

Martha & Foster Walker

486 Wildcat Lane
Cashiers, North Carolina 28717
(828) 743-4180

September 20, 2007

Dr. Jerome Thomas
Supervisor
Sumter National Forest
4391 Broad River Road
Columbia, SC 29212-3530

Attention: Mr. John Cleeves
Project Coordinator

Dear Mr. Cleeves,

Our family has vacationed in western North Carolina, particularly the Highlands/Cashiers area, for five generations. It is now my most treasured pleasure to introduce my four granddaughters to the natural beauty of the area. The Iron Bridge over the Chattooga River is hands down our favorite place to spend the day. We usually pack a picnic, walk upriver to one of the sandy beaches, and leisurely enjoy the river. The children adore wading in the Chattooga as we marvel at the Mountain Laurel or Rhododendron.

Please, please get involved and keep this 21 miles stretch of pristine river from Grimshawes to the Iron Bridge free of boating, including rafts, canoes, tubes and kayaks. We have been property owners in the area for 25 years. Our family enjoys rafting trips on the already dedicated 36 miles of the Chattooga.

We hope you will listen to us – not the lobbyists – and let the U. S. Forest Service's ban on boats on the upper Chattooga River stand.

Most sincerely,



Martha and Foster Walker

Jenkins at Law, LLC

1933 Pine Bluff
 Marietta, GA 30062
aj@jenkinsatlaw.com
 (404) 729-2037

September 25, 2007

Supervisor Jerome Thomas
 Sumter National Forest
 USDA Forest Service
 4391 Broad River Road
 Columbia, SC 29212-3530

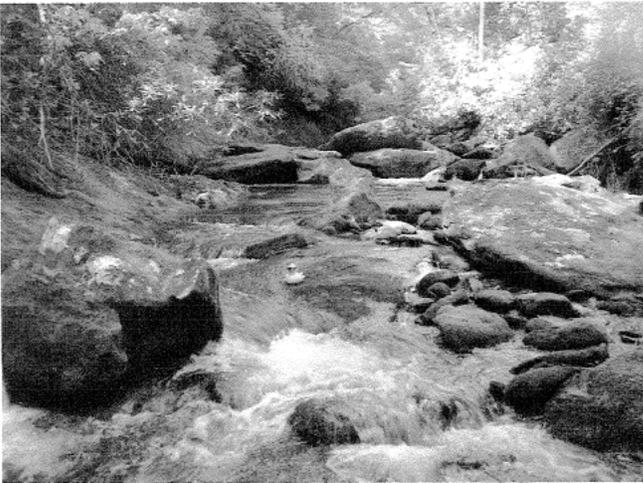
Ms. Marisue Hilliard
 Forest Supervisor
 National Forests in North Carolina
 160A Zillicoa Street
 Asheville, NC 28805

Mr. John Cleeves
 Project Coordinator
 Francis Marion and Sumter National Forests

RE: Forest Service Chattooga River Environmental Assessment Concerning 1.7 miles of private land leased by the Whiteside Cove Association

Dear Mr. Thomas, Ms. Hilliard and Mr. Cleeves:

By this letter, we once again urge the United States Forest Service to document all impacts in the Environmental Assessment on private property and avoid any preferred alternative that would involve, allow, or encourage violation of our private property rights. We provide herewith important additional documentation of how the U.S. Army Corps of Engineers ("COE") has determined that the Upper Chattooga River is non-navigable. This letter goes beyond the navigability question, however, and focuses on the fact that regardless of bed ownership, the physical characteristics of the stream and surrounding property would require any attempt at boating from Grimshawes Bridge through our property to trespass on our property. Thus, the Forest Service, unless it intends to advocate and encourage unlawful activity, must document why this stretch cannot be considered as a playground for boaters.



1. Additional Navigability Information

We have new information to provide to the Forest Service on the navigability issue. The Forest Service seems to be under the mistaken impression that the COE has not determined whether the Upper Chattooga River is navigable despite written statements from the COE we have submitted to the Forest Service that the COE considers the Chattooga River in North Carolina to be non-navigable. We recently obtained additional documentation via a Freedom of Information Act request to the COE concerning the conclusion of the COE that the Upper Chattooga is non-navigable. In the early 1930's, the Corps completed an extensive study of the Savannah River and its

tributaries. On March 28, 1934, the COE Brigadier General and Acting Chief of Engineers adopted the recommendations of the District Engineer, as forwarded by the Division Engineer with respect to the non-navigability of the Savannah River and its tributaries above Mile 297.1. With respect to the Chattooga River (report p.66), the COE concluded that the "Chattooga River, Ga. and S.C. ... be considered non-navigable throughout" and stated:

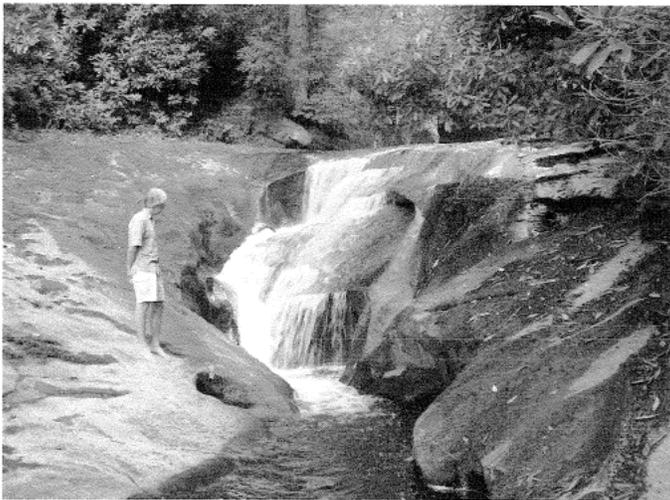
Chattooga River, Ga. and S.C. - In view of the nature of the country through which this stream also flows, the sparse population of the area, and the unfavorable slopes of the stream itself, it is believed that there is no justification for considering it a navigable stream.

Attached please find the relevant pages from the COE report and final determination. Obviously, the Corps would consider the Chattooga River even further upstream in North Carolina to be non-navigable and hence, has appropriately listed the Upper Chattooga River in North Carolina as being non-navigable for decades.

There are no new positions to discuss regarding the navigability of the stream that flows through our private property. American Whitewater alone claims the North Carolina portion of the Chattooga to be navigable, and it does so based on flawed legal analysis. On the other hand, the U.S. Army Corps of Engineers and the U.S. Coast Guard, the federal agencies responsible for making navigability determinations, the North Carolina Attorney General, documents from the USDA and Forest Service, members of our association who are intimately familiar with the stream, Federal Judge O’Kelly, and objective people with knowledge of the area all believe this tiny mountain stream is not navigable in law or fact.



Nor is there any change to the physical characteristics of the stream flowing from Grimshawes Bridge in North Carolina. These physical characteristics lead inexorably to the conclusion that this stream is not navigable waters of the United States. In fact, this stretch is a river in name only. Instead, the water below Grimshawes Bridge is a classic, small headwater mountain stream **only two or three miles from its source and 440 river miles from its ultimate outlet into the Atlantic Ocean**. At normal flow, the stream can be straddled in a number of places and walked across in others without even getting your ankles wet. Pictures of ordinary conditions establishing these facts are attached hereto and can be verified by USFS employees who have legally visited the property during ordinary conditions.



The first 1.7 mile stretch alone of the stream below Grimshawes Bridge has a 25-foot corkscrew waterfall, impassible boulders, numerous other waterfalls and crisscrossing logs, a mean flow of 14 cubic feet per second, and a drop in elevation of nearly 200 feet. If this narrow, rhododendron-surrounded stream two or three miles from its source and 440 miles from its eventual outlet is considered navigable, then all streams and rivulets in the United States are navigable. This may be AW’s goal but it is not the law. All water and the land below it is not “public property” as claimed by creek-boating lobbyists. The rain collecting in our house gutters does not make our gutters public property, nor does a summer thunder shower flooding a roadside ditch make the ditch a navigable waterway. If that were true, there would be no private

property in this country. Once people understand that not every small puddle, trickle or rivulet is open to the public, they can easily see that the tiny stream below Grimshawes Bridge is clearly non-navigable and the land under and about it is private property.

The *Integrated Report* claims a “final adjudication of non-navigability in the judiciary” is required for final resolution. Under Federal and North Carolina laws, however, only tidal waterways and navigable rivers are considered public trust waters, (open to the public). In 1995, the North Carolina Supreme Court stated: “The public trust doctrine is not an issue in cases where the land involved is above water or where the body of water regularly covering the land involved is not navigable in law.” *Gwathmey v. State*, 464 S.E.2d 674, 678 (NC 1995) (emphasis added). A lack of final adjudication by a court then (particularly where the responsible federal agency has determined that the water is non-navigable) does not alter the right of a property owner to protect his or her property, including the river bottom, from trespass. Indeed, kayakers who have attempted to run the Horsepasture River in North Carolina based on American Whitewater’s public misinterpretation of

North Carolina law have been liable for trespass and made well aware that navigability is a prerequisite for public trust privileges.

2. **Even Apart From the Navigability of the Stream, Any Boating Attempt of the Stretch Immediately Below Grimshaws Bridge Would Result in Illegal Activities**

However, even apart from the navigability issue, which in all likelihood would be resolved in our favor in a court of law, public boating is not legally possible through the private section. Any attempt to traverse this upper section of this private stream, regardless of the pending non-navigability judicial determination, clearly would violate North Carolina trespassing and nuisance laws, damage private property, and violate WSR laws because the boater would have to touch our land to portage and scout around obstacles. For this reason as well, Grimshaws bridge cannot be the starting point for any Forest Service-sanctioned boating.

a. **Requires Mandatory Portages:**

The private land above Greens Creek has numerous down trees (over 25 that cross the entire river), five unrunnable water falls, and boulders that completely block passage between short pools, plus some areas that are completely choked with rhododendrons. Most of these obstacles could not be floated over, under, through, or around at any water level; these obstacles require portaging onto private property,^[1] which would violate North Carolina law. See N.C. GEN. STAT. S. 14-159.



If a tree fell in a road, it does not give motorists the right to drive across an adjacent property owner's front lawn. Likewise, a down tree across a stream does not give boaters the right to trespass on adjacent private property in order to portage around the obstacle. Thus, under North Carolina law, "the right of navigation gives no license to go and come through and over the riparian owner's land without 'let or hindrance.'" Similarly, those navigating a river have no right, as incident to the right of navigation, to land upon and use the bank at a place other than a public landing without the consent of the owner, for the banks of a navigable stream are private property." *Gaither v. Albemarle Hospital*, 235 N.C. 431, 444, 70 S.E.2d 680 (1952) (emphasis added).

The Forest Service likewise has correctly published with respect to our property that: "The public does not have a right to trespass on this private land, which includes the shorelines."^[2]

b. **Requires Scouting:**

Not only would portaging be required on the property, scouting the stream for the numerous waterfalls, boulders and fallen timber would also be required. The scouting of a class IV or V river is either mandatory or necessary under USFS (see USDA published Chattooga River Map), American Canoe Association and most other published safety guidelines.^[3] Additional references recommending scouting include:

- ❑ The American Red Cross, *Canoeing and Kayaking* (1981) pp. 5.12-5.15.
- ❑ Dave Harrison, *Sports Illustrated Canoeing* (1981) pp. 154-155.
- ❑ William "Bill" Hillcourt, *Official Boy Scout Handbook* (1979) p. 161.

[1] See exhibit 3 in AW letter to the USFS dated September 13, 2007 (section attached below) and reference page 15 of the 1971 WSR study.

[2] <http://www.fs.fed.us/r8/fms/forest/projects/clarification.shtml>

[3] The word "mandatory" was removed from the AW guidelines in the late 1990's to help with access issues to the detriment of their members' safety. A downloaded copy of their 1995 published guidelines is available upon request.

- Benner, "Carolina White Water; a paddlers guide to the Western Carolinas"(1993) p.22
- BLM's website recommends "**When in Doubt, Scout**".
- <http://www.scouting.org>; Scout all rapids first and use your best judgment to decide whether to run or portage.

Scouting is the recommend safety protocol. Therefore, any alternative indicating the public could boat this 1.7 mile section would either be against published safety guidelines and/or encourage trespass.

c. Would Result in Property Damage

Trails do not exist on the property to accommodate scouting and portaging and therefore trampling and damage to the riparian vegetation would be required to traverse this section and in some cases just to pass along the surface of the river. Destruction of this property violates North Carolina law. N.C. GEN. STAT. S. 14-128. In addition, the trampling of flora for required new user-created trails^[4] would violate the "protect and enhance" mandates under the WSR law. Not only did the recent 2007 Chattooga study point out the need for new trails but the 1971 Study indicated that "deterioration of the streamside conditions" can be "expected" at these scouting and portage spots.^[5]



d. Would violate other rights of users of this property and the WSR Act

This is a tight meandering stream. Property rights, solitude, safety and the ability of the WCA members to enjoy their protected right of recreation (to fish, swim etc), would be devastated by grounded paddlers having to hike down the river or cascading into the deeper pools in which our members fish and swim. Not only would this violate state nuisance laws, it would violate the WSR "protect and enhance" mandates that serve to protect the experiences of the taxpaying members of the association. The protected recreational values and stream experiences of association members - whom are also taxpaying citizens - cannot be ignored when setting management policy for a Wild and Scenic River.^[6]



3. Conclusion

For these reasons, any attempts at floating the uppermost 1.7 miles of stream below Grimshawes bridge would violate existing law and our rights to enjoy our property free from interference. The landowners and association simply ask that the Forest Service make this clear to the public in the Environmental Assessment and in all publications referencing this section of the Chattooga (consistent with Executive Order 12630).

Sincerely,

Alan R. Jenkins

COUNSEL FOR THE RUST FAMILY
AND WHITESIDE COVE ASSOCIATION

Cc: Matthew Tilden, Esq., USFS

[4] *Chattooga Integrated Report* (p.42) noting the need for some new user-created trails.

[5] *Chattooga a Wild & Scenic River Study Report*, p.157, USDA (1971).

[6] WSR Act 1(b) "their immediate environments shall be protected for the benefit and enjoyment of present and future generations". Thus, the landowners' enjoyment, and those of WCA members and guests must be satisfactorily protected.



Portaging wood is
part of paddling



[Therefore,
trespass, erosion
of the banks and
the required new
trails are also a
**part of
paddling.**]

Emphasis added.

Portaging wood is part of paddling: There are situations where for some period of time (ranging from minutes to decades or longer) that wood pieces or accumulations totally block recreational passage. These instances represent a very small percentage of wood pieces in a river system. In these cases, paddlers typically either portage the obstruction or avoid the reach until the obstruction naturally changes enough to allow passage. Portaging wood obstructions is an expected and integral part of the paddling experience, particularly on narrow streams. Wood portages can often be very short and accomplished within the channel.

From American Whitewater letter to the USFS
regarding the Chattooga River Alternatives
September 13, 2007 signed by K. Colburn

April 9, 1934.

Memorandum for file:

Second indorsement by Chief of Engineers, dated March 28, 1934, confirms recommendations in report on NAVIGABILITY OF SAVANNAH RIVER AND ITS TRIBUTARIES, with the following exceptions:

1. That the Savannah River shall be considered navigable to the Forks M 297.1.
2. That the Seneca River shall be considered navigable to the foot of Portman Shoals M 8.

"However, it is the view of this office that the interests of navigation are not such as to make necessary the granting of approval of bridges or other structures in the Savannah River above Augusta (Mile 204.5) or in the Seneca River unless the proponents specifically request such approval." (See second indorsement of Chief of Engineers)



C. G.

Subject: Navigable status of Savannah River, Ga. & S. C., and its tributaries.

Misc. 76/

4th Ind.

/jbb

U. S. Engineer Office, Savannah, Ga., April 9, 1934 - To: The Chief of Engineers, U. S. Army, Washington, D. C.

Noted.

G. Carlington
Major, Corps of Engineers
District Engineer

cc - The Division Engineer,
South Atlantic Division,
Norfolk, Va.

File GD-900/1(Savh)

7074(Savannah River)-1

Subject: Navigable status of Savannah River, Ga. and S. C., and its tributaries.

2d Ind.

Office, U. of E., March 23, 1934 - To the Division Engineer, South Atlantic Division, NORFOLK, VA.

1. The views of the District Engineer on the navigable status of the Savannah River and its Tributaries, as set forth in paragraph 1 of his report dated September 27, 1932, are concurred in, except as to the Savannah River above Augusta and Seneca River.

2. While it appears that the condition of Savannah River above Augusta is such as to make impossible the present use of the stream for the transportation of commerce in appreciable volume, nevertheless in view of the past use of the stream, the expenditure of funds thereon, the provisions made by the Federal Power Commission in the interests of navigation when granting licenses for power dams, and the absence of federal legislation abandoning the improvement, it is the opinion of this office that the river has the legal status of a navigable waterway to the forks at Mile 297.1. Seneca River in its natural state apparently provides navigable depths and widths from its mouth to the foot of Portman Shoals at Mile 8. However, it is the view of this office that the interests of navigation are not such as to make necessary the granting of approval of bridges or other structures in the Savannah River above Augusta (Mile 204.5) or in the Seneca River unless the proponents specifically request such approval.

Construction of bridges authorized by Congress should receive the prior approval of the C. of E. and the Secty. of War - See 2d Ind. Letter from C. of E. dated March 14 1934, File S. R. 2005/102-2

G. B. Pillsbury,
Brigadier General,
Acting Chief of Engineers.

SOUTH ATLANTIC DIV. MAR 30 1934

GD-900/1(Savh)

3rd Ind.

Office, Div. Engr., South Atlantic Div., - TO the District Engineer, Norfolk, Va., March 30, 1934. SAVANNAH, GA.

Forwarded.

T. H. J.

Savannah River, Ga. + J.C.
and its tributaries.

GD-900/1(Savh)

1st Ind.

Office, Div. Engr., South Atlantic Div. -
Norfolk, Va., Nov. 12, 1932.

To the Chief of Engineers,
U. S. Army, WASHINGTON, D.C.

Forwarded.

For and in the absence of the Division Engineer:

Incl.

Report, in dupl.

E. H. Bullock,
Principal Engineer.

WAR DEPARTMENT
UNITED STATES ENGINEER OFFICE

FILE No.
M.S. 76/

POST OFFICE BUILDING

SAVANNAH, GA. November 7, 1932

Subject: Navigable status of waterways - United States.

To: The Division Engineer, South Atlantic Division, Norfolk, Va.

1. In compliance with Circular Letter from the Division Engineer on the above subject, dated January 23, 1931, GD 900/1, detailed report dated November 2, 1932, and entitled "Report on Navigability of Savannah River, Ga. and S. C., and Its Tributaries" is transmitted herewith.

2. Final recommendations as to navigability are contained in paragraph 1 of the report.

C. Carlington
Major, Corps of Engineers
District Engineer

12/jbb

Enclosure:
Report (in tripl.)

REPORT ON NAVIGABILITY
OF
SAVANNAH RIVER, GA. & S. C. (Cd) AND ITS TRIBUTARIES

		Paragraphs
Section I	General - - - - -	1 - 4
Section II	Savannah River above Savannah and below Augusta - - - - -	5 - 11
Section III	Abercorn & Big Cattle Creeks, Ga. - - - - -	12 - 16
Section IV	Ebenezer Creek, Ga. - - - - -	17 - 19
Section V	Brier Creek, Ga. (and Beavordan Creek) - - - - -	20 - 25
Section VI	Savannah River above Augusta - - - - -	26 - 32
Section VII	Stevens Creek, S. C. - - - - -	33 - 36
Section VIII	Little River, Ga. - - - - -	37 - 41
Section IX	Little River, S. C. - - - - -	42 - 44
Section X	Broad River, Ga. - - - - -	45 - 46
Section XI	Rocky River, S. C. - - - - -	47 - 49
Section XII	Tugaloo River, Ga. & S. C. - - - - -	50 - 53
Section XIII	Sassa River, S. C. - - - - -	54 - 67
Exhibit "A"	System of Stream Designation and List of Streams	
Exhibit "B"	Map of Savannah River below Augusta	
Exhibit "C"	Map of Savannah River above Augusta	
Exhibit "D"	Profile of Savannah River below Augusta	
Exhibit "E"	Profile of Savannah River above Augusta	

SECTION I

General

Syllabus - - - - - 1
 Authority - - - - - 2
 Scope of Investigation - - 3

1. Syllabus. - It is recommended:

a. That the following waterways, specifically called for in this report, be classified as shown below:

Stream	Mileage		Ref. Par.
	Navigable	Non-navigable	
Savannah River, Ga. & S.C. (Bull St. to Forks)	0.0 to 204.5	204.5 to 297.1	
Abercorn Cr., Ga. (Including Little Abercorn Cr.)	Throughout		12, 13, 14, 16
Big Collis (Collins) Cr., Ga. (Including Little Collis Cr.)			15, 16
Ebenezer Cr., Ga.	0.0 to S.A.L.	7.0 to end	17 - 19
Brier Cr., Ga.	Ry. Br. (M 7.0)		
	0.0 to O. of Ga.	50.0 to end	20 - 25
	Ry. near Haynesboro		
Beaverdam Cr., Ga.		Throughout	22 - 25
Stevens Cr., S. C.			33 - 36
Little River, Ga.			37 - 41
Upton Creek, Ga.			39, 41
Broad River, Ga.			43 - 44
South Fork, Ga.			
North Fork, Ga.			
Middle Fork, Ga.			
Hudson River, Ga.			
Rocky River, S. C.			
Seneca River, S. C.	<i>See memorandum attached</i>		47 - 49
Deep Creek, S. C.			50 - 54
Twelve Mile Cr., S.C.			53, 58
Little River, S. C.			54, 58
Tugaloo R., Ga. & S.C.			56, 58
Chauga River, S. C.			59 - 67
Chattooga R., Ga. & S.C.			62, 67
Tallulah River, Ga.			61, 67
			63, 67

b. That the following waterways, which were not included

the following waterways:

			Par.
Dundee Canal		Throughout	7c
Pipe Makers Canal		"	7c
Augustine Creek	*	"	8b
Steamboat River	Throughout	"	6c
Black Creek	"	"	8b
Knoxboro Creek	"	"	8c
Mill Creek	Throughout	"	14, 16
Bear Creek	"	"	16, 16
Lockner Creek	"	"	8d
Buck Creek	"	"	9b
King Creek	"	"	9c
Watch Call Branch	"	"	9c
Brier Creek, S. C.	"	"	9c
Lower Three Runs	"	"	9d
Steel Creek	"	"	9d
Pan Branch	"	"	9e
Four Mile Branch	"	"	9e
Upper Three Runs	"	"	9f
McBean Creek	"	"	9g
Hollow (Holly) Cr.	"	"	9h
Spirit Creek	"	"	9i
Butler Creek	"	"	9j
Horse Creek	0.0 to Power Dam (M 6.0)	6.0 to end	9k
Turkey Creek		Throughout	34
Hardlabor Creek		"	34
Cuffytown Creek		"	34
Little River, S. C.		"	42 - 44
Long Cane Creek		"	42g
Twenty-Three Mile Cr.		"	53
Twenty-Six Mile Cr.		"	53
Eighteen Mile Cr.		"	52b
Commeross Creek		"	52c
Keowee River		"	55, 58
Whitewater River		"	55
Toxaway River		"	55

* Considered navigable until proper investigation can determine head of navigation.

2. Authority. - a. This report is submitted in compliance with Circular Letter, Chief of Engineers, dated January 8, 1931, (EB 7074).

b. Preliminary Report in accordance with above, as submitted by the Division Engineer, South Atlantic Division, April 1, 1931, was made a matter of decision by the Chief of Engineers in his letter dated April 7, 1931 (File No. 7074-62) as supplemented by 2nd and 4th indorsements thereto. This decision limits the required investigation and report to those streams in list (c) of the above mentioned Preliminary Report.

month and exceeded 3,000 second feet for only five months during the entire period, indicating a fairly uniform flow. The difference between levels of extreme high and low water at this gage amounted to 2.3 feet.

b. The free channel of the Tugaloo, between its head and its junction with the Seneca, is obstructed by two fixed dams and about 25 rock reefs extending practically across the river at low water; the latter create a series of pools and rapids at low water instead of the uniform drop of about 2.4 feet per mile. Both fixed dams are without locks and are operated by the Georgia Power Company; the Yonah development at M. 42.3, just above the mouth of Panther Creek, has a normal head of 75 feet and a capacity of 37,500 horsepower; the Tugaloo development, just below the confluence of the Tallulah and Chattooga has a normal head of 150 feet and a capacity of 38,000 horsepower.

c. There are 3 highway bridges across the river, Knox Bridge, M. 15, State Highway Bridge, M. 32.5, and Prathers Bridge, M. 38. The Southern Railway Crosses the river on a bridge at M. 34.2. As the minimum clearance of these bridges is 23 feet above normal summer low water, these bridges offer no obstruction to the type of navigation which might be developed on the river.

61. Tributaries.- Excluding the small streams tributary to the Tugaloo, there are three tributaries of appreciable size, the Chauga River, the Tallulah, and Chattooga Rivers. These three streams are covered in the paragraphs 62 - 64. Due to the rugged nature of the drainage area of the Tugaloo, there are many small streams tributary to the river; with the exception of the waters immediately adjacent to their junction with the large river, the volume and slopes

62. Chauga River, S. C.- (Cd 297.1L-29.4R). Chauga River is the largest tributary of the Tugaloo, having a length of 28.3 miles and a drainage area of 105 square miles. The average slope in the lower part of this stream is 7.5 feet per mile. An examination made at the crossing of State Highway No. 15, about a mile above the mouth, showed a normal width of about 75 feet and a normal depth of 1 foot, with shoals above the bridge sufficient to prevent navigation.

63. Tallulah River, Ga. (Cd 297.1L-45.9L) unites with the Chattooga to form the Tugaloo at M. 45.9. This river has its origin in the highland region of northern Georgia and southern North Carolina and flows generally south, swinging to the southeast in its lower 20 miles. It has a total length of 47.9 miles and drains an area of 189 square miles of rugged highland region through which it flows. Original slopes of the river were over 13 feet to the mile and precluded navigation. Extensive hydroelectric development has been made of the river, which has resulted in the river consisting of practically a series of pools behind fixed dams for a distance of 34.7 miles above the mouth. In the same distance, the river rises 974 feet, 608 feet of which is at Tallulah Falls.

64. Chattooga River, Ga. & S. C. (Cd 297.1L-45.9R) unites with the Tallulah River to form the Tugaloo 45.9 miles above "the forks." This stream has its origin in the highland region of northeastern Georgia, where it is formed by the junction of North Fork and West Fork; it flows generally southwest to its junction with the Tallulah. Its length, including North Fork, is 55.7 miles and drains an area of 268 square miles of mountainous region. The river rises 673 feet from the pool of the Tugaloo dam to the junctions of

...stream ... and has such slopes, shoals, and rapids as to preclude its consideration as a navigable water. Extensive hydroelectric power developments will, undoubtedly, be made of this stream in the future. This will result in the impounding of sufficient water behind dams to allow small boats to travel short distances on the river.

65. Commerce and Navigability.-- The maximum area of potential commerce of the Tugaloo river and its tributaries includes few towns of over 500 population. The following is a list of these towns:

Cornelia, Ga.	1,542
Lavonia, Ga.	1,511
Madison, Ga.	1,966
Toccoa, Ga.	4,802
Seneca, S. C.	1,929
Walhalla, S. C.	2,388
Westminister, S.C.	1,774

Only one of the foregoing towns, Madison, is actually on the Tugaloo River or its tributaries. The country is not adapted to extensive profitable farming and the greater part of the marketable timber has been removed. As this area is tapped by the Southern Railway and by two first class highways, it is unlikely that any appreciable amount of commerce will ever use the river unless through traffic can be maintained to Augusta. This improvement would involve considerable expenditure and can not be expected to extend above Tallulah dam, due to the nature of the streams above that point. Many years ago, before the existence of railroads, all transportation of freight in this district was carried by pole boats from the mouth of Panther Creek to Augusta and Savannah, and ferries have been operated at various locations on the Tugaloo. A small stern-wheel boat, propelled by a gasoline engine and used to tow lighters carrying 30 to 40 tons, was operated on about 14 miles of the river (in the vicinity of the Southern Railway bridge) between the years 1910 and 1917. The operation of this boat was discontinued in 1917, due to the lack of

... of the Tugaloo and its tributaries consists of small launches on the navigable pools of the power developments and near Madison, Ga. The fact that the Tugaloo has been used in previous years for commerce creates a presumption of its navigability.

66. Miscellaneous.- There has never been a United States project for improving the Tugaloo River or its tributaries. A survey was recommended in 1911 and 1913 by the District Engineer, Savannah District, to determine the advisability of improving the Tugaloo River between Chandler Shoals and Panther Creek, but no money was appropriated for such a survey. Years ago, when pole boats and rafts used this section of the river, improvements of the channel by removal of boulders were made by local interests at the cross channel reefs to permit boats to pass safely over the reefs at low water. In order to render that section again navigable, it would be necessary to make similar improvements at considerable cost, and if it is desired to effect connection with the Savannah River, to provide navigation over Chandler and Hatton Shoals. Further improvement of the Savannah and Tugaloo Rivers for hydroelectric power will, in all probability, include a dam across the Savannah River about 7 miles below its head at the Hartwell Site, which would create a pool of sufficient depth over these shoals to allow navigation. This dam, in conjunction with one considered on the Tugaloo at the Sugar Creek Site, Mile 22, would, if provided with locks, permit navigation practically to the foot of Jonah dam. In order to develop profitable commercial traffic on the Tugaloo River necessitates through navigation to Augusta. The District Engineer, Savannah, Ga., on Sept. 10, 1925, recommended the abandonment of the Government project for improvement of the Savannah River above Augusta; this recommendation was approved by the Board of Engineers for Rivers and Harbors on June 24, 1926 (see H.

due to the gradual improvement of highways and the decrease in river commerce.

37. Conclusions.- a. Tugaloo River, Ga. and S. C., formerly carried useful commercial traffic at least in the vicinity of Madison, Ga.- Potential traffic has never warranted improvement of the river by the Government, and it is improbable that future improvement would create any appreciable commerce. The stream could be improved by open river work in clearing sluiceways through the reefs and would be considerably improved by hydroelectric developments, if these included proper locks. If the Savannah River above Augusta as far as the Tugaloo is improved for navigation, there would, in all probability, be an increase in traffic on the latter; the character of the surrounding country, however, precludes the probability of any considerable amount of increase.

b. Chauga River, S. C. has never supported commercial traffic except for logging operations, and as the marketable timber supply has been largely exhausted, it is not believed that commerce will ever be sufficient to warrant improvement. In addition to the foregoing, stream slopes are unfavorable to improvement and it is believed that there is no justification of considering the stream navigable.

c. Tallulah River, Ga.- The rugged character of the country through which this river flows, together with the absence of any probable commercial enterprises other than power development in the area precludes the possibility of any amount of future navigation on the river other than small launches on the pools. It is, therefore, believed that this stream should be classed as non-navigable.

nature of the country through which this stream also flows, the sparse population of the area, and the unfavorable slopes of the stream itself, it is believed that there is no justification for considering it a navigable stream.

Recommendations.-

- a. That Tugaloo River, Ga. and S. C. (Cd 297.1L) be classified as non-navigable throughout.
- b. That Chauga River, S. C. (Cd 297.1L-29.4R) be considered non-navigable throughout.
- c. That Tallulah River, Ga. (Cd 297.1L-45.9L) be considered non-navigable throughout.
- d. That Chattooga River, Ga. and S. C. (Cd 297.1L-45.9R) be considered non-navigable throughout.

U. S. Engineer Office,
Savannah, Ga.
November 2, 1932.

C. Garlington,
Major, Corps of Engineers
District Engineer