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**Comments on the USFS Report Titled
Capacity and Conflict on the Upper Chattooga River**

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INTRODUCTION AND EXECUTIVE SUMMARY

The USFS report titled Capacity and Conflict on the Upper Chattooga River (Integrated Report or IR) contains a wealth of information useful in managing the Chattooga River and we commend the FS and their consultants for their efforts compiling this report. We are offering these comments as both comments on the Integrated Report itself, and also on the greater process and state of information leading up to this fall's NEPA process. The IR finds that:

- Paddling use is expected to result in at most 1200 additional visits to the Chattooga Headwaters each year – making it among the smallest uses of the area.
- The only impact that paddlers *might* have according to the IR that is not common to all current users is a potential social impact on the recreational experience of a very small number of sensitive, backcountry fly fishermen, on a few days of the year. That is it.
- There is no evidence of similar impacts on the Chattooga or on any river in the region.
- The few anglers present *would not see any paddlers* on at least 80% of the year and that for much of the remainder of days they may or may not see one or two groups of paddlers. The only exception would be a handful of suboptimal angling days when boating use could be unusually high (still only 4, 8, or 14 groups expected depending on the reach).

The IR shows clearly that the result of allowing paddling on the Chattooga amounts only to a couple of highly sensitive anglers seeing a couple groups of paddlers on a small percentage of days when angling is suboptimal. This finding should be the end of the discussion. However, while the report clearly offers no evidence of any past or potential conflicts of any significance – it somehow makes the massive leap in logic to conclude that conflicts between boaters and anglers may occur on the Chattooga, may be significant, and may require active management intervention. The IR goes on to present a range of biased “solutions” to this “problem” – which in reality does not exist and will not occur. We fully disagree with these conclusions, and will show in our comments that the IR itself clearly does not support them.

We challenge the USFS to find a management alternative more elegant, fair, protective, responsive to rapid flow changes, and easier to manage than simply allowing the natural flow regime to dictate use on the upper Chattooga River. Quite frankly, it can't be done – the natural flow regime has worked on every other river in the region to eliminate any potential conflicts. The natural flow regime creates an 80:20 split on the Chattooga; 80% of days having angling without boaters present, and 20% of days having potentially shared use. We see this as meeting even the zero-tolerance angler's interests by providing predictable time periods during which no boaters will be present, on over 80% of days. We would add that in reality, based on flow preferences, flow changes, time of day, season, location selection, number of hours fished, and other factors, it is highly likely that an individual angler would actually see paddlers on less than 5% of visits. This management alternative is proven, it is legal, it is regionally and nationally consistent, and it meets our interests. The IR offers no evidence for why this alternative is not the best possible alternative.

We question the title of the report itself. The Chief ordered a capacity analysis, not a “conflict” analysis. Despite the Chief's clear order, the local FS insists on making this issue about conflict between two primary user groups – anglers and whitewater paddlers. Both groups have an equal right to solitude on the river and the IR shows that both groups are complimentary to each other, not in conflict. The IR shows that the natural flow regime provides the preferred recreational experiences for every user group.

The IR contains significant errors and omissions that must be remedied. Especially egregious is the discussion on decision space which excludes vital information such as USFS policy on river management and navigability, an interstate compact securing navigation, and a US Supreme Court statement of navigability of the Chattooga.

Our comments that follow address both the IR itself, and also the greater process and state of information leading up to this fall's NEPA process. We point out a number of factual errors, many significant omissions, errors in interpretation of facts, organizational errors, and errors of judgment regarding management options. We ask that the FS take note of our comments and concerns and address them appropriately as we move forward in the NEPA process. We also ask that the studies underlying the IR, and the IR itself be corrected based on these comments and the comments of other stakeholders. Continuing to create a record of documents that have not been corrected based on public comment does nothing but create a

weak and flawed foundation for future decisions. These documents, as they exist, are not defensible.

1. Comments on the Integrated Report chapter titled: “Introduction”

The legend in Figure 1 misrepresents the map and reality.

The legend in Figure 1 lists 4 reaches open to boating and only one closed to boating, while the map clearly shows the 3 (or 4 if the Delayed Harvest Reach is counted) reaches banned to boating. The legend should be changed to match the map, and include the 3 or 4 reaches banned to boating.

The introduction also fails to point out that the *entire* river corridor is open to angling and every effort is made in the IR to imply that boaters and anglers share the river equitably under current management. This could not be further from the truth. The misleading legend in Figure 1 is just one example of this bias.

Agency “expert judgments” lack boating expertise.

On page 6 among the Report Limitations and Caveats it is noted in the second bullet that agency staff was relied upon for “expert judgments.” None of these “experts” are experts or even novices in whitewater boating. Furthermore none of the “expert” agency staff are experts in the management of whitewater boating on steep mountain creeks and rivers such as the Upper Chattooga. This fact needs referenced in the report, and should temper if not disqualify the assertions made by this group regarding paddling.

2. Comments on the Integrated Report chapter titled: “The Upper Chattooga “Decision Environment”

The IR fails to address user capacity and the outstanding remarkable values on a significant portion of the river.

The upper 2 miles of the Chattooga Headwaters were not addressed at all in the IR other than to dismiss them as private lands and beyond Agency management discretion. The reach was excluded explicitly on page 10 and 11 in a discussion of navigability and private land. This section contains significant errors – though none greater than the resulting omission of this section of river from the remainder of the analysis.

Congress designated this section as Wild and Scenic, it was included in our appeal, and was included in the appeal decision that required a user capacity analysis. The upper 10% of the Chattooga WSR has various OR values. The USFS admittedly has not entered this reach for a long time period, so the public and the agency cannot determine whether or not they are protecting and enhancing those OR values as required by federal law.

On page 52 the IR states that development is not a major concern. It is a major concern for American Whitewater and we have no information regarding development in the

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top 10% of the upper corridor including information on potential scenic, biological, or water quality impacts. The IR should be revised to include these concerns and specifically state these significant data gaps.

What we do know about this reach is that the Recreation OR value has been eviscerated by the USFS. The FS is has not protected and enhanced public recreation on this reach and are thus, *absolutely and obviously*, violating the WSRA. The one use that the USFS can explicitly allow on this section of river, and thus at least partially fulfill their mandate, is paddling – the only use they have banned. The IR is deficient in that it does not describe the recreational resources of the top 10% of the upper river, nor does it propose alternatives for protecting and enhancing the recreation OR value of this reach.

The IR is deficient in omitting key portions of the Wild and Scenic Rivers Act (WSRA) addressing private lands.

The IR fails to mention that the USFS has the right and obligation under the WSRA to negotiate or condemn a floating or scenic easement to assure the rights of the public to paddle, scout, or portage on Wild and Scenic Rivers. This discussion should be added to page 7, under the WSRA section and reiterated under the navigability section on page 11.

SECTION 6 (a) 2 of the WSRA states that:

“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.”

This telling section of the WSRA indicates a clear intent of the authors that the public should be allowed to access and traverse Wild and Scenic Rivers, especially in cases like the Chattooga that have recreation – and boating specifically – mentioned as an OR value.

While condemnation of any easements on the upper Chattooga is not necessary to allow floating (see following discussion on navigability) this element of the act certainly must be referenced in the IR, and its intent and power noted.

The IR omits key USFS policy regarding the management of Wild and Scenic Rivers flowing through private lands.

The IR omits the USFS policy on regulating use on Wild and Scenic Rivers flowing through private lands. The Forest Service Manual directly states that the USFS has the right to regulate use on rivers within the USFS boundaries *or* Wild and Scenic Rivers. Yet, the IR is written as though this document and policy do not even exist. See the excerpt below from the Forest Service Manual:

2354 - RIVER RECREATION MANAGEMENT.

2354.01 - Authority. Administration of the rivers within the National Forest System falls under the general statutory and regulatory authorities, including mining and mineral leasing, laws, that apply to lands. The basic authority to regulate public use of waters within the boundaries of a National Forest or Wild and Scenic River derives from the property clause of the U.S. Constitution as implemented through the laws pertaining to the administration of the National Forests. The authority of the Secretary of Agriculture to regulate the public use of waters found at 16 USC 551 has been upheld in many court decisions. The most notable cases are:

1. *United States v. Lindsey*, 595 F.2d 5 (1979). The court held that within a federally designated area the Federal Government had the authority to regulate camping on State-owned land below the high water mark of a river.

2. *United States v. Richard*, 636 F.2d 236 (1980) and *United States v. Hells Canyon Guide Service*, 660 F.2d 735 (1981). The courts held that the Forest Service can regulate use of a river notwithstanding the fact that users put in and take out on private land.

This discussion should be added to page 7, under the WSRRA section and reiterated under the navigability section on page 11.

The IR fails to address Section 13(e) of the WSRRA as it relates to the USFS decision space on the Upper Chattooga.

Section 13 (e) of the WSRRA states:

“Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.”

In 1876 the Supreme Court clarified that the Chattooga (the most northern tributary of the Tugaloo River) is navigable to its source under an interstate compact entered into between the States of South Carolina and Georgia on the twenty-fourth day of April, 1787. The court stated the following, referencing an interstate compact:

“The **navigation** of the river Savannah, at and from the bar and mouth, along the north-east side of Cockspur Island, and up the direct course of the main northern channel, along the northern side of Hutchinson's Island, opposite the town of Savannah, to the upper end of the said island, and from thence up the bed or principal stream of the said river to the confluence of the rivers Tugaloo and Keowee, and **from the confluence up the channel of the most northern stream of Tugaloo River to its source, and back again by the same channel to the Atlantic Ocean, is hereby declared to be henceforth equally free to the citizens of both States, and exempt from all duties, tolls, hindrance, interruption, or molestation whatsoever attempted to be enforced by one State on the citizens of the other, and all the rest of**

the river Savannah to the southward of the foregoing description is acknowledged to be the exclusive right of the State of Georgia.(emphasis added)¹”

Thus, the 30+year ban on paddling under the management plan for the Chattooga Wild and Scenic River has been in direct conflict with Section 13 (e) of the WSRA.

Likewise, the Comprehensive River Management Plan contained in the Land and Resource Management Plan for the Sumter National Forest – now up for amendment - must conform to Section 13 (e) and allow navigation without hindrance, interruption, or molestation. Several management options that limit paddling would directly and *illegally* conflict with this compact.

The IR wrongly infers that the Chattooga River has not been adjudicated as navigable, as it relates to the USFS decision space on the Upper Chattooga.

Governing regulations for navigability determinations state: “Precise definitions of "navigable waters of the United States" or "navigability" are ultimately dependent on judicial interpretation and cannot be made conclusively by administrative agencies.²”

In the case of the Chattooga, judicial confirmation of navigability has occurred and confirms navigability of the reaches in question. In 1876 the Supreme Court clarified that the Chattooga, the most northern tributary of the Tugoloo, is navigable *to its source* (see above). The Chattooga River is absolutely navigable – since it has been adjudicated as such by the *Supreme Court of the United States*³.

The IR fails to include relevant references, context and policy regarding the Wilderness Act.

The IR overlooks specific USFS policy that dictates how wilderness should be managed. The Forest Service has promulgated its own regulations to execute Congress’s mandate that: agencies administer wilderness to preserve its wilderness character.

16 U.S.C. § 1133(b) states:

“each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and ... wilderness areas *shall be devoted to the public purposes of recreational ... use*”).

The Forest Service regulations provide the following with respect to wilderness areas:

¹ State of South Carolina v. State of Georgia 93 U.S. 4 (1876)
<http://supreme.justia.com/us/93/4/case.html>

² 33CFR 329.3

³ State of South Carolina v. State of Georgia 93 U.S. 4 (1876)

- National Forest Wilderness shall be so administered as to meet the public purposes of recreational ... uses;⁴
- In carrying out such purposes, National Forest Wilderness resources shall be managed to *promote* [and] *perpetuate* ... specific values of ... primitive recreation. *To that end:* ... Wilderness will be *made available for human use to the optimum extent* consistent with the maintenance of primitive conditions.⁵

The IR also makes several USFS policies on Wilderness management seem like a passing opinion with little or no relevance to the management of the Chattooga. The first example of this is the forth bullet under the Wilderness Act section on page 9. The Forest Service Manual contains the following policies:

“Maximize visitor freedom within the wilderness. Minimize direct controls and restrictions. Apply controls *only when they are essential for protection of the wilderness resource and after indirect measures have failed*”.

“Use information, interpretation, and education as the primary tools for management of wilderness visitors.”

The USFS Manual also provides that one of the objectives for management of wilderness is to “Protect and perpetuate wilderness character and public values including, but not limited to...primitive recreation experiences (USFS Manual § 2320.2).” It is later clarified in section 2320.5.3, that rafts and canoes are considered primitive devices suitable for use in wilderness. These points should be referenced in the IR – and should be considered fundamental management objectives for the Chattooga River’s Ellicott Rock reach.

The discussion of “grandfather rights” fails to address paddling specifically.

In the final bullet under the WSRA section on page 8, the IR states that:

“In general, types of use and access routes within river corridors at the time of designation receive ‘grandfather rights’ (continued use). However if an access route or type of use adversely impacts an OR Value, it may be closed or regulated.”

The IR is deficient in not specifically discussing how this relates to paddling. Substantial paddling use occurred both prior to and at the time of designation. Furthermore there is absolutely no evidence of that paddling use impacted any other OR value, either then or now.

⁴ 36 C.F.R. § 293.2

⁵ 36 C.F.R. § 293.2(b)

In fact, eliminating paddling use has impacted and continues impact a grandfathered element of the recreation OR value for the upper Chattooga - paddling. This is a major issue regarding the historic boating ban and future management and must be elaborated upon in a revised draft of the IR. Not doing so leaves a critical element of the decision space essentially blank.

Anecdotal evidence is not evidence – there is no evidence of past conflicts

Anecdotal evidence is inappropriately relied upon throughout the IR. For example in the third bullet on page 15 (6th bullet under the History section), the authors state that anglers “appear” to have had conflicts or been displaced by increased boating use on the lower river – an opinion which they admittedly base on loose anecdotal evidence.

We are aware of no factual evidence or first hand accounts of any such occurrence in the record, and thus ask that this bullet be struck. This report should be based on facts – not speculation by biased sources. Continued reliance on anecdotal evidence of questionable intent is a significant hurdle to resolving issues surrounding Chattooga River management.

The IR misrepresents state navigability law and the disagreement among stakeholders regarding navigability.

The IR uses a misunderstanding of navigability law and USFS policy to conclude that they cannot manage the section of the Chattooga WSR that flows through private lands. This must be corrected.

The public has the right to paddle this river under both state and federal law. As for state law, the IR erroneously states that a 1998 opinion by the NC Attorney general:

“suggested that waters ‘capable of use’ by canoes and kayaks were likely to be determined navigable if adjudicated” (emphasis added).

In fact the AG opinion did not merely suggest, rather firmly stated that rivers capable of being paddled *are* navigable⁶. The Attorney General’s Opinion never mentions adjudication as a requirement of navigability – merely the possibility of floating in a canoe or kayak.

⁶ “The controlling law of navigability as it relates to the public trust doctrine in North Carolina is as follows: " If water is navigable for pleasure boating it must be regarded as navigable water, though no craft has ever been put upon it for the purpose of trade or agriculture. The purpose of navigation is not the subject of inquiry, but the fact of the capacity of the water for use in navigation.' " Id. at 608-09, 48 S.E. at 588 (quoting [Attorney General v. Woods, 108 Mass. 436, 440 \(1871\)](#)). In other words, if a body of water in its natural condition can be navigated by watercraft, it is navigable in fact and, therefore, navigable in law, even if it has not been used for such purpose. Lands lying beneath such waters that are navigable in law are the subject of the public trust doctrine. [342 N.C. at 301, 464 S.E.2d at 682](#).

The Court concluded that "navigability in fact by useful vessels, including small craft used for pleasure, constitutes navigability in law." (Emphasis supplied.) [Gwathmey, 342 N.C. at 300, 464 S.E.2d at 681](#), citing [State v. Narrows Island Club, 100 N.C. 477, 5 S.E. 411 \(1888\)](#). "The capability of being used for purposes of trade and travel in the usual and ordinary modes is the test, and not the extent and manner of such use." [Gwathmey, 342 N.C. at 300, 464 S.E.2d at 681](#), quoting [State v. Twiford, 136 N.C. 603, 606, 48 S.E. 586, 587 \(1904\)](#). Further, "the public have the right to the unobstructed

Furthermore, the Attorney General's opinion definitively answered the question of whether or not the public has the right to float down streams in canoes and kayaks directly with the following statement:

“Yes. Citizens have the right to travel by "useful vessels" such as canoes and kayaks, "in the usual and ordinary mode" on waters which are in their natural condition capable of such use, without the consent of the owners of the shore.”

There is in fact no doubt whatsoever that the Chattooga River is navigable under NC law and legal to float. The IR must be corrected for accuracy on this issue. While it may be clear that the landowners *claim* the reach is not navigable, it is equally clear that the 1998 Attorney General's opinion states that it is absolutely navigable.

Regardless, *the river was adjudicated as navigable to its source* by the US Supreme Court in 1876.⁷ American Whitewater has provided this documentation to the USFS numerous times yet no mention is made in the IR of this pivotal fact.

The IR fails to include the USFS policy on the navigability of rivers:

Section 2354.14 of the USFS Manual clearly states that:

“The Forest Service retains authority to regulate the use of a river and the National Forest lands on the shorelines whether it is navigable or nonnavigable.”

This USFS policy should form the basis of the USFS response to landowner's efforts to exclude the public from a USFS managed WSR. The IR is severely deficient in omitting this policy.

Substantial boating use did occur prior to 1971

The IR states on page 14 that substantial boating use had not occurred prior to 1971 on the upper Chattooga. This is a matter of opinion and we disagree. Substantial boating use did occur at the time of designation up until the time of the paddling ban in 1976.

There were people regularly kayaking the Chattooga headwaters prior to 1971 (see the AW co-plaintiff affidavits from the lawsuit over this matter). While not a huge number of people, we consider this substantial use.

Likewise, the USFS considered it substantial enough at the time to recommend the river for Wild and Scenic designation based on its OR value as a paddling resource, and went

navigation as a public highway for all purposes of pleasure or profit, of all watercourses, whether tidal or inland, that are in their natural condition capable of such use." [Gwathmey, 342 N.C. at 300, 464 S.E.2d at 681](#), quoting [State v. Baum, 128 N.C. 600, 604, 38 S.E. 900, 901 \(1901\)](#)." 1998 Attorney General Opinion.

⁷ State of South Carolina v. State of Georgia [93 U.S. 4](#) (1876)

on to recommend put-ins, take-outs, and portage trails on the upper river in the process. We consider this to be adequate evidence that paddling use was substantial.

The History Section conflicts with the Potential Use section of the IR

The History Section of the IR, on page 15, notes that boating use on the lower Chattooga has fallen over 37% in the past decade. In contrast the Potential Use section on page 40 estimates that whitewater boating has increased a ridiculous 250%. This conflict should be corrected.

Also the use of OIA numbers on page 40 is highly suspect. Many in the sport and business of whitewater boating, including AW, believe these numbers are both bizarre and erroneous.

The History Section confirms that there was never a basis to ban boating.

The documentation of the 1976 boating closure is not limited, it is *completely non-existent* and the History Section confirms AW's assertion and the Appeal Record of Decision's findings that there was never a basis, and certainly no record of a basis, for the 30+ year boating ban.

The IR however fails to reach this explicit conclusion, even though it is clearly proven. This should be changed.

70,000 exotic species is *not* Wild and Scenic.

One of the OR values on the Chattooga is "Biology." We question how stocking 70,000 non-native exotic fish⁸ into a Wild and Scenic River is compliant with that OR value, given the proven impacts of stocking such fish on native biology. We ask that the IR deal with this conflict and express how this action is consistent – given the proven conflicts between this recreational measure and the Biology ORV.

Backcountry anglers create and use user created trails (page 20)

The IR is clear that backcountry anglers rely heavily on user created trails to access the river. This specific relationship between such a use and the resulting impacts is never explicitly addressed in the IR.

The amount of user created trails appears to be substantial (page 21)

There are 35.0 miles of designated trails in the upper river corridor and 19.3 miles of user created trails. We feel that this is a significant amount deserving of active management to reduce any erosion or visual impacts.

3. Comments on the chapter titled: "Recreational Opportunities"

⁸ Page 19 of the IR

The Delayed Harvest reach of the Chattooga is not in North Carolina.

The second to last bullet on page 20 states that the delayed harvest reach of the Chattooga River is in North Carolina. It is not.

Skilled boating does not attract unskilled boaters

The final bullet under the Scenic Oriented Boating / Tubing section contains significant problems. Here the IR asserts that allowing floating could “exacerbate this problem” of inexperienced paddlers putting on the river.

First, there is no evidence of this effect on any river that we are aware of including the lower Chattooga.

Second, the presence of skilled paddlers can actually deter such use through peer pressure and education.

Third, the IR fails to mention that there is virtually no signage or information at any of the upper river access points that the public could use to make a floating decision on. The notion that the ban is “well publicized” is laughable, since a visit to any of the river access areas offers no notice of the closures or what lies downstream.

We would argue, and the IR should note, that information at the river access areas, along with the presence of skilled boaters, could deter people from putting on the river that lack the skills to safely complete the run.

4. Comments on the Integrated Report chapter titled: “Use Information”

The use estimation workshop estimates differ significantly from real data presented

The IR should explain the basis for inflating use estimates above the real use numbers actually collected. Why are uses estimated, when real use data exists?

“Use Estimation Workshop” Participates lack whitewater paddling expertise.

Each of these workshop participants’ paddling expertise (or lack thereof) and experience with use levels of class IV/V kayaking on steep creeks should be noted.

Furthermore we question why David Hedden, the river ranger with the most on the ground knowledge of the resource was not a participant in the workshop.

Section III of the Chattooga is not acceptable as a proxy river.

The Lower Chattooga Boating Use section on pages 32 and 33 lumps Sections III and IV together for comparison purposes to the upper river. Section III is a very different

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recreational resource from the Upper Chattooga. It is vastly easier and therefore acceptable to a vastly larger pool of paddlers – and it also runs all year. Comparisons and discussion involving Section III are inappropriate and should be struck from the IR.

Section IV of the Chattooga is not acceptable as a proxy river.

The IR makes a serious error in relying on Section IV of the Chattooga as a reference reach for the Upper Chattooga. Section IV has a long history of use, is commercially rafted, is well known by the community, is predictably free of strainers, is a more open and less intimidating reach, is likely easier than the headwaters, has fewer rapids than the headwater reaches, runs all the time, has more predictable flows, and is generally a much larger river. Many more people are attracted to such well known, bigger, predictable rivers with summer flows than are attracted to steep inaccessible unknown runs that run only on intense rain storms generally in colder weather on shorter days. All told, Section IV is a vastly less intimidating, more approachable river than any headwater steep creek of similar difficulty. Many paddlers run only larger rivers and shy away from the additional challenges faced by creek boating.

Furthermore the Section IV use numbers include use down to Woodall Shoals as well as use below Woodall Shoals. This is inappropriate because many users that would not run the upper river take out at Woodall Shoals yet are counted as Section IV paddlers. The IR is erroneous in considering Section IV, especially the use from Highway 76 to Woodall Shoals as a good metric for demand.

Reservoir access areas *do* include reservoir boaters.

The final bullet under the Other Lower Chattooga Use section of the IR, on page 34, states that spot counts at the Tugaloo Lake access area “may” reflect some reservoir use. We would argue that these spot counts do include reservoir use. These data should not be considered any basis for use estimates of Section IV.

Use of the Lower River is NOT increasing.

The second bullet under the “Estimating potential whitewater boating use” section concludes that private use may be increasing on Section IV (page 35). This assertion is based on comparing 2003 – 2005 medians to 1998-2005 average medians. This is misleading. 2003 – 2005 were high water years. Only a bizarre cherry picked statistic such as the one selected could show that a decrease from 80,000 to 60,000 users is an increase! Use is decreasing, and the IR should acknowledge that. The contribution of commercial use, which will not occur on the upper Chattooga, should also be figured into any comparison.

Use of Overflow Creek is vastly overestimated

We feel that the estimates of use on Overflow Creek found on page 35 are significantly inflated. The “anecdotal information from several sources” should be revealed

behind these estimates – and they should be lowered. We were told that there was a permit box placed on Overflow Creek and are curious why those data were not used?

Most days there will be no boating, and on even more days there will be no encounters.

Optimal angling exists on average for 324 days each year, and acceptable angling occurring on 361 days. In that same time period, paddlers have only 34 days of optimal boating flows and 114 days of potentially acceptable flows. Anglers naturally have nearly 10 times more days on which optimal opportunities for their activity exist, and 3 times more days on which their activity is even possible. Each individual day of optimal and acceptable paddling opportunities is therefore far more precious to paddlers than to anglers.

The Report Overestimates Usable Boating Days

The report fails to adequately describe the effects of predictability on the number of available days for both uses. Of the 34 average days on which optimal boating flows occur, many of these flows will be unavailable to the paddling community.

As mentioned in the report, many of these peak flows will occur at night, rendering a significant number recreationally unavailable. Another significant portion will represent very quick flow events that are simply too short for paddlers to make use of. Another portion will occur as the result of flash thunderstorms that result in unpredictable flows that paddlers are unaware of until after they occur (especially without a gage on the upper river). A portion of the flow events will occur on days of very low temperatures or poor weather which act as a boating deterrent. Yet more days on which optimal flows occur will be on the rising limb of the hydrograph when many paddlers avoid flashy steep creeks.

This combination of factors will lead to a true count of optimal and boatable days that are in fact much lower than the 34 and 114 noted respectively. We would argue that the number of truly desirable days of flow may actually be 50% of the stated numbers based on these factors.

Unlike the boating flows which by their nature occur during dynamic flow events, angling flows are much more predictable. This is proven by the very fact that there are 324 optimal angling days and only 34 optimal boating days. The Chattooga River's hydrograph provides long periods of relatively stable or predictable flows in the angling range for most of the year. Thus, the estimated days of optimal and acceptable angling are likely very close to the true opportunities that exist.

The IR likely overestimates boating demand for individual reaches

The IR estimates that likely use of the upper Chattooga will be between that on Overflow Creek and Wilson Creek seems reasonable.

What the report fails to conclude however is that this demand is for the entire headwaters and will be spread across 2 or 3 sections (depending on whether or not boaters

paddle both upper sections on the same day). Each of the 3 reaches provide different experiences of similar difficulty and will generally be runnable on the same days – thus paddlers interested in boating the Upper Chattooga will have to choose which section to paddle.

The numbers for the 3 reaches combined (provided in Table 1 on page 36) exceed the demand for Wilson Creek and are thus likely higher than actual likely use. Demand will draw a limited number of paddlers to the Upper Chattooga, and the length of runs will split that demand into several subsets.

Thus, the “guesstimates” of use on page 36 may be overestimated per reach, though are not beyond the range useful for discussion purposes. We feel that they are perhaps 25% inflated. With this being said, we feel that these estimates are useful as high estimates for the purposes of the IR and subsequent discussions. We feel that having some high figures that are “in the ballpark” will contribute to the discussion and therefore support these numbers with the caveat that we expect actual peak use to be significantly lower.

The IR misrepresents angling demand for the Chattooga Cliffs reach

In the management and flow based sections of the IR, the Chattooga Cliffs reach is combined with the other reaches in discussions of angling flow preferences, use encounters, etc.

This should not occur because there is virtually no backcountry angling use of the Chattooga Cliffs reach. During the expert panels no anglers wanted to fish this reach, indicating that in fact angling use may be very low and even approach zero during times of boatable flows.

The IR estimates that backcountry angling (and presumably fly fishing more generally) peaks at 3 PAOT but may average 1 to 2 PAOT for much of the year. It is safe to say that half the reach has no public angling use due to private landowner issues, and the other half has extremely low use.

Discussions of limiting floating in that reach to protect an angling experience that does not even exist should be eliminated from the document, and the lack of even potential conflict made apparent.

Angling use is very low

There will be an average of only 1.5 anglers on the Chattooga Cliffs, 4.3 on the Ellicott Rock reach, 2 in the Rock Gorge, and 6.5 on the DH reach at any given time according to the questionable use estimates – sometimes there will be more, and sometimes there will be none.

Anglers are more likely to be absent or lower in numbers when boating is optimal than when it is suboptimal according to the IR. Likewise, paddlers are more likely to be present when angling is suboptimal than when it is optimal.

Thus, any impact of boating on angling will affect *very few* individual anglers, each of which will have ample opportunities to experience a boater free Chattooga River based on natural flow regimes. The IR fails to make this very critical point.

The report fails to estimate user encounters:

If an angler wishes to fish the Upper Chattooga without seeing any paddlers – he or she would have ample opportunities if paddling were allowed and unlimited. The IR use estimate numbers seem high but may reflect future use reasonably accurately. On an average of 247 days the angler could check the gage and know that he/she would have optimal angling flows and not encounter a single boater. Encounters on these days would be *zero*.

If the flow is a bit higher the angler could anticipate possibly encountering a single group of 5 paddlers on about half of the 77 days when angling is optimal and boating acceptable but not optimal. The other 39 days in that period he/she would have *zero* encounters.

If the river were higher yet, angling would be no longer be optimal, but paddling would be, on a total of 34 days. The angler could expect to encounter paddlers on half of these days (17), and may in fact see several groups of paddlers on about a third of these days (6). The other 17 days in the optimal boating period the angler would encounter zero or very few paddlers. This information from the report can form the basis for some estimates of encounters between paddlers and backcountry anglers⁹.

We have calculated high estimates of use encounters between paddlers and backcountry anglers based on the data in the IR¹⁰. Most anglers do not spend the entire day on the river and therefore many anglers will not see paddling groups that are on the river the same day as the angler's visit. For the purpose of this analysis, in an effort to show the extreme case, we assume that anglers will see every group of paddlers – even though this will certainly not be the case – especially given preferences for different parts of the day.

On at least 292 days, anglers will encounter zero paddlers on the Chattooga Cliffs reach. On 67 days anglers may encounter 1 group of paddlers. On 6 days anglers may encounter 4 groups of paddlers. Note that the total range of acceptable flows is narrower on this reach than on others, making the total paddling opportunities fewer than these average numbers suggest.

On at least 292 days, anglers will encounter zero paddlers on the Ellicott Rock reach. On 39 days anglers may encounter 1 group of paddlers. On 17 days anglers may encounter 2

⁹ IR page 37

¹⁰ See Appendix 1 for the assumptions behind this analysis, which all come straight from the IR.

groups of paddlers. On 11 days anglers may encounter 4 groups of paddlers. On 6 days they may encounter 14 groups of paddlers.

On at least 292 days, anglers will encounter zero paddlers on the Rock Gorge and the Delayed Harvest reach. On 56 days anglers may encounter 1 group of paddlers. On 11 days anglers may encounter 2 groups. On 6 days anglers may encounter 8 groups of paddlers. Note also that the Rock Gorge actually has a narrower range of optimal flows than the average numbers used for these calculations, so optimal paddling use would actually be further restricted than these numbers suggest.

What does all this mean? It means that what the IR describes as a significant conflict and impact – is neither. Based on the assumptions of use in the report, which are overestimated with regards to boating, encounters between backcountry anglers and boaters would rarely occur.

The few anglers present would see *no* paddlers on at least 80% of days. The remainder of days they may or may not see one or two groups of paddlers, with the exception of a handful of suboptimal angling days when boating use could be unusually high (still only 4, 8, or 14 groups expected depending on the reach). Anglers would also be able to anticipate the number of paddlers they expect to see based on flows.

Simply put, anglers have ample opportunities (80% of days) to predictably fish the Chattooga River without a single encounter with a group of paddlers *without any limits on either use*.

We ask that the IR provide use encounter estimates. Failing to do so explicitly ignores what the report claims is a significant issue on the river. We feel our estimates are reasonable based on the IR, and will in fact dramatically overestimate actual encounters because of the assumptions that all anglers will see all paddlers and other assumptions of use made in the IR.

5. Comments on the Integrated Report chapter titled: “Biophysical Impacts.”

The USFS should be commended for collecting robust biophysical data

We greatly appreciate the USFS taking a hard look at biophysical impacts on the Chattooga River. The collection of data on user trails, erosion areas, camp areas, fire rings, litter, and tree damage is exactly the kind of information needed to really begin to manage for reduced impacts on the upper Chattooga. We applaud the USFS efforts to collect these data and look forward to working with them on stream clean ups and other management actions designed to mitigate or reduce any unacceptable impacts discovered through this field work.

Boater user created trail estimates are without basis

The estimates of boating related user created trails are not based on any real findings and are therefore not adequate for informing decision making¹¹. During the expert panels boaters used bedrock to portage and scout. We would point out however that even these overestimates represent only 1/5th of one percent of the total existing trail miles. Regardless, the amount of trails estimated in the IR is negligible in the context of the total trail mileage in the corridor. Trails could also be formally constructed if a need is present – which we doubt is the case.

Litter is unacceptably high, but would not be exacerbated by paddlers as stated in the IR

The amounts of litter noted on page 46 of the IR are totally unacceptable and we agree that this should be remedied. We disagree however with the assertion on page 46 that boaters would contribute to the litter problem just like any other user. Class IV+ paddlers are highly specialized, highly skilled users and numerous studies have linked specialization with increased stewardship (see our appeal). Furthermore, paddling does not result in the almost obligatory littering that occurs through fishing.

Hunting and fishing should not be beyond the scope of the wildlife impact analysis on page 52

The USFS must have the ability to manage user capacity on their lands as it relates to hunting and fishing - and wildlife and fish. If the IR scrutinizes the impacts of merely walking or floating past fish and wildlife then the IR cannot simply ignore the impacts that result from fishing and hunting. Killing and eating fish and wildlife is an impact that greatly surpasses any impacts from hiking and floating use on those fish and wildlife. This massive omission makes no sense from the resource perspective – and is transparently inequitable.

Page 54 notes that anglers trample riparian areas

The impact of angling on riparian areas receives no suggested remedy in the report. This is both unacceptable and blatantly inequitable.

Encounters between anglers and boaters would not be high as stated on Page 62, nor would they be an important impact

The IR states that:

“Encounters between anglers and boaters could be high on the days when flows are acceptable for both...”

and that these encounters:

“are among the most important impacts associated with allowing boating on the upper river.”

¹¹ Page 43 of the IR

This finding is in direct conflict with the results of the IR.

The IR estimates that on 80% of days anglers will see no boaters, and on all but a few of the remaining days they would see only 1-2 groups if any at all. It is certainly true that the IR anticipates 6 or so days each year on which use could be unusually high - but would it really be *high* when flows are acceptable for both? No.

Excluding only a half dozen sub-optimal angling days when boating would predictably be high, the rest of the year encounters would be *nonexistent or incredibly low*.

We struggle to see the basis for the conclusion that this miniscule interaction is somehow important enough to require management action. Even the IR goes into some detail describing variables that will assure low encounter numbers on the 20% of days when both uses are even possible, including temperature, time of day, location, etc.

Based on these factors outlined in the IR, an angler who randomly selected angling days might see one or two groups of paddlers on 1-2 days out of every 10 they fish the upper Chattooga – however the same angler could easily select days on which no boating would occur. Even with a random selection of angling dates, anglers with a zero tolerance for paddlers would have the experience they desire well over 80% of the time.

How does this translate into “high encounters” that are an “important impact.” This is ridiculous and needs to be revised for consistency.

6. Comments on the Integrated Report chapter titled: “Social Impacts”

Encounter impact analysis is missing key points

The encounter impact discussion on page 65 of the IR misses several critical points. The statement that “the relationship between use levels and river or trail encounters is well established ... so use limits are probably the most powerful tool for addressing them” is not always true or consistent with USFS policy and the Wilderness Act. On the Chattooga for example, hikers rarely would see paddlers. Also indirect measures of limiting use must be exhausted before direct limits are implemented based on USFS policy.

The IR goes on at some length in other sections about how on other rivers and on the upper Chattooga differing flow preferences create different use patterns. On many rivers, and on the Chattooga, boating and angling can increase or decrease in popularity without leading to changes in encounters *because the users are on the river at different times*.

It is ridiculous to presume that increases in boating use would create a level of encounters that merits any limitations whatsoever. Furthermore, this section discusses direct and indirect limits as though they are a menu of random options. Limiting use – based on USFS policy and the Chattooga Appeal decision – must be done indirectly before it is done

directly. More importantly though – there must be a problem before the USFS can implement a solution with such massive impacts to users as a total closure or direct limits on use numbers.

The interference with angling section lacks an unbiased look at the issue

The analysis of boats passing over fish and the impacts that has on fishing success¹² fails to address the similar impacts of catching fish, wading in the river, or otherwise startling fish through angling. While *some* anglers may approach a reach carefully, others do not, and many wade right through fishing habitat on the way to new or other locations.

Likewise, casual sightseeing along the river and swimming in the river may have similar impacts on fish response to lures. Any look at this issue needs to realistically address the impacts of all users on fishing success.

Regardless of this massive oversight, the IR found *no* information linking paddling to reduced fishing success.

The interference with angling section states a bizarre goal without basis

This section states that there is no simple way to “totally eliminate negative effects from boater angler encounters.” Ignoring the fact that there will be no encounters on 80-90% of days or more, we must ask where the goal of totally eliminating all impacts on a single user group came from? How is this even possible? Is this a standard? Is this the USFS goal? What other user group or forest use is this standard applied to?

We firmly object to this language and goal. The IR clearly shows that the USFS can allow paddling while still managing for very high quality angling on the upper Chattooga. The two are not inconsistent in any way whatsoever.

The same section notes several western rivers (Blackfoot, Ruby, Rock Creek, Beaverhead, Big Hole, and Madison) that exhibit boat-based and shore-based angler conflicts. The IR is deficient in that it fails to emphasize that these conflicts are not the result of whitewater boaters at all – but rather other fishermen or summer tubers that seek the same flows as anglers. The Blackfoot for example only experiences conflicts during the warm low-flow summer months when angling and tubing use is extremely high, and whitewater use has subsided with the flows.

The IR discusses separation of users in space and time – even though there is no justification for this whatsoever given the natural flow driven separations. Essentially the IR recommends making management actions that limit use when nature already limits use.

Perhaps most egregiously, the IR goes on to talk about zero capacity management which is wholly unsupported by the remainder of the IR, not to mention a host of laws and

¹² Page 67,68 of the IR.

regulations. Again, the IR presents the goal of zero encounters – all the time – which would never pass a straight face test of equitability as described in the Chattooga Appeal decision.

The IR must be revised to include alternatives of eliminating all angling and allowing paddling which would also reduce encounters to the ridiculous standard of zero.

Angler – boater interactions is not a consideration in the management of *any* USFS rivers in the region

On page 69, the IR notes that after a significant amount of research, the authors did not find any examples of management actions to deal with angler-boater interactions in the region. Somehow they then conclude that such interactions have not become a priority on “most southeastern rivers”.

This should be changed to reflect that it is not a priority on “any other southeastern rivers.” We also question why the IR authors discuss a potential need for management on the Chattooga where there is no evidence of any conflicts ever – given the regional context of a similar lack of conflict.

The search and rescue analysis is OK, but lacks regulatory and management context

This section contains some good information on accident likelihood, but lacks key context. For example, the appeal decision clearly states that the USFS does not ban or limit use for safety or search and rescue reasons.

This comes directly from the USFS policy that states: “The manager's role in safety is advisory and informational. Provide opportunities for the river recreation user to become informed of current river flows, equipment and experience minimums and hazards. The user must make the final decision about whether or not to engage in the recreation activity.¹³”

The analysis also lacks clear records of search and rescue operations related to other uses and the impacts of those uses. Why for example would paddling lead to increased rescues any more than say an additional number of anglers or hikers? If there is a capacity of a resource to withstand rescue operations than either that capacity is the same for all users and/or the rescue operations should be modified for reduced impacts.

Search and Rescue operation estimates are not referenced

On page 71 the IR states that the lower river attracts 6-8 search and rescue operations annually, yet then states that the incidents are not tracked. We question the validity of these data, given the admitted lack of any tracking mechanism.

Rescue skills may or may not be lower in younger paddlers

¹³ USFS manual 2354.41b

We question the validity of the statement on page 71 that “some wonder” if rescue training is declining among younger boaters. First, “some wonder” if aliens will land on the Chattooga – but that level of personal inquiry does not belong in a scientific report such as the IR.

Second, we are unaware of any evidence of a decline in rescue skills among any user group.

7. Comments on the Integrated Report chapter titled: “Flow Issues”

There is no basis for the Bait Fishing, and scant basis for the Spin Fishing flow preferences

Figure 11 presents acceptable flow ranges for bait fishing (which no expert panel member chose to participate in) and spin angling (which was based on very little direct information). There is absolutely no basis for this information and it should not be given the same level of certainty that the fly fishing data are given. Please see our comments on the Expert Panel Report regarding the failures of that report.

Number of Days analysis is critically flawed

The number of days analysis is based on an average of fly fishing, spin fishing (which has an inadequate basis), and bait fishing (which has no basis). This average makes the overlap between boating and angling look far more significant than the real overlap of concern: boating and fly fishing (which makes up the bulk of backcountry fishing according to the IR). The number of days analysis should compare overlap of fly fishing and boating per reach, in order to be relevant.

The IR fails to present use preference curves

The standard method of displaying differing or overlapping flow preferences is by using flow preference curves. The figures on page 80 and 82 do a good job of showing overlap of optimal and suboptimal flows of various uses on various sections, however they do not show the trends within those categories.

For example, the outer ends of the bars in figure 11 are less preferable (and therefore would likely attract less use and provide a less optimal experience) than other locations on the bars that are also rated as acceptable. Displaying these trends, even with rough data, will do a vastly better job of showing the type and level of experiences that are really overlapping in the data – if not on the river as well. The IR should be revised to present these curves.

Usable day information is located in the wrong location in the IR

The IR proposes a reasonable estimate of factors limiting paddling usage on days where flows appear acceptable or optimal when just looking at the flow statistics. The IR displays this information in the bullets on page 37, under the “Estimating Potential

Whitewater Boating Use” section. This information belongs at that location but must also be included and discussed in the “Using boating days” section on page 84. Along with the discussion and presentation of the bulleted points, a figure similar to Figure 13 should be constructed showing the likely real use of the boatable days, based on the bulleted assumptions on page 37.

Flow issue conclusions do not match the findings of the IR

The conclusions on page 85 do not logically follow the rest of the IR. The IR concludes that on the 77 days (on average) when suboptimal boating overlaps with optimal fishing (but not fly fishing) management actions may be necessary to protect high quality fishing. This assumption is built on a massive house of cards.

First, and most importantly, high quality fishing is already protected by natural flow preferences which assure boater-free angling on an average of 247 days each year! It is absurd to state that in order to protect high quality angling on the Upper Chattooga the USFS must do it *every day of the year*.

Secondly, this conclusion is based on the bizarre assumption that angling is no longer high quality if an angler sees zero, one or two groups of paddlers each day, which is what the IR predicts will occur during those 77 days. The conclusion that those 77 days justify some sort of active management is without any basis.

8. Comments on the Integrated Report chapter titled: “Management Actions”

The “Conflict and Capacity on the Upper Chattooga” section is missing a key point.

What about the impacts of past and future capacity management on paddlers!? There is no discussion regarding the totally devastating impact the assumed “conflict” has had on paddlers for over 3 decades. The past ban, and any future limits could severely impact paddlers and this impact must be analyzed.

The IR erroneously concludes that boating during “overlap periods” would introduce conflict.

We see no basis for the conclusion on page 88 that the presence of boaters and anglers on the same river at the same time introduces conflict. The authors and the USFS sought evidence of such an effect on other regional rivers and found none. They sought evidence on the Chattooga – going back at least 4 decades – and found none. There is no basis for this conclusion and it should be struck from the report.

Boating may not have been rare on the upper river prior to the ban

Page 89 notes that boating was rare prior to the ban, yet there is no basis for this statement. In fact boating use was substantial enough for the 1971 study to suggest access

American Whitewater’s Comments on the USFS report titled Capacity and Conflict on the Upper Chattooga River, Submitted on July 3, 2007.

points, portage trails, etc. Likewise there was some level of use even during the closure that may deserve mention in this section. This is especially true during the 1980's.

The “Management Action Considerations” section of the IR fails to consider the impacts of management alternatives on paddlers

The Management Action Considerations section of the IR (page 100) completely fails to consider the impacts of management alternatives on paddlers – while it does address impacts to “current users.”

The impacts of a total ban or any limits on paddlers must be weighed against the lack of such restrictions on other user groups. This is a vital error of the IR.

The “Separating uses by space” and “Separating uses by time” sections contain solutions for problems that do not exist”

There is no evidence of past conflicts between boaters and anglers (or hikers, or other users) on the Chattooga or any other regional river. Therefore the proposed remedies are for a problem that does not – and will not – exist.

The “Separating uses by space” sections lacks discussion of the upper 2 miles of river

There is no mention of the current and apparently intended management of the uppermost 2 miles of the Chattooga River for *no use*. Surely this deserves analysis in this section of the report.

The “Separating uses by space” and “Separating uses by time” sections are severely biased

There is no mention whatsoever in the “Separating uses by space” or “Separating uses by time” sections of the IR regarding the use of limits on angling, swimming, hiking, or any other use – except boating. This is absolutely unacceptable.

The “Separating uses by flow” section indicates an unacceptable goal of managing for a small number of zero-tolerance individuals resulting in zero capacity

There is no discussion in this section on the options of limiting angling or other uses. This is significantly biased.

Just as importantly, managing zero tolerance individuals may be the key to the Chattooga River management. After all, if one person says that they have a zero tolerance for seeing all other users, would the USFS ban all other users for this one person? While the answer is clearly “no”, we would point out that this is very possible given that *tolerance levels are a choice that individuals can make*.

Likewise, if 10 individuals have a zero tolerance for another wilderness compliant user group that they will scarcely ever interact with, should the USFS ban the user group – or ban the individuals – or just acknowledge that the overly sensitive individuals may have an impacted experience on a few days each year?

This is essentially what has happened on the Chattooga for the last 30+ years. The USFS has banned an entire user group (paddlers) to suit the stated zero tolerance levels of a very few individuals. The USFS should not be managing for extremely small groups of zero tolerance individuals. The result of managing for zero-tolerance individuals is more similar to privatization or homesteading than it is to the mandates and policies of the USFS as guided by the Multiple Use Sustained Yield Act – or any modern concept of recreational management.

The “Separating uses by flow” section lacks a discussion of natural separation of uses by flow

This section is also deficient in that it does not discuss the *fact* that flows naturally separate uses (particularly angling and boating) to the extent that both user groups have significant opportunities to enjoy the river without seeing one another. Anglers have 80-90% of days without paddlers – so how can the USFS possibly justify restricting boating on those few days? Where is the justification for that in the report or the WSRA?

The IR contains many good resource protection ideas that we support.

We fully support the concepts of trail maintenance, trail redesign, camp rehabilitation, backcountry pit toilets at high use sites, clean up patrols, and various educational actions.

The “fishing regulation changes” section is incomplete.

We fully support angling on the upper Chattooga and elsewhere to the extent that it does not damage the river environment or displace other users. Historically and currently, angling has displaced 100% of paddlers from the upper Chattooga. It now threatens to continue to do so based on a few individuals that claim zero tolerance for one group of other wilderness compliant users.

Angling has contributed significantly to the large number of user created trails and trash in the river corridor. Angling results in roughly 70,000 individual exotic fish being added to the river each year. Angling results in low elevation helicopter stocking operations which certainly has impacts on other users yet is not addressed in this report. Angling undoubtedly impacts other users seeking solitude, fish health, aquatic invertebrates, riparian health, and other factors. Angling has displaced 100% of paddlers.

The IR ignores all these factors and gives no real consideration to limits on angling or management of these impacts. The angling regulation section on page 93 fails to address the very tangible benefits to boating, other users, trails, camping, riparian health, fish health,

the native aquatic assemblage, and other resources that reduced or modified angling activity may have.

With all this said, we feel that angling on the upper Chattooga should continue to be fully supported by the USFS so long as its impacts are minimized and mitigated – just like all uses.

The rationale behind limits on boaters is flawed

The IR states on page 93 that limits on boaters are “probably the best way to ensure that boating use (if allowed) does not substantially increase encounter rates in the river corridor.” This may or may not be true of boating – but it is equally or more true of other and all users as well. If limiting the number of encounters is the goal/standard, then limiting far more popular (and increasing) uses like hiking, camping, fishing, etc would do more to limit the number of encounters.

However for some reason this standard is only applied to boating – likely the smallest and most seasonally/flow restricted use in the entire corridor. Applying this standard to boaters only is analogous to stating that limiting the smallest group among minorities’ access to voting is the best way to enhance the voting power of the majority. It is both unethical to apply the standard in this way – and does not make sense.

The IR goes on to list examples of other places where boating has been limited, but fails to mention any real reason for why it is boaters that were limited in these cases – or refer to our significant comments on these case studies (filed in reference to the case study report).

The final paragraph suggesting specific appropriate limits is totally without basis. This paragraph assumes that meeting others’ encounter standards *on every day of the year* is a justifiable management priority – in the face of data that says these limits may only be exceeded on a handful of days and only impact a handful of people or less.

The other justifications are similarly bizarre: we fail to see how greater difficulty of the Chattooga Cliffs Reach should trigger more stringent use level restrictions. We also fail to see why more stringent use limits could be justified during the overlap period – when it would be extremely unlikely that an angler would see a group of boaters on those days – and when anglers have at least 80% of days on which there is no chance they would see a paddler.

The “limits on numbers” sections referring to user groups other than boaters are not explored as fully as the limits on boaters section – or at all

There should be an equal amount of detail expressed in exploring limits on each user group (page 93-95). There should also be an analysis of limits on total use – regardless of recreational pursuit.

The “considerations for developing permit systems” section is totally unacceptable and would result in the elimination of nearly all boating opportunities.

The “considerations for developing permit systems” section of the IR, found on page 95, is a ridiculous scenario that is surely intended to show that any permit system on the Chattooga would fail to meet paddlers’ interests or be workable for the USFS.

The IR estimates that there are only 34 optimal days of paddling flow each year on average, 17 of which would be utilized – without any permit system whatsoever.

The permit system methodology discussed in the IR would drop that number to virtually zero use by creating unsurpassable hurdles for paddlers. In order to paddle the Upper Chattooga, paddlers have to opportunistically react on literally a moments notice to meteorological information that indicates likely boatable flows. Any impediment to this process would essentially make the Chattooga unrunnable. This is totally unacceptable.

The IR overlooks the most obvious option for a permitting system, and one that we wholeheartedly endorse. This would be a self-issued permit for all users of the Chattooga River corridor. These permits would be unlimited in number and free, but would allow the USFS to track various recreational uses and would provide basic regulations for all users, such as camp spacing, distance to water, etc. See the Cohutta Wilderness LAC for an example. .

There is no discussion of the impacts of a ban on paddlers – only on the benefits to anglers

The report discusses at some length the potential negative impacts of the presumed angler-boater conflict on anglers, yet fails to mention the very real past and potential impact on paddlers. Based on this presumed conflict, an entire generation has had no paddling experiences whatsoever on the Wild and Scenic upper Chattooga for over 30 years. One must ask which is a greater impact on users: a slight reduction in quality of experience on up to 20% of days, or the total elimination of an activity.

It is analogous to comparing a pin prick and a gunshot wound. For 30+ years paddlers have had the gunshot wound so a small number of anglers would not occasionally feel a pin prick. Allowing paddling, and allowing it to be naturally limited by flows, would potentially result in a pin prick to the angling experience for a small number of individuals on a small number of days but would heal the gunshot wound all potential paddlers are currently suffering from.

The IR discusses options of limiting or eliminating paddling through management decisions based on a variety of spatial, seasonal, and flow variables as possible alternatives, yet presents no discussions of the impacts these actions would have on the paddling community. It is analogous to doing a cost-benefit analysis and only analyzing the benefits. The IR must be revised to reveal the very real recreational impacts of past management and alternatives for the future that include permits and limitations on paddling use.

There is no discussion of limiting or banning angling use to reduce or eliminate encounters

If two groups actually conflict – regardless of the direction of antipathy – limiting or eliminating either group would have equal effects on the conflicts. Limiting boating would reduce the already miniscule number of angler-boater encounters, as would limits on anglers.

Eliminating angling for all or part of the year on all or some sections would eliminate encounters altogether. Eliminating boating for all or part of the year on all or some sections would eliminate encounters altogether. The report fails to discuss the effects of limiting angling to reduce encounters. We feel the IR clearly show that no limits are needed for either use, since both uses are low in number and the optimal flow preferences do not overlap.

The “Limits on numbers of anglers” section on page 94 is lacking key benefits

The IR goes on at length about limiting boating to benefit anglers. Thus, boaters’ experiences are totally destroyed, to avoid a rare encounter that detracts somewhat from an angler’s experience. This fails all tests of equity. If the IR or the USFS truly can state that the two uses are incompatible – then there should be an angling ban for part of the year specifically so that paddlers can use the river without impacting anglers. We do not endorse this option as reasonable because we see no evidence of incompatibility.

9. Comments on the Integrated Report chapter titled: “Proceeding with Planning and Decision-making

Flow information is not “precise”

On page 101 of the report, the IR states that “information for flow-dependent activities on the Upper Chattooga is relatively precise for a river with a ‘new’ gage and formal assessment of just one flow.” While this conditional statement may be true, the fact remains that there is a great deal of uncertainty regarding the flow information itself and the user preferences. We state this based on gage translation problems, single flow experience, small sample size, the fact that one reach was not fished at all, the fact that the upper 2 miles was not fished or boated, and other study design flaws.

Conclusions:

The Integrated Report offers no justification whatsoever for any limits to paddling. In fact the IR confirms our assertions that allowing paddling would have no environmental effects that are not similar to other users, that paddling use would be low and rare, and that interactions between paddlers and other users would be extremely rare based on flows and other factors. Still, there are significant errors and omissions in the IR that must be remedied before this information is incorporated into a NEPA process. Likewise, there are several management options in the report – including limits to paddling – for which there is no basis

in the report. We ask that these problems be corrected, and also ask that our comments on the individual studies underlying the Integrated Report be responded to and wrapped into the NEPA report.

We would like to reiterate our challenge to the USFS to find a management alternative more elegant, fair, protective, responsive to rapid flow changes, legal, nationally consistent, and easier to manage than simply allowing the natural flow regime to dictate use on the upper Chattooga River.

Respectfully Submitted On July 2nd, By

A handwritten signature in blue ink, appearing to read "K. Colburn", written in a cursive style.

**Kevin Colburn
National Stewardship Director
American Whitewater**

Appendix 1. Assumptions behind our use encounter estimates.

| Chattooga Cliffs | | | | |
|---|-----------------|---------------|--------------|------------|
| | Boaters per day | Boater Groups | Anglers PAOT | Encounters |
| 247 days of no boating optimal angling | 0 | 0 | 2 | 0 |
| 17 days of optimal boating with 50% weekday use | 2.5 | 1 | 2 | 1 |
| 11 days at weekday max | 5 | 1 | 2 | 1 |
| 6 days at peak use | 20 | 4 | 2 | 4 |
| 38 days of low overlap | 0 | 0 | 1 | 0 |
| 39 days of low overlap boaters per day. | 5 | 1 | 1 | 1 |
| 7 days at big water with little to no use | 0 | 0 | 0 | 0 |

| Ellicott Rock | | | | |
|---|-----------------|-----------------------|--------------|------------|
| | Boaters per day | Boater Groups per Day | Anglers PAOT | Encounters |
| 247 days of no boating optimal angling | 0 | 0 | 2.3 | 0 |
| 17 days of optimal boating with 50% weekday use | 10 | 2 | 2.3 | 2 |
| 11 days at weekday max | 20 | 4 | 2.3 | 4 |
| 6 days at peak use | 70 | 14 | 2.3 | 14 |
| 38 days of low overlap | 0 | 0 | 2.3 | 0 |
| 39 days of low overlap boaters per day. | 5 | 1 | 2.3 | 1 |
| 7 days at big water with little to no use | 0 | 0 | 0 | 0 |

| Rock Gorge and D.H reach | | | | |
|--------------------------|-----------------|-------------------|--------------|------------|
| | Boaters per day | Boater Groups per | Anglers PAOT | Encounters |

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| | | Day | | |
|---|----|-----|-----|---|
| 247 days of no boating optimal angling | 0 | 0 | 2.3 | 0 |
| 17 days of optimal boating with 50% weekday use | 5 | 1 | 2.1 | 1 |
| 11 days at weekday max | 10 | 2 | 2.1 | 2 |
| 6 days at peak use | 40 | 8 | 2.1 | 8 |
| 38 days of low overlap | 0 | 0 | 2.1 | 0 |
| 39 days of low overlap boaters per day. | 5 | 1 | 2.1 | 1 |
| 7 days at big water with little to no use | 0 | 0 | 0 | 0 |