



***Testimony of Travis Williams of Willamette Riverkeeper
to the Oregon Senate Committee on Rules
June 1, 2021***

RE: SB 857 - Urging Your Support

Dear Chair Wagner, Vice-Chair Girod, and Senator Burdick, Senator Manning, and Senator Thatcher.

On behalf of Willamette Riverkeeper (WR) and our hundreds of members throughout the Willamette Valley, I submit this testimony in support of SB 857. I've worked on the Willamette River for the last 21 years, and have broad experience in the science and policy related to the health of this river. My organization works from south of Eugene, to the river's confluence with the Columbia. We work to protect and restore the Willamette River's water quality and habitat. We are in support of a significant weight restriction for towed water sports power boats river-wide. WR also supports the -1 Amendment that corrects an important geographic mistake.

WR has conducted water quality monitoring, biological studies on freshwater mussels, toxics reduction work and we also conduct habitat restoration work all along the river. We enforce the Clean Water Act and Endangered Species Acts, as well as other environmental laws. WR also facilitates getting thousands of people on the river annually via our Paddle Oregon event, Pinot Paddle, and our work with Oregon State Parks on the Willamette Water Trail. These events and tourism infrastructure span the length of the river and represent a growing, and critical part of the tourism and recreational economy. WR also owns land along the Willamette River in Benton, Linn, and Yamhill Counties. *One conservation property we own in the Newberg Pool is subject to the continuous impacts of wake surfing in the summer months.*

Some might call our organization a "special interest," yet generally speaking the protection of the Willamette River's water quality and habitat has very broad community support.

The Problem

Over the past ten years, one type of power boat has impacted the river's ecology, the safety of other river users, and private property more than ever before. This is really not a hard issue to understand. **Craft have been specifically designed to create artificial waves upon which to "surf" on inland waters.** By designing hulls that

weight thousands of pounds for a relatively short 20ft recreational craft, then adding ballast tanks that fill with water - the craft sits very low in the water. Then, by traveling very slowly they dig a massive trench that then creates a “surf wave.” These craft have become larger and larger over the past few years, weighing many thousands of pounds to create these artificial waves. If one would like to talk about, “special interests,” the relative handful of these craft, with starting prices of \$100k plus, get closer to the definition of a “special interest.” The problem is that these waves create tremendous impacts to public and private property, other river users, and the river’s ecology.

1) ***The Nurseries of the River*** - When large artificial waves impact nearshore habitat, waves which the Willamette does not generate naturally on its own, the waves scour the river bottom, and slam into the shoreline. These are the very areas that are most productive for a range of river species. The “shallow margin” habitat, as Dr. Stan Gregory indicated in his testimony earlier this session, is the most productive river habitat that supports a wide range of species in their juvenile stages. The *Nurseries of the River*, are in essence, these shallow water margin habitats where an abundance of life occurs - especially in the Spring and Summer months.

As you may know, species such as Spring Chinook and Winter Steelhead have been documented by both the Oregon Department of Fish and Wildlife, and Oregon State University in separate sampling events in these nearshore habitats during the late Spring and early Summer months. They are present year round in the Newberg Pool, and the Lower Willamette. Each of these species are listed as *Threatened*, under the Federal Endangered Species Act (ESA). With the impact from artificial waves from towed water sports boats on these species, NOAA Fisheries issued a letter to the Oregon State Marine Board in January of 2020 indicating that “take” is occurring under the ESA. Take references a range of harms to a species listed under the ESA - and it is illegal.

We believe that the Oregon State Legislature can help reduce the impact of these craft by reducing their allowed weight - which includes the weight of the boat hull, and including ballast that is pumped in from the river.

2) ***Turbidity*** - When the waves slam into the shoreline, they scour the river bottom and the river’s edge. This sends a muddy plume of sediment into the water column. This muddy mix is measured as turbidity (suspended solids in the water column), and causes significant problems for the river’s health during the typically low flow months of the year. This impacts the health and productivity of the nearshore environment. This was documented by Professor Gregory and others, and is an issue being experienced in various parts of the U.S. related to wake boats. The excess turbidity can directly impact a range of macroinvertebrates, aquatic plants, small fish, large fish, freshwater mussels and more. See the enclosed photo below from the Newberg Pool after wake boats have been passing for a short time. This photo was captured in July of 2020.

3) ***The Issue is Highlighted in the Marketing*** - The wake boat industry has done a fine job documenting the issue by the fact that they actually ***promote large artificial***



waves that their craft are specifically designed to create. They highlight the very problems on their websites, boasting about the size of their waves, how they can be shaped, and how their craft are seeking to improve the “surf” experience:

The Moomba Website says, *“The deeper the boat, the more water gets displaced. AutoWake manages variables like the number of people, ballast, fuel, and gear to automatically manage weight for you.”*

Malibu says, *“You can count on clean, perfectly formed wakes and waves at the touch of a button from the MXZ line thanks to Malibu's Wake Plus Hull.”*

Supra Says: *“The deeper your boat sits in the water, the more water it can displace behind it to create bigger wakes and waves. From people to ballast, all weight contributes to your towboat's displacement.”*

Centurion's Amy Mazzi says in a promotional video on their site, *“We can displace the entire Opti V hull under this boat. **What that does is create a huge surf wave.**”*

It seems to many people that the industry knows full well what it is doing, and has taken the chance to sell certain boats in regions where they do not make sense. In most every promotional video, you will see a wide lake or estuary - areas where wind driven waves can be more natural. ***It does not take an expert in biology, geomorphology, or geology to figure out that problems will likely occur in relatively narrow, linear rivers when wake boats generate these large artificial waves.***

We do not question whether this activity is fun. The issue is about where it should take place. The marketing above makes is pretty clear that what these boats create is far different than any other power boat. Power boats are not all the same, so let's not get caught up in that frequent claim by those in the wake surf industry. If all boats and

wakes were the same, ***we could surf behind Willamette Riverkeeper's 16 ft. Alumacraft with a 40 hp motor!*** Because physics are real - that is simply not a possibility.

Wake boats are a small segment of the power boating community. There are no wake boat manufacturers in Oregon. Out of state money from the wake boat industry is fueling their lobbying efforts.

4) *The Willamette is a Flat-water River* - The Willamette is naturally a flat water river throughout most of its extent, and it classified as one in every guide that is known. The Willamette does not generate 4ft waves anywhere on the lower 160 miles of river. This is one reason that people in the Portland Metro area, from the Lower river through the Newberg Pool, flock there to paddle, swim, and boat. The problem is, wake surf boats turn this flat-water river into something else entirely.

The rough river created by wake surf boats is inconsistent with how most people want to use the river. There have been a long string of documented incidents for paddlers, those who fish, and those who swim the river in regard to the artificial waves generated by wake surf boats.

5) *The Wake Boat Industry - "Sharing" is Not Their Deal* - Recently, wake boat interests hired expensive lobbyists to help protect the use of their specialized power boats. Along with a couple of local "organizations," and we use that term loosely, these entities have stretched the truth regularly in regard to the efforts to curb the impact of their specialized power boats. They regularly make mis-statements about what rules and laws are being proposed in mailers, and online. "They are trying to ban all power boats," said the Facebook page of the, and I quote here - "Willamette River Community Coalition." The "Oregon Families for Boating," has made similar mis-statements. Not one entity in the large group of people who are seeking to put additional limits of wake boats have made such a statement.

Misleading statements like that are very problematic, and speak to the desperation of the industry, and those who purchased craft that do not make sense for much of the Willamette River. It would appear that the last-ditch effort by the Water Sport Industry Association (*WSIA based in Florida*), and likely the National Marine Manufacturers Association (*NMMA based in Illinois*) are spending significant funds to defeat these legislative proposals.

What you all should find very troubling is that a relatively small industry in terms of sales in Oregon, created craft that they thought very little about in regard to other waterway users, and now they are hell-bent on defeating anything that could set a *National Precedent*. They did not think about the consequences of their form of recreation. They did not think of the impact of seeking to create "surf waves" on inland rivers. Frankly, they did not think much at all about the impacts to those who purchased their specialized power boats. Now those who purchased these expensive

craft claim victimhood in the face of facts, the real life experience of others, and the many, many other river users who see very clearly the impact of their craft.

6) ***Beyond Oregon*** - This issue is not just occurring on the Willamette, or only in Oregon. Today the impact of artificial surf waves are being grappled with in Minnesota, Vermont, New Hampshire, Alabama, Colorado, Idaho, Maryland, Michigan, New York, and beyond. Even regionally we are seeing similar efforts to curb these craft on the Spokane River, and in Idaho. Clearly, the wake boat industry has an issue that has affected people nation-wide, with States, Cities, Counties, and Lake Associations seeking to put limits on these craft to protect private property, other waterway users, and the health of waterways. This is an opportunity for the Oregon Legislature to make a difference and to set a *National Precedent*.

7) ***Some Craft Just Don't Make Sense in Some Areas*** - There is a reason that we have rules and restrictions in our society. One cannot legally register a drag racing car for use on our public roads. One cannot drive a Monster Truck legally on the streets of Salem, Eugene, Portland or any other City. These machines create safety risks for others, and would impact infrastructure. Racing boats cannot go at top speed in congested areas. One cannot legally ride a motocross bike on our roads and freeways. One cannot drive a four wheeler off road in Wilderness areas. To think about it in another way, there is a reason that a Boeing 777 does not land at the Aurora Airport - the infrastructure is just not adequate. ***In regard to our river, the same can be said of its natural infrastructure. It cannot hold up to the impact of wake boats.*** These machines are just not appropriate for much of the Willamette River - and as a consequence their total weight should be reduced to a maximum of 4,000 lbs river-wide. Lake Oswego has a 4,000 lb weight limit for the exact same reason.

We often hear the phrase, "share the river," these days. The issue is not about sharing. A small group of folks who own wake boats are seeking to impose their version of fun on everyone else. That is most definitely not sharing.

8) ***Public Waterway*** - One thing that is mentioned over and over by wake boat proponents is that the Willamette River is a "public" river, a "navigable" river, or a "Federally Navigable River." While these designations are real, they have no bearing on the ability of the State of Oregon to make rules in regard to craft that can, or cannot be used on the river. This is common to all states. Oregon most definitely has the right to regulate how natural resources like the Willamette River are used, and can most definitely prohibit certain types of uses and types of craft on the Willamette.

In regard to the word "public," the State of Oregon has the right, and frankly the responsibility, to protect the *Public Trust*. That relates to the health of the river, and to the safety of those who use it. Inherently the State of Oregon retains the authority to make rules that protect all river users, property owners, and the river's ecology to benefit the public - not just a relative few dozen people who own, and operate boats designed to create artificial surf waves.



Conclusion - I grew up on the Willamette River and swam along its banks, and canoed its waters in the Portland area. I even learned to waterski in Ross Island Lagoon! As a kid, me and my friends didn't have to deal with the impact of wake surf boats, nor did the river's environment. It has only been in the last few years that these craft have taken hold in some areas, and now a relatively small number of boat owners have created a very large problem for many others.

In my view, it is up to the Oregon Legislature to restrict these craft, or to significantly limit their overall weight on many of our riverine stretches. Taking action to protect other river users, home owners, and the Willamette River's ecology is the right thing to do.

Money from the Water Sports Industry Association (WSIA), and the National Marine Manufacturers Association (NMMA) cannot effectively patch up the creaky, and illogical situation they have created. This issue is on them. You have the opportunity to make a difference here, and frankly an opportunity to set a national precedent. I urge you to support SB 857. I very much appreciate your consideration.

A handwritten signature in black ink that reads "Travis Williams". The signature is written in a cursive, flowing style.

Travis Williams
Riverkeeper & Executive Director
Willamette Riverkeeper