

Motorized Rafting – An Illegitimate Industry?

The 35 Year Wilderness War for Grand Canyon

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“As long as the commercial passenger gets easier and more preferential treatment than the non-commercial user, you can be absolutely certain that the struggle will never end.” Joe Munroe - June 16, 1980[1]

The Frustrating Reality (1998 - Commercial Revenues \$27 Million; Non-commercial Passengers Wait 20 years)

A 20 year wait to take your own raft down a river, penalties that selectively send you to the end of the line if you go earlier, motorized rafts with helicopter exchanges on America's premier wilderness river, and commercial river operators emphatically insisting that everything is fine and should stay the way it is. Ever wonder how things got to this point and how not just one, but two virtually final non-motorized wilderness decisions somehow evaporated into the described scenario?

This article brings together a unique historical examination of the behind the scene activities that delivered this seemingly incredible outcome into current day reality. It provides a true story of how familial ties and political maneuvering succeeded in facilitating National Park access to those Americans most able to contribute to the Grand Canyon river concessionaires' bottom line. Ignored were existing laws, the public process, and the independent boating public who are now waiting 20 years for river access in the crown jewel of America's National Parks, the Colorado River through the Grand Canyon.

The Park and Public Involvement (1975 - Commercial Revenues \$6 million; Private Wait 0 years)

With the passage of the Wilderness Act of 1964, Congress directed the National Park Service (NPS) to conduct an inventory to determine which of its lands were suitable for Wilder-

ness classification. Multiple segments of the Canyon were under threat of inundation by proposed reservoirs and Glen Canyon Dam was filling up. In 1967 only 2,099 people visited the river, but reportedly “Passengers and boatmen were still scuttling beer cans in the river (‘Open them at both ends to make them sink.’), squatting behind big rocks or tall bushes, and burying garbage wherever the sand was soft.”[2] Under these virtually unregulated conditions visitation rapidly increased to 16,432 visitors annually by 1972, facilitated by the existence of 22 commercial river companies, many of which operated motorized rafts.[3] It was becoming readily evident that the Canyon was coming under a real and severe threat of damage from haphazard use.

In 1970 the Grand Canyon National Park (GCNP, or the “Park”) commenced its Wilderness inventory process with the release of its Preliminary Wilderness Study for Grand Canyon National Park, Marble Canyon National Monument, and Grand Canyon National Monument.[4] In 1969 Congress had already passed the National Environmental Policy Act (NEPA) which required that significant environmental decisions must be considered with the input of those affected. Consequently, public hearings on this Wilderness issue began in May 1971 at Grand Canyon and in Phoenix, Arizona. Additionally, public comments were solicited in newspapers in Williams and Flagstaff, Arizona and in Kanab, Utah.[5] Management of the river corridor was recognized to be an important issue during these hearings.[6] The Colorado River Outfitters Association (CROA) was established to lobby the outfitter’s perspective and became an important participant in these hearings.

After compiling the public’s overall input, the Hearing Officer explicitly reported, “The desired river experience is felt to be a slow float trip in small parties.” However, after recognizing that the existing NPS management directives were to allow continued use of motorized rafts, the hearing officer concluded that “The plan for continued use of motors precludes wilderness classification for the river itself.”[7] As a result, the Colorado River was excluded from consideration for inclusion in the Canyon’s NPS Wilderness Recommendation despite public opinion otherwise.[8] The Wilderness Recommendation was then forwarded on September 14, 1972 to then President Nixon who officially communicated the plan to Congress on September 21, 1972.[9]

Meanwhile, the Park was continuing to be plagued with the problems caused by the River’s rapidly increasing popularity. On December 5, 1972, after soliciting broad and varied public comment, the Park announced adoption of a plan to control the use of the River and the adjacent lands. This Colorado River Management Plan (CRMP) provided for the freezing of commercial user days at the existing level (89,000) and for the complete phase out of motors by 1977. This action functionally removed the basis for the prior exclusion of the river from Wilderness consideration.

On March 20, 1973 Senator Barry Goldwater (R-AZ) introduced (93) Senate Bill 1296 that provided for the enlargement of the Grand Canyon National Park.[10] Included in this bill was a section that provided for Wilderness in the expanded Park that was consistent with the NPS and President Nixon’s earlier recommendation which failed to include the river. While introducing the bill, Goldwater acknowledged the new December 5th regulations that removed motorized rafts from the River by stating, “.... I believe it is unnecessary to legislate on this (motorized rafting) matter while it is being resolved administratively.”[11] Consequently, under Goldwater’s interpretation, the administrative track to phase out motorized rafts by 1977 could continue, but

the river corridor would remain outside of consideration for Wilderness protection.

Outfitters Enraged

Needless to say, the recommendation to phase over to non-motorized trips was not greeted with much enthusiasm by the solidly established motorized outfitters. One approach that was pursued by the motorized outfitters was to oppose the NPS decision on the legal front. Western River Expeditions itself brought a suit in Salt Lake City, Utah against the Park Service alleging the decision to eliminate motors was “arbitrary” and that no data had been acquired to support the decision.[12]

Although he generally supported the Western lawsuit, Fred Burke, owner/operator of Arizona River Runners, a motorized outfitter then located at Marble Canyon, took on a political tact in dealing with the motor controversy. Burke had been fighting Canyon Wilderness designation individually, as President of Arizona River Runners, and with the Colorado River Outfitters Association (CROA). Besides political experience derived directly from river issues, Burke had developed significant additional experience by running for a seat on the Arizona state legislature. At that time U.S. Congressman Sam Steiger (R-AZ) was one of the most prominent supporters of Bridge Canyon Dam, a project that, if implemented, would have put almost a third of the Canyon’s river miles under a water.[13] Burke and Steiger each saw any Wilderness designation of the Canyon, and especially the river itself as their mutual enemy. Consequently, they became good friends.

In the course of Burke’s unsuccessful November 1972 attempt at a seat in the Arizona State Senate, Barry Goldwater had helped Burke, a fellow Republican, with his commercial campaign spots.[14] Once Burke became aware of Goldwater’s bill and his statements in Congress, he contacted Goldwater imploring him to listen to his perspective and those of fellow outfitter Jerry Sanderson and Gay Staveley, the owner/operator of Canyoneers, a completely motorized rafting company located in Flagstaff. Fred requested Goldwater change the wording of his bill to provide for the ongoing use of both motors and oars. He went on to claim that he was opposed to fast trips and that “There is no monetary gain under my plan if motors were left on.”[15]

NPS Wants River As “Potential Wilderness”

When hearings on Goldwater’s S. 1296 commenced on June 20, 1973, both the Interior Secretary and NPS, the originators of the 1972 Wilderness Recommendation, jointly requested the river corridor itself now be included as an additional 4500 acres of “Potential Wilderness” since motorized rafts were now officially being phased out.[16] NPS Director Ronald Walker stated during the hearings that these new provisions were necessary because the NPS had been allowed “no input” into Goldwater’s bill.[17]

Upon hearing the NPS proposal to include the river, the Utah Congressional delegation, which had numerous river company interests at stake, immediately blasted the Park Service for their proposition to phase out motors. Utah Congressman Gunn McKay said that the presence of motors did not shatter the sanctity of a wilderness experience and that the noise they created was only a “technical problem” that would be solved in the future. He also inferred that motors were necessary to safely navigate the difficult rapids and that the larger size motorized rafts provide for the removal of human waste and trash that would otherwise be left on the beaches.[18]

Utah Senator Frank Moss joined the attack on the NPS proposal stating that the absence of motorized trips would effectively remove access to both children and the elderly. Sen. Moss repeated Gunn’s accusation that small boats are less safe and promote garbage. Moss discounted NPS Regional Director Howard Chapman’s report that a recent hearing in the Salt Lake Western suit had disclosed that motorized river craft produce significant numbers of injuries, especially from the propeller. Although active at the time, this suit against the Park’s decision to eliminate motorized rafts would eventually be dismissed. Chapman continued by explaining to Moss that the NPS was trying to manage a total system and in the Canyon and their objective was to provide an experience different from the numerous motorized options available on other rivers. If people wanted a motorized experience, they had available many options elsewhere.

Moss appeared to gain the upper hand in the argument when he discovered that Park action was based only on unscientific observations and that no formal studies had been undertaken to justify the elimination of motors or a reduction of use. Citing this administrative deficiency, Moss proposed that both motors and user days be maintained at current use levels until sufficient scientific studies were completed sometime in the future.[19]

Due to the controversy it had generated with the Utah delegation, by the time the Committee Report for S 1296 was filed on September 21, 1973, the wilderness provision of Goldwater’s bill had been completely dropped. At least in part due to this controversy and in part due to the still pending Western lawsuit, implementation of the CRMP became sufficiently delayed that on October 31, 1973 NPS Regional Director Howard Chapman announced deferment of the decision to eliminate motors. Current use and allocations would be maintained until newly commissioned studies on the impact of motor use levels were complete.

Restarting the Public Process

Since the Grand Canyon Enlargement Act’s Wilderness component had been dropped, a provision was added that called for the Secretary of the Interior to report within two years all areas suitable for preservation as Wilderness.[20] Once the Grand Canyon Enlargement Act finally became law in 1975, an exhaustive public input process commenced in an effort to determine the public’s feelings regarding Wilderness status for the Canyon. A series of meetings were held in September and October of 1975[21].

In July of 1976, following the release of the Preliminary Wilderness Proposal (DES 76-28), an additional series of meetings were held in St. George, Utah and in Flagstaff, Grand Canyon, and Phoenix, Arizona. Comments were acquired from a total of 23 Federal agencies, 17 state agencies, 3 Indian tribes, 39 organizations, 24 companies, and 501 individuals.[22] The five-year series of meetings consistently showed public sentiment strongly favored Wilderness designation for the Canyon below the rim and for the river itself, including the elimination of motorized river travel[23].

The conclusion of the wilderness study process resulted in the February 1977 Final Wilderness Recommendation that was signed by the NPS Director and called for immediate Wilderness designation of over one million acres within the Canyon, including the river corridor. Instead of promptly forwarding this now fully approved Recommendation to then President Carter, the NPS Legislative Counsel effectively stalled its Congressional approval by recommending that it be held until completion of the Colorado River Management Plan (CRMP).[24] Instead of using the approved Final Wilderness Recommendation as the driving force for setting management policies for the river, its presentation to the President was instead postponed until the final outcome of the CRMP became known and compatible. As you will find, this critical two-year delay based on somewhat questionable reasoning at least partially contributed to altering the environment on the river for well over 20 years into the future.

The 1975 Enlargement Act also had a direct effect on the CRMP itself. Indexed off the Wilderness pre-planning meetings held in the Fall of 1975, six river management workshops were held in March of 1976 in Phoenix, Los Angeles, San Francisco, Salt Lake City, and Denver, as well as at the Grand Canyon. Comments of 365 participants and over 100 organizations were acquired, including those of the Hualapai Tribe, the Sierra Club, Western River Guides, and independent river runners from across the country.[25] As a result, in January of 1978 the Draft Environmental Statement - Proposed Colorado River Management Plan was released for public consideration.

In February of the same year, six more public meetings were held in the same cities and in March an additional meeting was held in Washington D.C. In all, 2,716 comments were received with 1476 respondents, or 54% favoring the elimination of motorized trips.[26] It is notable that only four people expressed opposition to Wilderness designation for the river corridor.[27]

In July of 1979 the final Environmental Impact Statement (EIS) which provided for the phase out of motor powered trips over a five-year period was released. Some of the specific conclusions of the plan were that the transition to all oar powered trips would cause no significant increase in trip costs, that oar powered trips were recognized to be a better buy for consumers, that commercial guides would benefit from a longer commercial running season and increased guide to passenger ratios, and that there would be no significant impact on the local or regional economies.[28]

One of the primary features of the ensuing 1980 Colorado River Management Plan was to limit river use by the number of launches, rather than by user days as in the past. This approach was intended to minimize the on-river congestion and inter-group contact problems produced by the user day system and unlimited launches. The 497 commercial launches of 1979

were thus reduced to 443 launches while the 89,000 commercial user days of 1979 were increased to 115,500. Total commercial passengers would remain at approximately 11,500 per year. This action was intended to both reduce congestion and accommodate the longer duration oar-powered trips, while delivering an increased “economic base” to smaller concessionaires.[29]

Of particular interest was a statement by the Park that the 70% commercial/30% non-commercial user day allocation ratio presented in the 1980 plan was only an estimate and would need to be adjusted in the future. More specifically, the 1980 CRMP states: “The allocation ratio is, because of the above factors, a best estimate based on the experience and interpretation of the above data. This ratio will be reviewed and adjusted as more reliable information becomes available.”[30] From this statement it is readily apparent that, at the time, the Park wanted to avoid situations like the present where some Americans are being required to wait 20 years while others freely access the River almost on demand.

The 1980 Colorado River Management Plan implementing the provisions of the final EIS was signed on December 20, 1979 by Park Superintendent Merle Stitt, NPS Western Regional Director Howard Chapman, and NPS Director William J. Whalen. This action commenced what should have been a five-year process of slowly eliminating motorized raft trips from the Canyon by the end of December, 1984.

Dam & Motors Anyone? (1979)

In 1979 in an effort to expand their clout with Congress, Fred Burke and Gaylord Staveley, together, reincarnated the earlier CROA into what was now called PROA, the Professional River Outfitters Association, (not to be confused with the contemporary PRO, Professional River Outfitters, a private trip outfitting and equipment company, ed.) chaired by Staveley. PROA purported to present a unified voice for the river outfitters who had historically been factional on a variety of issues.

Second term Congressman Robert Lee “Bob” Stump (R-AZ) had taken up the cause of Grand Canyon dam building from the efforts of his predecessor Sam Steiger. Stump, a Phoenix area farmer wanted more water for valley farming. Stump introduced a bill in March 1979, which, if passed, would have eliminated the motors vs. oars question, and possibly that of Wilderness altogether. Stump’s proposal, House Bill (96) H.R. 3034, was to license construction of Hualapai Dam (also known as Bridge Canyon Dam) and would have cut a third of the river miles under dispute by drowning them under a proposed reservoir. Steiger had unsuccessfully sponsored a similar effort during 1975 with his introduction of (94) H.R. 6745. Stump had futilely attempted to revive Steiger’s project during his first term as (95) H.R. 6906, and would again during in his third term as (97) H.R. 3167. To this day Stump reportedly continues to support construction of Bridge Canyon dam.[31]

Despite his ongoing efforts to drown the Canyon, the outfitters turned to Stump after the July 1979 release of the final CRMP EIS. Paying no attention to nearly a decade of NPS gathered public input urging the elimination of motorized trips, Stump fully subscribed to the

outfitters position. In October of 1979, Stump introduced a bill to prohibit the Park Service from reducing the number of commercialized motorized trip user days to less than 1978 levels (96 H.R. 5712 - Oct 25, 79). The bill was officially summarized as follows:

“Prohibits the United States Park Service, for any calendar year beginning after the date of enactment of this Act, from reducing the number of user days of commercial motorized water craft travel permitted on the Colorado River in the Grand Canyon National Park to less than the number of such days permitted during calendar year 1978.”

Stump’s bill was referred to the House Committee on Interior and Insular Affairs, then chaired by the late Mo Udall (D -AZ), where it never received a hearing and was allowed to die. No public review or discussion of the bill’s provisions was ever held. Despite the fact that Stump’s proposals for both motors and the dam had floundered in committee, the foundation was being laid for both the elimination of Wilderness management and the generation of the 20 year wait that non-commercial Canyon rafters now face.

Enter James Watt, the Mountain States Legal Foundation, and Beer (1980)

Burke, Staveley, and PROA were not content to limit their efforts to throw out the NPS Wilderness recommendations only to Stump’s obscure and poorly received bill. Staveley and Burke soon turned to the Mountain States Legal Foundation (MSLF).

The MSLF was established by and has been continuously funded by Adolph Coors, the famous western beer magnate. At that time, the fledging organization’s chief legal officer and President was James Watt, an outspoken fellow who would later become Secretary of the Interior under the yet to be elected Ronald Reagan. James Watt, a Wyoming native, joined the U.S. Chamber of Commerce in 1966 where he directed the natural resources section.[32] He began his federal career in 1969, appointed by President Nixon to the Interior Department as Deputy Assistant Secretary for Water and Power Resources. In 1972 he became Director of the Bureau of Outdoor Recreation. At that time he spoke of that job, “I am a manager by profession. I could be managing widgets. I happen just now to be managing recreation.” [33] In 1975 Watt became vice chairman of the Federal Power Commission until he resigned in 1977 when the Democratic Carter administration made him a persona non-gratis. In July of 1977, Watt became President and Chief Legal Officer of the Mountain States Legal Foundation (MSLF).

On March 27, 1980, the MSLF, still headed by Watt, filed suit on behalf of Canyoners, Arizona River Runners, Hatch River Expeditions, and other motorized outfitters against NPS Director William J. Whalen in an effort to halt the elimination of motorized raft trips (MSLF vs. Whalen, et al).[34] Assisting PROA, Staveley, Burke, and the Mountain States Legal Foundation was a lawyer by the name of Jon Kyl, who at that time worked for the Phoenix law firm Jennings,

Strouss & Salmon.[35] Unknown to anyone at that time, Jon Kyl would be elected in 1986 to his first of four terms in the U.S. House of Representatives and, in 1994, would become the freshman and current Republican U.S. Senator from Arizona.

Park Politically Pressure Cooked 1980 - Industry Gross \$7 Million Private Wait 6 Years

Consistent with their expanded political efforts, PROA and the outfitters persistently complained to the Arizona Congressional delegation about the provisions of the 1980 plan. These political efforts first became publicly evident during an Interior Appropriations hearing in May of 1980. At that time Senator Dennis DeConcini (D-AZ) acknowledged that he had received “complaints” about the 1980 CRMP plan during a meeting between the Park Service and outfitters in his Washington office.

At the request of Senator DeConcini, the Park granted the outfitters a meeting on June 5, 1980 allowing them an opportunity to suggest adjustments to the 1980 river plan. The Park emphasized no direct discussion of the decision to phase out motors would be allowed. Without any doubt, the efforts of the PROA consortium were starting to get results.

Staveley, Burke, and their wives attended the meeting along with Park officials and representatives from the offices of Senators DeConcini and Goldwater, and Congressmen Stump, Rhodes (R-AZ), and Rudd (R-AZ). The subject matter primarily focused around determining the number of passengers accommodated in 1979 (11,665) and then giving motorized companies additional passengers to offset potential profit losses from their conversion to rowing. This provided for an annual “economic increase” of 1400 additional passengers, a 12% increase to the motorized outfitters over 1979 levels. Since the new rowing trips were inherently longer, this would effectively deliver well over 15,000 new user days and annually millions of dollars of new revenues to the motor companies. At the same time non-motorized outfitters consequently would receive less market share and non-commercial users would continue to increase their wait. Staveley later, in a press release, would describe the meeting simply as “very solid and productive” and that it resolved the scheduling issues related to the phase out of motors.[36]

A summary of the meeting was sent by the NPS to all river concessionaires that did not attend the meeting and to others who would be affected by modifications to the 1980 plan. After receiving extensive responses from other outfitters and interested parties, Regional Director Howard Chapman reported to Gaylord Staveley in an August 13, 1980 letter that at least a third of the river concessionaires disagreed with the Staveley and Burke’s proposed modifications to the 1980 plan. Chapman also informed Staveley that, according to the Department of Interior Solicitor’s (administrative law) Office, any implementation of their suggestions without a full public review would violate the provisions of the National Environmental Policy Act. Effectively, Chapman, with the concurrence of Interior Secretary Cecil Andrus, was rejecting the provisions of the June 5th meeting and upheld continuation of the 1980 CRMP and its provision to eliminate motors.

Staveley, stung by the Regional Director’s rebuke, wrote to Stump on August 19th

stating that all the arguments provided by the “ecopeople” who disagreed with him were generated by the Park. He suggested that his “opponents” were being manipulated and “... they are just saying what they are told to say.” He went on to claim “untrue and unreal” comments and “lies” were being delivered by his opponents. Staveley charged as false the argument that increasing concessionaire allocations would in any way diminish opportunities for private, non-commercial boating. He described the argument as: “The lie that private (non-concessionaire) use is threatened by giving concessionaires the 1979 passenger levels.” [37] In a subsequent letter dated August 21, 1980 to NPS Western Regional Director Chapman, Staveley continued attacking the “fabrications” of those in the “ecobizness”(sic).

Just a Concerned Taxpayer

After PROA’s embarrassing summer defeat, it became apparent that a new approach would be needed. Congressman Eldon Rudd (R-AZ) had already requested details on GCNP river expenditures from then Acting NPS Director Ira Hutchison. Rudd, in an August 29 letter to C. J. Ross, forwarded Hutchison’s August 19, 1980 response and invited the outfitters to any input they deemed appropriate.[38] One person responding to Rudd’s expenditure inquiries was Pamela Manning, then Executive Vice President for Burke’s Arizona River Runners business. Without disclosing her affiliation with ARR, Manning alleged that the GCNP had significantly increased their operational costs by hiring five permanent river staff and an extra patrol crew to accommodate the new management plan. She further alleged that the Park had incurred significant expense and “bureaucratic waste” in purchasing a trailer to accommodate the non-commercial permittees. Manning went on to state that one motorized patrol crew could perform as much work as two oar crews, and inferred that oar trips were popular with Park personnel simply because they had to do less work.[39] Manning concluded by stating that she was concerned about the waste of tax dollars, and that did not wish her name to be attached to the letter’s contents since she was known in the river community.

Rudd responded to Manning with a letter stating he was confident that Bob Stump’s previously ignored proposed legislation would be reintroduced to combat “the unfair CRMP” and thereby protect the rights of river runners.[40] That same day Rudd sent another letter to Hutchison paraphrasing Manning’s allegations of misuse of funds and demanded a detailed budget for the GCNP River Management Unit. Hutchison compiled the requested information and, in his November 28, 1980 response, explained to Rudd that the trailer under dispute was surplus property given to the GCNP by Glen Canyon National Recreation Area, and that permanent GCNP river personnel had increased not by the alleged five, but only by a single person since 1973.[41] Although the information previously provided to the Congressman by Manning was proven to be incorrect, by the end of November it really didn’t matter; something else had already happened that would change the whole river horizon for decades to come.

The Hatch (River Expeditions) Amendment

In 1980 first term Senator Orrin Hatch (R-Utah) was in his fourth year in office. Orrin is the great grandson of Jeremiah Hatch, the founder of Vernal, Utah. Orrin's father, Jesse, was cousin to Bus Hatch, the founder of Hatch River Expeditions, who was also a grandson of Jeremiah. Bus' son Ted Hatch, like Orrin, was a great grandson of Jeremiah. Ted was then, and currently still is the owner of Hatch River Expeditions, the oldest and, at that time, the largest motorized raft company in the Grand Canyon. Hatch maintains a warehouse in Marble Canyon where ARR was located at the time.

Fred and Carol Burke along with Pam Manning telegraphed Senator Hatch on November 4, 1980 stating that motor elimination would deliver a negative economic impact on Southern Utah and Northern Arizona. They also stated, "We urgently support your amendment to the Appropriation bill." [42] By this communication, it was now evident that the outfitters were very aware that Hatch was preparing to introduce legislation in their behalf.

On Nov. 14, 1980, Sen. Orrin Hatch hastily introduced from the Senate floor Amendment SU175 to the 1981 Interior Appropriations Bill (96 H.R. 7724). This Interior Appropriations Bill provided the crucial annual funding necessary to maintain the operations of the Department of the Interior for the fiscal year ending September 30, 1981. It was common knowledge to the Senate that any appropriations amendment would be effective only for the single year the bill provided funds to run the Department of Interior.

SU175, which would later become known as the "Hatch Amendment," was first considered by the Senate on the Friday just prior to its Tuesday, November 17th final approval. Neither the amendment nor its content ever received public review, even in the form of a committee hearing. The Amendment was cosponsored by Senator Barry Goldwater (R-AZ) and Jake Garn (R-UT) [43] and consisted of the following words:

(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 Sept. 30, inclusive.

Hatch's and others' presentations in support of the Amendment, spanning four pages of the Congressional Record, was in no way subtle. Throughout the testimony process, Hatch made no public mention of his familial relationship to the companies his action would ultimately benefit. Hatch commenced by echoing the same safety and access issues that his predecessor, Frank Moss, had voiced 8 years earlier. He indisputably demonized the Park Service for even offering the CRMP, stating that they were "jeopardizing the availability" of the Canyon. He extolled the

virtues of motorized rafts as the most cost-effective way to get the greatest numbers of people into the Canyon. He continued by stating that the Park Service was inflicting its non-motorized oar provisions on an “unwilling and often unknowing public without regards to cost. And, I might add under more dangerous circumstances.[44]”

Hatch’s cost arguments were flawed, completely ignoring the fact that non-commercials were dramatically less expensive than any commercial trip, motorized or not. He never mentioned to the Senate that the CRMP he opposed was part of a 10 year NEPA compliant public decision process. He never acknowledged that continuation of motorized rafts would enhance public demand for a resource already outstripped in its ability to handle it. Hatch never acknowledged that his amendment would provide his relatives and the motorized outfitters dramatically increased profits.

An Ambivalent Passage

Some Senators expressed concern that the amendment was inappropriate for this appropriations bill and that no hearings were ever held on this specific matter. In particular, Senator Huddleston moved that the Hatch Amendment should not be allowed since it should have been more fully considered in the appropriate committee[45]. In effect Huddleston recognized that the Senate was unable to vote on this subject from a position of knowledge.

Retrospectively, Hatch was probably aware that if he forthrightly introduced a bill opposing NPS actions, it would spur debate and the subsequent analysis would expose the extensive history behind the NPS actions. Such an effort to defeat the issue on its merits would be certain to fail, as had Stump’s earlier attempt. Cleverly, Hatch opted for the much easier alternate and apparently successful approach of legislatively defunding his NPS opponents.

Since it was attached to a one year appropriations bill, it was obvious to the Senate that the provisions of the Hatch Amendment were not permanent and could only affect management policy for one year. Rather than waste precious time in this late stage of the legislative session and after senators on the Energy and Natural Resources Committee promised hearings on the issue during the following year, the Senate accepted the amendment on a voice vote.

As a result SU 1754 was quietly absorbed into the appropriations bill which eventually evolved into public law 96-514.

Reveling in his apparent success, Burke wrote to Lisa Jackson of Rep. Stump’s office with his recommendations for implementation of the Hatch Amendment. In a November 29th letter, Burke recommended an increase in launches so that the motorized outfitters could be able to accommodate the 150 people per day maximum historical use provided for in the Amendment. In his letter, Burke additionally asked for Congressional hearings early in 1981 so that as soon as possible a determination could be made as to the scheduling of motor trips and whether motors would be allowed during the 1982 season.[46] Burke’s correspondence shows that both he and the outfitters were aware that Hatch’s Amendment, as passed, was only temporary and that the phase

out of motors might begin anew the following season.

Introducing - Secretary of the Interior James Watt (Watt's Senate Confirmation Hearings)

Staveley, Burke, and the other motorized outfitters were probably delighted by the good fortune that had befallen them as a result of the November 1980 election of Ronald Reagan as President. When Senator Clifford Hansen (R - WY) declined Reagan's offer of Secretary of Interior, on December 22nd, 1980 the position was then offered to the same James Watt, President of the Mountain States Legal Foundation, who was already helping the motorized outfitters by suing the Park to retain motorized rafts.[47] As virtually everyone in the country would soon know, Watt, who had already described environmentalists as "the greatest threat to the ecology of the West,"[48] accepted the position as Secretary of Interior, the trustee of America's public lands.

Reagan's election to the presidency became official on January 6, 1981 when a joint session of Congress counted the votes of the Electoral College.[49] The following day Watt's confirmation hearing in the Committee on Senate Energy and Natural Resources began. The Committee was particularly interested in Watt's potential for conflict of interest since, as President of the MSLF, he had sponsored numerous suits against the Department of Interior. The committee's interest was justified. During questioning about the MSLF, Watt made the surprising claim that he didn't even know who the contributors to the MSLF were. Senator John Seiberling (D-Ohio), Chairman of the Interior Subcommittee on Public Lands informed Watt with the specifics of who the financial supporters of the MSLF were and then concluded with the following observation. "These are people whose primary interest in public lands is to exploit them for their own profit. Their idea of multiple land use is to have everything with any conceivable value developed, even if its primary value is Wilderness."[50]

Watt had been asked to submit to the committee a summary of those MSLF cases that involved the agency. Watt's prepared summary incorrectly cited his Arizona suit to retain motorized rafts in the Canyon. Instead of describing the MSLF v. Whalen case as filed, the description supplied to the committee was "MSLF v. Dickenson," the NPS Director that succeeded Whalen. In Watt's statement, the suit was summarized as follows: "MSLF seeks to protect the right of the public to reasonable, environmentally sound access to the Grand Canyon for recreation by challenging the Park Service's decision to ban all motorized raft trips on the Colorado River through the Grand Canyon."[51]

During the hearing segment questioning Watt's involvement with motorized rafting, Senator Dale Bumpers (D-AR) explicitly stated that the Senate (against his [Bumpers] own vigorous protest) had adopted only a one-year postponement of the Park Service river management plan.[52] Bumpers even directly asked Watt, "Do you favor the Wilderness Act." Watt's response: "Absolutely."

Before the hearings had begun, Watt had generated a recusal statement wherein he consented only to refrain from assisting the MSLF in any further prosecution of the Interior cases. Watt submitted his statement to the Committee after having already discussed its content with

the chairman of the Committee, Senator James McClure (R. Idaho).

Curiously absent from Watt's commitment was any promise to, as Secretary of the Interior, refrain from involving himself in the issues surrounding the MSLF's Interior Department litigations. The statement successfully made it through the hearing without any mention of this deficiency. Time would prove that Watt would utilize this oversight to MSLF's fullest advantage.

More Concessions, Motors, and the Brave New World of Watt

Once Watt was confirmed and sworn in there soon became little doubt that he had an agenda and that he would do whatever it took to get it through. A main feature of the Watt plan for the parks was a significantly larger role for the concessionaires, displaying an almost zealous drive to involve them in park operations wherever possible. In a March 9, 1981 appearance before the Conference of National Park Concessionaires, Watt pledged, "It is time for a new beginning and the private enterprise system must be looked to for rejuvenation and enthusiasm as we try to make the parks more accessible and usable for the people.... You folks (the concessionaires) are going to play a tremendously important role and a growing role in the administration of our National Parks and we are going to reach out and involve you in some areas that you haven't been asked to be involved in before." [53]

So zealous was Watt's desire to facilitate concessionaire involvement, he expressed a ready willingness to remove anyone who might be in his path. "If we need to change personnel under Russ (Dickenson - NPS Director) to accomplish a more aggressive concessionaires program, we will change the people." [54] Watt continued, "If a personality is giving you (the concessionaires) a problem, we are going to get rid of the problem or the personality, whichever is faster." [55]

Besides his overt enthusiasm for more privatization of the parks, Watt felt no need to withhold his opinion supporting motorized rafting in the Canyon. "I don't like to paddle and I don't like to walk." James Watt would say, almost with a touch of pride. [56] Watt himself saw little value for extended river trips. Relating about his own Grand Canyon motorized raft trip, "The first day was spectacular.... The second day started to get a little tedious, but the third day I wanted bigger motors to move that raft out. There is no way you could get me on an oar-powered raft on that river - I'll guarantee you that. On the fourth day we were praying for helicopters and they came." [57]

The country now had a Secretary of Interior that thought the motor trips were too long and the motorized Wilderness was still much too tedious.

On the Monday following Watt's confirmation hearing, January 12, 1981, a press release came from NPS Western Regional Director Howard Chapman announcing "... the public

will have the option of motor or oar trips in the future.” Chapman also disclosed that he would be using the Hatch Amendment as a guide to future river management.

The next day, GCNP Superintendent Dick Marks both called and wrote Fred Burke with the good news that the commercial “preferred use season” allocation would be for 105,500 user days. Use would be based upon user days, rather for the “total number of people” method provided in the 1979 plan.[58] This single provision emphasizing user days handed to the outfitters the economic motivation to supply the public with the shorter motorized trips that deliver the most profit, rather than to provide the longer oar powered trips which cost patrons less per day. This same increased frequency of short trips set the stage for the current use of helicopters, which now service more than 50% of the commercial river passengers.

On February 10, 1981, the MSLF wrote to Fred Burke advising him that the MSLF would be putting their suit on inactive status as they waited for the Park, now officially under the supervision of their former leader, to take the “appropriate action” to fulfill their new promises[59]

1981 Draft Alternatives – Motors, Motors, or Motors?

Other than Watt’s intermittent comments in support of motorized rafts, little was conveyed to the public about the status of the river until that summer. On June 8, 1981 ignoring ten years of public input calling for the elimination of motors, a new set of fully motorized management alternatives emerged for public comment with release of “Draft Alternatives for the Colorado River Management Plan.” This completely new set of four separate motor-oar combination alternatives, each of which provided for continuation of motor use throughout the summer season, was announced by NPS Western Regional Director Howard Chapman who now claimed that the 1979 plan had been “vetoed by Congress.”[60] These new alternatives did not allow the historical public preference for the elimination of motors to even be considered.

This draft document stated that the new set of presented alternatives were needed because “The (Hatch) Amendment prohibited a reduction of user days or passenger launches for commercial motorized craft below 1978 levels during the summer season. The commercial use level in 1978 was 89,000 user days.”[61] The press release accompanying the draft plan further echoed Chapman’s erroneous conclusion that “... the plan adopted by the Park Service in 1979 was subsequently vetoed by Congress last year.” [62] A two-month public comment period was provided and closed on August 12, 1981.

With the release of this new plan the Senate’s vote for a single year postponement of the implementation of the 1980 CRMP had somehow been transformed into a full purge of the motor phase-out concept. Also, conveniently forgotten were the Senate hearings that were promised to have occurred in early 1981 that would have more thoroughly examined the facts Orrin Hatch abruptly introduced on the Senate floor on November 14, 1980. Completely forgotten was the Park’s plan to revise the user day allocations. Using the same misinterpretation of Congressional directives, the 1980 plan’s temporary 70% commercial user day ratio spontaneously, in

the 1981 Plan, became inflexible at 115,500 user days for the commercials and 54,450 for the privates.[63] The die was now being cast for the twenty-year wait currently confronting those Americans who choose to access the Canyon non-commercially.

Quite happy with the completely motorized horizon the 1981 draft provided, Watt's Mountain States Legal Foundation abandoned their lawsuit on July 16, 1981.

1981 CRMP – The Incredible End to the Decade of Public Input

In December of 1981 came the issuance of the final 1981 CRMP that provided continuation of motors and the foundation upon which the river is managed today. This 1981 document also repeated and further codified the earlier draft version's dubious interpretation of the Hatch Amendment with the statement, "The amendment prohibited a reduction of user days or passenger launches for commercial motorized craft below 1978 levels during the summer season." Without ever mentioning that the only alternatives presented for public comment in the June of 1981 Draft were combinations of motor and oar use, the plan justifies its final conclusion with the statement, "The preponderance of these (public) comments favored some combination of oars and motors, while voicing interest to have a period of oar only use." [64]

This 1981 CRMP contained no mention of any consideration of the non-motorized options consistently requested and preferred by the public. The preceding 1980 CRMP had been developed through processes that complied with the National Environmental Policy Act. Such NEPA processes, which require that "all reasonable alternatives be considered," form legal, binding decisions that require implementation by the administering agency. A decision arrived at via the NEPA process cannot be withdrawn or a new decision made without going through a similar NEPA compliant process. Clearly, the publicly preferred no motor option was a "reasonable" alternative that was never considered in the 1981 plan. The failure to include those "no motor" options in the development of the 1981 plan would seem to be in violation of the NEPA process. The temporary defunding of a project had been magically transformed into an illegal "veto" of a decade of public input.

Of particular note is the 1981 CRMP document that was signed by Superintendent Richard "Dick" Marks on 11/25/81, Western Regional Director Howard Chapman on 12/8/1981, and by NPS Director Russell Dickenson on 12/13/1981. Significantly, at the time of each of their 1981 CRMP authorization signatures, the federal government had already entered into the 1982 fiscal year. Since the provisions of both public law 96-514 and its Hatch Amendment had already expired with the September 30th end of the 1981 fiscal year (94 Stat. 2957), the very basis for the provisions of the 1981 plan no longer existed.

At that time of its signing there weren't any grounds for deviation from the elimination of motors provided in the publicly reviewed 1979 Final EIS and 1980 CRMP. That fact was apparently forgotten despite numerous references on the Senate floor and during Watt's Confirmation hearing that the Hatch Amendment was "solely a one year postponement of the 1979 decision." [65] As stated earlier, even the outfitters had recognized that the Amendment provided

only for a single year postponement and “that motors may not be allowed in 1982.”[66] Somehow, all this was forgotten by the National Park Service while it was under the supervision of James Watt.

1999 Have Your Cake And Eat It Too (Commercial Outfitters Gross over \$27,000,000 - Privates Wait 20+ Years)

The 1981 plan provided for 1979 commercial use levels of 89,000 user days to be increased by 26,500, a 30% increase. This increase resulted in the current total commercial allocation of 115,000 user days, none of which includes the 30,000 user days allocated to crew members that accompany the commercial passengers. This commercial user day level was originally provided in the 1980 plan as an “economic base” to effectively compensate the outfitters for reduced total revenues created by conversion to the longer oar powered trips. Now, under the 1981 CRMP, the motorized outfitters were able to keep their motors while still being compensated as if they had converted to oars. For Ted Hatch of Hatch River Expeditions alone, the increased user days indirectly provided for by his distant cousin’s Amendment translated to almost 1,000 more user days per year, or 17,000 more user days over the last seventeen years.[67] Since Orrin Hatch had failed to disclose his family’s benefit from the outcome of his amendment, the Senate could not have been aware that they would be providing the Hatch family with more than \$4,250,000[68] in cumulative gross revenues over the next 17 years. In fact the “economic increase” by itself delivered the group of motorized outfitters additional gross revenues of \$78,800,000 between 1981 and 1998 once the 1980 CRMP was aborted.[69]

No matter how you look at it, the monetary returns from Staveley and Burke’s one-year effort were excellent. The motorized raft industry in the Canyon is now approximately a \$20 million dollar a year industry. Staveley’s Canyoneers business alone now grosses more than \$1,000,000 per year. Arizona River Runners, no longer owned by Burke, similarly grossed over \$3 million in 1998. Today motors prevail in America’s foremost river Wilderness while non-commercial river runners are now waiting 20 years for access.

All this, while the river flows and the outfitters continue to insist, everything is fine; don’t change it.

[1] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections,

Manuscript #30, handwritten correspondence to Supt. Richard Marks from Joe Munroe, Wilderness Public Rights Fund, June 16, 1980.

[2] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, November 13, 1972 correspondence to The Honorable Barry Goldwater from Carol Burke.

[3] "Final Environmental Statement, Proposed Colorado River Management Plan" (FES 79-30), finalized July 31, 1979, pg. I-1.

[4] "Draft Wilderness Management Plan, Grand Canyon National Park", April 1998, pg. C-1.

[5] Revised Draft Environmental Statement, Proposed Wilderness Classification, Grand Canyon Complex, Arizona, pg. 22, included in Additions to the National Wilderness System, Communication from the President to Congress, Part 5, Grand Canyon Complex, Arizona, House Document 92-357, September 21, 1972.

[6] "Final Environmental Statement, Proposed Colorado River Management Plan" (FES 79-30), finalized July 31, 1979, pg. IX-1.

[7] Wilderness Recommendation, Grand Canyon Complex, Arizona, pg. 20, included in Additions to the National Wilderness System, Communication from the President to Congress, Part 5, Grand Canyon Complex, Arizona, House Document 92-357, September 21, 1972.

[8] Wilderness Recommendation, Grand Canyon Complex, Arizona, pg. 20, included in Additions to the National Wilderness System, Communication from the President to Congress, Part 5, Grand Canyon Complex, Arizona, House Document 92-357, September 21, 1972.

[9] Additions to the National Wilderness System, Communication from the President to Congress, Part 5, Grand Canyon Complex, Arizona, House Document 92-357, September 21, 1972.

[10] See (93) S. 1296 discussions Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, June 20, 1973.

[11] Congressional Record, March 20, 1973, pg. 8691, col. 3.

[12] Western River Expeditions, Inc., et al, versus Roger C. B. Morton, et al.

[13] See House Report 93-1374, 9/25/74, pg. 4.

[14] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, November 13, 1972 correspondence to The Honorable Barry Goldwater from Carol Burke.

[15] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, April 4, 1973 correspondence to The Honorable Barry Goldwater from Fred Burke, President, Arizona River Runners.

- [16] U.S. Senate Subcommittee on Parks and Recreation, 6/20/73.
- [17] U.S. Senate Subcommittee on Parks and Recreation, 6/20/73, pg. 53.
- [18] U.S. Senate Subcommittee on Parks and Recreation, 6/20/73, pp. 30-1.
- [19] U.S. Senate Subcommittee on Parks and Recreation, 6/20/73, pp. 47-53.
- [20] See House Report 93-1374, 9/25/74, pp. 35-6.
- [21] “Final Environmental Statement, Proposed Colorado River Management Plan” (FES 79-30), finalized July 31, 1979, pg. IX-1.
- [22] “ Draft Wilderness Management Plan, Grand Canyon National Park,” April 1998, pg. C-2.
- [23] Final Environmental Statement FES 79-30 – Proposed Colorado River Management Plan, July 31, 1979, pg. IX-1.
- [24] “ Draft Wilderness Management Plan, Grand Canyon National Park”, April 1998, pg. C-2.
- [25] Final Environmental Statement FES 79-30 – Proposed Colorado River Management Plan, July 31, 1979, pg. IX-1.
- [26] “ Final Environmental Statement, Proposed Colorado River Management Plan” (FES 79-30), finalized July 31, 1979, pg. IX-7,8.
- [27] “ Final Environmental Statement, Proposed Colorado River Management Plan” (FES 79-30), finalized July 31, 1979, pg. IX-12.
- [28] Final Environmental Statement FES 79-30 – Proposed Colorado River Management Plan, July 31, 1979, pg. III-23.
- [29] Colorado River Management Plan, Grand Canyon National Park, 1980, see pp. 15-21.
- [30] Colorado River Management Plan, Grand Canyon National Park, 1980, p. 21.
- [31] Author’s conversation with Stump’s chief aide Lisa Jackson in March of 1998 affirmed that Stump still adheres to the belief that Bridge Canyon Dam remains a good idea for the Grand Canyon, even in light of the late Barry Goldwater’s expressed regret for voting for Glen Canyon dam.
- [32] Congressional Quarterly, 12/27/80, pg. 3649.
- [33] National Parks, September/October 1982, p 15.
- [34] U.S. Court, Arizona District (Phoenix), Case: 2:CV-80-233PHX CLH, opened 03/27/80,

closed 07/16/81.

[35] See Kyl biography entry present on personal Senate web site 2/26/99: -“Lawyer with Jennings, Strouss & Salmon in Phoenix, Arizona 1966-1986.”

[36] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, PROA Press Release dated June 6, 1980.

[37] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, August 19, 1980 correspondence to Bob Stump from Professional River Outfitters Association, signed by Gaylord I. Staveley.

[38] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, August 29, 1980 correspondence to Miss C. J. Ross from Eldon Rudd, Member of Congress, signed by Eldon Rudd.

[39] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, October 16, 1980 correspondence to Eldon Rudd from Pamela Manning, signed by Pamela Manning.

[40] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, October 20, 1980 correspondence to Pamela Manning from Eldon Rudd, Member of Congress, signed by Eldon Rudd.

[41] 11/28/80 correspondence from acting NPS Director Ira Hutchison to Eldon Rudd.

[42] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, Western Union Mailgram confirmation dated 11/04/80, signed by Fred Burke, Carol Burke, Pam Manning, Allison Schmidt, and Judy Welch.

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

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

[45] Congressional Record, 11/14/80, p S14469, col. 1.

[46] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, Correspondence from Fred Burke to Congressman Bob Stump, dated November 29, 1980.

[47] Congressional Quarterly, December 27, 1980, pg. 3650.

[48] Wall Street Journal, May 18, 1979 (see Congressional Quarterly, 12/27/80, p 3649)

[49] Congressional Quarterly, January 10, 1981, pg. 52.

[50] “Reagan Names Five More Cabinet Members”, Congressional Quarterly, Dec 27, 1980, pg.

3649.

[51] Senate Committee on Energy and Natural Resources, Proposed Nomination of James G. Watt to be Secretary of the Interior, Publication #97-1, January 7-8, 1981.

[52] Senate Committee on Energy and Natural Resources, Proposed Nomination of James G. Watt to be Secretary of the Interior, Publication #97-1, January 7-8, 1981, pg. 123.

[53] Statements made during March 9, 1981 meeting before the Conference of National Park Concessionaires, reported in *Stealing The National Parks*, Don Hummel, p 372. Also in *National Parks*, June 1981, p 16.

[54] March 9, 1981 meeting with the Conference of National Park Concessionaires.

[55] March 9, 1981 meeting with the Conference of National Park Concessionaires

[56] *Sierra*, July/August 1981, p. 7.

[57] *Sierra*, July/August 1981, p 7.; also *National Parks*, June 1981, p 18.

[58] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, January 13, 1981 correspondence from Richard Marks to Fred Burke, reply reference C3823-ARIZ.

[59] ARR Inc. Collection, Northern Arizona University, Cline Library Special Collections, Manuscript #30, February 10, 1981 correspondence from William Mellor (MSLF) to Fred Burke.

[60] *Federal Register*, 46:109, June 8, 1981, p 30397

[61] Draft Alternatives for the Colorado River Management Plan, June 1981, pg. 3. Note: no signatures were attached and no authors attested to its content.

[62] Draft Alternatives for the Colorado River Management Plan, June 1981, pg. 3.

[63] Colorado River Management Plan, December 1981, Grand Canyon National Park, Arizona, pp. 7-9.

[64] Colorado River Management Plan, December 1981, Grand Canyon National Park, Arizona, pg. 4.

[65] Senate Committee on Energy and Natural Resources, Proposed Nomination of James G. Watt to be Secretary of the Interior, Publication #97-1, January 7-8, 1981. Senator Bumpers statement to James Watt, pg. 123.

[66] 11/29/80 correspondence to Bob Stump (attn. Lisa Jackson) from Fred Burke, Arizona River Runners, Inc.

[67] As of 1979 Hatch River Expeditions had been allocated 10,080 user days/year. In 1989, after final assignment of all summer and winter dates, the Hatch allocation had increased to 11,027 user days/year. Source: Colorado River Management Plan, 1989, Grand Canyon National Park, page C-14.

[68] In 1998 dollars, based upon the consideration that trip per day fares/value are the same from year to year, valued at the 1998 average per day fare of \$250.

[69] In 1998 dollars. Motor operators comprise 70% of commercial river running activities. They received 70% of the additional annual award of 26,500 more commercial user days granted in 1981 to concessionaires. That is a total of nearly 315,000 user days made available for motor trips since 1981.