

## DECISION MEMO

**Forest Supervisor's Orders for the  
Upper Tellico Off-Highway Vehicle System**  
USDA Forest Service Southern Region  
Nantahala National Forest  
Tusquitee Ranger District  
Cherokee County, North Carolina

### DECISION

I have decided to put into force a Forest Supervisor's Order for the Upper Tellico Off-Highway Vehicle (OHV) System on the Tusquitee Ranger District of the Nantahala National Forest. This decision is based on information gathered during site-specific condition surveys and comprehensive environmental analysis conducted from October 2007 through January 2009, and on public comments received during scoping of a proposed action for the long term management of the System. The Order implements the following management measures:

Pursuant to 36 C.F.R. § 261.50 (a) and (b) and in accordance with 36 C.F.R. § 212.52, the following acts are prohibited on the entire length of all National Forest System Trails and Roads located within the Upper Tellico OHV Trail and Road System, with exception of Trail TRUT-1/NFSR 420-1, NFSR 402 and that portion of Trail TRUT 2/NFSR 420-2 traversing from NFSR 402 to Jenks Gap, which will all remain open for use by registered, street legal motor vehicles only as further described on the Upper Tellico OHV Trail System Map. This closure is effective from April 1, 2009 until March 31, 2011, or earlier if the order is officially terminated by the Forest Supervisor.

**Possession or use of a motorized vehicle on a road or trail within the Upper Tellico OHV Trail and Road system, which is closed by sign, gate or barricade. 36 C.F.R. § 261.54 (a) and (e) and 36 C.F.R. § 261.55 (a) and (b).**

Pursuant to 36 C.F.R. § 261.50 (e), the following persons are exempted from this order:

1. Persons with a permit from the authorized Forest Service Officer specifically authorizing an otherwise prohibited act or omission.
2. Owners or lessees of land accessed by the specified trails are exempt from the prohibitions listed above to the extent necessary to gain access to their land.
3. Any Federal, State or local officer or member of an organized rescue or firefighting force working in the performance of an official duty.

## **PURPOSE AND NEED FOR THE ACTION**

The purpose of this temporary, emergency closure is to provide short-term resource protection for the Upper Tellico watershed, while allowing time to complete environmental analysis, public review and comment prior to implementation of a forthcoming long term management decision.

Direction in the Land and Resource Management Plan for the Nantahala National Forest (Amendment 5, 1994) identifies the lands within the Upper Tellico OHV Area as existing in Management Areas 1B and 2C and 4D. The description for these management areas state “These lands are managed to provide opportunities for public enjoyment of the Forest through motorized recreation – driving for pleasure in conventional and four-wheel-drive vehicles as well as machines commonly classified as ORV’s. While these uses will be encouraged on appropriate roads and trails, use will not be allowed to damage the Forests’ environment.” (MA 1B, p. III-57). Also, “Provide opportunities for vehicles commonly classified as ORV’s on designated routes primarily within designated ORV areas... if such use does not adversely affect other resources.” (MA 2C, p. III-67). Also, “Maintain roads to accommodate the intended use and to protect resources. Identify where existing designated four-wheel drive ways do not meet water quality standards and develop strategies to bring them into compliance. (MA 4D p III-88 ) These actions are needed to correct ongoing impacts to area waters and aquatic resources caused by sediment from the Upper Tellico road and trail system.

In October and November of 2007 and March of 2008, the Forest Service conducted comprehensive condition surveys of the entire Upper Tellico OHV System. Additional survey and analysis conducted during the remainder of 2008 found numerous problems with the trail system in its current configuration. These are discussed in detail in the Upper Tellico OHV System Environmental Analysis. Some of the key findings include:

### **Forest Plan standards for soil and water are being violated.**

- The Nantahala and Pisgah Land and Resource Management Plan (the Forest Plan or LRMP) standard for soil and water management states: “Prevent visible sediment from reaching perennial and intermittent stream channels...”
- Comprehensive field surveys conducted in 2007 and 2008 revealed 2000 sources of visible sediment along the 39-mile trail. This represents over 50 points of visible sediment for each mile of trail.
- One third of the 2000 sources of visible sediment are reaching the Upper Tellico River and its tributaries.
- Six miles of the trail are within 100 feet of streams and 1.7 miles are within 25 feet of streams.

### **Best management practices are currently failing.**

- Best management practices (BMPs) include 2000 trail drainage features- waterbars, broad-based dips, grade sags, ditches, cross drain culverts, outsloping, and sediment traps.
- Less than half of the trail drainage features are functioning properly.
- Poorly designed, located, and maintained drainage features coupled with excessive use has resulted in significantly deteriorated travel-ways to the point that regular road or trail BMPs are no longer adequate to protect trails from erosion and stream channels from sedimentation.

### **BMPs are not sustainable due to severely erosive soils and heavy rainfall.**

- The area receives greater than 80 inches of rainfall per year with the wettest period occurring during the winter months.
- All trails on the system are classified as severe hazard by the Natural Resources Conservation Service (NRCS). A rating of severe indicates that erosion of the trail is expected, the trail requires frequent maintenance, and costly erosion control measures are needed.
- About 75,000 tons of soil has eroded from the existing trail system since the old logging transportation system was put in place.
- The effectiveness of the BMPs is continuously compromised due to the sheer number (2000) that must receive very frequent maintenance due to the severe soils and heavy rainfall.
- It is virtually impossible to remove the water from deeply entrenched trail sections using standard road and trail engineering or drainage structures. If the trail becomes worn down to bedrock it may also expose springs that add to water flow and thus potential sedimentation. Several trail sections on the OHV system exhibit this deeply entrenched condition, making it difficult to manage the runoff without closure and rehabilitation.
- The trails are highly susceptible to damage from traffic during the winter months when the soils are moist and experience frequent freezing and thawing.

### **North Carolina standards for turbidity are being exceeded.**

- In 1991, the North Carolina Wildlife Resources Commission classified the Tellico River as 'Wild Trout Waters'.
- The state of North Carolina's standard for turbidity states, "the turbidity in the receiving water shall not exceed...10 NTU in streams, lakes, or reservoirs designated as trout waters...Compliance with this turbidity standard can be met when land management activities employ BMPs...BMPs must be in full compliance with all specifications governing the proper design, installation, operation and maintenance of such BMPs."
- Turbidity measurements from the Tellico River have been recorded up to 370 NTU at the state line during storm events.
- During a run-off event occurring on March 4, 2008, the 10 NTU state standard was exceeded in virtually all surveyed streams.

### **Brook trout habitat is being negatively affected.**

- Improving brook trout habitat is a Forest Plan standard. All streams within the Upper Tellico River watershed are suitable for brook trout.
- There are elevated fine sediment deposits in the Tellico River and its tributaries compared to nearby reference streams that are not impacted by the trail system. Brook trout spawning is reduced by increases in fine sediment deposits.
- Toxicity tests near three high challenge areas show elevated levels of petroleum products. Research has shown that these toxic substances can inhibit reproduction and recruitment of fish populations.
- The Forest Service has no control over the effects of droughts, floods, geology, or acid deposition within the Upper Tellico River watershed that may affect brook trout. As land managers however, we can reduce the human induced sedimentation from the trail system and thus eliminate an environmental stressor and provide the greatest opportunity for long-term persistence of brook trout within the watershed.

### **Forest Plan direction regarding level of challenge is being exceeded.**

- The Forest Plan direction for all OHV trails on the National Forests in North Carolina calls for providing “easy to moderate levels of challenge.”
- Several trails on the Upper Tellico system provide a high degree of challenge and do not meet the Forest Plan direction.

### **Forest Plan direction regarding trail density is being exceeded.**

- The Forest Plan direction calls for providing approximately two miles per square mile of OHV trails.
- The current system is currently over four miles per square mile.
- The Forest Plan would need to be amended to allow a higher density for the Tellico OHV area.

The Proposed Action is needed to implement immediate resource protection measures. These trails have been identified as contributing sediment to the Tellico River system. The closure will protect the Upper Tellico watershed from further resource degradation while allowing time to complete environmental analysis, public review and comment prior to implementation of a long term management decision.

The actions will be implemented pursuant to 36 C.F.R. § 261.50 (b) which states, “The Chief, each Regional Forester, each Experiment Station Director, the Administrator of the Lake Tahoe Basin Management Unit and each Forest Supervisor may issue orders which close or restrict the use of any National Forest System road or trail within the area over which he has jurisdiction.” In addition, these actions are being executed in accordance with 36 C.F.R. § 212.52.

## **REASONS FOR CATEGORICALLY EXCLUDING THE DECISION**

These actions do not individually or cumulatively have a significant effect on the quality of the human environment, and therefore, are categorically excluded from documentation in an environmental impact statement (EIS) or an environmental assessment (EA). The specific category, identified in Forest Service Handbook 1909.15 “Environmental Policy and Procedures” is Section 31.12 Category 1: Orders pursuant to 36 CFR Part 261 – Prohibitions to provide short-term resource protection or to protect public health and safety.

## **FINDING OF NO EXTRAORDINARY CIRCUMSTANCES**

No extraordinary circumstances exist that warrant further analysis and documentation in an EA or EIS. The District interdisciplinary team screened these actions for the presence of any one of the extraordinary circumstances identified in Amendment No. 1909.15-2008-1 to Forest Service Handbook 1909.15. Section 30.4 lists the following resource conditions that were considered:

- Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- Flood plains, wetlands, or municipal watersheds;
- Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;
- Inventoried roadless areas;
- Research natural areas;
- American Indians and Alaska Native religious or cultural sites;
- Archaeological sites, or historic properties or areas.

## **SCOPING AND PUBLIC INVOLVEMENT**

The purpose of scoping is to determine the issues and concerns related to the proposal. Public involvement on the proposed action for long term management of the Upper Tellico OHV System began on June 9, 2008 when a letter was mailed and emailed to groups and individuals known to be interested in management of the Upper Tellico OHV Area. On June 28, 2008, during the scoping period, a public open house was held in Murphy, NC, with approximately 87 participants. Approximately 1500 responses from individuals, groups, organizations and other government agencies were received by mail, emailed, phoned in or by personal visit to the District office. These responses conveyed numerous issues, and are summarized in the Response to Public Comments, in the Upper Tellico OHV Project file.

In the 30 day scoping period, newspaper articles were published in the Asheville Citizen-Times, The Cherokee Scout, and the Clay County Progress.

A draft of this Closure Order was released to the public on February 27, 2009, concurrent with the Notice and Comment Period for the Environmental Assessment for the Upper Tellico OHV Project. The public was invited to submit comments concerning the Closure Order. Numerous comments specifically addressing the proposed closure order were received. Most were

