

Attachment 2

Timeline of Events to Date

2008 – Parcel containing the Trail of Tears/Unicoi Turnpike segment is identified for acquisition.

2011 – The Conservation Fund agrees to purchase 461 acres of the 571 acre tract and hold for the U.S. Forest Service.

2012 – The Conservation Fund purchases the tract from River Valley AgCredit.

2013

January 15, 2013 – Special Warranty Deed for the tract conveyed from River Valley AgCredit is recorded in the Registrar's Office for Monroe County, TN.

January 25, 2013 – The District Ranger contacted the Forest Hydrologist and the Forest Engineer to use Soil and Water funds in combination with an equipment rental contract to stabilize erosion on the AgCredit tract. The existing logging roads and skid trails had no erosion control measures and were eroding rapidly. Gullies on the road were more than 18" deep in some places. Illegal OHV use associated resource damage was observed.

The Ranger informed the Hydrologist that NEPA was not necessary because the Forest Service did not own the property and putting water bars on a disturbed site did not require NEPA. **Note: A review of the Extraordinary Circumstances should have taken place (36-CFR-220.6) at this time. This would have identified cultural resources as an extraordinary circumstance initiating Section 106 process.**

February 7, 2013 - Initial field visit by Tellico District Ranger, Forest Hydrologist and Forest Engineer to look at the area.

February 20, 2013 – Hydrologist emails Best Management Practice (BMP) guidance for State of Tennessee to the Tellico District Wildlife Technician who the Ranger asked to assist with planning and fieldwork.

April 1, 2013 - Field visit to area by Forest Hydrologist, Forest Botanist/Ecologist, and Forest Realty Specialist to look at the potential project.

April 2, 2013 - Several folks, including the Forest Hydrologist and Forest Engineer lay out some potential locations for water bars and tank traps to protect from erosion and All-Terrain Vehicle (ATV) and Off Highway Vehicle (OHV) use. They look at 4 areas: 1) Segment of road from Joe Brown Highway to Peels Branch; 2) The uphill extent of the site to the powerline parking area; 3) All spurs off of those roads; 4) The spur road off of the road segment between Joe Brown Highway and the powerline parking area.

July 9, 2013 – A purchase (task) order for \$28,500 is signed at the Supervisor's Office for contract #AG-4756-C-12-0001 to be spent for work on Peels Branch and Little Citico Creek.

July 22, 2013 - Forest Hydrologist's email to the District Ranger demonstrates knowledge that the location of the TOT on the site corresponds to the road segments from Joe Brown Highway to the powerline parking area, the powerline parking area to Peels Branch, and Peels Branch to Unicoi Lakes Road.

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July 25, 2013 - District Ranger, Forest Hydrologist, Forest Archaeologist, Assistant Forest Archaeologist and an Engineering Tech, who was representing the Forest Engineer, met at the site. The District Ranger and Forest Hydrologist assumed that the group was meeting to determine if there were any cultural resource concerns that warranted modifications to their proposed scope of work for erosion control and stabilization. The group walked the segment of road from Joe Brown Highway to Peels Branch including a side trip up an adjoining spur road. Then, the group forged down Peels Branch to its confluence with Coker Creek.

The Forest Hydrologist recalls stating that the pink flagging was located where the ground disturbance was proposed and the erosion control features were discussed. The District Ranger states that water bars were not clearly defined in their discussion. However, neither the Forest Archaeologist nor the Assistant Forest Archaeologist recall being told during the field visit of any specific project or that any work was planned along the Trail of Tears / Unicoi Turnpike route itself. The expectations for the site visit were not clearly defined. The District Ranger and Forest Hydrologist left the meeting thinking that there were no cultural resource concerns, and that they had concurrence to move forward with the erosion stabilization work. Both the Forest Archaeologist and the Assistant Forest Archaeologist left the meeting unaware of any project work or project proposal being conceived and agreed upon within the Trail of Tears.

July 29, 2013 – The Regional Archaeologist brings the Forest Service’s Land and Water Conservation Fund National Program Manager to visit the tract to make a pitch for purchasing it. The District Ranger, Forest Archaeologist, Assistant Forest Archaeologist and Technical Services Group Staff Officer were present during that visit. The group walked to Peels Branch. No mention was made of the proposed erosion control project.

August 8, 2013 - Forest Service signs Purchase Option and Contract with the Conservation Fund (a non-profit) to acquire, under the authority of the National Trails System Act of 1968, two parcels containing nearly one mile of the Unicoi Turnpike, Trail of Tears. Item #4 in that agreement requires written notice to the Conservation Fund from the Regional Forester to use, occupy or administer the land.

August 2013 – Forest Engineer wanted to move forward with task order but the work could not be done until the District Ranger completed the Wyden Agreement paperwork. Steps were put in place to obligate the funding.

October 30, 2013 - District Ranger emailed that the Forest Surveyor stated that being the land was under option to buy, they can do the protection work without the Wyden Agreement if they get written permission from both landowners.

*According to the Purchase Option and Contract statement (4) “The vendor further agrees that during the life of this instrument, officers, and accredited agents of the United States shall have, at all necessary and reasonable time, the right to enter upon said land for all National Forest System purposes. **The vendor also agrees the United States upon acceptance of this option, shall have the further right, upon written notice from the Regional Forester to the vendor, but not otherwise, to use, occupy, and administer, for National Forest System purposes, any and all land herein described without charge and subject only to the limitation and restrictions herein provided.**”*

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2014

January 30, 2014 - Forest Hydrologist says she emails Forest Engineer and District Wildlife Technician indicating that the District Ranger had given approval to start the work. The approval from the District Ranger was verbal. Note: There is no evidence the Conservation Fund received written notice from the Regional Forester for the Forest to occupy and administer work on the property.

February 2014 – Forest Hydrologist starts discussion with TVA about installing a gate on the road to keep non-authorized users off the roads in the parcel. TVA needed continued access to get to the major powerline ROW in the parcel.

March 3, 2014 – A gate is installed on the road access to keep people from driving along the Trail of Tears and Unicoi Turnpike. TVA and Forest Service have locks on gate to access road.

March 3-7, 2014 – Work to construct 32 large water bars along the Trail of Tears/Unicoi Turnpike is conducted. The work on the trail is only part of the project, erosion control work is also done on logging and spur roads in the parcel.

May 28, 2014 – Gate damage is noticed.

June 6, 2014 – FS contractor repairs damaged gate. Also builds 3 tank traps on Trail of Tears/Unicoi Turnpike from Joe Brown Highway to Peels Branch to keep vehicles from driving the trail in response to evidence of unauthorized vehicular use. Later learns that gate was inadvertently damaged by TVA contractor with some machinery, not someone attempting to obtain illegal access. However, illegal access was occurring as a result of the damaged gate.

September 25, 2014 – Parcel is transferred to the Forest Service.

December 16, 2014 – Tellico District Ranger details into a position in the Forest Supervisor's Office to work on strategic planning, development of a communication plan, and NPS coordination for Fort Armistead.

2015

February 2015 – Tellico District Ranger retires

June 2015 – New Tellico District Ranger reports for duty

July 13-20, 2015 – The U.S. Forest Service hosts the National Park Service's, National Trails Office Intermountain Region Design Charrette Team in Tellico Plains, TN to do a design charrette for those portions of the Trail of Tears National Historic Trail and Fort Armistead Site on the Cherokee National Forest. The NPS design charrette is a public process used to develop an interpretive plan for a significant resource. The consulting Tribes, the NPS National Historic Landmarks office, the National Trail of Tears Association, the North Carolina and Tennessee Chapters of the Trail of Tears Association, and several other federal, state, and local stakeholders were invited to participate, and many participated.

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July 14, 2015 – A group participating in the charrette regarding the Trail of Tears, Unicoi Turnpike, and Fort Armistead visits the site and sees the damage done to the Trail of Tears and Unicoi Turnpike. This group includes National Park Service National Historic Trail staff, the Forest Archaeologist, the hydrologist, and others. Most of the group is astounded and perplexed by the work that was done.

July 15, 2015 – An EBCI THPO representative and two Assistant U.S. Attorneys, who were participating in the charrette, are informally notified by the Forest Archeologist about the damage to the Trail of Tears. Other federally recognized tribes are informally notified during the following week by phone or email.

Region 8 Supervisory Special Agent and Forest Administrative Officer walk the affected segment of the Trail of Tears.

July 16, 2015 – The Forest Supervisor decides to perform a management inquiry of the event. The new Tellico District Ranger is asked to lead the review.

August 4, 2015 – The Forest Archaeologist and Assistant Forest Archaeologist conduct a visual field assessment of the damaged area. All of the tank traps and water bars were individually photographed and GPS locations recorded.

August 2015 – Forest Archaeologist makes informal contacts with the Tribes, the State Historic Preservation Office (SHPO) and Advisory Council on Historic Preservation (ACHP).

August 14, 2015 – The Forest Supervisor formally notifies all the consulting Tribes, SHPO, and ACHP of the adverse impact to the Trail of Tears through official correspondence. The report of the archaeologists' field assessment is attached.

August 19, 2015 - In order to protect important resources and ensure policy and procedures are being followed, Forest Supervisor institutes an updated internal policy to ensure that environmental and cultural resource protection processes are followed in planning and documenting projects on the Cherokee National Forest.

August 27, 2015 – Representatives from THPO's office for the Eastern Band of Cherokee Indians and the Cherokee Nation visit Fort Armistead and the damaged portion of the trail after contacting the Forest Archaeologist the day before requesting to visit (Fort Armistead is closed for security purposes and requires notification for visit).

August 28, 2015 – The Forest Supervisor, Forest Archaeologist, and Assistant Forest Archaeologist attend the Tri-Council meeting of the Cherokee Tribes held at Red Clay State Park in Tennessee. The Forest Supervisor talks with Cherokee Nation THPO at the event.

September 9, 2015 – The Forest Archaeologist emails ACHP to alert them to the fact that the August 14th letter and report of damage sent to their office was returned to the Forest. Forest Archaeologist resends the letter and report.

September 11, 2015 – The Forest receives letter from the TN SHPO dated 9/3/2015 regarding the reported damage. No formal, individual response to this letter was written (see December 23, 2015 entry).

October 23, 2015 – The Forest begins discussions with ACHP staff regarding Section 106 training.

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October 28, 2015 – The Forest receives letter from the Eastern Band of Cherokee Indians (EBCI) dated 10/28/2015 regarding the reported damage. No formal, individual response to this letter was written (see December 23, 2015 entry). However the Regional Tribal Relations Program Manager did call EBCI staff that same day to confirm receipt and discuss.

October 29, 2015 – U.S. Attorney, two Assistant U.S. Attorneys, USFS Law Enforcement representatives, Technical Services Group Staff Officer, Forest Archaeologist and Assistant Forest Archaeologist visit Fort Armistead and damaged segment of Trail of Tears.

November 23, 2015 – The Forest receives letter from the ACHP dated 11/23/2015 regarding the reported damage. The letter was cc'd to the Washington Office. The Forest Service's Federal Preservation Officer, the Director of Recreation, Heritage, and Volunteer Resources, the Director of the Office of Tribal Relations, and two Associate Deputy Chiefs become involved and contact the Regional Forester.

November 23, 2015 – The Regional Forester visits Fort Armistead (near the damaged trail) with the Forest Supervisor, Forest Archaeologist, Technical Services Group Staff Officer and USFS Law Enforcement representatives.

November 30, 2015 – The Forest Supervisor, Regional Office staff, and Washington Office staff begin to discuss how to address the ACHP's letter and being process of moving forward with consultation on mitigation. Forest begins contacting Tribes and SHPO to setup a meeting in Oklahoma regarding the incident.

December 16, 2015 – Forest replies to ACHP's 11/23/2015 letter (formal correspondence) requesting additional time prior to providing list of proposed mitigation/remediation actions in order to consult with Tribes and other consulting parties.

December 23, 2015 – Forest sends letter to the consulting Tribes and TN SHPO with the 12/16/2015 letter to the ACHP attached along with a summary of the internal management inquiry. The letter invites the Tribes and TN SHPO to attend a meeting to discuss the adverse impact in early February.

2016

January 2016 – Forest and Region prepare for the meeting in Catoosa, Oklahoma (logistics, invitational travel, agenda, and etc.).

February 3-4, 2016 – Meeting with affected tribes, Trail of Tears Association, NPS, and the Tennessee SHPO is held in Tulsa, OK. The consulting tribes inform the Forest Service that the Unicoi Turnpike, Trail of Tears and Fort Armistead are sacred sites.

February 23-25, 2016 – Regional Forester shares news of the adverse impact and his concerns regarding proper consideration and management of cultural resources to all the Forest Supervisors in the Southern Region during the Regional Leadership Team meeting.

February 29-March 4, 2016 – Regional Forester spends week on the Cherokee National Forest in Tennessee and spends time on each Ranger District discussing the adverse impact.

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March 2, 2016 – First conference call with the consulting Tribes after the Tulsa meeting to discuss use of a Facilitated Learning Assessment (FLA) with Tribal member participation to determine the thought processes and oversights that led to the adverse impact occurring.

March 8, 2016 – Second conference call with all the consulting Tribes regarding use of the FLA process. At this time, the FLA idea was abandoned at the request of the Tribes. Also on this date, the Eastern Band of Cherokee Indians (EBCI) send a letter to the Regional Forester formally designating the Unicoi Turnpike, Trail of Tears, and Fort Armistead as sacred sites.

March 14 – 17, 2016 – Two specialists from the NPS National Historic Trails Program Intermountain Region visit the Forest to assess damage to the Trail of Tears and make recommendations for remediation and mitigation. They are accompanied at different times during the week by Tribal representatives including EBCI; United Keetoowah Band of Cherokee Indians (UKB); Alabama-Quassarte and Thlopthlocco, as well as, a partner from Western Carolina University.

March 15 – 16, 2016 – Section 106 Training on the Cherokee National Forest for all District Rangers, Forest Staff Officers, NEPA Coordinators, and Program Managers taught by representatives from the ACHP.

March 17, 2016 – ACHP representative visits the damaged portion of the Trail of Tears / Unicoi Turnpike and Fort Armistead. Later that day the Forest Leadership Team and others from the Cherokee National Forest along with the Regional Archaeologist visit the damaged portion of the Trail of Tears and Fort Armistead. At Fort Armistead, they have a listening session with the Tribal members from the EBCI, UKB, Thlopthlocco, and Alabama-Quassarte.

March 18, 2016 – Regional Forester holds a conference call with all the Forest Archaeologists in the region discussing the adverse impact to the Trail of Tears / Unicoi Turnpike.

March 21, 2016 – The United Keetoowah Band of Cherokee Indians in Oklahoma send letter declaring the Trail of Tears, Unicoi Turnpike, and Fort Armistead sacred sites.

March 18 – 22, 2016 – The Forest Hydrologist pulls together field notes and emails regarding the 2013 - 2014 project into a report for the Forest Supervisor and Tribes.

April 8, 2016 – Letter sent from the Regional Forester to the EBCI acknowledging the sacred sites designation.

April 11-14, 2016 To Bridge A Gap – tribes discuss with Tony Tooke, Regional Forester, next steps and the spiritual damage to the tribes caused by the project physically damaging the Trail of Tears.

May 10, 2016 – Letter sent from the Regional Forester to the UKB acknowledging the sacred sites designation.