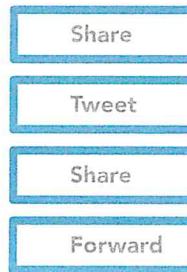


*For more on stream access in NM
watch this film from the New Mexico
Wildlife Federation*



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My Community Involvement

- Part of a greater group of paddling recreation seekers who see a bigger picture for Nevada's future. I moved to Nevada in 1972 and started exploring rivers and lakes then. Living in Carson and Tahoe at the time gave me access to the East Sierras and all of its creeks, rivers and lakes. I moved to Reno in 1976 and quickly began creating a paddling community there and nearby.
- Founding member of One Truckee River, a collaborative group that put together the One Truckee River Management Plan adopted by the City of Reno in 2016.
- Instrumental in the creation of the White Water Park in Reno. Our group spent 8 years on this effort. It was the example used for the creation of the Sparks Water Park.
- Taught safe paddling at Reno, Sparks and other local area pools for over 21 years, for free, to thousands of people.
- Led hundreds of paddling trips on Nevada's waterways.
- Facilitate the local White Water Group and manage the local Reno Kayakers Meetup Group, which has around 400 members.
- Active advocate and activist for safe rivers. Worked with Sierra Pacific Power to get signage for safety at their dams and continue to work with Truckee Meadows Water Authority (TMWA) for the benefit of river and shore users. For example, the Chalk Bluff Dam on the Truckee River, built by Sierra Pacific was a low head dam, which is an unsafe design for kayakers and has killed hundreds of people across the county. I was instrumental in the retrofit to make the dam safer for kayakers.
- Raising awareness on the Truckee River for allowable river use by kayakers. In the past, the Reno Police Department incorrectly assumed kayakers were not allowed on the river through town and would require kayakers to exit the river. Those misunderstandings have been resolved and kayakers can now enjoy the full length of the River.
- Led River Cleanups on the Truckee River for many years with hundreds of volunteers.
- Assist with the Reno River Festival and organize races at Wingfield Park.
- Working to help solve the issue of Homeless Camps along the Truckee River. I have a great working relationship with the Reno Mayor, Parks Department and Fire Department as well as the Community Liaison.
- Competed on numerous US Kayak Teams in the US, Europe and Canada, including being a National Champion several times and finishing in 4th place and 6th several times, representing the US in International Competition.

Fred Hill Atcheson

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September 30th, 2020

AARON FORD
Nevada State Attorney General

Carson City, Nevada

Subject: A public right to use rivers and streams in Nevada

Dear General Ford:

I am writing this letter in the capacity of a citizen and not for any purpose relative to litigation even though I am a licensed attorney in Nevada and have been for over 44 years. I am an active paddle boater as are many of my friends and associates. Since I am an attorney they have asked me to get involved in an analysis of the right of the public to both access and use the rivers of Nevada for recreation purposes and to request a legal opinion from your office confirming those rights.

I was recently made aware that there are only four rivers in Nevada which have a "navigable" designation: the Colorado, Virgin, Carson, and Truckee. These rivers can be accessed and used by leisure boaters and government agencies also have jurisdiction such as: the U.S. Fish and Wildlife Service, the Department of Transportation and other necessary agencies. We, in the environmentally friendly community of boaters, believe the same "navigability" status as is accorded the above named four rivers be accorded to all other rivers in Nevada. We believe established law bends toward confirming a public right to use rivers as part of our constitutional fabric and civic legacy and believe simple economics also favors this result.

We are only asking for the right to paddle, fish, and recreate within the maximum high water line for each river or stream in Nevada. We are not requesting a right to use the land along side or under the river; therefore, we are asking the State to acknowledge the right to use the rivers as a conveyance but not the land through which it flows. A right for the general public. What could be more justified than the ubiquitous use, without consumption, of water coming from the heavens? It is also economically advantageous. The push of the baby boomer, millennial, Y2K, and otherwise health conscious groups to avoid obesity and other crushing problems have resulted in a huge upswing in seeking vigorous outside vacations and adventures. The thirst to get out in nature has always been with humans. To deny or damage our right to seek and use nature or to give to specific members of the public the right to exclude public access to our rivers also denies economic opportunity to those who live in the commercial centers surrounding these public river assets. Boaters spend on restaurants, bars, gas, chips in a can, and ice cream, usually in the boonies; spending where outside money is most needed. We must now

establish a clear right to use these assets so boaters of all types along with their fisherman friends can go into these rivers without fear of being subject to capricious behavior by citizens who believe they have the right to deny access to the use of the river within the channel above defined.

Enough preaching, now for the legal underpinning. The term “navigable” is controlled by the definition of “use” under the common meaning. If a river is usable by a canoe or other small craft it is navigable under the law and becomes a public river or highway. *The Daniel Ball*, 77 U.S. 557 (1870). If a Nevada river is usable, no matter what mode of commerce is conducted, it is navigable in fact and law. In a navigable stream the public right is paramount to even that of state regulators. *Weber v. Board of Harbor Commissioners*, 85 U.S. 57 (1873); *West Chicago Railroad Co. V. Illinois*, 201 U.S. 506 (1906).

Rivers usable in recreational watercraft are navigable and this rule applies the canoes, kayaks, rafts, stand up paddle boards and other watercraft.

Best regards,

Fred Hill Atcheson