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October 1, 2007

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

Re: Comments on Proposed Alternatives for Recreation Management on Upper  
Chattooga River

Dear Jerome:

This letter is filed on behalf of our client, Georgia ForestWatch, in response to the U.S. Forest Service's request for comments on the revised and new alternatives made public on Thursday, September 27, 2007 in connection with its reviews of recreation management on Upper Chattooga River. Our response is timely and meets the agency's extended deadline for commenting of 5 p.m. Monday, October 1. It also is substantive and thus meets all requirements for standing to comment under the National Environmental Policy Act.

Georgia ForestWatch is a not-for-profit forest conservation group dedicated to protecting and restoring the native ecosystems of Georgia's Mountain and Piedmont public lands and to informing the citizens of Georgia about these forested landscapes. Its representatives have been closely involved with the visitor capacity use analysis for the North Fork and have attended every public meeting held on the issue, both as ForestWatch representatives and as members of Friends of the Upper Chattooga, the umbrella organization formed to help protect the Chattooga's wild and scenic values, educate the public to threats to these values, and assist the Forest Service in arriving at a decision that protects this river's resources. Georgia ForestWatch is an interested party to the Forest Service's request for comments and offers the following for your consideration.

First, we reincorporate by reference all comments previously filed with your office on behalf of Georgia ForestWatch regarding this matter, including without limitation, our letter of September 11, 2007, with attachments.

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*Re: US FS*  
*10-5-07*

Second, we must point out that by providing a mere 96 hours to comment on these new alternatives, the Forest Service appears to be acting in an arbitrary and capricious manner and in apparent violation of the spirit and the black-letter law of the National Environmental Policy Act. 42 U.S.C. 4321. This type of compressed deadline simply does not permit a reasoned and suitably deliberative evaluation of the new material. We are now close to *two years* into the Forest Service re-visitation of this complex issue. We, and other stakeholders, have patiently participated in this lengthy decision-making process and object to this seemingly hasty attempt to wrap it up.

Moreover, the agency's methodology of trying to elicit public input on the NEPA alternatives via a confusing grading "checklist" in the charged atmosphere of the public meeting conducted in Clayton, Georgia on Saturday, September 29, raises additional questions about your adherence to NEPA regulations. Many present that day felt like they were taking part in a rushed, ad-hoc experiment. At a minimum, the agency should have reopened the comment period for another 30-day scoping period in order to better enable informed comment on both the revised alternatives and, especially, the three new alternatives.

The new urgency in what has previously been a plodding pace raises legitimate concerns as to whether the agency is moving forward too hastily, without conducting (and making public) the full and fair, NEPA-mandated effects analyses that we have been seeking for months. This unfortunate impression was given added credence by the "podcast" radio interview granted by the head of the ID and Core Teams and your overall project coordinator, John Cleeves. In that interview, Cleeves opines that "we're changing the policy" regarding no-boating on the Upper Chattooga. The subsequent events at the alternatives workshop in Clayton on Sept. 29 leave the clear impression that Sumter officials are poised to overturn better than three decades of smart forest management for reasons unknown, undocumented and unsupported.

Nevertheless, in an effort to cooperate with this effort, we offer the following comments:

**Comments Common to Alternatives 1-9:**

- **Large woody debris:** The new proposal to "maintain current management" regarding this important aquatic resource is simply unworkable, in that the three national forests with management responsibility for this 21 miles of the Wild and Scenic Chattooga River have different standards for dealing with this issue. Rather, we suggest a tripartite amendment common to the three affected Land and Resource Management Plans so as to emphasize "recruitment of woody debris." By that we mean that no removal of large woody debris (pieces larger than four feet long and four inches in diameter on the small end) will be permitted unless it poses a threat to private property or public infrastructure (such as bridges.) The need for removal must be determined on a case-by-case basis, and, in general, all three national forests must

agree to let nature hold sway over which dead and dying trees are going to fall in the river. Let them stay where they drop – after all, this is a Wild and Scenic River!

- **Tributaries:** If one understands current management in Alternatives 1-3 (no boating,) and proposed management to permit various forms of boating in Alternatives 4-9, the Forest Service currently permits creeking on all tributaries to the Upper Chattooga, but not the North Fork. Under the boating alternatives, boating would be allowed in some form on the North Fork, but would “not include tributaries.” As explained by Forest Service personnel at Station No. 4 during the public meeting in Clayton on Saturday, this new tributary rule would be applicable only in those portions of the tributaries within the confines of the narrow Wild and Scenic River corridor. This does not make sense and would be virtually impossible to manage and regulate. The agency needs to explain this tributary detail more clearly and suggest a workable solution to the situation. The easiest way to do so, again by plan amendment, would be to ban all boating all the time on all tributaries to the North Fork of the Chattooga, from their spring heads all the way down to their confluence with the main stem.
- **Group sizes:** Again, management of group sizes along this part of the river is different from national forest to national forest, often depending on whether visitors are in the Ellicott Rock Wilderness. It would make sense, again by plan amendment, to adopt a new standard uniform to Sumter, Chattahoochee and Sumter National Forests. Our suggestion, previously filed, is that this number of pedestrians be somewhat lower than 12 persons and that it be applicable to the entire corridor (not just the Wilderness,) and all groups, no matter their organizational affiliation. A starting point for discussion is brought forward in Alternative No. 9, which proposes a maximum group size of six for all groups. Were boating to be allowed anywhere on this stretch of river, we would suggest a minimum of two paddlers in the two boats (for safety reasons,) and a maximum of four single-capacity boats for any one group.
- **Encounters and solitude:** The agency asks the public to comment on the “encounter goals” for the various alternatives. We would note that it should instead be asking how to enhance the Outstandingly Remarkable Value of solitude and the primitive nature of the corridor at issue, which the agency is supposed to enhance by federal law under both the Wild and Scenic River and Wilderness Acts. Rather than trying to elicit comment on how to increase a number of acceptable encounters in this area, the U.S. Forest Service should be working to decrease them – there is no doubt, from long experience, that the best days in this corridor are those in which no other human beings are seen at all.
- **Permit system:** The agency should maintain current management in this instance – no permits and no self-registration for any pedestrians along the Upper Chattooga. Were any form of boating to be allowed, we reiterate that it would only be fair, both for safety and monitoring reasons, to require a permit for any and all boaters on this part of the river (not self-registration.)

- **Commercial boating issues:** It is disingenuous for the Supervisor of the Sumter National Forest to declaim that the pro-boating alternatives would not allow use of the river by commercial outfitters or any commercial interests, when he and his ID Team, in fact, would quietly open the door to commercial exploitation of the river under several of the boating alternatives. This would be the inevitable result if boating on inflatable single kayaks, inflatable tandem kayaks, tandem (hard) kayaks and four-persons inflatable rafts were permitted on the river – as such craft are routinely rented to the public by outfitter-guide companies. Such outfitters, in turn, could be expected to expand their “services” to the Upper Chattooga by shuttling boaters to put-in and put-out points, as they currently do under license on the 36 miles of the Lower Chattooga River. If the Forest Service is actually interested in prohibiting commercial expansion on the headwaters, it must limit this form of “creeking” to self-guided boats owned by individuals – and require those paddlers to certify as such on the permit they are issued for use of the river.
- **“Missing issues:”** While the Forest Service does not appear ready to actually pay much attention to this long list of significant issues, it merits repeating today that the agency is required under any number of federal laws, including the National Environmental Policy Act, and its own manual and handbook and internal regulations to evaluate the direct, indirect and cumulative effects of each alternative, including biological, physical, economic and social effects of the proposals. FSH 1909.15 at 15. Evaluation of these issues has either not been done to date or, if it has been done, has not been made available to the public. It is thus unfair, arbitrary and capricious to ask the public to “grade” aspects of the various alternatives on a rank of A to F, and comment on the details therein without completing and publicizing the required analysis. Georgia ForestWatch reiterates its previous comments on the many significant issues raised by this entire process, and reincorporates by references its letter of September 11, 2007, as well as the related missives filed with your planners by Friends of the Upper Chattooga on both June 29, 2007 and July 28, 2007. The latter provide a fairly comprehensive list of what the Forest Service must analyze as it proceeds with this effort, and we would highlight the following as requiring special attention:
  - 1) **Navigability:** While removing the boating issue from present consideration for the 1.7 miles of private property at the top end of the North Fork, the agency has not answered the pressing question of whether the remaining 19.3 miles of the river are legally navigable under federal and state laws in North Carolina, South Carolina and Georgia. The agency must do so before the public is asked to analyze further boating alternatives.
  - 2) **Precedent-setting national impact:** The agency must evaluate the potential cumulative impact any decision to permit boating on the

North Fork would have on other pristine whitewater rivers of the United States, notably the wild waters of Yellowstone National Park.

- 3) **Biological and archeological surveys:** The various alternatives cannot be properly evaluated unless and until the agency completes a systematic review of the affected corridor for both rare and sensitive plants and archeological sites, and makes the results available to the public.
- 4) **Old growth:** The agency must identify old growth communities in the corridor and along tributaries and specify how these will be protected.
- 5) **Outside consultation:** The agency must consult with affected agencies (U.S. Fish and Wildlife Service) regarding incidence of rare plant species (like rock gnome lichen) and protected animal species (Eastern cougar,) as well Native American tribes and groups (regarding archeological sites,) and other federal agencies (such as the National Park Service, as regards Yellowstone.)
- 6) **Cumulative and economic impacts and matters of economic justice.** Georgia ForestWatch reiterates the many such impacts it brought forward, *infra*, in its letter of September 11, 2007.
- 7) **Fishing and swimming impacts.** Without repeating a lot of extraneous detail, the agency must analyze why current zoning of the North Fork is a good practice today – and has been so for better than 30 years – and how permission for any boating on this 21 miles of river and/or its tributaries would degrade the experience of both anglers and swimmers, and other users, as has occurred on the lower river.
- 8) **Education and law enforcement:** We reiterate that all the alternatives now brought forward by the agency presuppose new practices and procedures and regulations for the Upper Chattooga area. Implementation, whether boating is allowed or not, would require significant commitment of Forest Service personnel and resources, including that of law enforcement officers, and probably reinstatement of River Rangers for the river. The public needs to know, in writing, that the Forest Service can commit such resources to implementation of any alternative before it can properly commit to supporting any alternative.
- 9) **Water quality.** No information made public by the Forest Service to date refers to baseline water quality today and the need for future water quality testing. This is an important factor that should be analyzed as part of the agency's environmental evaluations.
- 10) **Safety.** The Upper Chattooga is flashy and tricky, giving rise to further questions about boater safety, were boating to be permitted on this part of the river. This, too, is a significant issue that must be

properly evaluated, particularly since the Forest Service is now advocating use of craft often rented by inexperienced boaters.

**Comment as to revised Alternative No. 1:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Simply maintaining current management is proving insufficient to protect the wild and special resource that typifies the Upper Chattooga today, but would serve, with some slight amendments, as the best vehicle for doing so into the future.

**Comment as to revised Alternative No. 2:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- The elimination of current parking near the Russell Bridge at Highway 28 and elimination of roadside parking within the Wild and Scenic corridor -- while theoretically attractive as a means to reducing crowds -- would create a whole new set of illegal parking problems along roadways outside the Wild and Scenic River Corridor.
- The idea of self-registration for pedestrians should be abandoned. There are better means of gauging visitor numbers and encounters.

**Comment as to revised Alternative No. 3:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- As we have previously pointed out to the agency, the proposal for “no net gain in parking capacity” is not detailed enough to properly evaluate. This particular proposal suggests that available parking could be increased in certain areas if decreased in others. What exactly is the Forest Service contemplating in this instance?

**Comment as to revised Alternative No. 4:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service is opposed to introduction of boating or so-called “creeking” anywhere on the Upper Chattooga’s 21 miles of wild river, or continuation of “creeking” on its tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable

Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 4, however, we would make the following comments and ask that they be evaluated by the Forest Service. We reiterate, as in our letter of September 11, 2007, that the proposed boating access point 0.4 mile below the private property in the corridor will almost certainly be bypassed by boaters, given the large and well-defined user-created trail that more directly leads to the river below Whiteside Cove Church. The advent, under this alternative, of allowing up to four groups of boaters per day each with a maximum of six boaters per group (a total of 24 individuals) will add immense parking pressure at both the Old Iron Bridge (on Bull Pen Road,) as well as the small Forest Service parking lot on Whiteside Cove Road. The boating proposed from Bull Pen down to Spoonauger Falls above Burrell's Ford (with the same number of individuals, and the vehicles necessary to servicing them,) will create an even greater parking problem at Bull Pen and exacerbate the situation at Burrell's Ford. You also ask if the Chattooga Cliffs reach should be more protected than other areas of the Upper Chattooga. No, and certainly not more than the Rock Gorge Inventoried Roadless Area -- as wild a section as you ever will visit -- and not more than the reach traversing the Ellicott Rock Wilderness. Current forest management requires special protection for such areas, which would be diminished if boating is allowed there, in any season of the year, or time of day. If any boating is allowed in either section proposed under Alternative 4, it should be limited to Dec. 15-Feb. 15.

**Comments as to revised Alternative No. 5:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service, is opposed to introduction of boating or so-called "creeking" anywhere on the Upper Chattooga's 21 miles of wild river, or continuation of "creeking" on its tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 5, however, we offer the following comment. This revised alternative would create unconscionable parking pressure from Whiteside Cove parking lot to Bull Pen Road, and all the way down to the parking areas in the Thrift's Lake area, and likely contribute to trespass of private property in this area. Were boating allowed under this alternative, we would support use of safety equipment for all boaters, as determined by the Forest Service and make it a condition of the permit that should be required in this case (not self-registration.)

#### **Comments as to revised Alternative No. 6**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service, is opposed to introduction of boating or so-called “creeking” anywhere on the Upper Chattooga’s 21 miles of wild river, or continuation of “creeking” on its tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 6, however, we offer the following comment. The unlimited boating proposed in this alternative (single kayaks, tandem kayaks, inflatables of all sort and four-person rafts) represents a management nightmare, which would overwhelm a fragile natural resource. We understand the agency must propose such a sweeping plan under NEPA, but it should be shelved as unworkable and overly broad.

#### **Comments as to new Alternative No. 7:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service is opposed to introduction of boating or so-called “creeking” anywhere on the Upper Chattooga’s 21 miles of wild river, or continuation of “creeking” on its tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 7, however, we would make the following comments and ask that they be evaluated by the Forest Service. The proposed boating season of December 1 to March 10 is not restrictive enough, in that it will almost surely create user conflict with anglers and other visitors to the corridor. If any boating is allowed in any sections proposed under Alternative 7, it should be limited to Dec. 15-Feb. 15. The maximum number “of 12 for all users” per each group also creates a problem, in that the number of groups is not limited under this new alternative. This essentially would make for an unlimited number of boaters under this alternative.

#### **Comments as to new Alternative No. 8:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service is opposed to introduction of boating or so-called “creeking” anywhere on the Upper Chattooga’s 21 miles of wild river, or continuation of “creeking” on its

tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 8, however, we would make the following comments and ask that they be evaluated by the Forest Service. This alternative essentially recaptures the entire Upper Chattooga for boating, but seeks to implement a strategy to limit encounters if they occur at the rate of more than six per day for more than 18.25 days per year. The key question here: how will the Forest Service monitor and count such encounters? But if it manages to do so, and the encounters exceed the 5 percent threshold, we would suggest a return to the no-boating zoning policy in effect today for the Upper Chattooga (an automatic sunset provision, in essence.) Georgia ForestWatch cannot support creation of new user-created portage trails for boaters in this corridor. Limiting group sizes to six individuals for all users is worthy of consideration.

**Comments as to new Alternative No. 9:**

- See comments above, as to adopting common practice and standards for all three affected national forests.
- Georgia ForestWatch, for reasons previously stated and shared with the U.S. Forest Service is opposed to introduction of boating or so-called “creeking” anywhere on the Upper Chattooga’s 21 miles of wild river, or continuation of “creeking” on its tributaries unless and until a full and comprehensive Environmental Impact Statement of the long-term impacts of increased boating on the Outstandingly Remarkable Values of the headwaters reaches is completed. If boating were permitted under Alternative No. 9, however, we would make the following comments and ask that they be evaluated by the Forest Service. If any boating is allowed in the sections proposed under Alternative 9, it should be limited to Dec. 15-Feb. 15. It also proposes unlimited boating for single and tandem hard boats during the period Dec. 1-March 31, but would seek to manage encounters if they are occurred at a rate greater than five per day for more than 18.25 days per year. It is unclear how the Forest Service proposes to record and evaluate these encounter levels. But if the agency manages to do so, and the encounters exceed the 5 percent threshold, we would suggest a return to the no-boating zoning policy in effect today for the Upper Chattooga (an automatic sunset provision, in essence.) Georgia ForestWatch cannot support creation new user-created portage trails for boaters in this corridor. Limiting all group sizes to six individuals for all users is worthy of consideration.

In conclusion, we decry the process used in the “workshop” on Saturday, but appreciate the agency’s willingness to extend a truly impossible deadline by a mere 48 hours. We ask that the agency and its core planning and ID teams review these comments carefully and that the Sumter National Forest, as lead agent in this effort, better adhere to its own rules and federal law,

Dr. Jerome A. Thomas  
October 1, 2007  
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especially the requirements of the National Environmental Policy Act, as this process continues forward.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary R. Sheehan Jr.", written in a cursive style.

Gary R. Sheehan Jr.

cc: Joe Gatins, Georgia ForestWatch  
John Cleeves, USFS  
Ruth Berner, USFS