



File Code: 1570/1920

Date: October 26, 2009

Rachel S. Doughty
Paul, Hastings, Janofsky and Walker LLP
55 Second Street
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San Francisco, CA 94105

RE: Stay Request for Boating Provisions of the Proposal for Management of the Upper Chattooga River – Project Appeals #10-08-03-0016, 10-08-11-0017, and 10-08-12-0018

Dear Ms. Doughty:

I have received your October 20, 2009, request for stay of implementation of the Upper Chattooga River decisions amending the Forest Plans on the Sumter, Chattahoochee, and Nantahala National Forests (August 2009). The Decisions approving the Forest Plan Amendments are currently under appeal. Your group (Georgia Forest Watch) submitted a timely appeal on these decisions on October 19, 2009.

You stated that implementation of the three Upper Chattooga River decisions would, “for the first time since designation of the Chattooga River as a Wild and Scenic River, allow boating between the confluence of Norton Mill Creek in North Carolina and Burrells Ford Bridge in South Carolina between December 1 and March 1 at flow levels of approximately 450 cfs or higher.” You also stated that “Changes to management of large woody debris and trails, and the construction of a parking lot for floaters wishing to access the Upper Chattooga River apparently to follow from the changes to the three management plans.”

Reasons for Request

You stated that there would be **adverse effects on the requester**, specifically an immediate loss of solitude and a negative impact on the user experience. You further state that there would be a permanent change of character of the area because of the increased user impacts. You also state that there would be an unjustified commitment of funds regarding the parking lot construction.

You stated that there would be **harmful site-specific impacts or effects on resources**, specifically, that large woody debris in the stream would be diminished. You also state that boat put-in and take-out activities and the proposed parking lot will increase soil erosion and sedimentation. Additionally, you state the implementation will result in an increase in user conflicts.

This information and rationale satisfies the requirements of 36 CFR 219, Optional Appeal Procedures (Section 10) for a stay request.



Under the Optional Appeal Procedures (Section 10)(c)), requests to stay implementation of a specific project or activity will be considered where the project or activity would be implemented before a decision on the merits of the appeal could be rendered. I expect a decision on your appeal, as well as others who have appealed this project, to be signed in March or April 2010. Additionally, the boating provisions of the decisions are scheduled for implementation beginning December 1, 2009. Therefore, I have further considered your request for stay.

Analysis and Decision on Stay Request

Your request for stay regarding allowing boating between the confluence of Norton Mill Creek in North Carolina and Burrells Ford Bridge in South Carolina between December 1 and March 1 at flow levels of approximately 450 cfs or higher is granted. Pursuant to the Optional Appeal Procedures (Section 10(e)), I have considered the information you have provided and I have considered the effect that granting your stay request would have on preserving a meaningful appeal on the merits. A total of 5 administrative appeals have been filed. Each appeal raises issues that the Forest Service must review. Due to the volume and complexity of issues raised in these appeals, I believe granting your stay request is the most prudent course of action. The granting of this stay allows for a meaningful appeal process to proceed based on the merits of each issue raised by all of the appellants. Thus, the status quo is preserved until a decision is finalized on each of the appeals filed. This stay will remain in effect until the final administrative decision by the Department of Agriculture is made for each of the appeals.

The decisions at issue concern amendments to the three affected Forest plans and do not unilaterally authorize the construction of a parking lot. The parking lot project requires a separate site specific NEPA analysis and decision, which has already been initiated by the Nantahala-Pisgah National Forest. However, the planning process is not complete for this decision and no work has yet been authorized. Therefore, your request for stay on this project activity is denied. I do encourage you to participate in the opportunities for public input into the planning process for the parking lot project in the future.

My decision on your stay request does not prejudge the issues raised in your or others' project appeals. A meaningful review of all appeal issues will be conducted based on their merits, and independent of this stay decision. I encourage your continued involvement in local decision-making.

Sincerely,

/s/ Ken S. Arney

KEN S. ARNEY

Deputy Regional Forester for State and Private Forestry

