

Friends of the Upper Chattooga
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July 20, 2006

Jerome Thomas, Supervisor
Sumter National Forest
USDA Forest Service
4931 Broad River Road
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Subject: Chattooga Wild and Scenic River Visitor Use Capacity Analysis

Dear Jerome,

Thank you for informally contacting various members of the Friends of the Upper Chattooga, (The Friends,) regarding the "expert panel" boater trials and the thought of some limited public boater trials in connection with the visitor capacity analysis of the river's headwaters ("Boater Trials"). The Friends appreciate your efforts to keep us informed.

The Friends would like to express several concerns regarding the Boater Trials. First, we are concerned that the Boater Trials have not been subjected to necessary public scrutiny and evaluation of environmental impacts. Certain questions must be answered prior to proceeding with the Boater Trials. In order to address these issues, The Friends have forwarded a list of questions of concern to your planning team. It is our hope that these questions may be addressed prior to the upcoming public meeting in Highlands, N.C. on July 27.

In addition to these, The Friends would like to highlight certain significant concerns regarding the potential irreversible environmental impacts that will be caused by such activities and the considerations that must be included in the Forest Service's evaluation of the Boater Trials:

- The Forest Service must consider the serious cumulative impacts that the Boater Trials are likely to have on the outstanding remarkable values of the Chattooga headwaters above route 28.
- The Forest Service likely would have to create and approve new ingress and final egress locations for the Boater Trials, and additional egress locations necessary to properly scout the river's most dangerous cascades. Among other things, the Forest Service must consider the physical capacity of the required scouting and portage trails if the Boater Trials are permitted; the number of new user trails created; soil and slope conditions in areas of required trails; and, the anticipated effects on aquatic and terrestrial wildlife and flora.
- The Boater Trials are apt to require the "expert panels" to chop out the dozens of downed logs and other large woody debris to create trails.¹ The downed logs and woody debris serve as a key element in the aquatic food chain of this river. This is an area where the National Resource Conservation Service lists soils as being difficult to regenerate vegetation.²
- Evaluation of the Boater Trials must take into consideration the safety of boaters, swimmers, fishermen, and the safety of the rescue squads that may be required on what the boaters claim is the "most difficult section of the Chattooga."

All of these raise significant environmental concerns regarding the Boater Trials, which do not appear to have been fully evaluated at this time. As stated by the Forest Service lawyers in the latest court filing (at page two:) "Indeed, it would be irresponsible, and possibly violate a host of environmental laws, to throw open the river without first ascertaining whether and how the

¹ If a decision is made to preserve the large debris, the "expert panels" will be forced to open dozens of new portage trails on the riverbanks.

² The Jackson county soil survey states that "soils subject to flooding are limited for recreational uses by the duration and intensity of flooding in the season when flooding occurs. In planning recreational facilities [like access, portage and scouting trails], onsite assessment of the height, duration, intensity and frequency of flooding is essential." (Page 149, Jackson County soil survey, 1991, issued by the U.S. Department of Agriculture.)

prohibition should be lifted and what the effects of doing so would be.” As such, we implore you to pay heed to this concern and subject the Boater Trials to greater scrutiny.

Significantly, it appears that the Forest Service’s decision to conduct the Boater Trials has not been subjected to the necessary environmental analysis requirements under the National Environmental Policy Act (“NEPA”). The concerns identified above would be evaluated fully if NEPA protections were followed. While the Forest Service in recent years has moved more and more to “categorically exclude” many projects from the substantive public review required under NEPA, the issue of boating the Upper Chattooga is of such significant concern under the Wild and Scenic Rivers Act, the Wilderness Act, and the companion federal statutes, which created the Wild and Scenic Chattooga River and the Ellicott Rock Wilderness, that NEPA review is warranted, including full and effective public scrutiny.³

Further, the selection of the contractors without public scrutiny is also suspect under the requirements of NEPA and the Forest Service regulations. We are concerned, based on our conversation with you, that the Forest Service did not implement an appropriate process to find an objective and experienced boater to lead the Boater Trials such as by querying Forest Service staff or others in federal service. The Friends firmly believe that objectivity in the performance of the Boater Trials is crucial to prevent conflicts and disputes between the concerned parties.

There are also other legal requirements that come to bear and must be evaluated prior to the selection of the contractors and conduct of the Boater Trials:

- FSM 2320.3 requires the Forest Service to “gather necessary information and carry out research programs in a manner that is compatible with the preservation of the wilderness environment.” It is unclear that the Forest Service has complied with this requirement.

³ In addition, it appears that the decision of the federal district court in *Earth Island Institute v. Ruthenbeck* may, in fact, preclude the use of a categorical exclusion to allow the expert panel trials. In that case, the court issued an Order on July 2, 2005, banning the use of Categorical Exclusions. The ruling requires any forest service project (other than those that have minimal environmental impacts) using a CE be subject to the notice, comment and appeal provisions of 36 C.F.R. Part 214. This Order applies to all decisions made within a CE after July 7, 2005 and applies nationwide (See Court’s September 16, 2005 Order clarifying its July 7 decision). The conduct of expert panel trials is the type of “major” activity that must be subject to full public participation.

- FSM 2354.41 identifies factors to consider in developing direction for recreation visitor use in a wild and scenic river (“WSR”) corridor including the capability of the physical environment, desires of present and potential users, diversity of recreation opportunities within the geographic area, and budgetary, personnel, and technical considerations. The requirement to evaluate specific factors triggers several questions:
 - a. Has a capability study on the physical environment been completed to insure the Boater Trials will not irreparably damage the environment?
 - b. How have the needs of present users been evaluated and considered with regard to the potential Boating Trials?
 - c. "Will the Forest Service suspend public boating on other creeks or sections of the Chattooga to insure that diversification of recreational opportunities are available during the trial period remain the same?"
 - d. What is Forest Service’s capability to analyze and monitor all segments of river during these trials?
 - e. How will the data be collected to ensure an unbiased survey?

- FSM 2320.6 notes that: “Where a choice must be made between wilderness values and visitor or any other activity, preserving the wilderness resource is the overriding value. Economy, convenience, commercial value, and comfort are not standards of management or use of wilderness.”

- FSM 2320.2 states that ecosystems must be maintained “in such a manner that ecosystems are unaffected by human manipulation and influences so that plants and animals develop and respond to natural forces.”⁴

Forest Service policy mandates a focus on conservation of the resource, and not user

⁴ The federal government’s Jackson County soil survey says much the same: “The needs of wildlife should be considered in all decisions involving the use of the land,” (page 151, Jackson County soil survey, 1991.)

demand. The policy notes that “management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards.”

The Friends believe the Forest Service possesses a range of alternatives that would permit the analysis to continue, without compromising the Chattooga’s outstandingly remarkable values, and we ask that you promptly schedule a meeting to discuss these in some detail prior to the July 27 public meeting.

Kindly make this letter part of the analysis file. Please contact us with regard to any questions or comments you might have.

Sincerely,

Buzz Williams, Executive Director
Chattooga Conservancy
for Friends of the Upper Chattooga

cc:

Friends of the Upper Chattooga (which includes the Atlanta Fly Fishing Club, the Chattooga Conservancy, Georgia ForestWatch, the Georgia Wildlife Federation, North Carolina Wildlife Federation, South Carolina Wildlife Federation, Wilderness Watch, the Georgia Council of Trout Unlimited, the South Carolina Council of Trout Unlimited, Whiteside Cove Association, and several private landowners along the upper corridor of the Chattooga, a Congressionally designated Wild and Scenic River.)

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American Whitewater's Comments on the Chattooga River User Capacity Analysis.

Submitted on August 2nd, 2006

American Whitewater was told by Jerome Thomas at the July 27th, 2006 meeting regarding the Chattooga River User Capacity Analysis (UCA) that we were welcome to submit comments on the study design, however the design is final and our comments will not be incorporated. Still, the current design of the UCA will not yield the intended result and is irresponsibly unsafe, and we feel we must file comments. The USFS appears intent to deviate from standard methods and safety protocol and has thus doomed at least portions of the UCA to failure. We have accepted that the USFS will carry out the UCA with an illegal study design unless the courts intervene, however we cannot accept a study design that is unscientific, unlikely to work, and unsafe. Therefore we offer these comments with the hope that reason will prevail, and the study design will be improved.

We would like to remind you that you define collaboration as "just another way to describe the two-way communication that is our public involvement process¹." Yet, your agenda² for the only meeting held to "discuss" the UCA study plan clearly stated in bold font: "The intent of the meeting is for the Forest Service to share information with the public on the data collection process. This meeting will not be a hearing or formal comment session." There has been and will be no opportunity to offer comments on the study design. Thus, there has been no two-way communication and no collaboration on the study design. You have not granted our resource professionals the opportunity to work with you or even comment on the study design during its preparation and as a result the product of your efforts does not meet our interests in a fair, scientifically rigorous, and workable study. While you may have "involved interested parties" per the Appeal ROD, you have certainly not created a collaborative process.

As a general comment, we disagree with the statement made by Roberta Willis at the meeting that the goal of the UCA is to collect information for making a decision, and is not a long-term research project. User capacity analyses are in their very essence designed to be replicable at regular intervals for long term management direction – in short: a long term research project. We still have never heard the USFS state the research question being asked of the UCA – and this is a critical missing point of information. If the USFS is simply studying whether or not to allow boating – without addressing the full suite of recreational uses of the corridor – then the study is inherently

¹ From the FAQ's recently published on the SNF Chattooga webpage:
<http://www.fs.fed.us/r8/fms/forest/projects/faq.shtml>

² Agenda is at: <http://www.fs.fed.us/r8/fms/forest/projects/AgendaJuly27.pdf>

biased and unsupportable. We request clarification of what questions and hypotheses the USFS will be using the UCA to analyze.

In addition we request an actual study plan for review. All we have to base our assessment on is a few presentations and meeting hand-outs. We request that the USFS make available a comprehensive study plan complete with objectives, methods, and research questions. We feel that a million-dollar analysis should have a publicly available study plan, so that at least the public can gage success of the work. We should note that we proposed a more affordable, robust, and timely study plan in May of 2005, less than 2 weeks following the Record of Decision.

We hope that you remain open minded enough to change selected methods of the UCA so they do not fail abysmally from meeting your needs and ours. Please consider these ideas, we offer them to improve the study and reduce future administrative challenges and hurdles.

Expert Panels:

The current plan for using expert panels will not work and will expose paddlers to unacceptable risks. An on-water study has never been carried out with the methods the USFS has selected, for several very good reasons. While we are certain the consultants have explained this and were disregarded, we feel we must object with the hope that the USFS will change the study design. In general, the USFS has is recklessly proposing to seriously alter paddlers' normal decision making process and offering incentives to take risks. The problems with the expert panels as designed are as follows:

- **Paddlers will be exploring uncharted Class V waters with strangers.** Paddlers are very particular about who they run difficult whitewater with, and typically have a core group of friends they pursue challenges with. These groups have unique communication skills using hand signals and other means, have practiced rescue techniques together, gage rapid difficulty by watching others with known skill levels, and most importantly have the level of personal care and trust essential for any backcountry challenge. Forcing people to tackle the Headwaters with strangers severely diminishes the safety of each individual, the group, and the UCA. It also significantly erodes the experience and perception of difficulty, risk, and enjoyment of the river corridor for paddlers. It is reckless, and significantly weakens the study by deviating from normal use patterns.
- **Paddlers will have only one or possibly up to three specific days to experience the headwaters.** All athletes and adventurers have good days and bad days regarding their physical, emotional, or mental fitness. On any given day individuals may be sick or recovering from an injury, or overexerted from previous activity, or may have slept poorly, or may have experienced a loss or emotional trauma, or intuition may tell the person not to paddle. The list goes on... However, if there is only one single day on which this person will be

allowed to paddle the Chattooga headwaters *in their entire lives*, it is very likely that they will choose to paddle regardless of virtually any external factor. Forcing people to paddle the river on a single day, *or never again*, creates an artificially dangerous incentive for paddlers to choose to paddle when they might otherwise choose to not paddle. The USFS is recklessly creating this situation. A group of cooperative river managers accidentally created the same incentive by instituting a system of difficult to obtain permits on the Tallulah River, and subsequently lifted the permits for this very reason.

Furthermore, artificially deviating from likely preferred use patterns significantly weakens the study.

- **Paddlers will not have their choice of flow conditions.** Some paddlers prefer higher flows, while others prefer lower flows, and most are especially particular about the flow conditions they prefer for an exploratory descent. In this case however the USFS will be selecting the flow which paddlers will have their one chance to experience the river. Once again the USFS has recklessly set up an incentive for paddlers to deviate from their normal decision making process – and to tackle the headwaters at conditions on which they may otherwise chose not to run the river.

In addition, it is very likely that each section of the headwaters will have different ranges of optimal, minimal, and safe flows. By forcing paddlers to tackle all sections at once, as is presumably the plan, paddlers will not be able to self-select preferred flows for each reach. While controlled flow studies offer specific flows; those flows are chosen by paddlers and it is highly likely that paddlers choosing not to paddle can return at a different flow or future date. Furthermore, artificially deviating from self-selected preferred flows significantly weakens the study.

- **Paddlers will have to run 21 consecutive miles of Class IV-V whitewater.** The average southeastern Class V run is roughly 3-5 miles long. By asking paddlers to run 21 miles of difficult and uncharted whitewater in a single day (*or potentially not run it at all for their entire lives*) creates an artificially dangerous situation. It encourages paddlers to accept the challenge and move fast – without adequate time to scout rapids – and also fosters physical and emotional exhaustion. There is no doubt that it can be safely done by some individuals, especially after routes are learned – but it is totally inappropriate as part of the study.

This is the longest flow study of a drop-pool river we are aware of, a fact made more onerous by the fact that the river is a total unknown. Furthermore, artificially deviating from likely preferred use patterns significantly weakens the study.

- **Paddlers, anglers, consultants, agency staff, and observers will have to travel to the river on a moment's notice.** Lets face it, the proposed plan is just not going to work. All headwater streams in the southeast are very flashy, particularly during times of leaf-out, low base flows, and drought. It will take a miracle to get all these people to the river at the same time when the flows are in an appropriate window, and once amassed there will be incredible pressure for paddlers to run the river regardless of weather, water, or personal conditions. This is further complicated by the very long length of the run(s), and the different preferred flow ranges for each reach. There has never been a study to our knowledge that has required a select group to mobilize so fast on a moment's notice, let alone such a diverse group. While pulling off one such trip will take a miracle, pulling off two or three will be virtually impossible. This method needs to be discarded.
- **Flow information will, by design, be inadequate for future management decisions.** The opinions of 5-8 individuals running (or fishing) a river under highly artificial conditions, one, two, or three times is an inadequate basis for decisions regarding the management of a Wild and Scenic River. Expert panels are acceptable for reconnaissance trips – but not in most cases for determining the full range of flow preferences. It is acceptable for these groups to document the resource with video and still images, map significant features, characterize reach difficulty and access needs, and to generally discuss flow preference ranges. This will be very helpful and indeed necessary information, but should not be substituted for a complete flow study.
- **Study elements are needlessly and erroneously being combined and truncated.** The study plan calls for boaters and anglers to analyze the same flows on the same days, which is completely unnecessary and counter productive. Both anglers and paddlers need to experience flows that are at least marginally too high and too low for their preferred experience in order to begin to draw flow preference curves. It is unreasonable to only study flows in the 2.0-2.5 foot range (or higher), since those flows present very different recreational conditions for paddlers and anglers. Both user groups need to experience a suite of flows in their own acceptable range and possibly beyond that range. Overlap is needed, but not 100% by design. Creating 100% overlap biases the study in well documented ways: If boaters and anglers both use one flow or the same flows only – they will likely enjoy it – since it is better than the alternative of not fishing or not boating. This design is radically flawed, biased, and totally unacceptable. We are aware of no other study designed this way – and for good reason.

Coupling the two groups on the same days is also totally irrelevant, since the expert panels cannot be – should not be – and are not - designed to address encounters between the two user groups. Coupling the study dates serves no purpose, and in fact distracts study participants from the true questions they are charged to answer.

- **Non-paddlers are shooting a paddling video.** The Chattooga River is not easily viewed or filmed from shore along its entire length. We have never experienced a reconnaissance video shot by land-based consultants that was affordable, aesthetic, comprehensive, or representative. Certainly in this case it would be impossible. Only a paddler with videography experience can capture the paddling experience on the Chattooga, and capture a comprehensive documentary on the rapids, portages, and scenery of the river. The USFS is wasting money by hiring anyone but a paddler with the appropriate skills to shoot and edit the video, and the USFS will not meet its goals. Only through hiring a paddler can we get this information in a timely and professional manner. We have specific recommendations on paddlers with professional videography experience, and have recommended them in the past – to no avail.
- **A reach has been erroneously eliminated from the analysis.** Congress did not eliminate the uppermost 1.7 miles of the Chattooga River from designation under the Wild and Scenic Rivers act, and the USFS therefore cannot arbitrarily eliminate it from study or management for the Chattooga River’s designation values. The USFS claims that they will not study this reach – but will then recommend management alternatives regarding the reach. On what will these alternatives be based, given the near complete lack of knowledge of that resource? How will they endure scrutiny?

In the Frequently Asked Questions pages recent published on the SNF website the USFS states that navigability is beyond the scope of the UCA and too complicated to deal with at this juncture. The reviewing officer of our appeal did not grant the SNF the latitude to throw 1.7 miles of the Chattooga River out of the UCA – and it is impermissible for them to do so. We would remind the SNF that navigability is completely irrelevant in this case – and that they have an obligation under the Wild and Scenic Rivers Act to manage – and thus study – this reach. Importantly the SNF has every right to do so, and indeed in this case *must act*.

[PHOTO]

Above Photo: Misleading sign welcoming the American Public to their Wild and Scenic Chattooga River at it beginning at Grimshawes Bridge.

[PHOTO]

Above Photo: Sign strung over the Wild and Scenic Chattooga River.

Recently new signs have been placed at Grimshawes Bridge that indicate all public recreational use is being prohibited by the private land-owners (some signs have existed for several years). By allowing this to occur, the USFS is in violation of the WSRA, which charges the USFS to protect and enhance recreation throughout the WSR corridor. The WSRA is very clear that the

USFS has the tools at its disposal to remedy this egregious disregard for congressional intent and the public trust. Section 6(b) of the WSR reads:

“If 50 per centum or more of the entire acreage outside the ordinary high water mark on both sides of the river within a federally administered wild, scenic or recreational river area is owned in fee title by the United States, by the State or States within which it lies, or by political subdivisions of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.”

Forest Service policy closely follows the WSR. Section 2354.51a of the Forest Service Manual states: “Condemnation may be used to clear title or acquire scenic easements or other such easements deemed reasonably necessary to provide public access to the river and to permit the public to traverse the length of the river or selected segments.”

It further clarifies in Section 2354.51: “Work with private landowners to minimize incompatible use and to prevent other potential problems.” In the same section it states that these actions may include “Acquiring key private land in fee title or partial interests. Acquire lands and interests in lands only to the extent necessary to protect, maintain, and/or enhance the river area and the established recreation objectives.”

The USFS’s mandate is clear. They must manage the entire Chattooga WSR for the public benefit, and specifically for the values that lead to designation. These values are being totally eviscerated on 1.7 miles of the Chattooga River. The USFS must work with the owners of this land to resolve this issue. If a mutually agreeable solution cannot be reached, the USFS has an obligation to condemn at least, a recreational easement along the Chattooga River to support floating, fishing, swimming, and other recreational pursuits.

A proposal for a safer and more scientifically rigorous study plan:

This study plan is illegal³, but is vastly safer and more scientifically rigorous than the “final” plan decided upon by the USFS. Because we are certain that the USFS is unwilling to adopt a legal study plan that meets our interests, we ask the USFS to adopt this plan for the Expert Panels which will at least result in gathering of relevant data.

³ It is illegal because any study plan that does not allow unlimited paddling is in violation of a number of federal laws and regulations.

1. Permits will be issued to as many individuals as the SNF is willing to accept, which contain the following provisions:
 - Permit holders may run each section of the headwaters of the Chattooga up to 3 times, and must report each run to the SNF.
 - Permit holders may paddle the Headwaters of the Chattooga on any day within the study period, which begins with the date of permit issuance and expires on February 28th, 2007. This period may be extended as needed.
 - Up to 4 paddlers may accompany permit holders on each run of each section. These paddlers must fill out a sub-permit given to them by the permit holder.
 - Each permit holder and sub-permit holder must complete their post-run assessment form as a condition of their permits. These assessment forms will be filled out and mailed to the SNF. Permit and sub-permit holders must be willing to participate in phone interviews as a condition of their permit.
 - Permit holders are encouraged – but not required - to select a range of flows.
 - Permit holders are encouraged – but not required – to fulfill the maximum number of runs allowable under their permit.
 - Permit holders receive a package of information regarding the river.
 - Permits are non-transferable.
2. One additional permit will be issued to a paddler with suitable experience that is hired by the SNF to film and edit a video documentary of paddling the Upper Chattooga River.
3. Floating access through the private lands along the Headwaters of the Chattooga River should be negotiated by the USFS for the time period of the study, and/or a recreational easement should be acquired promptly for perpetuity.
4. We recommend that the angling expert panels are operated in a very similar manner – with the acknowledgement that permits are not required for angling at this time.

Discussion:

Our recommended study plan fosters safe backcountry decision-making through eliminating incentives to attempt the river during sub-optimal personal or environmental conditions. It creates a safer study by allowing paddlers to select their group, their water levels, the days on which they paddle the river, and the sections they choose to paddle. It eliminates many of the divergences from normal paddling behavior, which allows the study to capture a more realistic analysis of the resource. It more closely follows accepted scientific methodologies and concepts. It eliminates bias caused by angling and boating flows that overlap 100%. It will capture data on a wider range of flows. It addresses the entire headwaters rather than an arbitrarily truncated portion. It eliminates the notoriously bad practice of hiring land-based consultants to attempt to film the paddling experience through dense rhododendron in favor of more accepted and favorable option of hiring a paddler to fill this role. It will save massive resources by not requiring last minute travel by consultants and agency staff, not to mention future successful challenges to a faulty record. It will actually result in a completed study with data in hand – without requiring any miracles. It will uncouple the unrelated angling and

paddling expert panel analysis in the UCA. In short, it is a better study: it is cheaper, safer, more scientifically rigorous, and will yield vastly better results.

Literature Review:

We fully support the USFS conducting a literature review regarding User Capacity Analyses and other relevant topics. We have already contributed considerably to the record through our appeal, and will likely contribute further. One study of note is the 2003 study titled "Use and Economic Importance of the Chattooga River"⁴ which was published by American Rivers and the National Park Service. This study probed many of the specific issues that stakeholders have brought up regarding on the upper river, and have tested them on the lower river. Thus, it is a treasure trove for this analysis. One example is how seeing paddlers impacted non-paddling visitors' experience. The study reports the following:

"A number of questions probed how various issues might be affecting users' experiences for better or worse. The first related to boaters' interactions with others on the river. Most users saw 5 or fewer people kayaking the river during their visit. The average number of kayakers seen was 7 (table 20). Most users reported that seeing kayakers that day had no effect on their enjoyment. On average seeing kayakers increased user's enjoyment slightly overall. Only 6% of users reported that seeing kayakers had somehow decreased their enjoyment that day (Table 21). When asked in an open-ended format *how* the kayakers had affected their enjoyment, the vast majority of comments were positive. The most common responses were that kayakers were fun and interesting to watch and that it was enjoyable to see their skill (Table 22)."

The USFS also requested information on proxy, or similar rivers to study. There are multiple rivers in the region that share some but not all of the Upper Chattooga's characteristics as a paddling resource. We provided detailed analyses of these resources during the preparation of the DEIS. In general there are very few other whitewater rivers in the region that are 1) Wild and Scenic, 2) Wilderness, 3) as long as the Chattooga's runs (5, 10, 21, 50+ miles), 4) that have good water quality, 5) are protected, 6) are not roadside, or 7) have similar ecological, scenic, geologic, and geomorphological characteristics. More importantly, no other river flows through the incomparable valley of the Chattooga, and no other river offers the same unique rapids. The Chattooga is a unique paddling experience. Our comments on the list developed by the USFS is in Appendix 1. We have not commented on the river's "importance" because the concept is highly personal and totally moot.

From a management of floating perspective the Upper Chattooga should be no different from scores of other regional USFS managed headwater streams, including several that flow through Wilderness and at least one designated as a WSR. However, from the individual paddler's perspective (and certainly the same is true for anglers and hikers) – the Chattooga is unique.

⁴ http://www.americanrivers.org/site/DocServer/final_report_chattooga.pdf?docID=532

The literature review must address all users and their impacts – not just paddlers. Specifically, the review must address the impacts of lead sinkers and tackle lost by anglers⁵, monofilament line left behind, user created trails, unregulated camping, stocking, and other impacts associated with hiking, camping, and angling.

With regards to safety, search and rescue, data and statistics must be collected on all forest users (hikers, anglers, swimmers, campers, etc) if they are to be addressed for any one use. There is no rationale for analyzing these issues at all given the mandate of the USFS and the ROD from the Chief's office regarding our appeal. It is a non-actionable and therefore moot issue and should thus be removed from the analysis.

Biophysical Conditions:

American Whitewater was deeply concerned by Berger's description of biophysical data collection as collection of "baseline data." The reviewing officer was clear that biophysical impacts are shared by all users, and indeed these users and their impacts have been totally unmanaged for at least 3 decades (with the exception of the unjustified paddling ban). Current conditions are not baseline conditions, 1974 is baseline: the date of the Wild and Scenic designation and beginning of the USFS's non-degradation mandate.

Any impacts associated with paddling must be studied, analyzed, and weighed equally with ongoing impacts associated with other users. We remain concerned that paddling as a use is being presumed guilty until proven innocent, and is being "tested." This should not be the case. All uses should be treated equally – since paddlers are not a new use and our artificial absence was proven to have *no basis whatsoever*.

Existing Use Observations:

Along with counting existing users pursuing different uses, the USFS must look at the timing of this use on an hourly, daily, and seasonal scale. These data must be then correlated with specific management events such as fishing seasons, hunting seasons, and stocking dates. They should also be correlated with weather and holidays. Current USFS policies that attract users artificially to the resource must be analyzed in this context, including fish stocking with trucks, and helicopter stocking throughout the corridor.

Flow Data:

We feel certain that the USFS consultants and/or hydrologists are more than capable of synthesizing flow information, and look forward to reviewing this work.

Conclusion:

⁵ See Appendix 2.

Thank you for considering this proposal for a much better study design relating to expert panels, and our comments regarding other study elements. We request a formal response to this proposal, including justifications for the acceptance or denial of our points and suggested plan.

Respectfully Submitted By:

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Appendix 1: Boating Proxy Rivers Proposed by the USFS

River Segment	Comments
Upper Yough	The Yough is a 9 hour drive from the Chattooga, is dam release, and is unprotected. It is commercially rafted. A very different resource. AW manages the put-in cooperatively with the State of MD.
Tallulah	Tallulah is only 2-3 miles long, only runs 10 days each year on dam release, requires a long carry in and reservoir paddle out. It contains at least one rapid larger than anything on the Chattooga. AW collaboratively manages releases with the state of GA and GA Power.
Green Narrows	The Green Narrows is dam release, only 3 miles long, and is vastly steeper than the Chattooga.
Little River Canyon	Little River Canyon is a much larger river than the Chattooga headwaters, with very different characteristics.
Obed	Much larger easier river
Big South Fork	Much larger easier river
Watauga	Watauga is much shorter than the Chattooga. AW owns the public river access area on the Catawba. Unprotected river corridor.
Wilson Creek	Wild and Scenic River under USFS management. Some commercial floating use. Significant roadside swimming and angling along several reaches, as well as more backcountry opportunities on upper reaches. Several hour drive from Chattooga.
Ocoee	Totally beyond comparison. High commercial use, roadside, dam release, ecologically unhealthy (mining).
Tellico	USFS managed river with significant private use and no public floating, angling, and swimming use. Roadside. Several hour drive from the Chattooga, and much easier. AW affiliates assist USFS with Stream clean-ups.
New River	6 hour drive from Chattooga. Large river under NPS management with relatively short whitewater section and significant commercial use. Railroad.
Gauley	7 hour drive from Chattooga. Large dam release river under NPS management with significant commercial use.
Nolichucky	Larger, shorter, easier, commercially boated.
Chauga	Shorter and less protected but close.
Chattahoochee	Flat and urban. No Comparison
Big Laurel	Shorter and far easier and less protected and more polluted.
French Broad	N fork has similar whitewater for short length. Polluted by hatchery.
Nantahala	No Comparison. Roadside, dam controlled, commercially boated in large numbers. Some sections by dam dewatered.
Linville	Similar length but no road incursions at midpoints. Much more difficult than the Chattooga. Wilderness, USFS. Very different scenery.
Big Creek	NPS managed. Shorter than the Chattooga, and hiking access only for upper run. Very pretty, but very different ecologically and

	geomorphologically.
Cullasaja	Poor water quality, more difficult, close to road.
Doe	Shorter, litter, easier?, very different scenery.
Elk River	Shorter, difficult to catch with water, difficult portage, much larger drops (45 feet, 55 ft, 20 ft, etc). Several hours from Chattooga.
Pigeon Dries	Dewatered by hydro dam. Polluted.
Overflow	Shorter with large drops. Possibly comparable to one section of the Chattooga.
Cheoah	Roadside, dam release, larger, continuous, USFS managed. AW collaborates with USFS on management.
Tuckasegee	Big, flat, roaded, unprotected, polluted, dam release.
Rocky Broad	Two unprotected sections of potentially similar difficulty to the Chattooga. One urban roadside, and one more remote. 96 flood diminished quality and frequency of paddling experience.
Russel Fork	5 hours away, short, dam release, polluted, very different rapids.
MF Saluda	Seldom if ever paddled, tiny
Slickrock	Long hike in and no way to check water levels limits use. Wilderness, USFS, shorter, possibly comparable to one section of the Chattooga – but with very different ecology and geology.

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Regional Office
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Tom P.
Chuck
cc: Chris -
Planning

August 8, 2006

Dear Chief Bosworth, Mr. Bedwell, Mr. Brown, and Mr. Meyers,

We are writing to alert you that the Southern Region of the USFS is faltering in its preparation of the User Capacity Analysis on the Upper Chattooga ordered by the Washington Office. They have selected non-standard methods that pose serious safety threats to study participants. The methods they have selected will not yield adequate data, are needlessly costly, are biased, and have virtually no chance of success. At the recent public meeting where the methods were announced, we were told that the study design was "final" and that our comments and concerns would not be addressed.

We have submitted comments, regardless of the Sumter National Forest's disregard for collaboration, based on our expertise, accepted methodologies, common sense, personal safety, and the law. We hope that you and your staff can bring nationally

The mission of American Whitewater is to conserve and restore America's whitewater resources and to enhance opportunities to enjoy them safely.

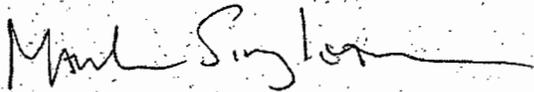
consistent and scientifically accurate management to the Chattooga River for the first time.

Top-notch consultants were hired to recommend methods, but it appears obvious that the Sumter National Forest has either cherry picked or totally disregarded these recommendations. We have participated in the collaborative design and implementation on dozens of recreational studies and have never experienced a study so flawed or a process so impermeable to ideas for improvement. The costs of this study are epic and the waste of these resources is totally inexcusable. We desire our focus to be collaboratively protecting rivers and their enjoyment with the USFS— not conflicting over what should be a simple issue. Sadly, however, the study design makes only one thing clear: the Sumter National Forest is manipulating the study to support their preference for the unjustified boating ban on the Chattooga during and after the study.

We are asking only that a responsible scientific study be carried out that can serve as a basis for sound decision-making. This is not occurring. We have attached our comments on the User Capacity Analysis, which Sumter National Forest staff has assured us might be read but will not result in any changes. Our comments simply request standard methods and a safe and reasonable way to implement them.

Thank you for any assistance you can provide. Please feel free to contact me if you have any questions regarding this issue.

Sincerely,



Mark Singleton
Executive Director
American Whitewater

cc:

Don Fisher - Wilderness
Art Jeffers – Assistant Director of Recreation and Heritage
Gail Van Der Bie – Deputy Director of Recreation and Heritage
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August X, 2006

Jerome Thomas, Supervisor
Sumter National Forest
USDA Forest Service
4931 Broad River Road
Columbia, South Carolina 29212-3530

Subject: Chattooga Wild and Scenic River Visitor Use Capacity Analysis

Dear Jerome,

The Friends of the Upper Chattooga would like to bring your attention to several additional matters arising from the public meeting in Highlands last week, and ask that the Forest Service address them as it proceeds with the visitor capacity analysis of Wild and Scenic Chattooga River.

1. The "public use data collection participation" papers handed out at the meeting suggest members of the public must register to do this by August 15 of this year. Surely, this is in error. You would think the Forest Service would appreciate public input from any member of the public, regardless of when they registered. We urge the Forest Service to amend this apparent, and one would hope, inadvertent, error.
2. There is no provision on the Sumter National Forest website for filing these count cards via the Internet. Surely, this could be rectified.
3. The "recreation use monitoring count cards" provided at the meeting fail to "count" use of this wild and scenic resource along the West Fork and up to the big culvert on Overflow Creek, which are receiving heavy use in recent. We

Friends of the Upper Chattooga

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suppose this, too, is inadvertent, but ask that the "court cards" be amended to include these areas. This is particularly necessary since Forest Service staffers have included these areas in their analysis of the biological and physical data analysis. So, it seems obvious recreation should be counted, too.

Additionally, it is very important that recreation use data be collected on the West Fork and Overflow for these supplemental reasons:

- The area has a "Put and Take" front-country trout fishery.
- It has a helicopter stocked backcountry trout fishery.
- It has a wild trout fishery above 3 Forks
- It has a developed FS Campground inside the corridor.
- It has all 4 miles of Section 1 boating.
- It has "steep creeking" boating.
- It the only portion of the W&S Chattooga River with both headwaters trout fishery and boating.

Additionally, the new forest plans for the Chattahoochee-Oconee National Forests calls for extending the W&S River corridor to the North Carolina state line. The plan says to manage Overflow **"as if they were already designated."**

Therefore, a self-registration station for private boaters should be installed at the big culvert and at least two staff gauges installed (one at the Overflow Creek Culvert and another at the Overflow Road Bridge).

4. Forest Service personnel and consultants at the "break-out tables" at the meetings in Highlands suggested data collected by members of the public who already have taken a position against the worth of boating on the Upper Chattooga would have their data "discounted." What does this mean? Will data from such individuals be counted, or not?
5. It appears the Forest Service may have created a problem in its selection of the "expert panels." The information on the Sumter National Forest website states that, "The selection of the expert panelists will include about 16 members per panel, with the target of 6 to 8 panel members participating in the site reconnaissance trips, depending on the availability of the individual panel members. Selection of panelists will be based on the following qualifications: years of experience, skill level, previous experience participating in flow studies, level of availability, and knowledge of the area and/or river. Safety will be a key consideration. Members of the boater panel must have Class V whitewater boating experience. Members of the angler panel should have experience in a full range of angling techniques (fly fishing, spin fishing, etc.). Due to the nature of the flow variability, panel members must be able to participate

on short notice. Ideally, all members will have experience in similar collaborative flow studies, have both angling and whitewater boating experience. (emphasis added,) and have utilized the Chattooga River for a variety of recreational activities. "

There are plenty of expert boaters that have worked on "flow studies" (Tallulah, Upper Nantahala, Ocoee, Cheoah, etc) . There are expert boaters that "have both angling and whitewater boating experience". But we know of no Chattooga backcountry anglers that have ever worked on a "flow study" or have "whitewater boating experience". It appears that "ideally" both the 16 boater panelist and the 16 angler panelist will all be whitewater boaters that have experience on similar collaborative flow studies!

Surely, the Forest Service did not intend this to occur.

We ask that this letter be added to the latest "Comment" section of the visitor capacity use analysis, and look forward to a prompt response, particularly for those items that are bumping into your own self-imposed deadlines.

Sincerely,


Buzz Williams

For Friends of the Upper Chattooga

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Direct dial number 828-258-6992
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August 23, 2006

Mr. Jerome Thomas
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Francis Marion and Sumter National Forests
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Mr. John Cleeves
Project Coordinator
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Mr. Chuck Myers
Southern Regional Forester
USDA Forest Service, Southern Region
Via e-mail only clmeyers@fs.fed.us

Attention: Ms. Marisue Hilliard
Forest Supervisor
National Forests in North Carolina
Via e-mail only mhilliard@fs.fed.us

Attention: Mr. Matt Tilden
Associate General Counsel
Via e-mail only matthew.tilden@usda.gov

Re: Whiteside Cove Association's Objection to "Decision for Appeal, (#04-13-00-0026 American Whitewater) of the Sumter National Forest Land and Resource Management Plan Revision."

Dear Gentlemen and Ms. Hilliard:

The 1.7 miles of the Chattooga River between NC 1107 and Greens creek is on private property and the Wild and Scenic River Act does not alter private property rights. Our repeated letters to your staff regarding our property remain unanswered.

American Whitewater first introduced erroneous information about the Chattooga WSR by claiming it is on public land in their 2004 appeal and in many postings on their website. This

information was then transposed incorrectly in the USFS 2004 appeal decision. It is this misrepresentation of these simple facts that Whiteside Cove Association strongly objects.

- The 1.7 miles of river and river bed are private property
- The Chattooga is considered non-navigable by the two government agencies that record navigable waters (the Corps of Engineers and the US Coast Guard). Additionally the NC Attorney General's opinion on the non-navigability of the Chattooga is listed in the Federal Register. The Corps of Engineers, not the USFS, is the government agency responsible for protecting any public rights of navigation.
- A Wild & Scenic Designation does not alter property rights including the ownership of the riverbed. WSR management policy does not apply to private lands. ***"The Wild and Scenic Rivers Act does not open private lands to public recreation. Management principles may apply to private lands only to the extent required by other laws such as zoning and air and water pollution regulations."*** *Wild & Scenic River Guidelines* Federal Register Vol 47, No173/1982

Once posted clearly on the Sumter FS website, most of the public misunderstanding would disappear. A correction to the USFS appeal decision would help better inform the public and help eliminate the continued misleading information posted by American Whitewater, specifically Mr. Kevin Colburn's repeated misstatements of law and fact.

We are still waiting for the USFS response to our correspondence regarding private property rights. There have been over 12 letters since October of 2005 to the USFS that have not been answered. We would appreciate a response.

Thank you again for your careful attention to this matter.

Sincerely yours,



Wyatt S. Stevens
President, Whiteside Cove Association

cc: Representative Charles H. Taylor
22 South Pack Square
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August 28, 2006

Regional Director
USDA Forest Service
Southern Region
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Dear Sir or Madam:

I am writing to comment on the "battle" over the headwaters of the Chattooga River.

I am an avid outdoorsman and enjoy backpacking, camping, and trout fishing. This 21 mile section of the Chattooga is pristine with its free-flowing stream, the excellent trail access, the backcountry solitude experience, the remoteness, the awesome beauty, and the quality of trout fishing. I want to see it remain one of the special places in this part of the country and want to see the Forest Service ensure that it maintains its ban on paddling of all kinds.

Please note that I am also a "paddler" and participated in the recent 2006 Paddle Georgia seven day trip. I respect the serious kayakers who want to see this section of river opened up to them. However, I sincerely believe that there are more than enough river locations for serious paddlers to enjoy their sport. I know that we are NOT talking about the rowdy beer-guzzling, trash dumping innertubers. But we are talking about the presence of people who will disrupt and possibly destroy the quiet solitude and quality trout fishing of this area. I have never met a trout fisherman on this stream that didn't show the utmost respect for the area. I'm not so sure of paddlers. The very nature of this sport will disturb this area and these waters.

Thanks for listening to my input. I would appreciate an update on the status of the three-year ban on paddling and any recent court proceedings.

Sincerely,



Kenneth C. Baerwalde
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Fort Mill, SC 29715
Phone: 803-547-7721

Concerns Regarding the Direction of the Chattooga Analysis

I AN OPAQUE ANALYSIS

The 2004 Appeal decision (#04-13-00-0026) directed the USFS to "Involve affected and interested parties in the design and execution of the capacity analysis". We feel the proposed analysis falls far short of meeting the requirement of public involvement. The public waited eight months for the USFS to unveil it's plans for the study design. The USFS did not include all affected parties in the "study design", nor did it divulge why many suggestions and concerns were ignored while formulating the analysis plan.

The current USFS direction does not meet the CEQ requirements under NEPA. CEQ requires agencies to make "diligent" efforts to involve the interested and affected public in the NEPA process (1506.6), regardless of the level of impact and/or documentation. Agencies must also "encourage and facilitate public involvement in decisions which affect the quality of the human environment" (1500.2 (d)). The Sumter USFS has done the exact opposite of what is required under NEPA regarding public involvement of all user groups. The USFS has disregarded public input from previous meetings, worked in isolation with outside consultants and determined not to study the majority of the Chattooga's recreational ORVs (swimming, wildlife viewing and hiking).

The "public's data collection participation" allowed only two weeks for stakeholders to assimilate, provide feedback, written references and cited literature in order to be included into the public, taxpayer-funded, analysis. If the USFS, the experts at these public analyses, needed eight months to formulate a plan, the Public should have a least six months to research and supply the proper literary resources needed for the USFS to make an informed decision. The two week time frame that has since lapsed was completely insufficient for any reasonable public feedback and research work.

In 2000 The USFS internal review cited weaknesses in Wilderness Plans resulting from LAC analysis (see Ref: 10Forest Service Proceedings RMRS-P-15-VOL-4. 2000). These weaknesses have been cited numerous time during the Chattooga public meeting, in writing to the USFS and in the FOTUC May meeting; these weaknesses include

- i) A primary, almost exclusive focus on recreation.
- ii) Failure to address biophysical components of the ecosystem in any but a most cursory manner.
- iii) Failure to articulate specific desired future conditions or long-term goals in any but the most general of terms.
- iv) **Being issue-driven rather than goal-driven.**
- v) Inadequate inventory data of all kinds.

The above listed shortcomings of the LAC process shows that the myopic scope of the analysis is another incomplete User capacity analysis. It completely ignores wildlife and habitat and will not meet the scrutiny in the NEPA process. By continuing to ignore the smaller groups representing the majority of the local users and focusing on AW's demands the USFS is embarking on a completely biased analysis that ignores many of the protected ORVs.

How will the general public be notified of expert panel runs? Will the public be notified and allowed to help document kayak runs?

Concerns Regarding the Direction of the Chattooga Analysis

The process needs more public transparency and not just for the loudest stakeholder (AW). Because of AW's legal threats and saber rattling, the USFS is ignoring many other stakeholders and the resource itself. The completely biased direction of the study (a high-water flow analysis) favors the AW position and will degrade all other protected ORVs that the USFS are mandated to protect.

II: FLOW STUDY IS INSUFFICIENT AND BIAS TOWARD BOATING

The USFS has presented "recreational flow-study" as a "visitor-use capacity analysis" to the public on July 27th. This analysis direction does not meet the requirements under the appeal decision of a visitor-use capacity analysis nor can it be used to insure the USFS meet it's environmental mandates under the Wilderness and WSR acts. The outlined flow study by Mr. Whitaker does not take into account three of the five protected recreational ORVs (Swimmers, Wildlife-Viewers and Hikers). The defined "recreational flow study" is grossly inadequate in assessing the ecological indicators, general wilderness values or the protected ORVs of scenery, geology and biology.

The USFS has hired a consultant recommended by American Whitewater and one that admittedly has little experience with environmental analysis. Mr. Whitaker's "area of Expertise" was listed as **"an expert related to recreational resources, and he has expertise conducting or reviewing both whitewater boating and general recreation studies"** (cite FERC OSEC 9/23/04 Docket # AD04-4-000. Mr. Whitaker's outlined 2005 study design admittedly ignores other users, wildlife habitat and incorrectly defines fishing preferences. It also ignores the Sumter forest service's publicly collected "desired conditions".

"WSR Interagency Guidelines direct public use be regulated and distributed where necessary to protect and enhance...the resource values of the river area." Agency policy (FSM 2354.41) identifies factors to consider in developing direction for recreation visitor use in a wild and scenic river (WSR) corridor including the capability of the physical environment, desires of present and potential users, diversity of recreation opportunities within the geographic area, and budgetary, personnel and technical considerations." From the 2004 Appeal Decision

The USFS cannot ignore the remaining recreational ORVs that it is responsible for protecting under section 10 of the WSR Act. The Original Management plan, associated with the WSR designation, provided for an area of the Chattooga WSR that would not be subject to intense pressure from whitewater boating. After thirty years the USFS must provide the rational for removing these protective restrictions and prove to the public that no damage will result to the Chattooga's protected ORVs from a change in this long standing policy.

III PREVIOUSLY COLLECTED PUBLIC DATA.

The USFS has marginalized the public input collected from the previously three public meetings. The original collected desired conditions have been altered from the USFS 12/17/05 published notes. The new "desired conditions" should match the desired conditions collected by the USFS in the public meetings.

Concerns Regarding the Direction of the Chattooga Analysis

i) Five of the ten users types listed as a desired condition "no boating" at the December 1st 2005 meeting. Why was a condition that was desired by fifty percent of the users types eliminated from the USFS July 25th matrix?

ii) "No litter" is listed as a desired condition on the new matrix. However, litter and Human waste (basic sanitation) was combined as a desired condition at the December 1st 2005 meeting. Will the cumulative impact of adding a new user-type on basic sanitation capacity be considered in the analysis. "fecal bacteria counts" are added to water quality and should be reviewed on boated streams like the lower Chattooga and Nantahala; However some boaters choose to use the banks and this basic sanitation issues is not addressed in the proposed study.

iii) Under No litter the Front Country users listed "no plastic boat marks" on the river bed. This has not been listed in the new matrix of indicators nor is it included in the study plan. How will this desired condition be captured? This issue appears in over 15 letters in the USFS public comments.

iv) "Few Encounters" appears on most of the user-types desired conditions as listed in the USFS December 17th notes. The July Matrix lists "solitude". Does the LAC considered these the same? How does the study plan address solitude for non-boaters? How will the study plan address # of encounters for non-boaters.

v) Biophysical indicators and concerns have not been addressed publicly despite continued requests of the USFS to do so. The USFS did not include any ecological indicators in the December 1st meeting and ten enraged public participants created a new user group to discuss concerns and desires related to the resource itself. The USFS has provided few environmental components of, or indicators in, the analysis. These indicators require the same transparency as the recreational studies.

- Pre-existing conditions of banks and flora in the riparian zone is missing, especially the overhanging Rhododendrons, ferns and trillium. How will the LAC consider impact to riparian habitat, river canopy and associated soil erosion? The new User trails is defined in such a way that the one year analysis period may not detect the effects of portaging, scouting or extreme sport spectators.
- Condition of the stream beds is not specifically listed. a) Concerns for LWD and associated habitat benefits. b) moss cover rocks and flora c) plastic boat marks and associated concerns.
- Water Quality: a) Cumulative effects of silt in the stream bed from new trails and users of the parking areas b) cumulative affect of heavy metals, phthalates.

#6) User conflict especially conflicts with the goals of anglers, swimmers and wildlife viewers do not appear on the indicators or in the study. How will goals of these groups be collected in order to determine the extent of conflict? Public concerns regarding fish disturbances and wildlife disturbances are mentioned in the 12/17/05 published USFS notes but were disregarded in the proposed analysis.

Concerns Regarding the Direction of the Chattooga Analysis

Swimmer's safety is not even being included in the analysis even though it is well documented in the public record.

#7) Scenery, a protected ORV, was discussed as a desired condition in the November 17th meeting. Four groups of non-boater users listed that an "experience in a spectacular setting" as a desired conditions. The 2004 Sumter RLMP mentions "diminishment of scenery" as a reason to continue protective restrictions and AW cited a lack of data before the USFS could determine boating does diminish some user-types scenery.

Most non-boaters agree that colorful boats are a distraction from the river's scenery especially the popular waterfall viewing near Bull Pen, at BB falls and at the rock gorge. How will diminishment of the scenery be explored in data collection?

#8) Boaters claimed in their 2004 appeal that boaters would not be camping during boating trips. Boaters also claim that they never leave the river between access points. Why are campsites now part of the data collection? How will the impact to the riparian zones near boater campsites be addressed?

CHARLES H. TAYLOR
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Congress of the United States House of Representatives

Washington, DC 20515-3311

September 1, 2006

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WEB SITE:
www.house.gov/charlestaylor

Mr. Chuck Myers
Southern Regional Forester
USDA Forest Service
1720 Peachtree Street
Atlanta, Georgia 30309

Dear Mr. Myers:

Enclosed is a copy of correspondence I have received from my constituent, Wyatt Stevens. I believe you will find the letter self-explanatory.

Please know of my interest on behalf of this constituent. I would appreciate your reviewing the enclosed letter and providing me with any information that may be helpful to this individual. I am grateful for any assistance you may be able to provide in this matter. Please direct your response to my Asheville district office, 22 South Pack South Square, Suite 330, Asheville, NC 28801 .

Sincerely,

Charles H. Taylor
Member of Congress

CHT:mp



File Code: 1510

Date: September 19, 2006

The Honorable Charles H. Taylor
United States House of Representatives
22 South Pack South Square, Suite 330
Asheville, NC 28801

Dear Congressman Taylor:

This letter is in response to your letter dated August 31 regarding private property concerns on the upper stretches of the Chattooga River expressed to you by Mr. Wyatt S. Stevens, President of Whiteside Cove Association. We originally corresponded with you on this matter on December 15, 2005, and sent a copy of that letter to Mr. Stevens via FAX on December 22, 2005 (enclosed).

As stated in our earlier letter, this issue of navigability is a complicated legal matter. The Forest Service is not claiming to be the federal agency charged with determining whether a watercourse is legally navigable and has no intention of assuming any authorities held by the U.S. Army Corps of Engineers. The Forest Service is only interested in the issue of navigability as it relates to current and potential future uses of the Chattooga Wild and Scenic River and the capacity of the river to accommodate those uses. The agency is not interested in violating any private property rights.

Thank you for your interest in this matter. Please contact Tom Peterson, Deputy Regional Forester for Natural Resources, at 404-347-4177, if you or your staff have any questions or would like additional information.

Sincerely,

/s/Thomas A. Peterson (for)
CHARLES L. MYERS
Regional Forester

Enclosure

cc: Whiteside Cove Association
Mr. Wyatt S. Stevens, President
Robert & Stevens, P.A.
One West Pack Square, Suite 1100
P.O. Box 7647
Asheville, NC 28801





File Code: 1900/2300

Date: October 5, 2006

Kevin Colburn
National Stewardship Director
American Whitewater
1035 Van Buren St.
Missoula, MT 59802

Dear Mr. Colburn:

Thank you for your comments on the visitor use capacity analysis of the Upper Chattooga River. As discussed in the July public meeting, the Forest Service is now in the data collection phase of this analysis process. While we have settled on the general phased approach and specific elements in each phase, we continue to refine those elements and incorporate recommendations from American Whitewater and other stakeholders. Many of the questions you raised about the data collection process are addressed on our web site at <http://www.fs.fed.us/r8/fms/>. We continue to revise these postings with additional implementation details as the process proceeds and invite you to re-visit this site for the latest updates.

As we proceed in carrying out the review required in the appeal decision, it is important to emphasize that the Forest Service is conducting a capacity analysis, not a conflict analysis. We are using the Limits of Acceptable Change planning model as a framework to identify potential recreation opportunities, identify important impact indicators, assess existing and potential impacts, develop standards for high quality opportunities, and examine management strategies.

The reconnaissance trips referred to in your letter will involve expert panels of boaters and anglers and are intended to provide information on two uses that rely on river flows. The purpose of the boater panels is not to assess how boating might impact others but to conduct reconnaissance of the river, assess the whitewater potential, and develop likely flow ranges. We expect to combine existing knowledge about the river and its challenges with the observations of a pool of well-qualified boaters chosen to conduct the reconnaissance runs. Multiple-flow reconnaissance runs are a standard protocol for many flow studies, and we will be working with our consultants to produce a safe and informative series of runs, even if boaters have not paddled together before.

The Forest Service has been actively refining the protocols for conducting the reconnaissance trips and will be posting more details on our web site in the near future. Several boaters affiliated with American Whitewater have signed up to participate, and we encourage you to continue to be engaged in the process.



Thank you for your continued interest in the Upper Chattooga River. You may direct any further questions you have to John Cleeves at 803-561-4058.

Sincerely,

/S/ JEROME THOMAS

JEROME THOMAS
Forest Supervisor

cc: Mike Crane, USFS, District Ranger, Andrew Pickens
Chris Liggett, USFS, Director of Planning, Region 8
Ann Christensen, USFS, Director of Recreation, Region 8
Marisue Hillard, USFS, Forest Supervisor, North Carolina
Kathleen Atkinson, USFS, Forest Supervisor, Georgia
Matt Tilden, OGC, Attorney, Atlanta



United States
Department of
Agriculture

Forest
Service

Francis Marion &
Sumter National Forests

4931 Broad River Road
Columbia, SC 29212-3530
(803)561-4000

File Code: 1900/2300

Date: August 4, 2006

Buzz Williams
Executive Director
Friends of the Upper Chattooga
2368 Pinnacle Drive
Clayton, Georgia 30525

Dear Mr. Williams,

Thank you for your comments on the visitor use capacity analysis of the Chattooga River. You bring up interesting questions on the analysis. We will consider them as we refine the details of the data collection process and determine the applicability of the National Environmental Policy Act (NEPA).

Sincerely,

/S/ DENNIS LAW (FOR)

JEROME THOMAS
Forest Supervisor

Cc: Mike Crane, USFS, District Ranger, Andrew Pickens
Chris Liggett, USFS, Director of Planning, Region 8
Ann Christensen, USFS, Director of Recreation, Region 8
Marisue Hillard, USFS, Forest Supervisor, North Carolina
Kathleen Atkinson, USFS, Forest Supervisor, Georgia

