



Hon. Kumar Barve

Chairman, Environment and Transportation

Room 251

House Office Building

Annapolis, Maryland 21401

**HB942 Wetlands and Waterways Program - Authorizations for Stream Restoration Projects**

Chairman Barve, Vice-Chair Stein and members of the Committee,

On behalf of the Chesapeake Watershed Restoration Professionals (CWRP), we respectfully oppose HB 942. This bill is unnecessary in that the issues raised are already adequately addressed in current requirements. Furthermore, there is already a study underway as directed by HB896 of the 2022 legislative session to study how MDE reviews and permits ecological restoration projects. Most importantly, the requirements proposed in this bill would add such a burden that the implementation of restoration projects, and the benefits of their associated pollution reduction would become unworkable—to the detriment of the Chesapeake Bay and the communities that depend on it. We kindly ask that you oppose this bill.

***Here are the areas in which we feel that this bill is misguided:***

- ***On changing restoration criteria:*** The Chesapeake Bay Program has utilized expert scientific panels composed of the leading scientists and practitioners that study, collect data, and model current stream restoration and techniques. Through the work of these dedicated professionals, the credit generation practices for stream restoration have been refined several times through exhaustive research and the utilization of the most modern data available. This process is rigorously scientific and objective in nature, and it should be kept that way.
- ***On disincentivizing stream restoration as a BMP:*** Any impervious acre credit to any BMPs must be scientifically defensible and be determined through the currently accepted process for determining pollution reduction. Current crediting of BMP's has undergone extensive research and peer review. No BMP practice can simply be incentivized over others if they do not result in greater pollutant load reductions.
- ***On defining geographic limits for restoration:*** The Maryland Department of the Environment (MDE) and the US Army Corp of Engineers (USACE) currently require resource impacts to be mitigated within an 8-digit Hydrologic Unit Code (HUC) Watershed. This is consistent with how resource impacts and associated mitigation are managed across the entire US.
- ***On requiring biological uplift:*** Currently, the MDE and USACE require that stream restoration projects result in ecological uplift through use of the Stream Functions Pyramid. Biological improvement is Step 5 of the Pyramid. Consequently, the existing process requires that



practitioners create the conditions for biological uplift to occur as regional environmental conditions allow. It is not practical to *require* biological uplift of in-stream biology as there are limiting factors that cannot be controlled on the stream restoration sites. These ubiquitous negative externalities include road salt pollution, offsite barriers to wildlife migration, extreme temperatures, and general poor water quality. It is absolutely the goal of stream practitioners to improve biological function through in-stream habitat creation, but it may take decades, if ever, for recolonization to occur of imperiled populations of aquatic dependent wildlife.

- ***On minimization of tree impacts:*** A requirement already exists for stream restoration projects to achieve no-net-loss of forest cover and to minimize tree impacts to the extent possible. The implementation of mulch and mat roads through the woods to gain access to the stream corridor are specifically designed to protect the critical root zones of trees. Additionally, the forest impacts of restoration are almost always temporary, but the protection of the restored riparian corridor is permanent.
- ***On delaying credit certifications by 10 years:*** A full decade of monitoring before any credits are issued would render ecological restoration completely unworkable for the purposes of the Chesapeake Bay Program and severely limit what restoration work is even possible in the State of Maryland. Municipalities in the state are required to deliver pollution reductions now, not 10 years from now. Additionally, the financial risk of carrying out projects with such delays would be needlessly burdensome to the taxpayers who fund this work.
- ***On public notice:*** Currently, public hearings can be requested and are granted. We absolute do not oppose public hearings, but they are expensive and if they are required for every project, this will add significant expense and time for any applicant, the majority of whom are local governments, non-profits, and government agencies. Furthermore, the planning and implementation of public hearings are time consuming for state agencies and would require more staff to manage. This would slow, not just stream restoration projects, but the review, approval, and enforcement of all projects that require MDE approvals. This does not just include housing and commercial development but importance public works projects such as schools, transportation improvements, and affordable housing. For transparency and efficiency CWRP recommends the adoption of a permit tracking system similar to the Virginia Department of Environmental Quality's Permitting and Evaluation Platform.

As a coalition of the leading implementors of ecological restoration in the State of Maryland, CWRP kindly recommends that HB 942 not move forward.

Sincerely,

Liam O'Meara,

President