

## Testimony of Bert Krages in Support of HB 2555

I am a kayaker, attorney, and former practicing environmental engineer. During 2020, I paddled 97.3 hours on the Willamette River and spent many other hours observing the river from its shorelines and documenting conditions with video cameras. These observations are summarized in the following videos:

<https://youtu.be/rnOMEWxTdEc> (2:07)

<https://youtu.be/IUEGmSchkyE> (7:48)

<https://youtu.be/EZBavoyasts> (15:13)

As an attorney, I am familiar with the rules that apply to boating on the Willamette River, including the ones recently adopted in response to the wake boat problem. I have also applied my technical background to review and understand the many studies that substantiate the harm that the excessive wake energy from wake sports inflicts on this relatively narrow river.

The wake boat problem can be succinctly summarized as follows:

1. Wake boats are heavy and make large artificial waves.
2. They scour the river and damage the river's ecosystems.
3. They damage property.
4. They diminish the enjoyment of the river by other people.

The Oregon States Marine Board has spent an enormous amount of effort to address the wake boat problem in recent years, but its rules still fall short with respect to protecting the river. One reason is that it has adopted rules aimed at protecting shoreline property, but has not given much consideration to protecting the river's ecosystems or the safety of other river users. For example, although the Marine Board devoted large portions of its meetings on July 23, 2020, October 21, 2020, and January 27, 2021 to wake boat issues, it gave very little consideration to the environmental aspects. None of the rules that have been adopted act to protect valuable and environmentally-sensitive areas such as undeveloped shorelines and cold-water refugia.

Although the Marine Board discussed how wake sports affect boater safety during its meetings, it has failed to consider adopting even a single rule that would affirmatively address this issue. In contrast, the Marine Board adopted rules in the 1990s that require personal watercraft (aka PWCs and jet-skis) to refrain from weaving through congested traffic, passing within 200 feet of swimmers, and passing within 100 feet of anchored and non-motorized boats. OAR 250-021-0030. Despite the fact that they generate wakes that are massive in comparison to those generated by PWCs, wake boats routinely weave through congested traffic and pay little heed to distance from other boats.

The weight limit proposed in HB 2555 is eminently reasonable. For example, water skiing is best done with unballasted boats that fall well below the 4000 pound limit proposed in the bill. Before

the advent of wake boats, water skiing was a popular and uncontroversial activity on the Willamette River. Because water skiing requires smooth water, a ban on heavy tow boats and wakesurfing would likely permit this activity to regain its popularity on the river. Similarly, tubing can be done with lighter boats that do not generate massive wakes. Thus, the proposed weight limit would not unduly restrict tubing.

I very much support extending the Newberg Pool Congested Zone to encompass the stretch of the river from its confluence with the Yamhill River to the Willamette Falls. Both the Falls and the confluence are close to popular public boat ramps and both stretches are popular with users such as anglers and paddlers.

Regarding the section of the bill that would give the Marine Board the discretion to increase the weight limit if it undertakes a study, I am concerned that in light of the lack of substantive consideration given to environmental issues in the past, it may be unwise to give such discretion at this time. As ORS chapter 830 now stands, the primary duties of the Marine Board are to promote boating safety and to maintain a system of identifying numbers for boats. Although the Oregon Legislature acted in 2019 to give the Marine Board the discretion to consider fish and wildlife habitat when establishing rules to manage wake energy, it has largely failed to apply this discretion. In addition, ORS 830.105 provides little guidance to the governor in the selection of persons to serve on the Marine Board, which tends to result in the membership consisting of persons whose primary interests are in promoting boating as opposed to the management of water bodies for the good of the overall public. In fact, one of the current members blatantly referred to wake sport enthusiasts as his “constituents” during the meeting held on October 21, 2020.

If such discretion is given, I recommend that the bill be amended to add that any such study shall require the Marine Board to consider whether increasing the weight limit would have an adverse effect on macroinvertebrates (such as *Daphnia* species), zooplankton, and juvenile fish. Macroinvertebrates and zooplankton are foundational to the food chain in the Willamette River and being able to feed and avoid predators is crucial to the survival of salmon and steelhead fry. Studies indicate that the dissipation of turbulent kinetic energy in nearshore regions adversely affect the feeding, growth, and survival macroinvertebrates, zooplankton, and juvenile fish. This is a different issue than habitat and thus it warrants consideration as a separate issue.

Finally, I would note that the Willamette River runs through the most populated part of Oregon and has the most diverse body of users. As matters currently stand, it is inappropriate to permit a few hundred people to engage in activities, such as wakesurfing, that harm the environment, damage shoreline property, and ruin the river experience for thousands of others.

Thank you for considering my testimony.

s/ Bert P. Krages II