



*Oral comments written follow up
of the
Oregon State Marine Board hearing
Eugene, Oregon
November 23, 2009, 6 PM*



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Dear Sirs,

My name is Bill Wainwright, I am the Field Director for the national Seaplane Pilots Association (SPA) in Oregon. The SPA represents over 7000 members nationally and internationally. I am also the Vice President of the Columbia Seaplane Pilots Association (CSPA), which represents approximately 300 members in the Pacific Northwest. The CSPA was involved as an intervener in the court case brought by Steven Stewart against the U.S. Forest Service (FS) as a result of the Draft Management Plan (DMP) that the FS proposed to implement on the surface and environs of Waldo Lake that would have banned outboard motors and seaplanes from Waldo Lake, in 2006. As such I have personal knowledge of the facts in the federal case that has now lead up to this Marine Board potential action.

CSPA had standing following the written comment period and as such we appealed the decision to implement the rule. On June 21, 2007 as a result of our appeal we were invited to Eugene to participate in an informal meeting to see, we thought, if there was any common ground on the Draft Management Plan.

At that meeting the FS verbally stated that they were obligated, by federal law, to contact CSPA for such a meeting, but actually stated before and during the meeting that they did not believe they would change their position.

The FS Draft Management Plan proposed prohibiting floatplanes from Waldo Lake, but included no scientific or professionally prepared environmental reasons for this proposal. CSPA had earlier filed a Freedom of Information Act request to the FS to uncover the basis for this plan to prohibit floatplanes. The request resulted in only finding eight public comments about floatplanes during the period 1998 through 2004. These comments included no actual observation of a problem, and more generally just listed brief concern or surprise that a floatplane had been seen. The FS had done no

professional environmental study of noise, safety, or other operational aspects of floatplanes.

CSPA asked what the reason for prohibiting floatplanes was, since it was not based on scientific or environmental analysis. The FS said that it was strictly a social decision based on the general feel and experience of the uses on the lake. When asked by CSPA if any of the four FS staff present had ever actually observed and experienced a floatplane at Waldo Lake, their answer was “no”.

Recreational use decisions for public waters should be based on scientific and environmentally solid analysis, and not simply a “general feel and experience”. However, to base a decision on “general feel and experience” and then admit that they have never observed nor experienced the action, is to admit a decision was made with no reasonable basis whatsoever. The proposed prohibition of floatplanes from Waldo Lake appears to be a biased decision by anti-aviation persons that has no basis in real issues.

It was noted in the report “Human-Induced Noise Impacts on Boaters at Waldo Lake, Oregon”, which was used in large part as the basis for their Environmental Analysis (EA), that noise had only a limited effect on the satisfaction levels of boater groups and that actual measurements using recording equipment and decibel meters should be taken as a next step. It was also noted that the FS seemed to have just selected from the report items that would support the FS alternative while ignoring suggestions and items in the report that were counter to the FS position. The FS acknowledged that the report did contain these other recommendations and comments which were not used in the EA.

It was noted that the FS did not make any real attempt to gain input from the floatplane community. The FS should have known that taking comments locally and advertising in the Eugene Register Guard would not get input on floatplane issues, since floatplanes would generally be coming from more distant points. Local citizens would likely drive to the lake, whereas people in floatplanes would likely be from more distant areas. Why didn't the FS reach out and contact either a regional organization like the CSPA or a national organization like the Seaplane Pilots Association? The staff in the room had no answer to this question.

I might ask, does Marine Board plan to follow this same “hear no evil policy”?

The FS had been considering the floatplane as essentially the same as a boat in its use of Waldo Lake. During the discussion it was pointed out and explained that the seaplane should have been considered by the FS in a different light, as a vehicle of travel to bring a visitor to access the lake much like a car or truck. The use of a floatplane on the lake will only be for a very short period of time. floatplane use is not at all like a motor boat that spends many hours on the water. Once landed the floatplane will moor and park similar to that of a car. CSPA suggested that a set of rules could be

jointly established which acknowledge that floatplanes could only use the lake as a vehicle for arrival, and cannot do training, or any other aircraft activity. This proposal garnered no response from the FS personnel.

The meeting ended with a feeling that there might be some opportunity for finding common ground but in the end our input fell on deaf ears. The DMP only served to eliminate floatplane use rather than make any effort to find a way to come up with any alternates

Other issues brought up in CSPA's appeal were:

- 1) The Commerce Clause protects floatplane use of Waldo Lake since the use involves interstate travel;
- 2) The lack of consultation with FAA and the US Coast Guard and Oregon Division of Aviation is especially negligent as it involves creating rules that affects a mode of interstate travel, and the flight safety and basic navigability issues for those aircraft;
- 3) Under the federal ADA requirements, floatplanes provide improved access to Waldo Lake for some elderly and disabled classes of people, thus assisting in compliance

The results of the Court decision were, as you are no doubt are aware, totally in support of our arguments in that the reasons for establishing the ban on floatplanes was arbitrary, capricious and an abuse of discretion. I have attached for your reading a copy of the courts final decision.

For the Marine Board to act in like manner, as the Forest Service, without considering and studying what I have stated here would no doubt be viewed in the same poor light.

I also wish to point out safety considerations for not adopting this MOU.

Consider the size of Waldo Lake and the possibility of inclement weather in the form of wind and other environmental hazards. Persons on the lake in canoes and Kayaks will be at the mercy of the elements in the event of wind and/ or thunderstorms that routinely develop in the Cascade Mountains. A person facing such a situation can be in dire need of rescue and in a worst case scenario life saving help. Canoes and kayaks are not capable of providing much assistance to one another in such a situation, but a larger outboard motor boat provides a stable platform to rescue and bring persons who might be floating in the lake onboard and to safety. Gasoline powered outboard motor boats need to be part of the mix of recreational users on Waldo Lake.

Electric motors are a proposed allowed use but they will not prove to be a replacement for the use of 4 cycle outboards. They have limited charge life and are usually in the range of a couple horsepower and not capable of propelling much more than a canoe or larger boat at a very slow speed.

Sail boats are another non motorized form of boat and must carry some form of mechanical propulsion as a backup to the wind. Electric motors are again a limited option far inferior to even the lower horsepower gasoline outboards available. Even a medium sized sailboat if caught on the windy side of the lake would be in dire straits if it didn't have the means to stay off shore or avoid other obstacles brought about by not having the designed backup horsepower that was needed to avoid foundering or collision.

Where do seaplanes come in to safety you ask? Consider the pilot who has arrived in his floatplane and is camping in some remote part of the lake. Even in a moderate wind event his plane is an ideal rescue vehicle. It is not only a relatively stable platform to rescue someone from the water it is also capable of rapidly moving a injured person to additional aid in a matter of less than an hour from this location as opposed to hours by road conveyance. Floatplanes and the margin of safety that they provide make them a welcome component in wilderness situations throughout Canada and Alaska. I for one have used my floatplane on more than one occasion to provide aid to stranded boaters in the rivers and ocean inlets of Alaska. I would do the same here in Oregon if I am not excluded, for no good reason, from Waldo Lake.

I want to thank the OSMB for holding these public comment meetings and not acting in a rash manner in automatically adopting the MOU that the Governor has had signed by various officials and the Forest Service. In my estimation the fact that the MOU has already been signed points out a willingness on the part of the Governor to circumvent the will of the people and not govern in a fair and even way for the benefit of all of Oregon's citizens. If this MOU is adopted without considering the needs and rights of all the citizens then these meetings are a sham and a farce serving to pander to a small group of individuals who in the end will have the use of one of Oregon's gems all to themselves to the exclusion of others.

I would like to also put into the record two op-ed pieces written by our CSPA president, Aron Faegre. One was published in the Oregonian Newspaper, and the other was sent to the Eugene Register Guard. Each provides additional specific input that we hope you will review prior to making a decision on this rule.

Thank you for your consideration of my testimony.

Yours truly,

Charles W. "Bill" Wainwright