

June 4, 2008

Chief Abigail Kimbell  
USDA Forest Service  
1400 Independence Avenue SW  
Washington, DC 20250-0003

Re: Appeal #04-13-00-0026

Dear Chief Kimbell,

On January 15, 2004, Regional Forester Robert T. Jacobs signed the Record of Decision (ROD) approving the Sumter National Forest Revised Land and Resource Management Plan (RLRMP) which contained a total ban on whitewater boating on twenty one miles of the Wild and Scenic Chattooga River. On April 16, 2004 American Whitewater, under regulations at 36 CFR 217.8, filed a timely notice of appeal (#04-13-00-0026) regarding this decision.

On April 28<sup>th</sup>, 2005, Gloria Manning, as reviewing officer for your office, issued a decision regarding our appeal, well after the September 23, 2004 administrative deadline. The appeal decision confirmed American Whitewater's claims that the RLRMP violated both the Wilderness Act and Wild and Scenic Rivers Act and thus reversed the decision to ban boating. The appeal decision called for a new ROD based on a user capacity analysis by April of 2007. The appeal decision also confirmed our assertions that use must be limited equitably if limited at all, that solitude is equally important to all wilderness compliant users, and that safety concerns cannot justify a boating ban. The appeal decision allowed the boating ban to continue while the user capacity analysis was carried out.

Well over three years have passed since your office granted our appeal of the 2004 RLRMP decision to continue the unjustifiable boating ban. The Sumter National Forest is now well over a year late in producing a user capacity analysis and a new decision. Worse yet, there is no decision timeline in sight.

The appeal decision stated that "If additional time, based on unforeseen circumstances, is needed, the Regional Forester should contact this office to establish a mutually agreed time for completion." We are aware of no "unforeseen circumstances" that justify any delay, and have received no communication regarding the status of our appeal in since the Sumter Forest missed a published a release date for the Environmental Assessment of March 7, 2008.

The delay is unwarranted and in violation of the appeal decision. We respectfully ask that you provide us with an update on the status of our appeal, a rationale for the delay, and prompt deadline for its completion including any intermediate milestones. The impacts of the delay and its continuation of the unjustifiable boating ban are felt deeply by paddlers who are still barred from experiencing the Wild and Scenic Chattooga River by kayak, raft or canoe.

Furthermore, we want to alert you that the many preliminary alternatives presented last summer and fall by the Sumter National Forest fail to pass the most basic tests of law, regulation, or the appeal decision. All the preliminary alternatives propose to ban boating on the uppermost 2 miles of the Wild and Scenic Chattooga River without any factual basis, thereby replicating the successfully appealed 2004 RLRMP decision on a smaller section of river. In fact, the Sumter National Forest arbitrarily excluded this portion of the Chattooga River from the user capacity analysis. Most or all of the alternatives also single out paddling – likely the smallest and lowest impact use – for harsh and unjustified limits and/or bans while allowing other users much greater freedoms including unlimited use. Any decision that does not treat all users equally will be in clear violation of the appeal decision, the Wilderness Act and the Wild and Scenic Rivers Act.

We ask that your office assure that the new ROD rigorously follows the appeal decision which calls for equitably treatment of wilderness compliant uses, a rational fact-based decision, and full compliance with the Wild and Scenic Rivers Act, the Wilderness Act, and other relevant laws.

Thank you for any assistance you can provide. Please feel free to contact me if you have any questions regarding this issue and we look forward to your response.

Sincerely,

Kevin R. Colburn  
National Stewardship Director  
American Whitewater  
1035 Van Buren St.  
Missoula, MT 59802  
406-543-1802  
kevin@americanwhitewater.org

cc:

Mr. Mark Rey, USDA  
Mr. Jim Bedwell, USFS  
Mr. Chris Brown, USFS  
Mr. Chuck Myers, USFS  
Mr. Jerome Thomas, USFS  
Mr. John Austin, Patton Boggs, LLC  
Mr. Don Kinser, American Whitewater  
Mr. Mark Singleton, American Whitewater  
Ms. Charlene Coleman, American Whitewater  
Mr. Brian Jacobson, American Whitewater  
Mr. Nathan Galbreath