SB 798- Stream Restoration Contractors Licensing Board, Stream Restoration Contractors, and Stream Restoration Project Requirements

COMMITTEE – Education, Energy and the Environment

Testimony on SB 798, Hester

POSITION – FAV

Hearing Date - March 5, 2024

Good afternoon. My name is Allegra Cangelosi, a Maryland citizen of 35 years, and a retired environmental professional focused on the Great Lakes. Thank you for this opportunity to testify on SB798, introduced by Senator Hester.

The primary goal of SB 798 is to improve the integrity of Maryland stream restoration contract services by making contractors accountable to a Licensing Board. SB 798 creates a stream restoration licensing board, intended to reduce "fly-by-night" operators engaging in stream work. It also provides for significant public participation in stream restoration processes, a commendable improvement. However, as currently drafted, the bill would, perhaps unintentionally, will make the most dramatic "tear it up and rebuild it" approaches to stream work the default (and perhaps only) approaches in Maryland. Such approaches are definitively not beneficial for most (if any) Maryland streams, even for severe storm water management. The result will be continued unnecessary, profound, and tragic natural resource damage in Maryland. **Due to this problem, my testimony is in support only with amendment, and request that the bill sponsors carefully consider this concern.**

Background:

Maryland's streams are complex ecosystems which deliver critical ecological and human health services to Maryland communities. These services include storm water management, water filtration, carbon sequestration, biodiversity habitat, venues for recreation and natural beauty. As we are all aware, over time Maryland streams have become severely degraded by heavy run-off from concentrated development, chemical pollution, and climate change.

Maryland's "stream restoration" program was largely designed to address our state's storm water and nutrient pollution problems degrading the state's valuable stream systems. Unfortunately, though Maryland's Accounting Guidance provides for a range of approaches which could be employed for this purpose, they assign the term "stream restoration" solely to the most destructive and least reliable methods available, focused on stream channel reinforcement or replacement with or without ecological considerations. These "tear it up and rebuild it" approaches entail wholesale destruction of the irreplaceable stream ecosystems. Further, Maryland's mature trees in these stream valleys are cleared to give heavy construction machinery access. Yet the stream bed flora and fauna, and upland trees are what make Maryland's stream systems function. There is growing scientific evidence that these disruptive interventions, even with "tree replantings", harm streams as ecosystems in a manner they may never recover from. Recent studies also show these engineered restorations do not even reliably control storm water over time, such that they require frequent costly repair.

Fortunately, the MD Accounting Guidance also provides for far less disruptive, lower cost, and more effective approaches to storm water management damage to our streams, termed "Best Management Practices (BMPs)" in the document. These less disruptive approaches are effectively valid approaches to stream restoration though not defined as such in MD Accounting Guidance. They address run-off at its sources, conserve existing trees, and preserve complex streambed ecosystems. **BMPs are often more than sufficient for addressing most "stream restoration" purposes, including storm water management, with fewer hidden costs over time. Notably, many of the most authoritative scientific papers that report on BMP effectiveness are based in the Mid-Atlantic region. BMPs are simply underutilized.**

Gaps and Ways to Improve SB 798:

As noted, the concern is that SB 798 as drafted will have the effect of cementing in place tragic overuse of destructive approaches to stream work in Maryland. Specifically, as currently drafted:

- Does not explicitly enough incorporate BMPs in the array of "stream restoration" alternatives available to counties and industry for storm water management.
- The newly created Licensing Board membership comprises predominantly industry members with an interest in heavy-equipment projects.
- Contractor competency and project incorporation of BMP implementation is not encouraged or incentivized *in lieu* of unnecessarily destructive approaches.
- Tree conservation is not among the measures that contractors are directed to undertake to enhance the environmental soundness of stream restoration.
- Contractors can solicit projects, and there is little accountability to the public on MS4 project plans and outcomes.
- State and county officials are not required to identify and require through permits all opportunities for BMP implementation *in lieu* of destructive approaches.

Fortunately, some of these problems inherent in the bill current formulation can be fixed, and in a manner consistent with the bill's purpose to improve industry standards around stream restoration work. Specifically, the bill should be amended to:

- Subject stream restoration project proposals involving heavy equipment to intensive review and oversight by the MDE. Contractors and counties should not be allowed to market destructive approaches to host communities as a park amenity.
- Reverse the exemption of restoration project application fees on projects requiring heavy construction equipment to:
    - allow MDE to better oversee stream restoration work; and
    - incentivize use of BMPs that conserve natural stream beds and existing trees.
- Include BMPs the range of tools for which licensed firms conducting stream restoration work must show competency, either by including BMPs in the statutory definition of "stream restoration practices" or defining them separately.
- Require all project applications to assess baseline stream conditions and define goals for biological and ecological uplift, water quality, and mature tree conservation.
- Require mature tree preservation plans and pre- and post-project mature tree maps to create accountability that losses were in fact minimized.

In conclusion, Maryland streams are at a moment of truth. Current approaches to stream restoration are unnecessarily destroying trees and streambeds, possibly forever. Maryland law should not allow these destructive methods.

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RESOURCES

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