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Joint Committee on the Chesapeake and
Atlantic Coastal Bays Critical Area

Chair, Joint Subcommittee on
Program Open Space/Agricultural
Land Preservation

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 26, 2024

Testimony in Favor of SB 969
Whole Watershed Act

Chair Korman, Vice Chair Boyce, and Members of the Environment and Transportation Committee,

I respectfully request a favorable report of Senate Bill 969, the Whole Watershed Act, to shift Maryland's focus to whole watershed restoration, incentivize innovative practices, improve project quality, and responsibly fast track environmental restoration work across Maryland. This legislation ensures that we can be bolder, go bigger, and build smarter projects where they will have the greatest impact.

In May 2023, the Scientific and Technical Advisory Committee of the Chesapeake Bay Program published the Comprehensive Evaluation of System Response (CESR) report¹. Authored by Dr. Denise Wardrop, Dr. Kurt Stephenson, and over 80 scientists from across the watershed, the CESR report investigated the progress, successes, and issues related to the health of the Chesapeake Bay. The report noted that while there has been progress made in the decades since the first Bay agreement, our efforts are falling short in meeting our goals; it estimates that 27% of the Chesapeake Bay area met water quality standards in 1985 - that number has only reached 30% by 2020. This lack of progress - while complicated by climate change and increased population - is reflected in regular C and D grades from the EPA's Chesapeake Bay Program.

While the findings of the CESR report are alarming, Maryland's environmental community responded with great urgency to the opportunities ahead. The report includes recommendations to ensure policy matches with these scientific findings. The authors recommend a greater focus on shallow waters, their habitats, and how people interact with the resource as well as better targeting of and incentivizing interventions. Neighboring states are already implementing practices that match these policy recommendations, including central Pennsylvania's rapid delisting program which has shown success².

Maryland's current processes and policies can be best described as "random acts of restoration", lacking coordination of multiple Best Management Practices (BMPs), co-benefits, and holistic whole watershed interventions. Groups involved in current restoration practices expressed frustration with the uncoordinated, overly onerous, and unreasonably lengthy permitting processes which negatively impact progress on more ambitious projects. Under the current structure, Maryland is putting forth big investments with little results. The Whole

¹ <https://www.chesapeake.org/stac/wp-content/uploads/2023/05/CESR-Executive-Summary.pdf>

² <https://www.chesapeakeconservancy.org/precisionconservationinpa/conservation/delisting-ag-impaired-streams-in-central-pa>

Watershed Act is the result of intense, months-long collaboration amongst legislators, State agencies, environmental advocates, restoration contractors, and more. It demonstrates what is possible when holistic, large-scale, targeted interventions are properly prioritized and incentivized, allowing for stronger State-wide coordination and innovation in practices.

The Whole Watershed Act targets watersheds which present opportunities for the most significant impact on an expedited timeline.

The current “random acts of restoration” approach to restoration in Maryland has resulted in major State funding allocated with minor results. The Whole Watershed Act empowers the State to move with intention and fund projects in watersheds with the greatest opportunity for impact. Projects under this program are selected with the consideration of current environmental factors, potential for achieving delisting status, proximity to Environmental Justice communities³, and more. The Whole Watershed Act allocates existing funding for environmental restoration to priority watersheds, ensuring that our State funds are being utilized and leveraged for the greatest possible impact and across diverse communities in Maryland.

The Whole Watershed Act establishes a State Management Team to select projects, monitor and support progress, and expedite permitting.

Coordination among the various actors in watershed restoration is critical to the success of projects. Maryland currently has a siloed structure for permitting, approval, and technical support between and amongst State, local, and federal agencies. This leads to years-long permitting timelines, unnecessarily delaying intervention and exacerbating the issues projects seek to address. The Whole Watershed Act cuts the red tape and brings together actors critical to the success of holistic watershed restoration projects. SB 969 establishes a State Management Team (SMT) consisting of State agencies, local governments, and nonprofit organizations. The SMT reviews applications, approves projects, designates money from the appropriate funding sources, monitors progress, provides technical support, and ensures that permits are expedited for projects under the program.

The Whole Watershed Act incentivizes multiple co-benefits to support the health of the whole watershed and community.

The CESR report explained the long-term impact of policies which center Total Maximum Daily Loads (TMDL)⁴ as the primary metric for success in waterway restoration. The authors of the report recommended a shift in policy to expand interventions to a variety of co-benefits which directly and indirectly impact the health of the watershed and surrounding communities. The Whole Watershed Act indicates co-benefits that are high priority for Maryland’s watersheds, including but not limited to the creation or restoration of wildlife habitat, restoring aquatic resources such as freshwater mussels and oysters, carbon sequestration, climate change resilience and adaptation, local employment opportunities, improving and protecting public health, and increasing public access to waterways. Additionally, the Whole Watershed Act indicates as a high priority the protection of trees and native plants. Projects must demonstrate a commitment to implementing multiple co-benefits related to the watershed and surrounding communities, ensuring that State funding is leveraged for the greatest possible impact.

The Whole Watershed Act creates a new certification for developers and contractors who complete restoration projects to uphold standards and ensure quality.

³ https://mde.maryland.gov/Environmental_Justice/Pages/Landing%20Page.aspx

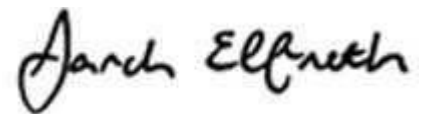
⁴ <https://www.epa.gov/tmdl/overview-total-maximum-daily-loads-tmdls#:~:text=A%20TMDL%20is%20the%20calculation,standards%20for%20that%20particular%20pollutant.>

In 2010, legislation passed by the Maryland General Assembly and signed into law by the Governor established the Marine Contractors Licensing Board under Chapter 286⁵. Managed by Maryland Department of the Environment (MDE), this Board establishes, oversees, and issues licensure for marine contractors and requires that marine contracting work be conducted by licensed professionals. The Whole Watershed Act builds on the success of this program by establishing a Stream Restoration Contractors Licensing Board under which contractors conducting watershed restoration practices must be licensed in order to conduct restoration work in Maryland. This will ensure the highest quality contractors are planning and implementing restoration work in our State and empower MDE to hold bad actors accountable for harmful or deceptive practices.

The Whole Watershed Act is a beacon of what is possible, bringing all levels of government to the table to fund innovative, holistic projects on an expedited timeline. I am proud to have the support of the Governor, Department of Natural Resources, Maryland Department of the Environment, Maryland Department of Agriculture, the Chesapeake Bay Foundation, Chesapeake Conservancy, the Chesapeake Bay Commission, and countless other organizations for the Whole Watershed Act.

I urge a favorable report on Senate Bill 969.

Sincerely,

A handwritten signature in black ink that reads "Sarah Elfreth". The signature is written in a cursive, flowing style.

Senator Sarah Elfreth
District 30

⁵ <https://mde.maryland.gov/programs/water/wetlandsandwaterways/pages/marinecontractors.aspx>