taxbreak>

Tom Swaynham
SCDNR Regional Wildlife Coordinator
311 Natural Resources Drive
Clemson, SC 29631
864-654-1671, Ex. 21
SwaynhamT@dnr.sc.gov

