

## **An Analysis of the Hatch Amendment Issues Never Debated in the Senate**

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*This is an electronic version of an article published in:*

*The Waiting List (the GCPBA's newsletter), Vol 3, No. 2, May 1999*

The following provides a GCPBA analysis of the critical issues that were never considered by the Senate prior to its vote on the Hatch Amendment (SU175) to the 1981 Interior Appropriations Bill. Many of these issues provided the foundation for the many problems that now plague wilderness designation of the canyon and the ability of independent American boaters to access the river.

The Text of the 1980 Hatch Amendment

(a) None of the funds appropriated in this Act shall be used for the implementation of any management plan for the Colorado River within the Grand Canyon National Park which reduces the number of user days or passenger-launches for commercial motorized watercraft excursions, for the preferred use period, from all current launch points below that which was available for the same period of use in the calendar year 1978.

(b) For the purposes of this section "preferred use period" denotes the period May 1 through September 30, inclusive.

### **Cost Effective (kinda)**

The "cost effective" approach provided Orrin Hatch (R-UT) his principal argument in justifying his amendment. Fundamentally this argument stated that motors offered the cheapest means for the public to access to the River. However when analyzed in any depth, his statement was incorrect at that time and remains incorrect today. Hatch based this argument solely on the total out-of-pocket costs incurred by commercial passengers. Hatch elaborated that average Americans needed the "modest" costs associated with 4 or 5 day motorized trips and that they did not have the time nor could they afford the 60 to 70 percent greater cost associated with the longer 10 to 12 day oar trips.<sup>[1]</sup> Hatch conveniently failed to acknowledge the ongoing availability of 5 and 6 day oar-powered commercial trips that already were filling the needs of the time constricted public and were actually available at a lower cost per day.<sup>[2]</sup>

Conveniently absent in the Senate proceeding was any acknowledgement that non-commercial trips provide Americans access to the Canyon. These private trips, which carry over 3500 Americans down the river annually, have always been significantly less expensive than any of the commercial motor trips Hatch was defending. Private trips typically deliver 15 days in the Canyon for the same price as three days and two nights utilizing a motorized commercial outfitter. Today, the most expensive private trips are those which are fully outfitted. 1999 prices for such trips range from \$39 to \$42 per person per day<sup>[3]</sup>. With inclusion of Park service fees, a 15-day, 14-night trip costs less than \$750 per person<sup>[4]</sup>. This contrasts dramatically with what the American public obtains from the typical 3-day 2 night motorized trip costing \$745.00 per person (\$248 per day, and \$810 per person (\$270 per day) in the summer. <sup>[5]</sup>

Each of Hatch's monetary claims relied entirely on the underlying assumption that a commercial outfitter provided the essential component for American's access to the Canyon. Even if one accepts this assumption of a commercial trip, Hatch conveniently failed to acknowledge that the cost per day for the longer oar powered trips have always been less and that oars deliver to the American public a better vacation value than any of the shorter motorized trips. However,

without question the private trip indisputably has always provided the lowest cost river option, regardless of the evaluation criteria, be it in 1980 or now.

In actuality, by freezing motorized commercial allocations the bill effectively confined public access to the most expensive means of getting down the river. Exposure of these facts were noticeably absent from any Senate discussion.

## **The Dangerous Oar**

Hatch stated that the oar-powered rafts that the park was inflicting on the public delivered “more dangerous circumstances.”<sup>[6]</sup> Despite the already recognized fact that significant injuries had occurred from the propeller of motorized rafts and that no data has ever supported such a statement, Hatch’s used this groundless claim of improved safety as a foundation for the continuation of motors. Even the 1980 CRMP, the very focus of Hatch’s attacks, had made the specific observation: “Current records show no significant difference in accidents between motor and non-motorized craft.”<sup>[7]</sup>

In reality, the exact opposite of Hatch’s assertions was true. In a book soon to be published and written by Dr. Tom Meyers, a complete history of both commercial and non-commercial boating injuries in the Canyon has been researched and documented. Of the seven on-river commercial fatalities that have occurred since 1967, six were on commercial motorized rafts, and one occurred on a commercial paddle raft. During this whole time period there have been no commercial on-river fatalities in oar-powered rafts or dories. Also discovered was the fact that commercial motorized rafts incur more injuries than either of their commercial or non-commercial oar powered counterparts.<sup>[8]</sup> The same study additionally found that the cumulative risks entailed in river running with the Canyon is similar to that of swimming, tennis, or golf; a significantly different picture from that Hatch presented to the Senate.

## **Public Process (or is it the processing of the public)**

Nowhere in the proceedings did Hatch, or any of the other participants, ever acknowledge that the very NPS decision they were so fervently criticizing was, in fact, the result of almost ten years of public process and input. Hatch’s comments actually belittled the results of the NPS process. Hatch testified, “... the problem which the Park Service seeks to resolve with this action is mostly a figment of the imaginations of National Park Service personnel.” He continued to state that the plan was an “... imposition of largely subjective value judgements onto the public which are purely the values of the Park Service policymakers and an extremely limited number of ‘wilderness activists’ outside of government. I find no justification for this action in law or in reason. I find no reasonable justification for removing the obvious public preference from availability.”<sup>[9]</sup> Absent was any mention that the Park Service’s decision was a response to their responsibilities under the Wilderness Act. Mysteriously unstated was that the CRMP decision had received significant support by the majority of those participating in every public hearing to date. Even more fundamentally deficient in the proceeding was a complete absence of any mention that an EIS had been completed and was available or that any public hearing had been held on this matter, all requirements of the National Environmental Policy Act (NEPA).

## **Duration**

Hatch felt that because the “4 or 5 day” duration of motorized trips are shorter the opportunity of participating in a Canyon trip became easier and available to more people.<sup>[10]</sup> As mentioned earlier, Hatch neglected to acknowledge that 5 and 6 day oar-powered trips were available to effectively fill this public need. Regardless, from his testimony Hatch apparently assumed that

increasing trip demand by encouraging expedited and abbreviated trips was actually a beneficial activity. Obviously, from the perspective of a motor trip operator, Hatch's supposition is true. However, increasing demand on a river that would remain overburdened even without the added convenience of motorized access is a highly questionable assumption. Never mentioned during the Senate proceeding was that three day motorized raft trips were, and still are, available on numerous other major western rivers.

### **Time of year**

In another effort to insure easy river access for the short trip patron, Hatch attacked the Park Service, stating that they "... spread users over an unrealistically extended summer season. Few visitors want to take a river trip in April or October, often chilly months with unpredictable weather and hazardously low river flow." [11] Senator Hatch names May 1 to September 30, the "preferred use period." 92% of all commercial river trips launch during that preferred period versus 60% of private trips. At that time, probably as important as the de facto surrender of the summer season to commercial motorized trips patrons was the resultant huge spike flow of people hurrying through the Canyon over this brief period.

Hatch described the purportedly negative impact that a reduction of summer launches could have on the 12,000 people that commercial operators stated were backlogged. At the contemporary use levels of 20,005 commercial passengers per year (1998) this figure translates into a less than 8 month average wait for commercial patrons. This compares with the over 20 year wait that is currently being imposed on Americans wishing to access the Canyon through the non-commercial sector. Time has shown that Hatch's effort was to protect a group that, in effect, needed no protection. The question remains, who was being protected by his efforts?

### **Equal Access**

Nowhere in the course of the proceeding was any acknowledgement made by either Hatch or his co-sponsors that non-commercial users have any right of access. Instead he attacked the CRMP and the Park's effort to phase out motors, stating, "The result of the plan will certainly be to deprive all but the hardy, young, wealthy elite of any hope of ever sharing the awesome grandeur of the Canyon from inside the gorge." [12]

### **Freedom to Choose**

Another position central to Hatch's amendment was freedom of choice to go down the river either with or without motors. Hatch specifically attacked former NPS Director William Whalen's statement that the public had an ongoing choice to either go down the river without motors, or to not go down. Although Hatch viciously attacked Whalen personally for this comment, no mention was ever made of NPS responsibilities under the Wilderness Act. No mention was ever made that there are other rivers in the region, specifically the San Juan and Colorado in Cataract Canyon, that can provide Hatch's desired 4 or 5 day motor trips. In the continental United States, only the Colorado in the Grand Canyon provides the potential for a true, extended wilderness river experience such as the Park first proposed almost thirty-five years ago.

### **Economic impact**

The NPS observation that local economies would feel no significant impact was completely ignored by Hatch, apparently in lieu of Burke's telegram (see accompanying article). The only apparent economic concern was to that of the outfitters' bottom line.

Hatch's testimony ignored that the 1980 CRMP proposed an enormous increase in allocation for

the purpose of mitigating the economic impact motorized companies might have experienced transitioning to oar powered trips with their larger crews and requirements for a larger fleet of boats. The river guiding community would have experienced an economic bonanza with the increased allocation and resultant demand for more qualified guides.

The scope of debate in the Senate could be classified as deficient, at best. The National Park Service subsequently complied with then Secretary of Interior James Watt's own personal objectives by twisting the meaning of the Senate's one year funding deferment. Abandoned was the Park's prior compliance with existing laws and the provision of fairness to the American public. Subsequent park policies have motivated those wishing to access the river in a timely manner to seek the services of a commercial outfitter, their guides, and their crew. This is akin to effectively requiring anyone wishing to play golf in a timely manner to obtain the services of both a golf pro and caddy. This, combined with motorized rafting, is akin to additionally requiring the use of motorized cart to be able to play the game. Despite Hatch's Senate presentation, the costs of such an inefficient arrangement are indisputably higher. Of course, one can counter that if one does not purchase these service options people are still able to go, but they just need to wait for 20 years to play the game. Americans simply deserve better from their investment in our National Parks, and America's largest wilderness river.

[1] Congressional Record, 11/14/80, p S14466, col. 3 - S14467, col. 4.

[2] NPS GC concession survey: 1998 Colorado River and Trail Expeditions, 5-day oar, \$1095/person (\$219/day); 1998 OARS, 5 day oar, \$1180 (\$236/day); 1999 AZRA, 6-day oar, \$1240 (\$207/day); 1998 Canyon Explorations, 6 day oar, \$1145 (\$191/day); 1998 Hatch, 6 day oar, \$1145 (\$191/day); Wilderness River Adventures, 5.5 day oar, \$1210 (\$220/day).

[3] See brochures of PRO and Canyon REO, both located in Flagstaff, Arizona

[4] The average cost to a fully outfitted independent boater ranges up to \$42/day. This includes absolutely everything except park service fees, which adds \$6.67 per day. Consequently, the most expensive private trip possible is approximately \$50 per day. The trip for those who have their own equipment typically range from \$350 to \$500 for a 15 day trip (excluding park fees) to result in total per person costs of \$30 to \$40 per day.

[5] From Western River Adventures Web site, <http://www.westernriver.com/>, 3/11/99

[6] Congressional Record, 11/14/80, p S14467, col. 1.

[7] Colorado River Management Plan, Grand Canyon National Park, 1980. p. 12.

[8] *Fateful Journey: Injury and Death on the Colorado River in Grand Canyon*, by Dr. Tom Myers, Larry Stevens, and Chris Becker. (publication pending), Chapter 14, River Fatalities, mortality chart.

[9] Congressional Record, 11/14/80, p S14467, col. 1.

[10] Congressional Record, 11/14/80, p S14466, col. 3 - S14467, col. 4.

[11] Congressional Record, 11/14/80, p S14467, col. 2.

[12] Congressional Record, 11/14/80, p S14467, col. 1.