

Melonas Email Response to Floyd Oct 1 2015 re improper objection meeting

Bill Floyd

From: Bill Floyd <wcbfloyd@ix.netcom.com>
Sent: Thursday, October 01, 2015 9:35 PM
To: 'Melonas, James -FS'; 'Luczak, Heather L -FS'; 'Wilkins, Mike -FS'
Cc: wcbfloyd@ix.netcom.com
Subject: RE: Bill Floyd Request For Additonal Meeting Re HIs Objection

Importance: High

Deputy Forest Supervisor Melonas,

It was well within your discretion to have allowed other attendees to direct questions to the Forest Service during the 2nd objection resolution meeting with American Whitewater—especially because of the confusion that the Forest Service had created on the prior American Whitewater objection meeting. It is disappointing that you refused to do so. This would have saved everyone a lot of time and perhaps avoided further appeals.

Your refusal to allow the public to ask questions of the Forest Service during this *extraordinary* second objection resolution meeting with a single party, constitutes just one more example in a discriminatory pattern of behavior designed to promote creek boating no matter the impacts. The Forest Service's willingness to grant American Whitewater a second objection meeting while denying other interested parties the same opportunity exemplifies this same discriminatory intent.

There is no time constraint to excuse your refusal of my requests made on behalf of the public interests. It is quite clear that the Forest Service seeks to exclude public involvement by arbitrarily granting greater access to American Whitewater—100% more access.

Mr. Melonas, the exact language employed in 36 CFR 218.11 was explicitly modified to make clear that multiple objection meetings with a single objector should not occur. See Federal Register Vol. 78, No. 59, March 27, 2013 at page 18489. Nevertheless, the Forest Service demonstrated its discriminatory favoritism by going ahead and granting a second objection resolution meeting with American Whitewater—while denying the same right to others.

It is even more distressing that the Forest Service abruptly closed a public meeting this morning, to the prejudice of multiple parties who had a significant need to gain an understanding of the Forest Service's changing position on what boaters must do in paddling the North Carolina part of the Chattooga.

Consistent with your obligations under the Government in Sunshine Act, 5 USC 552b. which requires the Forest Service to maintain a transcript or an electronic recording of today's closed meeting with American Whitewater, please consider the following request for information pursuant to the Freedom of Information Act: (1) please provide copies of the transcript or electronic recording of today's closed meeting between yourself, Mike Wilkins, and Kevin Colburn of American Whitewater, (2) please provide any handwritten notes, memorandum, and any and all emails authored and sent by either James Melonas, Mike Wilkins, James Knibbs from Thursday, September 24, 2015 until Friday, October 2, 2015.

Given the brevity of time, and the desire to limit the expense to the Forest Service, please provide such records in an electronic media instead of paper hardcopy.

Thank you.

From: Melonas, James -FS [mailto:jmelonas@fs.fed.us]
Sent: Thursday, October 01, 2015 4:03 PM
To: Bill Floyd; Luczak, Heather L -FS; Wilkins, Mike -FS
Subject: RE: Bill Floyd Request For Additonal Meeting Re HIs Objection

Mr. Floyd:

We have completed the objection meetings for the 2015 EA and won't be holding additional meetings. At your meeting earlier this week, you were able to discuss all of your objection points in detail with us and we are taking those into close consideration along with the other objections we received.

At this point, we will be assessing all the issues raised by objectors and moving towards a final decision. You will also be receiving a written response to your objection.

Sincerely,
James



James E. Melonas
Acting Forest Supervisor

Forest Service
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From: Bill Floyd [mailto:wcbfloyd@ix.netcom.com]
Sent: Thursday, October 01, 2015 11:23 AM
To: Luczak, Heather L -FS; Melonas, James -FS; Wilkins, Mike -FS
Cc: wcbfloyd@ix.netcom.com
Subject: Bill Floyd Request For Additonal Meeting Re HIs Objection
Importance: High

Bill Floyd requests that the FS convene an additional meeting with him to address his objection further, and to provide additional context for the meeting occurring today with American Whitewater, in which the District Ranger has just admitted that there are no records, meeting minutes etc. being preserved. My objection is directly impacted by the discussions occurring today.

Please advise if this meeting could be held as early as tomorrow.

Thank you.

I

EXHIBIT 63

00-M Email Chain w Melonas Wilkins Luckzak Sept 30 to Oct 1 2015 Re
AW objection meeting

From: [Bill Floyd](#)
To: "[Luczak, Heather L -FS](#)"; "[Melonas, James -FS](#)"; "[Wilkins, Mike -FS](#)"
Cc: wcbfloyd@ix.netcom.com
Subject: RE: Chattooga R. Boating Access EA Objection resolution meetings
Date: Wednesday, September 30, 2015 12:47:58 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
Importance: High

Mr. Melonas,

As reviewing officer, I would ask that you make the 2nd objection meeting planned for American Whitewater on Thursday, Oct. 1 @ 11 am, one where objectors may direct questions only to the **Forest Service** for real time clarification purposes. There are a limited number of interested parties, less than a half of a dozen, who are likely to appear, and to ask for clarifications. I am one of those objectors.

This will avoid the necessity of holding yet another objection meeting with myself, since there will be further confusion about the changing responses of the Forest Service to the two written objections of American Whitewater.

First, I am confused about what "corrections" need to be shared with AW.

American Whitewater has alleged in its objection that the Forest Service would be guilty of perjury unless the Forest Service now incorporates specific language in all final documentation which American Whitewater dictates must be included.

American Whitewater has been clear that it believes the Forest Service will have somehow perjured itself unless the Forest Service now makes clear in writing that "no permit is required for floating above the point 200 feet upstream of Green Creek." Furthermore, it is clear that American Whitewater was/is instructing the Forest Service to amend/prepare certain language to be incorporated into all final documentation that would "clearly state....that the agency does not manage or prohibit river access upstream of that point" and "by explicitly stating in the Decisions that paddling is not prohibited upstream of the Green Creek Trail by the Forest Service, and that a permit is required for paddling below the Green Creek Trail."

On the last AW call, I heard Ranger Wilkins acknowledge that the Forest Service's position was consistent with what AW was suggesting and that so long as the paddler puts in at the designated launch point at Green Creek, that the FS did not care where they paddled, floated on the river, upstream or downstream. I also understood the FS to state that paddling at Grimshawes was permissible, in spite of what is clearly intended to the contrary in the 2012 Decision Notices.

During the afternoon call, with Whiteside Cove Association, the same issue came up, but I was unable to comprehend what the Forest Service's position was that afternoon, and could not ask questions to obtain clarification.

Second, and of greater urgency for me, during the 1st AW call, I heard AW repeat its written insistence that the Forest Service “allow paddlers to access the Upper Chattooga where they choose just like other visitors.”

The American Whitewater representative first suggested that the Forest Service designate the Green Creek trailhead as the designated launch point as a way for the Forest Service to give paddlers complete discretion to decide precisely where they wished to launch their craft into the water—in contrast to what the 2012 Decision Notices require. Mr. Colburn withdrew that suggestion before the Forest Service made any response.

However, at that precise point in the conversation, Ranger Wilkins responded to the stated preference of AW, for having the trail head designated as the launch site, by reminding Mr. Colburn, that paddlers after putting in at the designated launch point for Green Creek, could always just “walk around.”

It was quite clear from the timing and the context of this statement what was meant by “walk around”.

Ranger Wilkins was advising American Whitewater that the spirit of the requirements spelled out in the 2012 Decision Notices regarding put-in launch points, if not the letter of their prescription, could perhaps be easily and technically evaded by putting in, shortly thereafter evacuating the river, and then “walking around” until the paddler discovered the exact location where he/she wished to reenter the river. By implication, a paddler could put in at Green Creek, immediately get out at Green Creek, and walk to wherever they desired to put in within the riparian corridor to launch, and that process could be repeated as many times as an individual desired as they proceeded downstream.

Such a candid suggestion of how to beat the “spirit” if not the letter of the system leads to many questions. It was clear that Ranger Wilkins was stating that he would not see such an approach as a violation of any standard, rule, etc, and that he would not attempt to enforce any kind of compliance under the penalty of law.

Such an approach clearly encourages further physical degradation to this riparian area. The river corridor is already suffering by the hand of nature (hemlocks dying and falling into the river) but also by the fact that creek boating is a highly intensive recreational use which, unlike all other existing permitted uses, causes physical damage to the top of the river bank and the riparian corridor. Creek boating causes unique damage to the banks of the river and the rhododendron jungle adjacent to the river, due to the way in which a 35-40 pound boat must be launched, as well as evacuated from the river, and transported via portage to the next point of put in—especially in a place where the rhododendron growth is so thick right down to the waters edge.

This degrading effect is particularly exacerbated when every individual boater gets to choose where they want to evacuate and re-enter the river—as the Forest Service has now candidly admitted will be ok.

Unlike all other recreation uses currently allowed on the Chattooga in North Carolina, Creek boating also requires the Forest Service to create special infrastructure on highly erosive micaeous soils so that the sport may be pursued.

During the three short years that boating has been allowed in North Carolina , the Forest Services' own measurable evidence of degradation, erosion sites, user created trails, etc., have at a minimum doubled, perhaps tripled and maybe even quadrupled. Efforts to suggest that this degradation occurs because of all uses—and in particular because of anglers—would not square with the circumstances that explain the location of these new erosion sites as well as the history of 30 years of use and the facts established by the 2007 inventory. The only variable that differs today from 2012 or 2007 is the presence of creek boating. The locations of these new erosion sites correlate with where boaters need or wish to be able to get out of the river and relaunch in order to catch certain whitewater plunges into pools.

The physical evidence on the river demonstrates how paddlers have been violating the specifics of where they are supposed to be putting in pursuant to the terms of the 2012 Decision Notices. There is at least one case where an affidavit might possibly be produced to confirm that kayakers were observed by two brothers in June 2014 illegally putting on the river in violation of both season and flow. None of this should surprise the Forest Service. American Whitewater admitted in its court pleadings that members of the paddling community had illegally been floating the Chattooga for years prior to the 2012 Decision Notices.

There are a considerable number of streamwide strainers that make paddling from Green Creek to Ellicott rock untenable, and which necessitate multiple evacuations from the creek and subsequent reentry downstream. These strainers pose no problem for anglers or rock hoppers who can are not burdened by a 35-40 pound weight of a boat. Anglers need not get out of the water and would not want to because fish are likely to be clustered around the log. Only boaters need to evacuate and create their own pathway to their next put in. The danger of being pinned should not be understated as you may not be aware that a local individual drowned on Norton Mill Creek trying to paddle that tributary.

There is also that pesky problem of excessive sediment having filled in and changed both the depth and width of the small channels available for paddlers to float. This has changed the dynamics of the river at full bank and is causing the tops of the bank to erode into the stream.

In short, in contrast to other users of the river in North Carolina, paddlers have a unique unescapable requirement to get in, get out, and “walk around” to avoid these obstacles. American Whitewater admits this, without discussing the adverse significant impacts that this will have on the riparian corridor---which can be observed to have already occurred today after just three seasons of boating.

There are now multiple user created trails that are quite beaten down and heavily used, which were neither there prior to the start of boating in 2012 nor in 2007 when the Forest Service irrefutably documented that the North Carolina section of the Chattooga River was absolutely the most pristine part of the river.

Consequently, given the confusion previously created by the changing responses of the Forest Service, I would hope that you might allow questions to be directed, in real time, to the Forest Service. This will facilitate the most efficient use of everyone's time, both today, and in any future appeals.

Thank you for your consideration of this and I look forward to hearing back from you about my simple request to be given a chance to direct questions to the Forest Service during the meeting tomorrow with American Whitewater.

Bill Floyd

From: Luczak, Heather L -FS [mailto:hluczak@fs.fed.us]
Sent: Monday, September 28, 2015 11:02 AM
To: tgroletter@aol.com; mbamford123@comcast.net; kevin@americanwhitewater.org; Mary Topa; Bill Floyd; info@chattoogariver.org
Subject: FW: Chattooga R. Boating Access EA Objection resolution meetings

Regarding the objections that were filed on the Chattooga River Boating Access EA, two objection resolution meetings were held on Friday Sept 25th. We spoke with Kevin Colburn of American Whitewater at 10:00am and Michael Bamford of the Whiteside Cove Association at 1:00pm. A follow-up meeting was scheduled with Kevin Colburn to correct some information that was shared during our Friday conference call. The follow-up meeting is scheduled for this Thursday (Oct 1st) at 11:00.

We will also be discussing Mr. Floyd's objection at 1:00pm today.

If you wish to listen to the discussions between the Forest Service and the objectors you may join by conference call at the following number:
1888-844-9904, Access code is 5379893#.

Heather Luczak
Assistant Forest Planner

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From: Luczak, Heather L -FS
Sent: Thursday, September 17, 2015 9:41 AM

To: tgroletter@aol.com; mbamford123@comcast.net; kevin@americanwhitewater.org; Mary Topa (mtopa@gafw.org); Bill Floyd (wcbfloyd@ix.netcom.com); info@chattoogariver.org
Cc: Melonas, James -FS; Lint, Rick -FS; Jewett, Betty M -FS; Knibbs, James H -FS; Gonzalez-Sullow, Nelson -FS
Subject: Chattooga R. Boating Access EA Objection resolution meetings

The following objection resolution meetings have been scheduled for the Chattooga Boating Access EA project:

Chattooga Conservancy: Sept 15th 1:00pm at the Nantahala RD Office (This meeting was held earlier this week. Interested individuals were notified of the meeting time and location.)

American Whitewater: Sept. 25th at 10:00 at the Nantahala RD Office

The Whiteside Cove Association: Sept 25th at 1:00 pm at the Nantahala RD Office

Bill Floyd: Sept. 28th at 1:00 pm Teleconference call. If you are interested in listening in on this meeting, please let me know and I will provide you with a phone number to join the meeting.

Heather Luczak
Assistant Forest Planner

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