

TIGHT LINES August 2006

Newsletter of the Rabun Chapter (522) of Trout Unlimited

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Visit the Rabun TU website: <http://www.rabuntu.com/>

To fish or not to fish...NOT TO FISH ?? Yea, like that's even an option!

*[non-boating related portions of the newsletter have not been
included below - AW]*

Visitor Use Capacity Analysis, Upper Chattooga River

In 1974, Congress designated 57 miles of the Chattooga River as a Wild and Scenic (W&S) River in part because of the Outstandingly Remarkable Value (ORV) of Recreation. For the past 30 years, the lower two-thirds of the Chattooga River, including the lower 4 miles of the W&S West Fork, have been zoned to permit boating. The proliferation of boaters in the Lower Chattooga River has conflicted with, and essentially driven out, many other users from the great majority of the W&S River. Meanwhile the remaining North Fork of the Upper Chattooga river corridor, above the Highway 28 Bridge, has been zoned for "foot travel only" (no horses, no bicycles, no boats).

The Upper Chattooga river corridor is unique in the Southeast in terms of the high-quality solitude and wilderness experience.

This area includes the Rock Gorge, Big Bend Falls, and the Ellicott Rock Wilderness. Now the "steep creeking" whitewater boaters are demanding that the Forest Service open the North Fork for immediate and unregulated access (any number of boats, anytime, any water level) for rafting, canoeing, and kayaking. This threatens the area's Outstanding Remarkable Values of Recreation, including backcountry solitude and remoteness. In response to the boater's demands, the Forest Service is conducting a Visitor Use Capacity Analysis for the Upper Chattooga. <http://www.fs.fed.us/r8/fms/forest/projects/chattdata.shtml>

The Upper Chattooga has always been a haven for hikers, hunters, naturalists, bird watchers, swimmers and trout anglers. This group is now working together as **Friends of the Upper Chattooga (FOTUC)** to preserve and protect this area. The primary goals of the FOTUC are to help protect the Upper Chattooga's wild and scenic values, to educate the public of threats to these values, and to assist the Forest Service in arriving at a responsible decision that, above all, protects this river's resources. FOTUC include the **Chattooga Conservancy, GA ForestWatch, GA Wildlife Federation, SC Wildlife Federation, NC Wildlife Federation, Wilderness Watch** (of Missoula, MT), **GA Council of TU, SC Council of TU, NC Council of TU, Whiteside Cove Association, Atlanta Fly Fishing Club, and several private landowners** along the upper corridor of the Chattooga, a Congressionally designated Wild and Scenic River. Members of the group, individually and collectively, possess decades of experience on this river.

For experienced boaters, the Upper Chattooga is just another “creeking” stream; for the tradition backcountry visitors it is the area’s last refuge for remoteness and solitude. The FOTUC want to help the Forest Service do what is best for the long-term future of the Upper Chattooga.

What’s New in the Upper Chattooga?

July 5 – FOTUC files a Friend of the Court Brief in the Boaters Lawsuit Against the Forest Service:

The following are excerpts from the 24 page brief: *“The Plaintiffs claim that boating does not substantially interfere with other recreational values. The Plaintiffs also claim that only the northernmost 21 miles of river are at issue. Both claims are untrue. In short, the proliferation of boaters in the Wild and Scenic River portion of the Chattooga River has conflicted with, and essentially driven out, many other users from the great majority of the Wild and Scenic River, i.e., the lower two-thirds of the Wild and Scenic River area, and the Forest Service has taken (and should continue to take) such impact into account. Granting an injunction and opening the last remaining portion of the river to unlimited boating would substantially interfere with and harm the other uses that make up the Outstandingly Remarkable Value of Recreation.”* *“The U.S. Attorney has already adequately demonstrated why the Complaint should be dismissed. The Friends of the Upper Chattooga argue that the Motion should be denied as well because the Complaint has little likelihood of success on the merits, the Plaintiffs suffer no irreparable harm, granting the injunction would instead harm the other users of the Chattooga River, and granting the injunction would not serve the public interest. This brief touches upon all four prongs, but focuses on the incorrect claim that Plaintiffs are suffering some unique and irreparable harm, and also demonstrates the harm to non-boating users of the Wild and Scenic River that would be caused by granting the injunction.”*

“CONCLUSION: WHEREFORE, the Friends of the Upper Chattooga urge the Court to dismiss the Complaint and deny the Motion. As Mr. Gates* aptly put it: ‘Boaters already have access to the majority of the river ... something should be set aside for solitude and wilderness experience.’ “(*See Mr. Gate’s affidavit in the June 06 issue of TIGHT LINES <http://www.rabuntu.com/aboutme.htm>)

July 7 - Wilderness Watch in Missoula, MT joins FOTUC. <http://www.wildernesswatch.org/> Founded in 1989, Wilderness Watch is the *only* national organization whose sole focus is the preservation and proper stewardship of lands and rivers already included in the National Wilderness Preservation System (NWPS) and National Wild & Scenic Rivers System (NWSRS).

July 7 - Highlands Biological Station in Highlands, NC supports FOTUC <http://www.wcu.edu/hbs/> Founded in 1927, Its principal mission is to promote research and education in biodiversity studies (ecology, systematics, evolution, and conservation), with special emphasis on the diverse flora and fauna of the region.

July 7 – Update on Lawsuit: The federal defendants filed a brief responding to Plaintiffs' motion for a preliminary Injunction. The following excerpts are from the 28 page brief: *“They have no likelihood of success on the merits under the Administrative Procedure Act (“APA”), because the 2005 Order at issue does not violate the Wild and Scenic Rivers Act (“WSRA”) and is not arbitrary or capricious. Plaintiffs’ argument to the contrary assumes that WSRA mandates that the Chattooga be opened to floating in all places, at all times, and by all users. But nothing in WSRA requires that result; to the contrary, WSRA confers broad discretion on the Forest Service to regulate and limit recreational uses to accommodate competing river values.”*

“The agency has already spent several hundreds of thousands of dollars in contracting fees and, at this point, is projected to spend well over one million dollars to complete the study.”

“CONCLUSION: The government respectfully requests that the Court dismiss and deny the motion.”

July 19 – NC Wildlife Federation joins FOTUC <http://www.ncwf.org/> NCWF is North Carolina’s largest wildlife enthusiast conservation group with 60 years experience, 12,000 general members, and 23 affiliated sportsmen’s clubs in all regions of North Carolina. The mission of the NCWF is to be the leading advocate for all North Carolina wildlife and its habitat.

July 20 - Update on Lawsuit: The Plaintiffs (the boaters) filed an 11 page brief asking the Court to reject the Friend of the Court brief filed by FOTUC on July 5. The Plaintiffs have aggressively acted to have the Forest Service ignore the impact of boaters on non-boating uses of the Chattooga River, and the Motion to Strike is simply another attempt to silence non-boating users.

July 21 – NC Council of Trout Unlimited joins FOTUC <http://www.nctu.org/>

July 26 - Update on Lawsuit: FOTUC files a 10 page brief (in response to Plaintiff’s 7/20 brief) that concentrates on the premise that the Plaintiffs are seeking in yet another context to silence the voices of all non-boating users of the Chattooga.

July 27 – USFS Pubic Meeting: See “Backcasting” for complete details and opportunities to volunteer.

Editor’s note: *As a direct result of the AW appeal of the Chattooga zoning, the User Analysis is projected to cost over \$1.5 million, including the Forest Service staff costs. Why are the boaters investing so much*

and costing the taxpayers over \$1.5 million dollars just so the experienced boaters can have some high water access to a few miles of another "creeking" stream, the Upper Chattooga? That does not even include the additional taxpayer's cost in defending against the AW lawsuit. That's more than the President's F/Y2007 budgeted LWCF for GA and SC combined. Just imagine what \$1.5 million could have done towards cleaning up Stekoa Creek. **Such a waste of our tax money! It's just a shame!**

The Following Two Letters Are Examples of What the Forest Service Must Consider in Their Analysis

Editor's note: *The following letter was posted on the Sumter NF website on 6/18/06 and reprinted here with permission of the writer.*

Sent: Saturday, June 03, 2006

Subject: Chattooga River - Preserving the ban on boating on the upper portion of the Chattooga River.

Dear Mr. Cleeves:

As a long-time user and supporter of the Chattooga River, I am totally opposed to the permitting of boating on the upper reaches of this outstanding river.

My introduction to flyfishing began in 1963 on the Chattooga River. It wasn't an officially designated Wild and Scenic River, but it was wild and unbelievably scenic. My skills at flyfishing grew, as did my appreciation for this river, and what it provided in the way of a nearly unblemished wilderness area. As a trained professional forester, employed by the South Carolina Forestry Commission, I may have been in a privileged position to realize what a tremendous value this area represented for the citizens of South Carolina and Georgia, and for visiting non-residents. Even back in those days of the early 1960's, I remember reflecting on how wonderful it would be if my children could experience the same solitude this river and adjacent land provided. And so it came to pass that a son born in 1959, and a daughter born in 1960, were able to do just that. They have fished, hiked, bird watched, and have been able to experience "the Chattooga", just as I did over forty years ago. I am thoroughly convinced that if boating in the upper portion of the Chattooga had been approved in 1970, the solitude of the river would have been severely impacted. The studies of the river at that time were adequate, and clearly showed that a detrimental impact would be experienced. The correct decision was made then, and is even more applicable now. Just look at the areas of the lower Chattooga where boating is allowed, and one can see that the impact on the river is not something acceptable to folks seeking the solitude of a Wild and Scenic River.

My children are now allowing their children, my grandchildren, to experience the wonders of a quiet walk from Burrell's Ford to Ellicott's Rock. Hiking and fishing the Chattooga still gives this 74 year old man a tingle. Why spoil this solitude with the presence of rafts, canoes, and kayaks, just because the water is there? I still fly fish the Chattooga, as well as premier trout streams all over the United States, and seriously...none are any more beautiful than our Chattooga. As my forestry career progressed, and I became State Forester, Director of the SC Forestry Commission, and retired in 1993, I never stopped being concerned about the future of the Chattooga River and its beautiful wooded corridor. Threats of nature in the form of forest fire, insect and disease attack are ever present, and are often beyond our control. The proposed impact of boating in the upper reaches of the Chattooga River is something we can control, and I urge you and other representatives in decision making positions to stand fast in keeping this portion of the Chattooga boat free.

Very truly yours, Robert J. Gould - State Forester, Retired

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Editor's note: *The following excerpt is from a letter dated 1/10/06 sent to the Sumter NF by Whiteside Cove Association, Cashiers, NC, a member of FOTUC"*

CREEK BOATING SHOULD NOT BE ALLOWED UNDER THE 1968 WILDERNESS ACT

Wilderness Act Sec. 2. (a) "In order to assure that an increasing population, accompanied by expanding settlement and **growing mechanization, does not occupy and modify all areas** within the United States and its possessions, leaving no lands designated for preservation and protection in their natural condition, it is hereby declared to be the policy of the Congress to secure for the American people of present and **future generations** the benefits of an enduring resource of wilderness. Lands should be "administered for the use and enjoyment of the American people in such manner as **will leave them unimpaired for future use as wilderness**, and so as to provide for the protection of these areas, the preservation of their wilderness character..."

This is the preamble to the Wilderness Act not a random footnote buried deep in it's pages. The following two points from above should be considered in the Chattooga boating LAC analysis.

I. Growing Mechanization:

The wilderness drafters were aware that “growing mechanization”, or technology advancement, increases usage and negatively impacts the wilderness. They intended to protect the forest from the increased demand associated with easier access from technology.

“The Need for Wilderness is for areas of the earth within which we stand without our mechanisms that make us immediate masters over our environment” – Howard Zahniser, arguing for the Wilderness Act before Congress

It is the growing mechanization of manufacturing processes that has created high-tech plastics, improved production methods and cutting edge designs that now enable the modern kayaks to float the Chattooga headwaters.

In 1971 *“Available equipment prevented all but a handful of boaters from navigating [the Chattooga] headwaters.”* Pg 4. Additionally, *“Advancements in equipment helped self-guided boaters switch from using [rubber] rafts to specially crafted canoes and kayaks for running whitewater”* pg. 3-15 From the AWA appeal to the USFS April 2004:

Regarding the Section 0 , *“This section can **only** be floated in a rubber raft.”* 1971 Chattooga WSR study. *“They [Creekers] tend to use the latest in high performance equipment specifically designed for creeks,”* From The Sumter National Forest Revised Resource Management Plan January 2004. Appendix H

These high-tech boats being considered “primitive” is absurd. A birch-bark canoe is a primitive mode of river transport; these truly primitive boats could never float the headwaters. A “creeking” roto-molded kayak made with cross-linked polyethylene is a modern invention to conquer all whitewater. Being a product of growing mechanization, these modern boats should not be considered for wilderness access.

Similarly, advancements in bike design now allow another mode of transport to enter further into the wilderness. There are plenty of national forest and other public land for these activities; the small percentage of public land declared wilderness should not be forfeited to these new demands.

Wilderness areas are supposed to be protected from easy access resulting from growing mechanization. History has told us we simply do not know the hazards associated with these new materials nor do we understand the associated environmental impacts.

“For not only are ecosystems more complex than we think--they are more complex than we can think.”

Former Forest Service Chief Jack Ward Thomas

II. Unimpaired for Future Use as Wilderness ...Future Generations:

“It is time to re-examine the “enjoyment equals support” equation and to encourage public support of resource protection at a higher level of understanding. In giving priority to visitor services, the Park Service has paid less attention to the resources it is obliged to protect for future generations.” From “Rethinking the National Parks for the 21st century,” NPS July 2001.

The Wild and Scenic River and Wilderness Act are less than 40 years old. The Chattooga River and Ellicott wilderness have been declared and protected for only thirty years. Yet we are already considering squandering the lands protection as a result of an increase in recreational demand.

Boating demand on the lower Chattooga has increased over 6,000% since the WSR study in 1971.* A comparison between the worn access and portage trails alongside Chattooga section III to those of the pristine headwater riverbanks confirms the long-term ecological impact of boating. The narrow stream and low-water associated with the headwaters will not permit boating without scraping the boulders, down trees, bedrock and pebbles in the creek bed.

History tells us that demand will increase with population and that whitewater gear will continue to develop. The purported boating demand level on the headwaters is already greater than the 1971 recorded demand. Fewer than 1,000 boaters per year were floating the lower Chattooga prior to 1971; the lower river now has over 80,000 boating visitors every year.* Demand for floating the headwaters in thirty years can logically be predicted by this history. Imagine the ecological impact of 80,000 visitors on the stream-sized headwaters in thirty years.

It is likely that the invention of some new boating gizmo will make floating more easy for future generations. Predicting future demand based on current interest levels employing existing

boating equipment is imprudent. Boating demand will leapfrog with whitewater technology advancements much quicker than the increase in population.

It would be premature and tragic to assume that we are the “future generations” for which the wilderness was declared.

* All Chattooga visitor data is directly from the Sumter USFS Chattooga River statistics.

“Today’s river activities reflect these changes [equipment and technique]. “Old-school” cutting-edge expert runs like the Gauley and Upper Youghiogheny are now crowded with hundreds of mainstream paddlers, and more difficult rivers like the Green and Tallulah, once considered unrunnable, are now quite popular. For example, in the late ‘70’s a handful of paddlers first ran the Class V+ “Bottom Moose” in upstate New York, portaging many of the big drops. Today hundreds of paddlers line up to run these very same rapids at a popular river festival each fall.” **AWA posting on**

www.americanwhitewater.org/content/Wiki/stewardship:risk

Obviously, however this issue is resolved it will be precedent setting with far reaching consequences into the future and across all federal agencies managing and zoning recreational waters. You need to share your views NOW.

In their appeal document, AW told the Forest Service, “Boaters Coexist Peacefully With Other River Recreationists on All Other Southeastern Rivers” “As on every other **similar river in the southeast, anglers and paddlers can peacefully coexist on the Headwaters of the Chattooga River.”**

The Forest Service needs your help to identify some of those “similar rivers”? Have you experience user interference from boating on a mountain trout stream? Have you had your day spoiled by a parade of boats going through? Have you been displaced to another stream because of conflict, disgust, or interference caused by boating? Are there trout streams you now avoid because of boating? (i.e. Lower Chattooga, West Fork/Overflow, Upper Toccoa R. or Upper Chattahoochee (in Helen) in GA; Davidson, Nantahala, Tuckasegee, Wilson Cr, or Green in NC; Tellico or Little R. in TN; or any other stream in the Southeast) What about up North? (i.e. AuSable & Pere Marquette in MI or the Farmington in CT) What’s it going to be like in another 20 years? Do we need more stream sections zoned like the Upper Chattooga, for “foot travel only”?

If so or if you have an opinion, please take a few minutes and tell the Forest Service. Please be specific as to stream, time of year, type of boats involved, behavior of boaters, effects on fish behavior, effects on fishing experience, etc. Once you have shared your own experiences, please pass this request on to other backcountry visitors.

Send your comments to: Project Coordinator - John Cleaves, E-mail jcleaves@fs.fed.us ;
US Forest Service, 4931 Broad River Road, Columbia, SC 29212.

For more info on the User Analysis, click on: <http://www.fs.fed.us/r8/fms/forest/projects/chat.shtml>