

# EXHIBIT 21

**bill floyd**

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**From:** Luczak, Heather L -FS <heather.luczak@usda.gov>  
**Sent:** Wednesday, October 23, 2019 4:53 PM  
**To:** bill floyd  
**Cc:** info@chattoogariver.org; mbamford123@gmail.com; Nicholas, Allen -FS; Fitzsimmons, Cavan -FS; Aldridge, Michelle -FS  
**Subject:** RE: Nantahala National Forest LRMP Questions re Scotsman Creek ORW Tributary to the Chattooga River: LRMP issues  
**Attachments:** Southside Project\_Scotsman Creek Restoration.docx

Mr. Floyd,

Forest Service responses to your October 8<sup>th</sup> email are in red, embedded in your email below. We appreciate your continued commitment to the Chattooga River and its tributaries and have provided you with the information that we have regarding Scotsman Creek.

Regarding your request for supporting records, I am sending the Scotsman Creek restoration proposal that was included in the Southside Project (see attached). Please let us know what additional specific records you are seeking. If we have them and can provide them to you legally outside of the FOIA process we will. If not, you will need to contact Doug Meloche, Regional FOIA Coordinator (douglas.meloche@usda.gov or 404-347-4427) to request records. This is a requirement since you have an outstanding debt for the processing of a previous FOIA request. In an email on June 20, 2019, Ms. Sara Sullivan, Acting Assistant Director, FOIA/PA made you aware of this requirement for all future records requests from the Forest Service. In short, the email stated this - "In accordance with USDA FOIA Regulations, Section 8(d), where a requester has previously failed to pay a fee, the requester is being required to pay the full amount owed, plus any applicable interest, as well as the full estimated fee associated with any new request prior to the agency commencing to process a new or subsequent request." Please contact Doug Meloche for assistance in bringing this matter to a close.

You wrote, "*The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Administrator, Environmental Protection Agency and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.*" 16 U.S.C. §1283(c). Please keep in mind any communications with other agencies, departments, etc. while conducting government business is considered "privileged communication" and would need to be requested through the FOIA process and possibly subject to FOIA exemption b5 (deliberative process) or other exemptions if released. Again, you will need to contact Doug Meloche, Regional FOIA Coordinator to request records of this type.



**Heather Luczak**  
**Forest NEPA Coordinator**

**Forest Service**  
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**From:** bill floyd [mailto:wcbfloyd@ix.netcom.com]

**Sent:** Tuesday, October 8, 2019 9:08 AM

**To:** Luczak, Heather L -FS <heather.luczak@usda.gov>; Nicholas, Allen -FS <allen.nicholas@usda.gov>; Arney, Ken S -FS <ken.arney@usda.gov>; Christiansen, Victoria C -FS <victoria.christiansen@usda.gov>

**Cc:** wcbfloyd@ix.netcom.com; Michael Bamford <mbamford123@gmail.com>; info@chattoogariver.org

**Subject:** RE: Nantahala National Forest LRMP Questions re Scotsman Creek ORW Tributary to the Chattooga River: LRMP issues

Forest Supervisor Nicholas,

Disappointingly, the United States Forest Service continues to prevent me from participating fully in the revision of the LRMP for the Nantahala and Pisgah National Forests.

Instead of encouraging the continuous and open sharing of non-privileged knowledge and records with *all* interested members of the public (as the National Forest Management Act requires to be done throughout the time period during which the agency undertakes to plan, revise, and adopt a new LRMP) you guys have responded to my narrow subject matter questions seeking the agency's critically relevant knowledge and non-privileged records and reports by (1) producing piece meal answers and off point disclosures (2) by stalling the disclosure of otherwise properly requested and sufficiently identified relevant records (sometimes for months, and in several cases indefinitely), and (3) by failing to share (on the agency's own accord) *other* information and records and reports *which the agency constructively controls* and *which the agency otherwise knows* contain critically relevant non-privileged information pertaining to the narrow subject about which I am concerned during the LRMP planning process—*other* information, records, and reports which neither I nor any other member of the public have any practical way to know might exist because the Forest Service has engaged in a long standing and systematic practice of refusing to respond fully to earlier in time questions and earlier in time records inquiries, which if properly addressed in a timely manner might have logically led me to ask for additional *other* information, records, and reports.

Thu use of such a circular process of denying information and knowledge which the agency constructively possesses explains in part how the United States Forest Service has gone about systematically fabricating a voluminous but entirely sanitized administrative record pertaining to the agency's management of the North Carolina headwaters of the Chattooga River *since April 2005—long before your arrival at the Nantahala National Forest.*

A careful review of the Forest Service's distant and weedy administrative record provides sufficient evidence for recognizing how this willingness to fabricate an administrative record which fails to tell the whole truth began as a headquarters top down leadership orchestrated process in April 2005—a top down driven process which was initially resisted locally by the then Regional Forester for the Southern Region and the Forest Supervisor for the Sumter National Forest in South Carolina.

Over time, the fabrication of a voluminous but editorially sanitized administrative record pertaining to what the agency has done or neglected to do in managing the North Carolina headwaters of the Chattooga River has become standard operating procedure.

Unfortunately, this practice has continued even after your arrival at the Nantahala National Forest.

Your refusal to address the information disclosure problems complained about in my September 22, 2017 Notification proves the point.

After the Forest Service received this detailed summary of the problems with the agency's information disclosure process, my efforts to gather additional factual information and records and reports and to compel the Forest Service to disclose requested information were essentially brought to a grinding halt by the agency's assertion of a legal pretense for doing so. I am more interested today with how the agency continues to prevent me from gathering information during the LRMP revision than rehashing what the agency has already done in the past to prejudice and obstruct my efforts to participate fully in the LRMP.

Although some might view Ms. Luczak's abbreviated answers emailed to me on October 7<sup>th</sup> and October 4<sup>th</sup> 2019 as an adequate response to my October 2<sup>nd</sup> inquiries, in the interest of avoiding confusion, I would respectfully ask you to re-consider the possibility that the answer was not complete. Could you please simply respond with a little bit more detail....

Ms. Luczak's terse response of October 4, 2019 stated "Regarding your request for supporting records, the Forest is unable to process your request for records at this time."

Please be aware, my request for "records and documents which might support...on point answers" to the questions which I posed on October 2, 2019 did not constitute a request for records pursuant to the Freedom of Information Act. The Freedom of Information Act ("FOIA") offers the public a way to compel the disclosure of non-privileged records and documents *at any point in time* when an agency chooses to avoid voluntarily disclosing requested records and reports.

The limited rights provided by the FOIA differ drastically from the broader information gathering rights conferred upon individuals during the assessment, revision, and adoption of a new Land Resource Management Plan.

My right to expect to be voluntarily provided with on point and complete answers to the factual questions submitted on October 2, 2019 and the "records and documents which might support...on point answers" arises from the special information gathering rights bestowed on the public during the revision of a Land Resource Management Plan pursuant to the National Forest Management Act and relevant regulations.

These intensified information gathering rights evaporate once a new LRMP has been adopted.

The information gathering rights which apply during the revision of an LRMP are totally separate and apart from my right to use the FOIA to compel the production of non-privileged records.

We are not aware of the "information gathering rights" to which you are referring. The 2012 Planning Rule is clear that public participation during the planning process is intended to be dynamic, so that the Agency can both inform the public and accept feedback on the overall approach to the planning process as well as specific phases of the plan (FSH 1909.12 Ch 40); however, there is no requirement that the Agency transmit deliberative process records during the planning process outside of our commitments through the Freedom of Information Act.

Hence, I must ask again that I be provided with "on point but comprehensive answers as well as the records and documents which might support those on point answers".

To be specific about the obvious purpose for seeking on point and complete answers to the questions which I submitted on October 2, 2019, Question #1 asked you to answer whether "*the Nantahala National Forest (or any other federal or state agency)*" had undertaken to study Scotsman Creek's sediment transport imbalance. Consistent with our response on Oct. 7<sup>th</sup>, the Nantahala NF has not undertaken any study of sediment transport imbalance in Scotsman Creek. Nor are we aware of any other federal or state agency conducting such a study. However, as part of the Southside Project, the forest did evaluate Scotsman Creek and proposed restoration of eroding streambanks as they contribute to sediment in Scotsman Creek.

The question was intended to gain a response from the responsible leaders of the agency about the extent of their knowledge about this single subject matter (the existence or non-existence of a sediment transport imbalance on Scotsman Creek) and by implication to clarify what the agency **had done or not done to comply** with what the national Wild and Scenic Rivers Act compels with plainly stated language:

“The head of any agency administering a component of the national wild and scenic rivers system *shall cooperate* with the Administrator, Environmental Protection Agency **and with the appropriate State water pollution control agencies** for the purpose of eliminating or diminishing the pollution of waters of the river.” 16 U.S.C. §1283(c).

The Congressional command to “cooperate” presumes a mandate that some degree of back and forth communication is supposed to be occurring between the Nantahala National Forest and the North Carolina Department of Environmental Quality and the US EPA about *any water pollution concerns* pertaining to the national Wild and Scenic Chattooga River—which specifically includes Scotsman Creek.

Clearly, the existence or non-existence of a sediment transport imbalance on that segment of the Chattooga River flowing through the Nantahala National Forest would constitute the very kind of significant water pollution concern about which these agencies ought to be cooperating “for the purpose of eliminating or diminishing the pollution of waters of the river.” 16 U.S.C. §1283(c).

Hence, during the revision of the LRMP for the Nantahala National Forest, Question #1 presumed that you would answer by explaining with detailed specificity about how the USFS had been communicating back and forth with NC DEQ or the US EPA about the possibility of a sediment transport imbalance on Scotsman Creek and the need to investigate that possible water pollution problem.

We have not had any communication with NC DEQ nor US EPA regarding Scotsman Creek outside of the regular NEPA process for the Southside Project. In advance of implementing restoration on Scotsman Creek, the FS will submit a 401 water quality permit application to the NC Division of Water Quality and a 404 permit application to the Army Corps of Engineers; that communication has not yet been initiated.

If Forest Service officials have been doing their job in this narrow respect, by all means, please make that clear for me by detailing what kinds of communications have taken place regarding the issue of a sediment transport imbalance. Once you do so with some degree of specificity and without any further delay, I can eliminate this as a factual matter to be answered.

I presume that you and your teammates understand how a refusal to respond to this straightforward *factual* inquiry about what the Nantahala National Forest has done or not done in this narrow respect might be viewed as an admission that the agency hasn’t undertaken any effort “to cooperate with... the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.” 16 U.S.C. §1283(c).

The compilation of photographs which I took on Scotsman Creek and provided to you back on May 17, 2018 as document N-35-C (months prior to the announcement of the Southside Project) should have provided the Forest Service with sufficient reason to investigate whether or not Scotsman Creek was suffering from a sediment transport imbalance. My photos demonstrated how sediment had accumulated on certain segments of the stream bottom in quantities of as much as a foot or more in depth.

In the past, when we walked around the river near Bull Pen Iron Bridge to view how the prescribed fire had burned too hot along the steep flanks of the river, you expressed to me your personal recognition of the visibly obvious bedded sediment problem while deferring a need to discover why I am the only one complaining about it. I would respond to you today. *The public can’t recognize the problem if the Forest Service refuses to disclose information which would otherwise corroborate the existence of the problem.*

I press again my objective of working collaboratively with all of the responsible state and federal agencies to locate the money needed to fix this problem.

However, I continue to be frustrated with the Forest Service's "whack a mole" approach to information disclosure during the revision of the LRMP for the Nantahala and Pisgah National Forests.

The agency's continuing obstructive behavior suggests that the agency has already chosen a strategy of trying to delay providing answers and information until the agency can adopt a new LRMP which will throw a blanket over the agency's past failure to comply with its own regulations, rules, and standards as they apply to the management of the Chattooga River.

To press further why your team should immediately rethink things and move forward by providing detailed answers to my October 2, 2019 inquiries, Question #2 asked whether or not the Forest Service had reason to "suspect that the densities of the brook trout populations residing in Scotsman Creek have suffered a non-temporary decline..."

Given the Forest Service's fisheries biologist's prior admission about the need to undertake urgent stream bed restoration activities on Scotsman Creek because of sedimentation (a candid admission made during the public discussion about the Southside Project), answering Question #2 constitutes a logically critical piece of information which should be answered honestly and with full explanation during the revision of the LRMP.

Providing a full and honest answer to Question #2 also goes to the heart of the agency's compliance with 16 U.S.C. §1283(c).

If the *Nantahala National Forest* honestly doesn't suspect that brook trout populations have suffered a non-temporary decline, then by all means, please explain the scientific basis for drawing such a benign conclusion despite the agency's stated admission about the sedimentation problem that needs to be fixed on Scotsman Creek.

Ms. Luczak's terse response of October 7, 2019 seems to admit that the agency hasn't undertaken any count of the brook trout populations on Scotsman Creek.

**That is correct, the FS has not undertaken any count of brook trout populations on Scotsman Creek.**

This leaves me scratching my head about how the agency might be able to presume anything about the possible declining condition of the brook trout populations on Scotsman Creek. A logical perspective would presume a need to collect measurable scientific data pertaining to this concern before offering any opinion.

I would direct you to examine the current LRMP for the Nantahala National Forest...in particular the monitoring "standards" which apply to Management Area 15 (Wild and Scenic Rivers) and Management Area 18 (the Riparian Management Area).

As you know, the LRMP spells out *specific monitoring tasks* that the Nantahala National Forest should have been conducting since the adoption of the current LRMP.

These specific monitoring tasks are plainly stated at page D-2 of Appendix D of the Land Resource Management Plan, Amendment 5 for the Nantahala and Pisgah National Forests, Table D-1 Monitoring Task Summary Table, March 1994. I previously sent you a copy of that document and I also asked that this document be included in the administrative record being compiled during the revision of the LRMP as document "N-23-1".

“Monitoring Task No. 9” requires the USFS to monitor the Management Indicator Species populations (rainbow, brook and brown trout) and their habitat on at least an annual basis. Id. at p. D-2.

“Monitoring Task No. 11” compels the USFS to reevaluate “relationships between populations, habitat conditions, and management activities...as new information becomes available.” Id. at p. D-3.

Monitoring Task No. 10” requires the Forest Service to “evaluate MIS population trends and habitat conditions [by reviewing] monitoring information collected for Task 11.” Id. at pages D-2 and D-3.

“Monitoring Task No. 17” compels the Forest Service to answer the question: “Are directions and standards being met for riparian areas?” Id. at page D-3. This requires annual monitoring by forest hydrologists and fisheries biologists.

Ms. Luczak’s second terse response of October 7, 2019, failed to explain whether or not any of these monitoring tasks had been performed with respect to the trout habitat and trout populations on the Wild and Scenic designated Scotsman Creek.

Monitoring of MIS and associated riparian areas are conducted on an annual basis; however, there is no requirement or expectation that the monitoring items identified in the Forest Plan be carried out on all trout bearing waters on the Nantahala NF. This monitoring has not occurred on Scotsman Creek, nor is it necessary to know the magnitude of the potential reduction in sedimentation rates from the eroding stream bank(s) in order to provide benefits to the aquatic resources.

The Forest Service supports the statistically valid monitoring designs of the NC Wildlife Resources Commission and the NC Division of Water Resources. These monitoring efforts do not specifically target all water bodies identified by interested publics nor do these efforts monitor all water bodies on the National Forests.

All of this fact and circumstance augurs why I must ask that you to provide me with *much more detailed and on point answers* to my October 2, 2019 inquiries about what the agency has done or failed to do in managing the day to day beneficial uses of Scotsman Creek.

In particular, Question #4 asks a critically relevant factual question which the public needs to know in order to be able to assess how well the agency has complied with the *standards* articulated by the current LRMP.

Question 4# asked “Has anyone at the Nantahala National Forest attempted (since December 2012) to apply the best available science regarding the adverse impacts of bedded sediments and the minimum effects threshold beyond which the successful spawning by mature trout and the early life cycle survival of their newly hatched alevin will be adversely disrupted by the accumulation of these sediments?”

Field work conducted as part of the Southside Project found streambank erosion along Scotsman Creek which contribute to reduced habitat quality of pools. In response to this finding, treatments to reduce the potential for stream bank erosion and sedimentation were included in the project. Implementation of these treatments is expected to begin in the next 2 to 5 years.

Could you please now thoughtfully respond to this factual inquiry?

If you need to be refreshed about what the *best available science* is regarding bedded sediments and the *minimum effects threshold* beyond which any additional accumulation of sediment will disrupt successful spawning by mature trout and the early life cycle survival of newly hatched alevin, please see the detailed review of the *best available science* which was provided to you on pages 43-44 of the September 22, 2017 Notification which was emailed to you on September 22, 2017 @ 3:38 p.m.

I would further recommend that you review the sediment evaluation standards being applied by the United States Forest Service on salmonid streams out west.

The Nantahala National Forest cannot hope to compile a fully informative administrative record which tells the whole truth during the revision of the LRMP if it continues to refuse to disclose knowledge and information which the agency has no right to keep concealed from the public.

Furthermore, if the agency doesn't know the answer to one of my LRMP related factual question, wouldn't it be a more efficient use of time for the agency to specifically admit that fact instead of just entirely ignoring the question?

We have provided answers to your questions to the best of our knowledge.

To refresh everyone, here are the questions and reports that I requested back on October 2, 2019:

- 1) Has the Nantahala National Forest (or any other federal or state agency) undertaken any comprehensive study since December 2012 of the current sediment transport imbalance being suffered on Scotsman Creek? What were the findings? Could I please be provided with all of the documents and records associated with such a study? What is the normal sediment transport capacity of Scotsman Creek?
- 2) Does the Nantahala National Forest suspect that the densities of the brook trout populations residing in Scotsman Creek have suffered a non-temporary decline?
- 3) Has the Nantahala National Forest (or any other federal or state agency) undertaken any count of the trout populations residing on Scotsman Creek upstream of Bull Pen Road since December 2012? What were the findings? Could I please see all of the documents and records associated with such a study?
- 4) Has anyone at the Nantahala National Forest attempted (since December 2012) to apply the best available science regarding the adverse impacts of bedded sediments and the minimum effects threshold beyond which the successful spawning by mature trout and the early life cycle survival of their newly hatched alevin will be adversely disrupted by the accumulation of these sediments? What were the results of such a study? Could I please see all of the documents and records associated with such a study?

In closing, without any further delay, please respond to me by providing “on point but comprehensive answers as well as the records and documents which might support those on point answers”.

I would presume that your answers to my questions hold relevance for other members of the public like the Chattooga Conservancy which has carefully presented its concerns about the Southside Project—in particular their strong opposition to any plan to harvest a stand of old growth hardwoods on top of Brushy Mountain which lies immediately uphill from where Scotsman Creek has already suffered too much accumulation of sediments. Similarly, I would presume that the requested information might be of interest to Mr. Bamford and those concerned about the adverse impacts on the native azaleas, mountain laurel, and rhododendron that those interested individuals assert will occur as a consequence of implementing the prescribed burns set forth in the Southside Project plan.

Thank you...and let's restore this unique river as I know many employees of the Forest Service would like to do.

Bill Floyd

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**From:** Luczak, Heather L -FS [<mailto:heather.luczak@usda.gov>]  
**Sent:** Monday, October 07, 2019 2:52 PM  
**To:** Bill Floyd ([wcbfloyd@ix.netcom.com](mailto:wcbfloyd@ix.netcom.com))



**Cc:** Nicholas, Allen -FS; Meloche, Douglas - FS

**Subject:** FW: Nantahala National Forest LRMP Questions re Scotsman Creek ORW Tributary to the Chattooga River: LRMP issues

Mr. Floyd,

In response to your questions regarding studies on Scotsman Creek, the Forest Service has not taken any comprehensive studies or undertaken any count of trout populations.

Questions from your Oct 2<sup>nd</sup> email:

- 1) Has the Nantahala National Forest (or any other federal or state agency) undertaken any comprehensive study since December 2012 of the current sediment transport imbalance being suffered on Scotsman Creek? What were the findings? Could I please be provided with all of the documents and records associated with such a study? What is the normal sediment transport capacity of Scotsman Creek?
- 2) Does the Nantahala National Forest suspect that the densities of the brook trout populations residing in Scotsman Creek have suffered a non-temporary decline?
- 3) Has the Nantahala National Forest (or any other federal or state agency) undertaken any count of the trout populations residing on Scotsman Creek upstream of Bull Pen Road since December 2012? What were the findings? Could I please see all of the documents and records associated with such a study?
- 4) Has anyone at the Nantahala National Forest attempted (since December 2012) to apply the *best available science* regarding the adverse impacts of bedded sediments and the minimum effects threshold beyond which the successful spawning by mature trout and the early life cycle survival of their newly hatched alevin will be adversely disrupted by the accumulation of these sediments? What were the results of such a study? Could I please see all of the documents and records associated with such a study?



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**From:** Luczak, Heather L -FS

**Sent:** Friday, October 4, 2019 11:47 AM

**To:** Bill Floyd ([wcbfloyd@ix.netcom.com](mailto:wcbfloyd@ix.netcom.com)) <[wcbfloyd@ix.netcom.com](mailto:wcbfloyd@ix.netcom.com)>

**Cc:** Nicholas, Allen -FS <[allen.nicholas@usda.gov](mailto:allen.nicholas@usda.gov)>; Meloche, Douglas - FS <[douglas.meloche@usda.gov](mailto:douglas.meloche@usda.gov)>

**Subject:** RE: Nantahala National Forest LRMP Questions re Scotsman Creek ORW Tributary to the Chattooga River: LRMP issues

Mr. Floyd,

Thank you for your input and inquiry regarding activities in Scotsman Creek on the Nantahala Ranger District. We have received the email communication between yourself and District Botanist, Matt Bushman regarding the stream bank treatments along Scotsman Creek associated with the Southside Project.

Regarding your questions that you posed in your Oct 2, 2019 email to Forest Supervisor Allen Nicholas, your questions have been forwarded to our district Fisheries Biologist and we will get back to you as soon as we can with answers.

Regarding your request for supporting records, the Forest is unable to process your request for records at this time. Please contact Doug Meloche, Regional FOIA Coordinator regarding your outstanding FOIA request and any subsequent requests for records.



**Heather Luczak**  
**Forest NEPA Coordinator**  
**Forest Service**  
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**From:** bill floyd [<mailto:wcbfloyd@ix.netcom.com>]  
**Sent:** Wednesday, October 2, 2019 6:33 AM  
**To:** Nicholas, Allen -FS <[allen.nicholas@usda.gov](mailto:allen.nicholas@usda.gov)>; Luczak, Heather L -FS <[heather.luczak@usda.gov](mailto:heather.luczak@usda.gov)>; Aldridge, Michelle -FS <[michelle.aldridge@usda.gov](mailto:michelle.aldridge@usda.gov)>  
**Cc:** [wcbfloyd@ix.netcom.com](mailto:wcbfloyd@ix.netcom.com)  
**Subject:** Nantahala National Forest LRMP Questions re Scotsman Creek ORW Tributary to the Chattooga River: LRMP issues

Allen,

Good morning.

I have several narrowly fenced in questions about which I would like to obtain on point but comprehensive answers as well as the records and documents which might support those on point answers. I need this information to participate in the LRMP revision.

Earlier this am, I forwarded a copy of the a document entitled N-35-E which constitutes an email chain which should jumpstart your response to this request for information. This email chain pertains to the controversial Southside Project.

As you know, the Southside Project EA calls for the Forest Service to undertake a series of massive controlled burns and timber removal projects all over the landscape lying adjacent and near the Chattooga River and Scotsman Creek. I don't oppose using prescribed burns—I have successfully conducted such burns on tracts of pine lands of as much as 300+ acres. I have also seen what happens when prescribed fire does not go according to plan. Consequently, with respect to the highly erosive (micaceous) soils which dominate the steep slopes lying in the upstream watershed of the Chattooga River and its tributaries, it remains my view that the risks of fire exposing these highly erosive soils to erosion caused by rain and the risk of additional suspended sediments being channeled into the already sediment choked Chattooga far outweigh the benefits to be achieved through conducting the burns and timber removal projects.

To get to the heart of this email, the Forest Service has already admitted in its Southside EA Feb 2018 a p.12: “Three locations along Scotsman Creek are currently experiencing severe stream bank erosion. Each site has high, steep banks which are contributing sediment to Scotsman Creek. To stabilize these banks and improve the condition of in-stream pools, the Forest Service would construct toe-wood structures, log j-hooks, and a multistage flood plain.”

While the stated intention to stabilize these 3 chronic erosion sites seems encouraging, these proposed undertakings constitute anything but a sufficient action plan for addressing the intense duties that the United States Forest Service must discharge in managing this ORW tributary to the Chattooga.

As a quick site visit will confirm (and as demonstrated by the photo surveys that I prepared and shared with you on May 17, 2018) these 3 locations do not constitute the only places on Scotsman Creek where the problem of excessive sedimentation should be setting off claxon horns in your offices.

As my photos evidence (and as you can measure for yourself) the stream bed of Scotsman Creek (reaching from the culvert under Bull Pen Road upstream to the upper boundary of Forest Service lands) is arguably in worse condition than the main stem of the Chattooga. In more than one location, the fine particle sized sediment was as much as a foot deep from one bank to the other when these photos were captured.

What is most distressing is that Scotsman Creek has a beautiful quartz stone bottom lying under this blanket of fine particle sized sandy sediment.

Allen, I haven't heard anything from the Nantahala National Forest for an extended period of time about what you guys are specifically doing to remove this sediment on Scotsman Creek or what you plan to do in the future to remove this sediment.

Creating watershed plans about what we might hope some future Forest Service official might do (at some unknown future point in time) at a landscape scale does little to discharge the narrow duties that you guys owe to place primary emphasis on protecting and enhancing the trout habitat on Scotsman Creek and preventing any non-temporary diminishment in that habitat's biological capacity for sustaining outstanding densities and/or biomass of naturally reproducing populations of trout.

As you might know, Scotsman Creek was also classified as Outstanding Resource Waters in 1989 because of its administratively recognized outstanding native trout habitat and that habitat's biological capacity for sustaining outstanding densities of naturally populations of trout. In fact, in the past, the stream was so successful in producing an abundance of brook trout, that brook trout (which had chosen to migrate downstream) had been documented (during the 1992-1996 trout population studies) as having been caught in the main stem of the Chattooga just below where Scotsman Creek dumps into the main stem of the Chattooga....Based on my personal experience, today, this would be highly improbable.

Scotsman Creek's brook trout populations have been reduced to a mere “continue to persist” size—something which was not supposed to be allowed to happen.

Accordingly to assist me (and other interested members of the public) in thinking about and responding to the forthcoming LRMP, I would ask the agency to provide answers (and any documents supporting those answers) to a few questions set forth below:

- 1) Has the Nantahala National Forest (or any other federal or state agency) undertaken any comprehensive study since December 2012 of the current sediment transport imbalance being suffered on Scotsman Creek? What were the findings? Could I please be provided with all of the documents and records associated with such a study? What is the normal sediment transport capacity of Scotsman Creek?

- 2) Does the Nantahala National Forest suspect that the densities of the brook trout populations residing in Scotsman Creek have suffered a non-temporary decline?
- 3) Has the Nantahala National Forest (or any other federal or state agency) undertaken any count of the trout populations residing on Scotsman Creek upstream of Bull Pen Road since December 2012? What were the findings? Could I please see all of the documents and records associated with such a study?
- 4) Has anyone at the Nantahala National Forest attempted (since December 2012) to apply the *best available science* regarding the adverse impacts of bedded sediments and the minimum effects threshold beyond which the successful spawning by mature trout and the early life cycle survival of their newly hatched alevin will be adversely disrupted by the accumulation of these sediments? What were the results of such a study? Could I please see all of the documents and records associated with such a study?

Allen, I have already provided you guys with copies of the critical scientific studies that have established the *best available science* which has quantified the minimum effects threshold for bedded sediments beyond which trout reproduction and early life cycle survival will be disrupted. I have also previously provided you with documents demonstrating how your Forest Service teammates out west have gone about recognizing the adverse impacts on salmonids from excessive accumulations of sediment on the streambed of a cold water salmonid habitat.

See in particular Floyd Document P-9 et al.

Clearly, I am seeking to help you see for yourself how the Nantahala National Forest is falling far short in addressing the adverse impacts on the trout residing on the Chattooga River. My goal remains to get all of us on the same side of the huge boulder and start pushing it back up hill.

However, we need to take immediate action to remediate the problem instead of continuing to debate if there is a problem.

Bill Floyd

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