

# EXHIBIT 7

## bill floyd

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**From:** bill floyd <wcbfloyd@ix.netcom.com>  
**Sent:** Thursday, June 20, 2019 7:37 AM  
**To:** 'Luczak, Heather L -FS'; 'Aldridge, Michelle -FS'; anicholas@fs.fed.us; karney@fs.fed.us  
**Cc:** william.low@usda.gov; wcbfloyd@ix.netcom.com; vcchristiansen@fs.fed.us  
**Subject:** RE: LRMP Revision for the Nantahala and Pisgah National Forest and documents related to the Chattooga River

Chief Christiansen, Regional Forester Arney and Forest Supervisor Nicholas,

I wish that we might stop wasting each other's time by arguing about what information needs to be disclosed to the public by the USFS regarding the agency's obligations to move forward with restoring the once outstanding but now degraded wild trout fisheries and trout stream habitat which is being suffered on the North Carolina headwaters of the ORW classified and WSR designated Chattooga River.

We should be working together (cooperatively) to find the proper mix of public and private money needed to fix these problems instead of continuing to argue about whether or not there is a problem or whether the problem can be fixed. The considerable amount of money needed to roll this rock back up the hill can be found—but not if the USFS continues to disregard its central role and responsibility in this challenge.

- 1) Ms. Aldridge, Mr. Nicholas, Mr. Arney, and Ms. Luczak: On June 9, June 11, and June 17, 2019, I emailed a request that specific documents be placed into the administrative record being maintained for the preparation of the Land Resource Management Plan for the Nantahala and Pisgah National Forests. Please confirm via itemization that each of these individual documents (described on June 9, June 11, and June 17) (including document "*P-13 Paddler Constructed Portage Site CC-1*") have in fact been placed into the administrative record. These records should be taken into consideration in deciding how to manage the Chattooga River's headwaters going forward under the forthcoming new LRMP.
- 2) Ms. Luczak, could you please advise why you state "Any [FOIA] requests you send to me directly [as the FOIA Coordinator for the Nantahala National Forest] will be forwarded to him [Mr. Meloche] for processing. I will not be processing them."

Regional Forester Arney and Forest Supervisor Nicholas, I am confused. How might Ms. Luczak discharge her responsibilities as the FOIA coordinator for the National Forests in North Carolina if she will not be processing FOIA requests but will be automatically sending them to the Regional office for processing.

Ms. Luczak, I would ask you to clarify if you have been instructed by your superiors to forward all FOIA requests sent to you from all other organizations and individuals to Mr. Meloche for processing?

Alternatively, have you been ordered/instructed by one of your superiors to send any FOIA requests received from Bill Floyd to the Regional Forester's office without regard for what specific records are being requested, the number of documents being requested, without regard for who might be in possession of those records, and without regard for the location where the individual controlling the records might be posted?

Respectfully, I would appreciate if either the Forest Supervisor or Regional Forester or Ms. Luczak (in her capacity as the FOIA Coordinator) could explain this somewhat odd approach to processing FOIA requests.

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I would ask all to review the Forest Service Manual 6270.42d and 6270.42e to gain a better understanding about the perceived oddity of automatically forwarding all of my FOIA requests to be processed by the Regional FOIA staff.

In addition to causing time delays (which are prejudicial to my interests) such a blanket policy of automatically sending my requests to the staff of the Regional Forester suggests that I am being treated disparately in a way that does not seem to comport with the public policy purposes of the Freedom of Information Act.

The Forest Supervisor has authority to release requested records in entirety and to grant a request for a fee waiver.

The FOIA coordinator for the Nantahala National Forest is required to ensure that incoming requests are promptly entered into the national tracking system upon receipt, for appropriately identifying which staff members within the Nantahala National Forest will need to look for the requested records, and to concur on all forest responses and on all record referrals made to the Regional Office.

The FOIA Coordinator for the Nantahala National Forest also has a duty to assist other USFS employees in ensuring that the Freedom of Information Act is being properly administered. FSM 6270.42e.

I believe the inherent checks and balances in this FSM system are set up to protect the interests of the public and to prevent improper concentration of power in processing FOIA requests. Thank you for a prompt response to both of these requests.

Bill Floyd

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**From:** Luczak, Heather L -FS [mailto:heather.luczak@usda.gov]

**Sent:** Tuesday, June 18, 2019 10:19 AM

**To:** Bill Floyd

**Cc:** Aldridge, Michelle -FS; Meloche, Douglas - FS

**Subject:** RE: LRMP Revision for the Nantahala and Pisgah National Forest and documents related to the Chattooga River

Mr. Floyd,

You are correct that I am the FOIA Coordinator for the NFs in NC; however, FOIA is not my full-time job and is just one of many positions that I fill on the forest. Doug Meloche is the Regional FOIA/PA Coordinator and will continue to be your contact regarding the FOIA. Any requests you send to me directly will be forwarded to him for processing. I will not be processing them.

Thank you, and have a nice day.



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

**Forest Service**  
**National Forests in North Carolina**

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**From:** Bill Floyd [mailto:wcbfloyd@ix.netcom.com]

**Sent:** Monday, June 17, 2019 5:35 PM

**To:** Luczak, Heather L -FS <heather.luczak@usda.gov>

**Cc:** Meloche, Douglas - FS <douglas.meloche@usda.gov>; Aldridge, Michelle -FS <michelle.aldridge@usda.gov>; Low, William E -FS <william.low@usda.gov>; Christiansen, Victoria C -FS <victoria.christiansen@usda.gov>; Nicholas, Allen -FS <allen.nicholas@usda.gov>; Bill Floyd <wcbfloyd@ix.netcom.com>; Arney, Ken S -FS <ken.arney@usda.gov>

**Subject:** RE: LRMP Revision for the Nantahala and Pisgah National Forest and documents related to the Chattooga River

Ms. Luczak,

First of all, in addition to the records previously submitted to the Nantahala National Forest for inclusion in the administrative record on June 9<sup>th</sup> and June 11<sup>th</sup>, please place the attached document "P-13 Paddler Constructed Portage Site CC-1" into the administrative record for consideration during the rewrite of the LRMP for the Nantahala National Forest.

This document contains a compilation of photos (which I took on May 30, 2019) to demonstrate the haphazard way and without regard for the health of the trout habitat that new portage trails are being literally sawed out of the rhododendron and mountain laurel that used to guard this trout stream.

This creek boater constructed portage trail did not exist before the introduction of boating. The 2007 Biophysical Inventory corroborates this assertion. I did not want the USFS to be left in the

dark about the extensive damage that has been done to the trout buffer by paddlers—at a time when this river cannot tolerate any additional inputs of sediment.

I appreciate the response set forth below to my prior email communication of June 9<sup>th</sup> and June 11<sup>th</sup>.

However, I'm not sure of the purpose of the Nantahala National Forest's latest advisory.

The email below from the Nantahala does not state what records the USFS acknowledges having received from me.

Neither does the message itemize which records the USFS believes should be placed into the administrative record for consideration during the LRMP revision—or which ones should not.

To clarify, the records that need to be placed into the administrative record were itemized via email dated June 11, 2019 @ 7:13 AM to yourself and others.

All of these itemized records (including the records turned up by the September 22, 2017 FOIA request #2018-FS-R8-00827 pertaining to back and forth communications with American Whitewater) need to be placed into the administrative record.

The public's ability to challenge the wisdom of Forest Service decisions is prejudiced when the agency chooses to sanitize its administrative record so that information that might impeach the agency's reasoning is never disclosed to the public—especially when that information has been specifically brought to the attention of the agency by interested members of the public.

Hence, to clarify, I am not asking the United States Forest Service to use some imagined form of discretion to pick and choose which records brought to its attention will be placed into the administrative record to be considered by the agency during the revision of the LRMP.

The ultimate relevance of any records submitted for inclusion into the administrative record by interested members of the public will have to be determined by somebody other than the agency.

I am securing my administrative appeal rights by demanding that the USFS place all of the information shared with the agency into the administrative record during the revision of the Nantahala National Forest's LRMP.

The records being shared should assist the Forest Service in doing its job. The Forest Service should welcome a robust debate regarding the public interest concerns that are substantiated by the records that I have tried to painstakingly place into the administrative record—since November 2014.

The USFS has chosen for a very long time to refuse to place primary emphasis on protecting the once outstanding quality of the wild trout habitat on North Carolina's headwaters and that unique biological capacity for sustaining outstanding densities and/or biomass of naturally reproducing populations of rainbow, brown, and brook trout. Instead, it has wasted significant amounts of funds and personnel energy on promoting the interests of a single recreational user group—a form of recreational use which the Fourth Circuit Court of Appeals has already cautioned: “floating is not a value of the Chattooga that must be protected and enhanced under §1281(a).” *American Whitewater et al, v. Tidwell*, 770 F. 3d 1108, 1118 (4<sup>th</sup> Cir. Ct. App. 2014).

The agency's administrative records do not reflect the reality about the degraded trout habitat and degraded trout fisheries. The records being added to the administrative record represent just a small portion of the records that need to be added to the administrative record to bridge the Grand Canyon like gap in missing data, information etc.

My disagreement with how the agency continues to implement the FOIA has already been explained in prior communications (email dated June 12, 2019) directed to Regional Forester Arney and Forest Supervisor Nicholas with copies to the office of the Chief of the United States Forest Service.

I do not believe that I have any further need to communicate with Mr. Meloche about the FOIA that I submitted to Mr. Nicholas on June 9, 2019. Mr. Meloche has explicitly stated on June 12, 2019: “Before we can process your request [June 9, 2019], I need to speak with you about an outstanding processing fee for your previous FOIA request #2018-FS-R8-00827.”

Respectfully, I disagree with Mr. Meloche's assertions about how FOIA operates.

Ms. Luczak, am I wrong in my understanding that you are the individual responsible for fielding FOIA requests submitted to the National Forests in North Carolina?

I intend to continue submitting my FOIAs to the appropriate level of agency responsibility where the officials are posted who are most likely to have possession of the records that I am requesting.

Unless advised that I am incorrect that you are currently serving as the FOIA coordinator for the Nantahala National Forest, I will continue to forward my requests to your attention in order to comply with FOIA.

In closing, please immediately place all of the records that have I forwarded to the USFS (on June 9<sup>th</sup>, June 11<sup>th</sup>, and June 17<sup>th</sup>) into the administrative record.

In addition I reiterate my demand that the 195 pages of records that the agency identified as being responsive (and non-privileged) to my September 22, 2017 FOIA request (identified in your records as #2018-FS-R8-00827) be immediately placed into the administrative record

where other members of the public might review them (or request to be provided with access to those records).

Among other things, my September 22, 2017 request asked for all back and forth communications between USFS officials and American Whitewater subsequent to January 1, 2012.

Thank you.

Bill Floyd

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**From:** Luczak, Heather L -FS [<mailto:heather.luczak@usda.gov>]  
**Sent:** Monday, June 17, 2019 10:51 AM  
**To:** Bill Floyd ([wcbfloyd@ix.netcom.com](mailto:wcbfloyd@ix.netcom.com))  
**Cc:** Meloche, Douglas - FS; Aldridge, Michelle -FS  
**Subject:** RE: LRMP Revision for the Nantahala and Pisgah National Forest and documents related to the Chattooga River

Mr. Floyd,

We have received your documents related to trout habitat in the Headwaters of the Chattooga River.

In regards to the Nantahala and Pisgah NFs plan revision, the Chattooga River watersheds on the Nantahala National Forest will be identified as priority watersheds with an opportunity to develop watershed restoration plans during plan implementation.

The records that you have submitted for plan revision will be reviewed and only those records that are necessary to inform the plan decision will be included in the project record. The public comment reading room will not be used as a comprehensive catalog of all literature and comments that we have received as part of the plan revision process and documents responsive to your FOIA requests will not be filed in the reading room.

Any additional questions you have regarding your recent FOIA and any previous FOIAs should be directed to Region 8 FOIA Coordinator, Doug Meloche.



**Heather Luczak**  
**Forest NEPA Coordinator**  
**Forest Service**  
**National Forests in North Carolina**

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