

Committee: Senate Education, Energy and the Environment Committee

Testimony: HB 1165 Stream and Watershed Restoration (Whole Watershed Act)

Position: Support only with amendments

Hearing Date: March 5, 2024

My name is Marion Edey and I am testifying for Friends of the Earth, in support of amendments to this bill.

I agree with Doug Myers that a policy of random acts of stream restoration is not working. To the extent that this bill can provide a more systematic way to determine which streams are targeted for restoration, that is good, and could allow us to collect useful data.

But the bill does not mention what should be the most important criterion of all: We need to restore the most impaired streams first.

Because most stream restorations inevitably destroy the natural ecosystems in stream valleys. Thousands of trees are taken out to make room for heavy machinery used to dig up and reshape stream beds and banks, killing the native vegetation and micro-organisms in the soil. The stream is left to bake in the sun without the shade needed for aquatic life. What rushes in to fill the void are invasive species which do not support native insects, birds, and animals. The food chain collapses. Native populations are crashing, because of habitat loss, driven in part by stream restorations.

Impaired streams have less nature left to lose, and are often in heavily paved watersheds where alternative upland controls are more difficult to do. To reduce harm, target them first.

Other legislators have drafted language with stronger guard rails, public participation, and tree conservation requirements. I strongly urge you, please adopt that language in incorporate it into your bill.

You can't fix these problems by creating a licensing board or by urging contractors to do the impossible and re-create an ecosystem from scratch. The best way to protect a stream is to invest in upland storm water controls, to stop the fire-hosing the stream so it doesn't need to be restored.

They say an ounce of prevention is worth a pound of cure. But your bill goes the other way. It creates a huge new revenue stream which is devoted exclusively to stream restoration, with the goal of accelerating how many projects are done.

There is no money here for prevention – upland controls or green infrastructure. This despite the fact that, according to MDE’s own 2022 Assurance Plan, there are many upland controls which are more cost-effective than stream restorations. Stream restorations must often be done repeatedly when we fail to address the root of the problem, when too much land is paved. This bill locks us into a system which neglects prevention and relies way too much on destructive cures.

One other provision is troubling. The bill gives priority to projects which will “achieve the rapid de-listing of impaired streams”. This could become a perverse incentive to target the only mildly impaired streams rather than the most impaired, simply because it is easier to take them off the list. This will result in much greater tree and eco-system loss than would occur if we target the most impaired streams first.

Finally, the most important reform of all which I beg the Committee to take up another year: We need to change the way in which MDE awards MS4 credits, to give more priority to prevention. Until this is done, your work is not done, and bitter controversies over stream restorations will continue.