

***Testimony of Travis Williams of Willamette Riverkeeper to the House  
Committee on Environment and Natural Resources - We Support SB 1589!  
February 21, 2022***

**RE: Support - SB 1589**

Dear Chair Marsh, Vice-Chair Hudson, Vice Chair Brock, and members Goodwin, Helm, Moore-Green, Owens, Pham, Valderrama, and Wilde:

On behalf of Willamette Riverkeeper (WR) and our thousands of members and supporters throughout the Willamette Valley, I submit this testimony in support of SB 1589. 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. Due to the negative impact of wake surfing/towed water sports boats over 5000 lbs, we are in support of a significant weight restriction for these craft in the Newberg Pool stretch of the Willamette River.

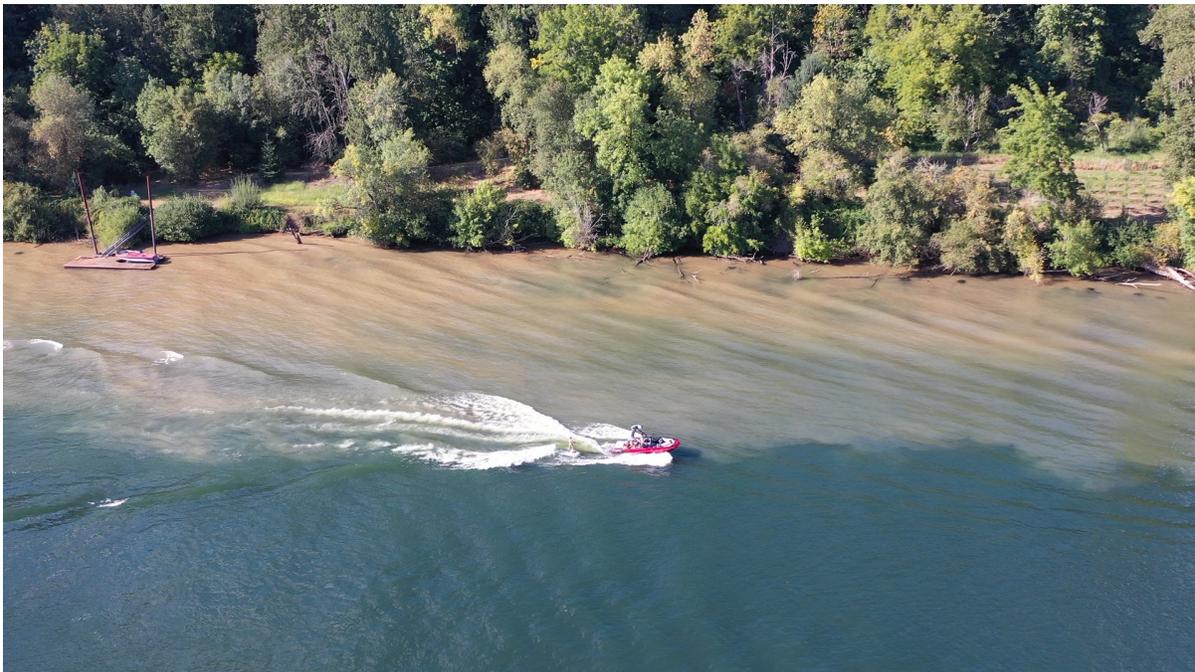
WR has conducted water quality monitoring, biological studies on freshwater mussels, toxics reduction work and habitat restoration work all along the river. We enforce the Clean Water Act and Endangered Species Acts, as well as other environmental laws. WR also facilitates getting thousands of people 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 boats in the summer months.*

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.** These craft have become larger and larger over the past few years, weighing many thousands of pounds to create these artificial surf waves. The problem is that these waves can create tremendous impacts to the river's health, private property, and can endanger other river users.

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 last 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 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*.

The basic principles of riverine biology and hydrology are well-known, and one can make decisions based on those principles. It does not take yet another study to confirm accepted knowledge and principles. The same concepts of riverine biology and physics occur in Oregon, Idaho, Wisconsin, Minnesota, New Hampshire and everywhere else. We can also take recent studies that cover this *very same* issue to help guide decision making. The recent University of Minnesota study released two weeks ago, referenced below, is case in point.



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, and the productivity of the nearshore environment. The excess turbidity can directly impact a range of macroinvertebrates, aquatic plants, small fish, large fish, freshwater mussels and more. See the enclosed photo above from the Newberg Pool after wake boats have been passing for a short time. (Note- the above photo taken in early July of a wake boat just downstream of the 219 bridge - an area with a relatively healthy riparian zone).

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 wake boat 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 artificial waves.

We do not question whether this activity is fun. The issue is about where it should take place. The marketing above makes it 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.

**4) Equity is an Issue Here** - 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. In recent years Standup Paddle Boards, canoes, kayaks, and swimmers have realized the great benefit of the Willamette River as a recreation resource.

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 has been a long string of documented incidents from paddlers, those who fish, and those who swim the river in regard to the artificial waves generated by wake surf boats, and how those waves affect them. We've seen testimony from a wide range of these river users - who far outnumber wake boat users, and it is pretty clear that one expensive form of recreation affects every other river user when it is being done.

**5) The Wake Boat Industry Should Stop Denying the Problem** - Even though the Primary Design Feature of wake boats is to generate very large artificial waves, over the past 18 months, wake boat interests lobbying firms to fight restrictions on wake 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 intent of these bills, and related efforts. 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 has made such a statement.

What is also clear is that Oregon Families for Boating was created by Wake Boat Dealers, according to filings with the Oregon Secretary of State. The group is spending significant funds to do whatever is can to defeat limits for their craft. Even in the face of evidence, they still claim their boats are no different than the average recreational motorboat.

It would appear that once again the Water Sport Industry Association (*WSIA based in Florida*), and the National Marine Manufacturers Association (*NMMA based in Illinois*) are spending significant funds to defeat this 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 would limit their ability to use a certain class of motorboat. They did not think about the consequences.

They did not think of the impact of seeking to create “surf waves” on inland rivers, and they did not think much at all about those who purchased their craft. 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. Artificial waves that now range over 4ft in height are not natural to the Willamette River.

**6) The Recent University of Minnesota Study Makes the Case** - 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. 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.

The recent conclusion of a study by the University of Minnesota, St. Anthony Falls Lab, *“A Field Study of Maximum Wave Height, Total Wave Energy, and Maximum Wave Power Produced by Four Recreational Boats on a Freshwater Lake,”* is case in point. Why did they study the impact of wake surf boat wakes? They conducted the study because the same problems related to wake boats have arisen there, as they have here in Oregon. The study was released two weeks ago.

From the Executive Summary, ***“Based on the data and our example method for determining recommended operational distance, we show that when operating under typical wakesurfing conditions, wakesurf boats required distances greater than 500 ft to attenuate wake wave characteristics (height, energy, and power) to levels equivalent to non-wakesurf boats operating under typical planing conditions.”***

This was a peer reviewed study, and the clear conclusion is that Wake Boats are different than other power boats! It is important to underscore that most of the Newberg Pool stretch of the Willamette River is not wider than 650 ft.

**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 5,000 lbs river-wide.



One more analogy may be seen with drones. In just the past few years we've seen a huge surge of drones, far from the remote control airplanes of the past. Numerous issues were identified with these craft nationwide, from how invasive they can be with some operators, to the safety of passenger aircraft. As a result, drones now have specific rules about where they operate, and how they operate. This is a similar circumstance with wake boats. While something may be new and fun, at times new rules and restrictions are needed.

**8) Public Waterway** - One thing that is mentioned over and over from those fighting restrictions on wake boats 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 relatively small group of people who own, and operate boats specifically designed to create artificial surf waves.

While there are two wake surf zones on the stretch in question, last summer people routinely used the same boats on the entire stretch of river. Some were defying the rules and wake surfing outside those zones, and others were using the same boats, and wakes, to do other towed water sports. ***Again, the problem is that the Primary Design Feature of these boats is to generate a large, artificial wave upon which to surf on inland waters.***

**9) Blaming the Homeowners** - Recently, folks opposed to limits on wake surf boats have tried a new tactic - blaming the homeowners. Unfortunately, even healthy riparian areas get hammered by artificial waves. The photo above is case in point - and was taken near Molalla River State Park. While we agree that denuded banks should be planted with native plants to provide essential shade and habitat, even the healthy stretches of riparian areas are routinely impacted by artificial waves. ***Let's stop blaming homeowners with less than perfect riparian zones for a problem created by boats specifically designed to generate artificial waves!***

**10) Timing is Key** - Some opponents of this bill have also asserted that because the Willamette's river banks can erode naturally during high flows (*depending on the year, Nov. through April*), that this bill does not make sense. What they have missed to date is that when the water has lower flows from May through October (*all months we have documented wake surfing*), having artificial waves slam into the shorelines of the Willamette definitely has an outsized impact. These are also the months where the nearshore habitat is most productive biologically. Further, there is no natural process that generates 4ft waves on the river, and aims them generally perpendicular to the riverside. That is not a natural process.

**11) Correcting the Definition of the Newberg Pool** - A few years ago when another bill was passed seeking to provide some level of education for Towed Water Sports boat operators, the bill mistakenly defined the Newberg Pool up to River Mile 50. Unfortunately, for decades the Newberg Pool has been defined up to the Yamhill River confluence, at River Mile 55. As a result, there has been no regulation of wake boat use or wake surfing from River Mile 50, to River Mile 55. Due to geology and river gradient, it has always been the common definition that the Newberg Pool extends from Willamette Falls to the Yamhill River. By fixing this mistake, this bill will help improve conditions on that stretch of the Willamette. We know this area well, due to the fact that WR owns a conservation property there.

**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.

According to the Oregon State Marine Board, there are 168,000 registered power boats in Oregon. Only 500 have the Towed Water Sports certificate. A smaller subset of that number uses the Newberg Pool. The wild claims of economic misfortune and the numbers those fighting this new law come up with have no basis in fact.

In my view, it is up to the Oregon Legislature to help reduce the impact of these craft, and 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. I urge you to support SB 1589.

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 with a long horizontal stroke extending to the left.

Travis Williams  
Riverkeeper & Executive Director  
Willamette Riverkeeper