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March 22, 2017

To: Chair Helm, Vice Chairs Power and Johnson, and Members of the House Committee on Energy and the Environment

Re: The Freshwater Trust Testimony on House Bill 2705

Chair Helm, Vice Chairs Power and Johnson, and Members of the Committee:

The Freshwater Trust submits these comments in support of HB 2705. This bill is critical to addressing Oregon's complex and growing water resource challenges. HB 2705 will fill important data gaps and enable innovative water solutions that will provide for a sustainable water future benefiting both farmers and fish.

The Freshwater Trust is an Oregon nonprofit conservation organization dedicated to accelerating the pace and scale of freshwater restoration. As the nation's first water trust, The Freshwater Trust has over twenty years of experience working cooperatively with rural landowners to restore instream flows to Oregon's rivers and streams. The organization understand the costs and benefits associated with this bill because we regularly install, operate, and maintain measuring devices to collect information necessary to implement these projects. Furthermore, The Freshwater Trust understands the value of measuring and monitoring water use because we already use existing limited data, technology, and analytics to identify and design high value flow restoration projects that maximize watershed benefit.

As this Committee is aware, many of Oregon's instream water rights are consistently unmet, adversely affecting freshwater ecosystems and the economies they support. Understanding how and where to restore stream-flow requires data, which is oftentimes unavailable or insufficient. This bill will fill these data gaps, which in turn will help ensure that limited public restoration resources are spent on the most cost-effective projects. Here are a few examples where water use data can enable water management solutions that benefit both water users and the environment:

1. Informing Tools for Place-based Watershed Planning: The data generated by HB 2705 would benefit existing state programs designed to assist communities in planning future water use, such as place-based planning. As explained in Oregon's Integrated Water Resources Strategy, water use data is a fundamental tool to help plan for future water needs. Some of this data is already reported by 16%

of existing water users, including cities, irrigation districts, and certain new water right holders. Supplementing this data with information derived from implementation of this bill will help state and local planners, as well as individuals, understand baseline conditions, identify water use trends, and develop solutions to changing conditions.

2. Enabling Irrigation Upgrades and Conserved Water Project: Many water users are interested in upgrading their irrigation systems and participating in the state's innovative Allocation of Conserved Water Program, but they lack the necessary data on current water use. Without knowing their baseline water use, water right holders lack confidence that a more efficient water delivery system will satisfy crop demand. HB 2705 will greatly expand the pool of potential farmers capable of accessing the Allocation of Conserved Water Program, whereby a water user who improves the efficiency of his or her system can spread a portion of the conserved water to new lands while also increasing instream flows. The Freshwater Trust is currently implementing a conserved water project in Wallowa County that will enable a sixth-generation farmer to use less water, grow higher-value crops, and improve streamflow in the Lostine River.
3. Voluntary Avoidance of Potential Endangered Species Impacts and Risks of Regulatory Action: HB 2705 will enable development of innovative water use agreements that reduce impacts to endangered species as well as regulatory risk for agricultural water users. For example, The Freshwater Trust has partnered with farmers in the Fifteenmile Creek watershed near Hood River to voluntarily reduce their water use when hot weather and low streamflow increase the potential impacts on Endangered Species Act-listed steelhead. This watershed-level coordination earned a certificate of appreciation from NOAA Fisheries. This innovative program is made possible because approximately 95% of diversions in the watershed are equipped with a measuring device, allowing farmers to perform a real-time cost-benefit analysis of reducing their water use when potentially lethal temperatures are predicted.
4. Expanding Instream Leasing: HB 2705 greatly expands the pool of water users who can utilize the state's instream split-season leasing program. Under Oregon law, a surface water right holder may use the right for its existing purpose for a portion of the year and then lease the remaining portion of the right for instream use for the remainder of the year. This split use helps to align water demand with

water availability, maximizing the water right's utility both for irrigation and for instream flow. To be eligible for split-season leasing, the water user must measure and report water use during both periods. With additional measurement in place as a result of HB 2705, more irrigators will be positioned to participate in this program that benefits farms and fish.

The Freshwater Trust understands the complexities and costs of measuring and monitoring water use and HB 2705, as currently drafted, is short on details – details that we hope will be addressed in the work group and in the rulemaking process. We are committed to sharing our experience and expertise in those processes to help the State implement a measurement and reporting program that ensures predictable and affordable installation, reporting, and maintenance costs. The importance of using data to create a sustainable water future for Oregonians is too important to let solvable implementation hurdles keep us from taking action.

The Freshwater Trust appreciates the opportunity to share these comments. Please contact me if The Freshwater Trust can provide additional details. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joseph A. Furia". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Joseph A. Furia
Policy Director & General Counsel