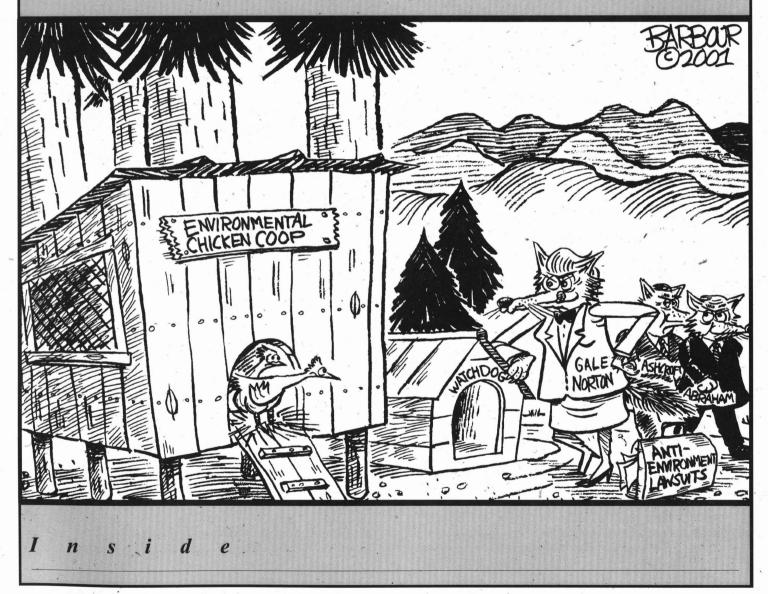


# The Chattooga Quarterly

Winter ◆◆◆ 2001 •

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# Calm Before the Storm



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#### Buzz Williams

Few people are wise enough to predict future events. When it happens, the rest of us should take note. For example, during an interview for the spring 1997 *Chattooga Quarterly*, Dr. Eugene Odum¹ predicted, "I'm sure that by the next presidential election, the environment will become a major issue. My father was a sociologist, and he used to claim that it's in human nature to wait until things get really bad before there's a great rush to try and correct it." The implications of Dr. Odum's prediction are clear; he was emphasizing the imminent threat of environmental disasters in the context of the next presidential election cycle, where the debate would reach such a high level of intensity that citizens and candidates would address these issues.

Was Dr. Odum right? Did the election encompass meaningful debate about the environment, and what positions were taken? Consider three issues that were at the forefront of the presidential debates:

Artic National Wildlife Refuge Bush believes we need to open the Refuge to oil and natural gas extraction, to reduce our dependence on Middle East oil. Gore favored not drilling, endorsing alternative energy development. Nader emphasized cutting consumption, and alternatives.

Protection for old growth forest and roadless areas Bush favors rolling back protection policies, and placing decisions on these issues in the hands of local collaborative forest planning. Gore defended protection policies at the national level. Nader supported ending most commercial extraction activities on public lands.

Campaign finance reform This issue, championed by McCain, Gore and Nader, is germane to the environment because so much money is poured into campaign coffers by industry polluters. To date, Bush is listening to McCain but is still on record as opposing the McCain-Feingold Bill.

So yes, the environment was one of the major issues. George W. Bush is now President, and his environmental agenda contributed in part to his election. Now President Bush is laying the groundwork for carrying through on his stated intent during the debates. He appointed three top level cabinet heads (Gale Norton at the Department of the Interior, John Ashcroft as Attorney General and Spencer Abraham to head the Department of Energy) who believe in softening federal checks over polluting industries, and favor instead a locally based, collaborative approach to problem solving. In addition, they all subscribe to an interpretation of the United States Constitution that leans toward polluters of the environment.

If President Bush carries through on his agenda with the assistance of his new cabinet, he will not only fail to help protect our environment, he will surely help push us closer

to the brink of environmental disaster. Take, for instance, the issue of gas and oil extraction in the Alaska National Wildlife Refuge. President Bush, an oil man elected by oil dollars, flanked by Gale Norton, career defender of industry and John Ashcroft (please see page 9), the most powerful law enforcement officer in the nation, may soon enter the Refuge to supply the US with about 6 months of oil and gas at the expense of seriously degrading the last, vast intact ecosystem in North America.

Concerning our national forest's roadless areas and old growth, expect President Bush to try rolling back protection for these resources, while exploiting any loophole to log, mine, graze or otherwise make a nickel for his industry backers on public lands. He may do this by neutralizing recent federal policy initiatives in favor of local decision-making. Again, wisdom from Dr. Odum: "there must be enforceable high federal standards for air and water quality and land use that apply nationwide...otherwise, states and industries will be tempted to lower standards and increase pollution for temporary gain to the detriment of public health and long term economic well being" (winter 1995 *Chattooga Quarterly*).

These public land issues are harbingers of policies that could be equally as destructive on private lands. Big industries such as chip mills in the South, power companies, the chemical industry and the petroleum industry are poised to take advantage of incentives to plunder.

It was all a bit distorted in November with campaign rhetoric, but today the reality of a looming recession, more hard evidence of global warming, rolling blackouts in California, and water wars on the Chattahoochee give heed to a wise man's warnings. All can see the dirty air and the heat lightning over Atlanta, spawned by a human-made climate. They see once pristine rivers now fouled, yet so precious from short supply that we battle for legal rights to the water—soaking it up before it can get to the sea.

One of the problems with pending disaster is that it strikes without warning. Up until now, ecological degradation was happening so slow that we accepted it in increments that spanned generations. Now, the pace has quickened. There are young people who remember cleaner air and water. So the jury is in; we have serious problems and the average citizen knows this. The ultimate question is, what will we do about it? We know what the current administration wants to do. What about the rest of us? Is the gravity of our threatened life support systems clear enough yet to spur us to action? My prediction: By the next presidential election, environmental issues will be even bigger. Meanwhile, we encourage you to join us and the growing number of citizens who are acting to protect our environmental capital.

<sup>1</sup> Dr. Eugene Odum is Professor and Director Emeritus of the University of Georgia's Institute of Ecology, and author of the first textbook ever written on the science of Ecology.

### Re-thinking Forest Preservation: The Importance of Medicinal Plants

#### Patricia Kyritsi Howell

In 1586, European merchants landed in a place they had named Virginia, loaded their ships with wild sassafras root (*Sassafras albidum*) and sailed toward England. Since Europeans had first set foot in North America, they had been impressed by the vast array of unknown medicinal plants growing wild in the eastern woodlands. These new medicines were to revolutionize the traditional healing practices of many European countries, where native herb

populations had already been depleted for hundreds of years.

By 1603, a group of merchants in Bristol sent a sassafras collecting expedition to Virginia for more of this exciting new plant. Jamestown colonialists were mandated to produce one hundred pounds of sassafras per year. Sassafras was touted as a cure for everything from tooth aches to fevers. As a culinary spice, its fragrant leaves and bark were used as a substitute for cinnamon. In London, sassafras tea served with milk and sugar was the rage in coffee houses.1

It seemed as though there were endless supplies of plants available for the taking. Herbs collected from the wild—such as lady's slipper (Cypripedium spp.), birthroot (Trillium erectum), bloodroot (Sanguinaria canadensis) and golden seal (Hydrastis canadensis)—were in great demand in European markets. Wild medicinal plants were exported by the ton for the next 300 years.

intes, where harve herb

Native Americans used Bloodroot (<u>Sanguinaria canadensis</u>) sap as a dye, and as an insect repellant. drawing by Laura Martin

When American Indians harvested herbs as medicines, they did so with great ceremony. Their healing traditions recognized a distinct connection between the health of the land where the plants were collected and the healing powers of the plants themselves. Those plants especially used for their roots were traditionally harvested only in the autumn, when ripe berries can be replanted in the hole that remains from digging the root. Large stands were maintained by only taking a few of the older plants, leaving younger plants to grow and mature.

Unfortunately, none of this reverence guided Europeans' collecting of plants for profit. By the early 1900's, over harvesting had taken its toll on North American plants.

Golden seal—once described as growing in masses that covered acres of ground—became scarce. There were attempts to cultivate it, but soon it became evident to would-be herb farmers that the growing conditions golden seal required (deep woodland shade and rich humus soil) were almost impossible to recreate. Too late, they

discovered that golden seal does poorly outside its native range—the eastern hardwood forests.<sup>2</sup>

Since the late 1960's, the use of herbal medicines has steadily increased. In the United States, demand for herbal products represents the fastest growing segment of pharmacy sales. Consumers spent over \$2 billion on herbs in 1995, an amount that by the end of 2000 is projected to be over \$5 billion. Although this is good news for those of us who believe that herbs are safe and effective medicines, it is bad news for the severely threatened wild medicinal plants struggling for survival in their native habitats.

Today, over 75% of the wild medicinal plants harvested for commercial markets come from the Southern Appalachian mountain range. Many native plants are in danger of disappearing altogether. In the Southeast, golden seal is considered endangered (*i.e.*, in danger of extinction throughout all or a significant portion of its range) in Georgia and North Carolina. It is

imperiled (between 6 and 20 occurrences in the entire state) in Alabama, and threatened (likely to become endangered) in Tennessee. It is estimated that commercial harvesters are taking roughly 45.4 million to 68.1 million golden seal plants out of wild habitats each year.<sup>5</sup>

The impact of this ecological disruption cannot be overestimated, although until recently it has been overlooked. Most forest policy discussions are still focused on the importance of maintaining "working forests," a term that generally refers to timber harvesting. What we see, and

### **Medicinal Plants**

often have a strong emotional response to, is the wholesale destruction of "woodlands." What is more difficult to see, and almost impossible to gauge in terms of future impact, is the loss of medicinal plants.

At a time when there is much public hand-wringing over the loss of plant populations that might contain cures for many human diseases from the Amazonian rain forest, we would do well to look in our own backvards—the most

ecologically diverse temperate rainforest in the world.

Although it has been almost 500 years since Europeans first regarded the forests of North America as a source of financial profit, somehow these plants manage to survive. Here in the Southern Appalachians, a wide range of plants with incredible healing properties that are only beginning to be understood, struggle

However, every day the range where these plants can be found is shrinking. At the eleventh hour, we are beginning to realize the preciousness of what we are stewarding: a medicinally complex rain forest equal to those in the Amazon basin.

These medicinal plants and their survival are directly linked to our

own. Pharmaceutical drugs don't, in fact, offer the miracle cures we thought they did. At least 70 percent of infections contracted in hospitals are resistant to at least one antibiotic, according to the Centers for Disease Control—a realization that has horrifying implications.<sup>6</sup>

The theories behind most pharmaceutical use are extremely short sighted, and in many ways similar to some of the strategies used in forest management. Whenever we see a living being or forest as a collection of parts, some of which are useful and some of which are expendable, we begin to

disrupt the integrity of the whole. There is an underlying balance to nature's way of maintaining itself that, despite the best scientific efforts, is unknowable. In our ignorance, humility is probably our best strategy.

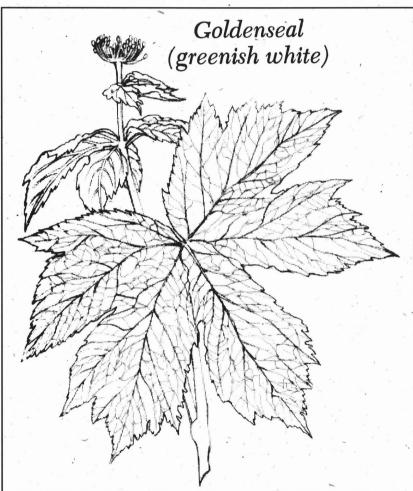
We stand at a crucial point in our relationship with our native forests: the intersection of our consumption patterns and our desire to restore our understanding of sustainable ways of living. We still have an unconscious tendency to

travel along the same paths as the first colonialists who, without restraint. scoured the woods of North America for wild "products" they could ship to eager consumers in other world markets.

We must decide carefully which direction we will take from here. We have inherited a planet abundant with healing, and would be foolish to turn our backs on our native forest apothecary. Through enlightened selfinterest, we can shape increasing demand for medicinal herbs into trends that promote a sustainable relationship with surrounding forests, woodlands and even the weeds in our backyards.

On a personal level, each of us can allow our consciousness, our own wildness-not

just our coughs and colds—to be restored and healed through our newfound respect for native medicinal plants.



The root of Goldenseal (Hydrastis canadensis) has been collected for centuries and used as a tonic, laxative, astringent and stimulant.

<sup>1</sup>Rupp, Rebbeca. Red Oaks and Black Birches: The Science and Lore of Trees. Pownal, Vermont: Story Communications, 1990, pp. 162-165. <sup>2</sup>Harding, AR Ginseng and Other Medicinal Plants. Columbus, Ohio: A. R. Harding. 1972, p. 199.

<sup>3</sup>Liebman, Richard. "Planting the Future." United Plant Savers Newsletter, Fall, 1997, p. 7.

<sup>4</sup>Ibid.

<sup>5</sup>Chech, Richo. "An Ecological Imperative: Growing a Future for Native Plant Medicinals." United Plant Savers Newsletter, fall, 1997, p. 4. <sup>6</sup>Ephraim, Rebecca. "Antibiotic Misuse: What do we do now?" Conscious Choice Magazine. July 1999, p. 40.

### Roadless Area Conservation: Rule-making Facts

Ken Rait

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On October 13,1999 President Clinton instructed the Forest Service to develop and propose for public comment regulations that provide appropriate long term protection for inventoried roadless areas. President Clinton stated, "In the final regulations, the nature and degree of protection afforded should reflect the best available science and a careful consideration of the full range of ecological, economic, and social values inherent in these lands."

Inventoried roadless areas possess social and ecological values and characteristics that are becoming scarce in our nation's increasingly developed landscape. Protecting air and water quality, biodiversity, and opportunities for personal renewal are highly valued qualities of roadless areas. Conserving inventoried roadless areas leaves a legacy of natural areas for future generations.

#### **ACREAGES AND MILES**

The Roadless Rule protects 58.5 million acres, or 31% of National Forest System (NFS) lands, about 2% of the total land base of the United States.

Approximately 386,000 miles of roads are currently administered on NFS lands. The Roadless Rule could prevent the construction of up to 232 miles of new road construction or reconstruction each year in inventoried roadless areas.

### **PRODUCTION**

Implementation of the Roadless Rule would decrease the amount of timber harvested on NFS lands by 2%—from 3,308 million board feet (MMBF) to 3234 MMBF, less than 0.5% of total US production.

Prohibiting timber harvest in inventoried roadless areas could directly affect about 461 timber jobs nationwide over the next 5 years. As timber harvest levels decrease on the Tongass National Forest over the next 5 years, another 269 timber-related jobs associated with reduced harvests from this national forest could also be directly affected.

Currently, total oil and gas production from all National Forest System lands is about 0.4% national production. The Roadless Rule is estimated to directly affect up to 546 jobs related to coal and phosphate commodities.

### **BIOLOGICAL DIVERSITY**

Inventoried roadless areas provide benefits to over 220 wildlife species listed as either threatened, endangered, or proposed by the Endangered Species Act—approximately 25% of all animal species and 13% of all plant species.

Inventoried roadless areas also provide large, relatively undisturbed blocks of important habitat for a wide variety of native terrestrial and aquatic plants including more than 1,400 Forest Service listed sensitive species.

#### **OUTREACH**

More than 180 American Indian and Alaska Native groups were consulted during rulemaking process, and 7 other federal agencies collaborated on the rulemaking.

Over 600 public meetings were held nationwide, and an estimated 25,000 people attended the public meetings. 500,000 comments were received during the comment period for the draft environmental statement (DEIS). More than 14 million hits were recorded on the Forest Service's roadless website. Also, 7 separate hearings were held before US House and Senate committees and subcommittees.

#### THE ROADLESS AREA CONSERVATION RULE

The Roadless Area Conservation Rule limits or prohibits activities that would most negatively affect water quality, biodiversity and opportunities for personal renewal, which are highly valued qualities of roadless areas. The Roadless Rule prohibits new road construction and reconstruction in inventoried roadless areas on National Forest System lands, except:

- ⇒ To protect health and safety in cases of an imminent threat of flood, fire, or other catastrophic event that, without intervention, would cause the loss of life or property.
- ⇒ To conduct environmental clean up required by federal law
- ⇒ To allow for reserved or outstanding rights provided for by statute or treaty.
- ⇒ To prevent irreparable resource damage by an existing road.
- ⇒ To rectify existing hazardous road conditions.
- ⇒ Where a road is part of a Federal Aid Highway project.
- ⇒ Where a road is needed in conjunction with the continuation, extension or renewal of a mineral lease on lands that are under lease, or for new leases issued immediately upon expiration of an existing lease.

The Roadless Rule prohibits cutting, sale, and removal of timber in inventoried roadless areas, except:

⇒ For the cutting, sale or removal of generally small diameter trees, which maintains or improves roadless characteristics.

### Roadless Rule

- ⇒ To improve habitat for threatened, endangered, proposed, or sensitive species.
- ⇒ To maintain or restore ecosystem composition and structure, such as reducing the risk of uncharacteristic wildfire effects.
- ⇒ When incidental to the accomplishment of a management activity not otherwise prohibited by this rule.
- ⇒ For personal or administrative use.
- ⇒ Where roadless characteristics have been substantially altered in a portion of an inventoried roadless area due to the construction of a classified road and subsequent timber harvest occurring after the area was designated an inventoried roadless area, and prior to the publication date of this rule.
- ⇒ Applies immediately to the Tongass National Forest. However, the Rule includes a transition provision that allows projects to continue that have published a Notice of Availability for a draft Environmental Impact Statement by the date of publication of the Final Rule.

### INVENTORIED ROADLESS AREAS WITHIN THE CHATTOOGA RIVER WATERSHED

#### **GEORGIA**

Chattahoochee National Forest, Tallulah Ranger District

Rock Gorge: 2,757 acres

Ellicott Rock Addition: 707 Acres Sarah's Creek: 6,895 Acres

### NORTH CAROLINA

Nantahala National Forest, Highlands Ranger District

Overflow: 3,509 Acres

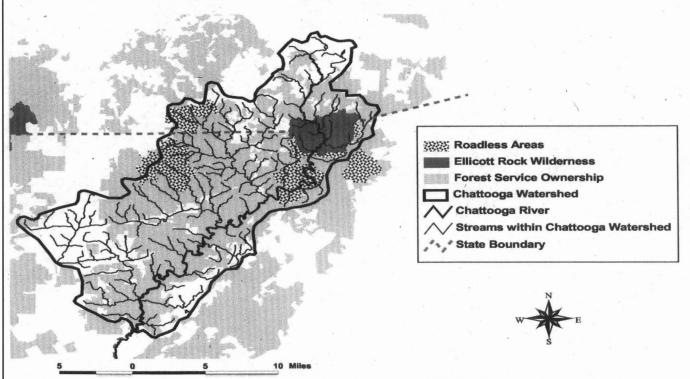
#### **SOUTH CAROLINA**

Sumter National Forest, Andrew Pickens Ranger District

Rock Gorge: 2,332 Acres Ellicott Rock 1: 300 Acres Ellicott Rock 2: 530 Acres

Inventoried Roadless Areas are based on Forest Plans, Forest Plan revisions in progress where the agency has established an inventory, or other assessments (such as the Southern Appalachian Assessment) that are completed or adopted by the agency. RARE II information is used if a forest does not have a more recent inventory based on RARE II. The fate of many of these roadless areas, i.e., their "management prescriptions," will be determined in the new Forest Plans for Georgia and South Carolina, so please persist in participating in this cumbersome but necessary process!

### Roadless Areas in Chattooga River Watershed



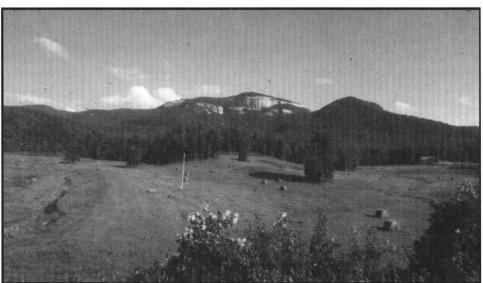
Chattooga Quarterly

### Tax Incentives for Conservation

#### Tom Cromartie

Although the Chattooga River watershed has a large proportion of public lands, there are many unique natural and cultural features on private lands that are deserving of protection. These lands are important to the fabric of this region because they illustrate people's pride in their natural and cultural heritage. Rural landscapes in the watershed lie in wide creek valleys that have been shaped by the diligent work of many generations of industrious mountain people. Working farms and forests have and continue to provide financial and spiritual sustenance to the communities surrounding them. In many instances, these lands are being forever lost to inappropriate development. The cost to the land and people in this area is the loss of a true native identity.

Exponential economic growth in the South is making one small town indistinguishable from another. National suppliers, retailers and services have overwhelmed the capacity of many local businesses to survive. Convenience, for better or for worse, has become the driving force in the economy. Because distinctions are



Tax incentives for voluntary land protection allow private landowners to protect the unique natural and cultural qualities of their property, while deriving tangible financial benefits from doing so.

becoming less apparent, what truly distinguishes one community from another is the value placed on the condition of the land. This area is attractive not in spite of its natural and cultural heritage but because of it. A necessary balance must be reached between growth and the protection of the transcendent qualities that make a place unique. Private landowners desiring to protect their properties have been aided in that regard by the their state legislatures, and by the US Congress.

Tax incentives for voluntary land protection allow private landowners to protect the unique natural and cultural qualities of their property, while deriving tangible financial benefits from doing so. The following is a description of the state tax incentives available to landowners in the North Carolina, South Carolina and Georgia. These tax incentives are in addition to federal tax incentives, which will be discussed in a future issue of the *Chattooga Quarterly*.

Following the discussion of state tax incentives is a brief description of a very important bill that is pending before the U.S. Senate Finance Committee. This bill would make available to middle income landowners the ability to preserve lands that they would otherwise be unable to.

### NORTH CAROLINA INCOME TAX CREDIT

In 1983, the North Carolina General Assembly established a tax credit for qualified conservation donations. The credit allows conservation donors to deduct 25% of the fair market value of the conservation gift from the donor's state income tax and other taxes imposed, such as gift or estate taxes. Although there is a credit limitation of \$250,000 for individuals and \$500,000 for corporations, a donor may take a separate credit for each conservation gift donated. Any

unused portion of the credit can be carried over for the next five years. Beyond that, any unused portion can be claimed as a regular charitable tax deduction. This tax credit takes the place of an ordinary deduction for charitable contributions.

The property to be restricted must be formally appraised. The donor must give, not sell, the

property interest to a local or state government unit or a charitable organization that is qualified to receive and manage property interests for conservation purposes. As well, the donor must apply to the North Carolina Department of Environment and Natural Resources (DENR) for certification that the property meets state requirements for "land conservation purposes." Although these requirements are different than Internal Revenue Code (IRC) requirements, DENR often construes "land conservation purposes" to be consistent with IRC 170 (h)(4) (A), which clearly defines federal standards.

### SOUTH CAROLINA CONSERVATION INCENTIVES ACT

The General Assembly of the State of South Carolina has recently amended the Code of Laws of South Carolina, 1976, to include an income tax incentive for voluntary land

conservation. This incentive was devised to "protect and preserve natural areas and their traditional uses while paying appropriate deference to property rights, expending no state funds, and keeping property in the private sector and on property tax rolls." The amended section of the 1976 code requires that a landowner has qualified for and claimed on their federal income tax return a charitable deduction for a gift of land for conservation, or for a qualified conservation

contribution, to be eligible for the state income tax credit. Like North Carolina. South Carolina's tax incentive comes in the form of a tax credit equal to 25% of the fair market value of the conservation gift. The tax credit is limited to a maximum of \$52,000 per year, and to \$250 per acre. Despite the fact that the tax credit is substantially less than that allowed in North Carolina, the South Carolina incentive allows the landowner to carry the unused portion of the credit forward until the full credit is claimed.

advantage of existing tax-incentives that favor wealthier landowners. Middle income "land rich, cash poor" landowners would have the ability to reduce by 50% the capital gains tax on property, or interest in property, sold to a government agency or qualified conservation organization for conservation purposes. The exclusion would give the landowner the ability to conserve the land's environmental value without sacrificing the financial security it provides.

The Conservation Tax
Incentives Act of 1999 would
enable middle income
land rich, cash poor"
landowners to reduce by 50%
the capital gains tax on property,
or interest in property, sold to a
government agency or qualified
conservation organization for
conservation purposes.

Senator Jeffords' remarks upon introduction of the bill made clear that the legislation was intended to justly compensate landowners for the commercial value of their property. Thus, the property being purchased would be assessed at its unencumbered, full fair market value. At the time of purchase, the purchaser is required to provide a letter of intent stating the purchasers' intent that the acquisition will serve such conservation purposes as protection of fish, wildlife or plant habitat, or provision of open space for

### GEORGIA UNIFORM CONSERVATION EASEMENT ACT

The General Assembly of the State of Georgia adopted enabling legislation effective on July 1, 1992 delineating the applicability of conservation easements. Although this legislation does not allow for additional tax incentives as in North and South Carolina, it does entitle the landowner to a revaluation of the encumbered property to reflect the existence of the encumbrance on the next succeeding tax digest in the county. Work is under way to draft legislation that allows for a tax incentive in the state of Georgia.

### THE CONSERVATION TAX INCENTIVES ACT OF 1999 S. 808

The Conservation Tax Incentives Act of 1999 was introduced on April 15, 1999 by Senators Jeffords and Chaffee. The purpose of the bill is to amend the Internal Revenue Code of 1986 to provide for tax incentives for the sale of land for conservation purposes. The legislation is a cost-effective, non-regulatory, market-based and fiscally conservative approach to land conservation.

S. 808 addresses the problem that many conservation minded landowners are unable to donate land they would like to see protected, because they are not able to take

agriculture, forestry, outdoor recreation or scenic beauty.

S. 808 also applies to partial interests in land sold for conservation purposes. A landowner could sell a conservation easement on the property, take advantage of the tax provisions in the bill, and have full use of the land subject to the conservation purpose of the easement. For instance, a farmer could sell an easement on his/her property and yet continue to farm the land.

According to the Bill's sponsors, an estimated 9% annual increase in land protected would result from these tax incentives without any increase in government spending on conservation land acquisition. The provisions of this bill are strictly voluntary, and use conservation purposes and definitions already enacted in the Internal Revenue Code. The bill recognizes landowners stake in protecting their communities' natural heritage, while allowing them to realize the economic benefits of their investment in land.

S. 808 was sent to the Senate Finance Subcommittee on Taxation where is "died" with the closing of the 106th Congress. Senator Jeffords' staff indicates that reintroducing the bill in the 107th Congress is and important priority. Please call the Chattooga Conservancy office to inquire how you can help assure that this bill "lives" through committee and becomes and effective tool for conservation.

### League of Conservation Voters Report

The League of Conservation Voters (LCV) is the political voice for the national environmental community, and is the only national organization working full time to hold members of Congress accountable for their environmental votes. For each session of Congress, LCV produces the National Environmental Scorecard that assigns a percentage score to each representative and senator based on their votes on the year's key environmental measures. LCV has published a scorecard for each Congress since 1970. The votes tabulated in the scorecards are based on the consensus recommendation of experts from 25 nonpartisan environmental, conservation and sportsmen's groups.

The scorecard assigns a percentage score to every representative and senator. A 100 percent score indicates the strongest environmental commitment, while a zero percent shows a consistent voting pattern against conservation and public health protections. LCV is working full-time to monitor administration appointments and actions that affect the environment. Information on LCV's efforts pertaining to the administration is available over the internet at www.lcv.org.

Washington, DC The nomination of former Senator Spencer
Abraham and former Colorado
Attorney General Gale Norton to head the departments of Energy and Interior, respectively, is a giant step backwards for environmental protection, the League of Conservation Voters (LCV) concluded today.

"We are stunned by President Bush's appointment of Abraham, a member of LCV's 2000 Dirty Dozen list, and our number one target for defeat last year," said LCV President Deb Callahan. "He even co-sponsored a bill to abolish the very department he's been nominated to lead. In Norton, Bush has nominated someone whose environmental ethic is a throwback to the James Watt era—one of the darkest periods of natural resource exploitation. These appointments don't reflect the reality that conservatism and conservation shouldn't be treated as conflicting values."

Spencer Abraham, who served as a US Senator from Michigan from 1995 to 2000, compiled an abysmal lifetime LCV environmental voting score of 5%—the worst in

Michigan and the worst in the Great Lakes region. In the last Congress, Abraham earned a failing score of 0%. LCV named Abraham to its 2000 Dirty Dozen list of antienvironmental congressional candidates, and spent \$700,000 in a successful effort to inform voters of his antienvironmental record and ensure defeat. In 1999, Abraham was one of four senators to sponsor a bill to abolish the Energy Department. Also that year, he voted against stronger fuel-efficiency standards for cars and trucks, and to cut funding for renewable energy programs. Abraham also supported numerous legislative riders to eliminate Environmental Protection Agency's (EPA) role in protecting wetlands, and to prohibit the EPA from regulating arsenic in drinking water. In 1998, he supported a rider to the Fiscal

Year 2000 Interior Appropriations Bill that would have legalized unlimited mine waste dumping on public lands. In 2000, Abraham's re-election campaign accepted more campaign contributions from polluting industries and interests than any other congressional candidate—over \$700,000.

Gale Norton is a protégé of James Watt, President Reagan's controversial Interior Secretary from 1981 to 1983. She worked for Watt while he was president of the Mountain States Legal Foundation, a conservative organization that strongly supports "takings" legislation, logging and mining on the nation's public lands. She also served in the Reagan administration, first in the Agriculture Department and then in the Interior Department, where she helped advocate for the

Reagan administration's position on oil drilling in the Artic National Wildlife Refuge. As Colorado Attorney General, Norton was instrumental in creating the state's "self audit" program, which gives businesses immunity from litigation and fines if they voluntarily report and correct violations of environmental laws. She is also a former co-chair of the Coalition of Republican Environmental Advocates (CREA), an industry-funded front group whose members include such anti-environment foes as Representative Chenoweth, and House Resources Committee Chairman Don Young.

"Abraham and Norton's nominations are terrible news for the majority of Americans who rank protecting the nation's air, water and national resources among their top priorities," said LCV President Deb Callahan. "While Bush's appointment of Christie Todd Whitman to head the

"While Bush's appointment of Christie Todd Whitman to head the Environmental Protection Agency appeared to be a step in the right direction, his choices of Abraham and Norton are signs of environmental regress, not progress."

### League of Conservation Voters Report

Environmental Protection Agency appeared to be a step in the right direction, his choices of Abraham and Norton are signs of environmental regress, not progress."

To date, Bush has chosen Commerce Secretary Norman Y. Mineta to be Secretary of Transportation. Mineta, a Democratic member of the House from 1975 to 1995, earned a lifetime environmental average of 75 percent. In addition, John Ashcroft has been confirmed to serve as Attorney General. Ashcroft, a former US Senator from Missouri, earned a lifetime LCV environmental rating of 5 percent for his votes on key environmental legislation from 1995 to 2000. He repeatedly voted against funding for clean air and water, and against increased funding for the cleanup

of toxic waste sites. Bush has also named Ann Veneman as his choice for Agriculture Secretary and Donald Evans, Bush campaign chairman and the chairman of an oil company, as Commerce Secretary. Both Evans and Veneman will have significant jurisdiction over key environmental policies pertaining to such hot button issues as genetically modified food, trade and environment, and marine and coastal protections.

LCV Calls New House Environmental Committee Chairs Out of Step With the Public's Conservation Concerns valuable lessons from the 2000 congressional elections: smart environmental policy makes smart local politics and bad environmental policy can lead to bad news on election day. Republicans, Democrats and Independents alike benefit from cleaner air, safer water, and open spaces, which could be at risk with the election of these new chairmen."

The chairmen of key committees, and probable chairmen of appropriations subcommittees are:

Jim Hansen (R-Utah)
House Resources Committee
106<sup>th</sup> Congress LCV score: 10%
Lifetime LCV score: 9%

The new leaders of the 107<sup>th</sup>
Congress' committees with
environmental jurisdiction are
among the most antienvironment members of
Congress according to their
performance on LCV's
National Scorecard, and do not
reflect the growing public
desire for stronger
environmental laws.

Billy Tauzin (R-LA)
House Energy and Commerce
Committee
106<sup>th</sup> Congress LCV score: 7%
Lifetime LCV score: 21%

Don Young (R-Alaska) House Transportation and Infrastructure Committee 106<sup>th</sup> Congress LCV score: 7% **Lifetime LCV score: 10**%

Joe Skeen (R-NM) House Interior Appropriations Subcommittee 106<sup>th</sup> Congress LCV score: 3% **Lifetime LCV score:** 7%

Sonny Callahan (R-Ala) House Energy and Water Appropriations Subcommittee 106<sup>th</sup> Congress LCV score: 3% Lifetime LCV score: 7%

Washington DC New environmental committee chairmen are poised to lead environmental policy in the wrong direction, the League of Conservation Voters (LCV) announced. The new leaders of the 107<sup>th</sup> Congress' committees with environmental jurisdiction are among the most anti-environment members of Congress according to their performance on LCV's National Scorecard, and do not reflect the growing public desire for stronger environmental laws.

With an average environmental score for the 106<sup>th</sup> Congress of 7 percent, the new chairmen rank far below the national average for House members (47 percent). Such poor past performance on important conservation and public health protection issues leaves little room for optimism that environmental progress will be made in these committees.

"The American public has clearly signaled its desire for stronger, better enforced environmental laws—not weaker ones," said Deb Callahan, LCV president. "We learned Callahan added, "Hostile anti-environmental legislation during the last Congress met with opposition from environmentalists, the public, and the Administration. With the President's veto threat now questionable and a closely divided Congress, the environmental community will have to be even more vigilant in its efforts to hold these committee chairmen and the rest of Congress accountable to the public for their environmental actions."

Returning chairmen of House panels with environmental jurisdiction include Larry Combest (R-TX) at the Agriculture Committee, whose 106<sup>th</sup> Congress LCV score was 7 percent, and James Walsh (R-NY) at the VA-HUD Appropriations Subcommittee, with a 106<sup>th</sup> Congress LCV score of 37 percent.

### Total Maximum Daily Loads: What's All the Fuss About?

The Clean Water Act, passed by the US Congress in 1972, was designed to address the cumulative impacts of a myriad of pollutants that affect the waters of the United States. The law mandates that government regulators identify "streams for which the effluent limitations required by section 301(b) (1)(A) and section 301(b)(1)(B) are not stringent enough to implement any water quality standard applicable to such waters." In plain English, this means that the Environmental Protection Agency (EPA), who is ultimately responsible for the enforcement of the Clean Water Act at the federal level, must require each state to identify streams that have become "impaired" as a result of a particular pollutant. Then, the EPA must determine how much of that particular pollutant is the threshold beyond which the stream can no longer support a particular use, such as drinking water, swimming or fishing. This threshold is called the "total maximum daily load" (TMDL), and it is a measurable quantity of, for instance, sediment, fecal coliform, mercury, etc. So in sum, states must do two things to ensure clean water: 1) Identify threatened waters and 2) Determine levels of pollution that may cause them to be impaired. The EPA has delegated this inventory process to each state.

Almost one quarter of a century passed before states were forced to identify threatened waters and establish TMDLs. Until the late 1980s, the EPA and their designated counterparts at the state level addressed only "point sources" of pollution. A point source is defined as "a discrete discharge of pollutant(s) as through a pipe or similar conveyance." Even though the Clean Water Act requires attention to both point and non-point source pollutants, regulating agencies previously concentrated on point sources because monitoring what comes out of the end of a pipe or ditch was easier to do. But as the more nebulous and often deadly impacts of cumulative non-point pollution was spawned from our ever-increasing commerce and population, citizens and organizations launched a flurry of lawsuits in the late 1980s, which were resolved by requiring the EPA and other regulatory agencies to delve into the uncharted area of TMDLs and non-point pollutants.

The EPA has now been sued in 34 states, forcing the issue of TMDLs. Arguably one of the most significant of these was in 1997 in the state of Georgia (*Sierra Club v. Hankinson*), and resulted in a Consent Order requiring the EPA to propose TMDLs for public comment in accordance with a special schedule. This schedule is among the shortest time frames for any TMDL program in the nation. While most states have up to 15 years to establish TMDLs, Georgia is required to complete their TMDL designations by the year 2004.

As a result of these factors, the EPA and Georgia's Environmental Protection Division (GA EPD) have set up a rotating schedule to conduct monitoring, develop TMDLs for individual impaired waters, identify control strategies for

pollutants of concern, and to implement these controls. The Savannah River watershed was chosen to begin this process, and at the vanguard of this focus is Stekoa Creek, a major, impaired tributary to the Chattooga River whose abysmal water quality is known to all who frequent the lower stretches of the river.

Stekoa Creek has been classified as impaired because of excessive levels of fecal coliform and sedimentation. Further emphasis on the need to clean up Stekoa Creek stems from the fact that Stekoa flows into a National Wild and Scenic River, often with a dramatic visual contrast in water quality. This set of circumstances thrust Stekoa Creek and the Chattooga watershed to the forefront of one of the most important water quality programs in the nation. To date, the EPA has circulated three iterations of sediment TMDLs for Stekoa Creek with the most recent, "final" draft appearing in December 2000. Stekoa Creek has also been the focus of a "technical advisory group," which is using the Stekoa TMDLs as a test case for identifying problems with the entire process' scientific method.

Regarding the Stekoa TMDLs, the EPA's proposed strategy for achieving them rely on applying Best Management Practices (BMPs) in the general areas of forestry, development and agriculture. BMPs are land use and timber harvesting guidelines determined by state agencies such as the State Forestry Commission. However, we believe this strategy is inadequate because of the unfortunate reality that BMPs have been in place for decades without bringing about compliance with the Clean Water Act's mandates.

Meanwhile, in a parallel effort to address Georgia's TMDL Consent Order, the GA EPD has contracted with the Rural Development Commission to work with watershed groups, county governments and other "stake holders," to come up with strategies for reducing pollutants in impaired waterways. Regarding Stekoa, to date several meetings have been held to prioritize areas of concern, and to come up with a plan for helping reduce pollutants in Stekoa Creek as well as other "impaired" streams in the Georgia portion of the Chattooga watershed. The Chattooga Conservancy is participating in this process. We hope the group will act upon a clear agenda to identify the specific sites along Stekoa Creek that are major pollution sources, and then to use positive incentives and enforcement to bring violators into compliance.

The TMDL process looms ahead as a bureaucratic entanglement of field data and agency protocol, which may yet yield a promising tool for cleaning up our nation's abundant water resources. However, it appears that much oversight of the process will be needed to ensure that this aspect of the Clean Water Act's goals can be met. Please join us in helping to make TMDLs work to clean up your drinking water supplies, and favorite fishing and swimming holes.

### Watershed Update

#### WE'VE MOVED OUR OFFICE!

The Chattooga Conservancy's new office is located at 41 S. Main Street (just around the corner from our old office) in downtown Clayton, Georgia. As always, we welcome visits, so please feel free to stop by and discuss our programs and other timely issues. Also, we are looking for a few items for our new office, and would greatly appreciate donations of: tables, desks, book shelves, file cabinets and chairs.

#### POWERLINE CONTROVERSY IN RABUN COUNTY

The Georgia Transmission Company's (GTC) decision on a 115 kilovolt transmission line corridor through Rabun County is still pending, due to the diligent work of the Citizens for Rabun's Heritage. Now, significant pressure has been placed on GTC to heed citizen's concerns by the introduction of two bills in the Georgia Statehouse. The first is House Bill 655, which would limit GTC's power of eminent domain, thus greatly hampering the corporation's ability to steamroll local opposition regarding the taking of private property for unsightly and potentially hazardous power lines. Georgia is one of the very few states in the nation having no checks on the siting of transmission lines, so we expect HB 655 to have an uphill battle this year—but we are in this for the long haul. The second bill, House Bill 105, would give all counties served by Electric Membership Cooperatives (EMC) a representative on the EMC's Board of Directors. This could give citizens due representation in the inner circle of decisions about whether or not to proceed with these oftentimes controversial projects. Citizens for Rabun's Heritage has also employed an expert electrical engineer to design an alternative to GTC's transmission line proposal. Donations to help the Citizens for Rabun's Heritage pay for the engineer's report would be extremely helpful; please contact our office (706-782-6097) if you are interested in contributing.

### CHATTOOGA WATERSHED RESTORATION PROJECT: "THE JURY IS STILL OUT"

The Forest Service's multi-year, multi-million dollar "Chattooga River Watershed Restoration Project" is entering its second year of funding. We hope to see a significant change in the project's line item expenditures, to fund actions that clearly improve the Chattooga's failing water quality. In addition, the Restoration Project would benefit from increased accountability to citizens through the National Environmental Policy Act's provisions for public input. For instance, last year controversial projects that lacked connections to "maintaining and restoring high water quality and aquatic habitats"—the Restoration Project's overarching goal-were implemented with the caveat that the projects were "categorically excluded" from Environmental Assessments and public input. This year's final list of projects is pending, and our suggestions such as the restoration of native cane (Arundinaria gigantea), American chestnut and native Brook trout may be included.

In addition, we hope that the project's considerable resources will be effectively applied to the ever-present problem of cleaning up Stekoa Creek, an infamous source of sediment and fecal coliform in the Chattooga's "section IV."

#### JACKSON MACON CONSERVATION ALLIANCE

The Chattooga Conservancy has been working with citizens in the Highlands and Cashiers communities of western NC to help establish the Jackson-Macon Conservation Alliance (JMCA). The JMCA has now secured office space in the Peggy Crosby Community Service Center in Highlands, and has chosen several environmental issues as lead program actions." The JMCA coalesced from a bitter water quality dispute that recently lead to a landmark ruling in NC, where the administrative judge gave priority to measurable units of turbidity instead of the implementation of voluntary Best Management Practices in cases involving erosion control, mitigation and enforcement. The judge's decision has set the stage for rewriting state sedimentation laws, oversight of which is foremost on the JMCA's actions. The organization has also endorsed the designation of the Cullasaja River as a state Natural and Scenic River; such a designation could result in greater scrutiny of actions that would impact the river. In addition, the JMCA has endorsed a moratorium on expanding the Cashiers Sewage Treatment Plant (which discharges its effluent into the headwaters of the Chattooga River) until more information is gathered about the plant's compliance with its National Pollutant Discharge Elimination System permit. In addition, the group questions the ability of the sewage plant's receiving waters to handle an increase in treated effluent without becoming further impaired.

#### RABUN COUNTY'S SCHEDULED BURNS

Here on our national forest lands in Rabun County, Georgia we will see the fire program in full swing with "controlled burns" scheduled over the next few years for 3,714 acres. The fires are slated to occur between the months of November and early April (the "dormant" season), with the intent of reducing fuel loadings and fuel buildup as well as increasing wildlife habitat. The areas to be burned are: 1,855 acres at Slick Shoals; 570 acres at Stamp Creek; 195 acres around Finney Creek; and, 1,049 acres at Duck's Nest Gap.

While the Forest Service's controlled burn program may be appropriate for some areas, we question the need for setting fire to such a vast expanse of land in a region that is largely a temperate rain forest. In addition to unnatural, fire-induced changes in forest composition, especially in stands of young hardwood trees and riparian zones, we have seen the wholesale destruction of several areas in the national forest where the fire got out of control and killed everything that lay in its path. Another concern is that the Duck's Nest Gap area lies within the Sarah's Creek Roadless Area, where bulldozed fire lines could become conduits for motorized access into the area—the very thing that roadless

Chattooga Quarterly

### Watershed Update

areas are to be free of.

### 2001 BUDGET: FIRE TAKES CENTER STAGE

In October 2000, President Clinton signed an appropriations bill for the Department of Interior and the USDA Forest Service. Besides providing operating funds for land management agencies, the bill underwrites a new Land Conservation, Preservation, and Infrastructure Improvement Program that will provide \$1.6 billion next year (and up to \$12 billion by 2006) for federal and state land acquisition, land and wildlife conservation, and overdue maintenance on federal lands, historic preservation, urban parks, and payments (to counties) in lieu of taxes (PILT). The bill also grants an additional \$1.6 billion in emergency funds to address wildfire damage, to support fire planning and firefighting activities, and to reduce the amounts of hazardous fuels in the forest. This line item merits scrutiny, as the misuse of monies under the inflated fire program has been documented-around the country.

### COUNTY PAYMENTS BILL

Public Law number 106-39, called the Secure Rural Schools and Community Self Determination Act of 2000, was signed into law in October 2000 and has begun to be implemented. Under the current law, counties with large portions of national forests (such as Rabun County, GA) are entitled to monies from the federal government for schools and roads based on the old 25% payment system (which was based on revenue from timber harvest activities in that county), or they can receive monies based on an average of the highest three payments from 1986 to 1999. This latter accounting system will guarantee counties steady payments regardless of timber sale activities, so many counties may opt for this method. However, the bill requires counties who receive over \$100,000 from timber revenues to commit 15-20% to "restoration" projects. The bill is vague about what counts as forest "restoration" and lacks specific environmental safeguards, which could potentially allow commercial logging projects to count as forest "restoration." The counties receiving those large amounts will have to create local advisory committees which can decide what kinds of national forest projects they will authorize; however, such committees could potentially undermine the public's involvement as provided for under the National Environmental Policy Act. We need to keep a close eye on and try to participate in the local advisory committees, to guide how the funds will be spent.

### SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

The Small Business Regulatory Enforcement Fairness Act (SBREFA) could play an important role in the fate of the US Forest Service's Roadless Area Conservation Rule (please see pp. 5-6). The SBREFA (commonly pronounced "sub-ree-fa") was enacted in 1996 as part of the Republican-initiated Contract with America Act. The purpose of this

law was to lessen the burden of federal regulations on the small business sector. The Congressional review section of the SBREFA applies to all federal rules, regardless of their impact on small businesses. 13

Few people are familiar with the SBREFA's review procedures, because they have never been used to revoke a rule. The review process potentially applies to any federal administrative rule. If the Office of Management and Budget (OMB) determines that the rule will have more than a \$100 million annual impact, it is classified as a "major rule" and cannot go into effect until 60 days after the agency submits a report on a final rule to Congress. In addition, the agency adopting a major rule must provide the OMB a cost-benefit analysis of the rule.

The legislative vehicle for a SBREFA review is called a joint resolution of disapproval (which would require a majority vote of both the House and Senate), and declares that a particular rule "shall have no force or effect." Any member of Congress can introduce a SBREFA resolution of disapproval. If this occurs, then the second portion of this act goes into affect, which offers Congress an avenue to expedite consideration of the disapproval by short-cutting normal Senate procedures. If both the House and Senate pass the resolution of disapproval, it then goes to the President to sign or veto. Once signed by the President, the rule is nullified. Once nullified, the agency that submitted the rule cannot come back and adopt another rule that is "substantially the same."

The current administration and Congress are now employing SBREFA in an attempt to stop many of the Rules and Regulations that were completed in the last days of the Clinton Administration, the most prominent of which is the US Forest Service's Roadless Area Conservation Rule.

### NATION'S TIMBER SUPPLY FROM THE NATIONAL FOREST IS MINISCULE

Forest Service Chief Mike Dombeck cited his agency's environmental study on the new Roadless Rule to claim that economic impacts will be limited even in the vast expanse of public lands in the West. "We presently supply less than 4 percent of the nation's timber from all our national forest lands combined," Dombeck told an audience packed with representatives of national environmental groups. " Of that modest 4 percent, only a tiny fraction,6 percent, will be affected by roadless-area conservation. That's one-quarter of 1 percent." Dombeck added that national forests produce less than 0.4 percent of the nation's oil and gas, with only a small portion thereof coming from roadless areas covered by the rule. "This is a conscious choice made with an eye toward the future," the Chief said. "As we witness the march of urbanization and the development of wild places, we can take comfort in the knowledge that we have at least given some of our remaining undeveloped land...lasting protection."

### Member's Page

### MANY THANKS

to all who recently renewed their membership and/or joined the Chattooga Conservancy.

Glenn Adams

Thomas Alley

Atlanta White Water Club

Chuck Bradley

Hoke Cagle

James Callier, Jr.

David Carr

Daniel Centofanti

Butch Clay

Peter and Licia Cleavland

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Capt. M. E. Haller, USN Ret.

Judy Hammond

Celeste and Mitch Harris

Samuel and Dorothy Hay

Allen Hedden

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Andy Hinton

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John and Betty Jenkins

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Mort, Helen and Frank Meadors

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Betsy Stokey

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Susan Willis and Robert Denham

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## Chattooga Conservancy

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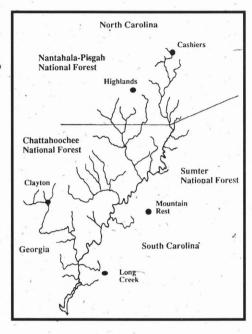
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(706) 782-6097 tel. (706) 782-6098 fax crwc@rabun.net Email www.chattoogariyer.com

**Purpose:** To protect, promote and restore the natural ecological integrity of the Chattooga River watershed ecosystem; to ensure the viability of native species in harmony with the need for a healthy human environment; and, to educate and empower communities to practice good stewardship on public and private lands.

### Made Possible By:

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#### Goals:

Monitor the U.S. Forest Service's management of public forest lands in the watershed

Educate the public

Promote public choice based on credible scientific information

Promote public land acquisition by the Forest Service within the watershed

Protect remaining old growth and roadless areas

Work cooperatively with the Forest Service to develop a sound ecosystem initiative for the watershed

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