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February 10, 2021

Senate Education, Health and Environmental Affairs Committee
The Honorable Paul G. Pinsky
2 West Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 446 – Department of the Environment – Supplemental Environmental Projects Database

Dear Chairman Pinsky and Members of the Committee:

I am pleased to introduce Senate Bill 446. This bill embodies one of the recommendations of the Senate President’s Advisory Workgroup on Equity and Inclusion, on which I sat. The Workgroup issued its Report just last month.

The background of Senate Bill 446 is as follows: When businesses, institutions or individuals take actions that are found to be in violation of the State’s environmental laws, they typically face a penalty or fine. For example, in Fiscal Year 2019, the Maryland Department of the Environment initiated nearly 10,000 enforcement actions, resulting in over \$5.5 million in administrative or civil penalties. While these monetary penalties may deter future environmental violations, they don’t directly address the harm to the State’s environment caused by the infractions. All too frequently, the harm to the environment is disproportionately shouldered by low income communities largely comprised of racial and ethnic minorities.

Maryland law currently provides that, instead of paying fines or penalties, environmental violators can engage in what are known as Supplemental Environmental Projects (“SEPS”). A SEP is an environmentally beneficial project that a defendant subject to an enforcement action voluntarily agrees to undertake as part of a settlement of the action but which the defendant is otherwise not legally required to perform. Examples of SEPs include planting trees in the neighborhood where the violation occurred, providing funding for environmental projects, installing high performance air filtration systems in schools, conducting home air quality assessments and remediation, cleaning up watercourses, restoring watersheds and the like.

In FY 2019, the Maryland Department of the Environment entered into three SEPs with a total value of over \$3.5 million. The previous year, MDE entered into five SEPs with a total value of over \$6 million.

Senate Bill 446 requires MDE to create and maintain a database of SEPs which a person that commits a violation of State environment law may choose to undertake. In compiling its list of SEPs, MDE is required to solicit input from communities in the State that have been most impacted by environmental justice issues. The bill further requires that before a violator is authorized to undertake a SEP, MDE must ensure that the scope and cost of the project is commensurate with the scope and cost of the violation.

This bill makes good sense because it ensures that SEP dollars will be spent directly on environmental projects and will achieve improvements to the State's environment that could not be accomplished by just monetary fines or penalties. SEPs result in an improved environment where the violation occurred rather than merely money paid into the State treasury.

For these reasons, the other members of the Equity and Inclusion Workgroup and I hope that you will give SB 446 a favorable report.