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Maryland General Assembly  
Environment and Transportation Committee  
Room 251  
House Office Building  
Annapolis, Maryland 21401

March 3, 2023

To Whom It May Concern:

Surely you have noticed, these are dark days for the health of the Chesapeake Bay and for local water. As water quality scores flux and wane after some 40 years of hard work and expenditure, a separate industry has nonetheless sprung up doing stream and other restoration work that literally provides the basis for even more destruction of the environment statewide.

Let's be clear that mitigation banks are a means of breaking something in one place, and then fixing it elsewhere. Literally the purpose being to create more construction and development opportunities and satisfy a mandate to minimize and offset environmental harms caused by all that economic activity.

So, the harsh truth is that these projects are not always really driven by the best science but rather by the need to maximize credits and to meet various economic goals. But the logic of fixing something in one place in order to generate credits-- while breaking something elsewhere is basically a form of "liar's poker"—or ultimately a "pyramid scheme". It is also driven by construction industry demand and not so much by an ethic of stewardship. Mitigation projects presently are often reviewed on the basis of their capacity to generate or expend maximum credits against outlay, but almost never on the basis of maximizing ecosystem services, humanitarian concerns, or any other factors beyond the monetization of the environment. Where the benefits are conferred somewhere else. A transfer of natural resource wealth or value. Sadly, we are stuck with these absurd contradictions by law and so we need to get it right going forward. That is why this law revision is needed. Because restoration has literally become not so much a mean towards an end, but rather an end unto itself. It monetizes the environment in a way that makes environmental quality quite portable.

The spirit behind the intent of these well-meaning restoration efforts has been lost-- which is part of the reason why there is so much dissatisfaction with the end results in many of the neighborhoods and communities where these "practices" have been installed. In the attempt to get the most bang for the buck, very few of these projects actually copy or restore nature's plan, but instead they permanently change and sometimes greatly harm the landscape, wetlands and natural stream ecology they sought to protect and restore.



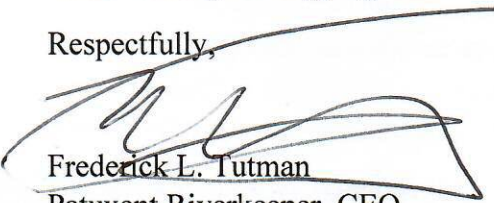
So, this legislation is needed in order to better clarify the criteria and boundaries surrounding how to specify and build these projects for the purpose intended. Mitigation should be a last resort—and not the first. We should be doing as little mitigation as possible. It's cheaper and better in the long run to conserve streams rather than restore them. Especially since few of these projects actually attack the root cause of the original degradation. Many restore streams that will have to be restored again and again. Moreover, it stands to reason that if you keep mitigating all over the place, eventually you just run out of places to do so. And so in a worst case, you can wreck an entire watershed with lots of mitigation projects.

Recently I was corresponding with a friend of mine who is a Scientist in Japan. He explained to me that in his country they build seawalls that are 15 meters high in order to protect coastal areas from Tsunamis. But the problem he says, is that an actual Tsunami is usually many times higher than they can afford to build the seawalls-- but the government keeps building them because they create lots of jobs and people feel safer. Many in Japan understand that those seawalls are neither effective nor a sustainable solution. This analogy, brings me to the environmental justice aspects of this approach to managing our dwindling natural resource wealth.

Have you ever wondered why all the best restoration and mitigation projects are also in all the best neighborhoods? You see, rough places, fence-line, borderline, and poorer neighborhood almost never get credits! They always get trades. Offsets and such. We learned this through a research study we participated in with the University of Maryland a few years back. It's a published peer reviewed study. I've attached the maps from the study in an Appendix to make my point. Environmental Justice communities are often the places where pollution trades, mitigation and offsets are used by polluters to pay their way out of strict compliance. These are exactly the places that produce the need and demand for "mitigation banks"! of course, it is generally cheaper and easier to buy credits from a mitigation bank than it is to cleanup your pollution act.

So, by upgrading and improving the currently very low standards and criterion for these projects and transactions we are basically enhancing the protections and the interpretive guidelines needed to save untold acres of valuable lands and many miles of natural streams from the unpredictable outcomes of market driven mitigation practices. Nature is not a marketplace. Those belong in shopping malls. Our streams are beyond cost and should be treated like gold.

Respectfully,



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**APPENDIX:**

**MAPS PORTRAYING  
MARYLAND RESTORATION  
ACTIVITY BY REGIONAL  
DEMOGRAPHICS**

Figure 2: Programmatic Wetlands Acreage by Race

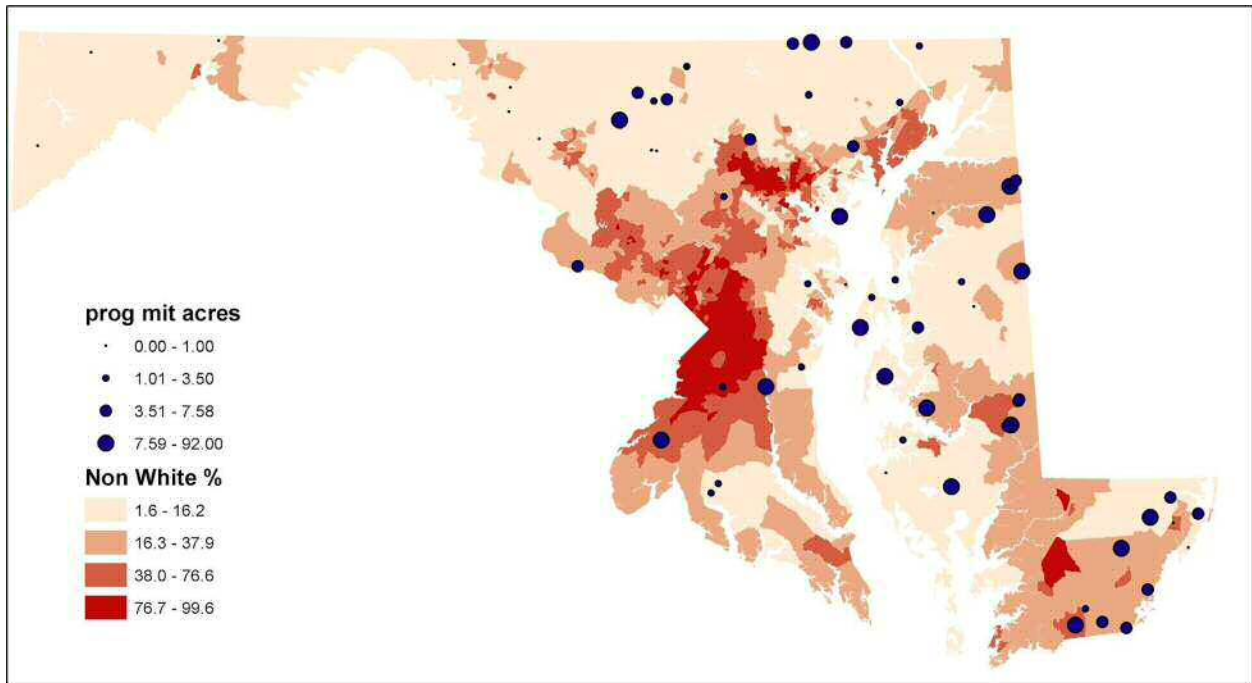
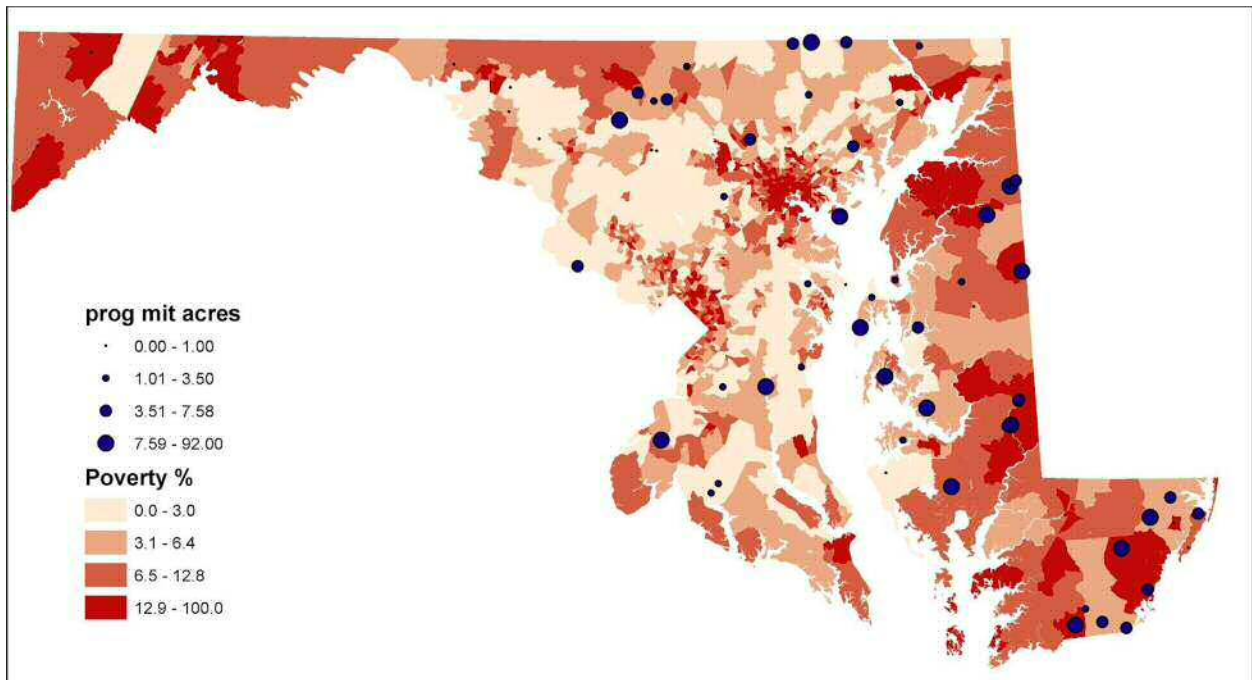


Figure 3: Programmatic Wetlands Acreage by Poverty



The results for all registered wetlands impacts, the bulk of which are permittee originated indicate no clear pattern of inequity. There are some majority minority watersheds that have gained wetlands and others that have lost. Likewise, some high poverty areas of the state have



lost wetlands, while others have gained. Additional maps for African Americans and Hispanics are in the appendix.

Figure 4: Net Wetlands Impacts by Race

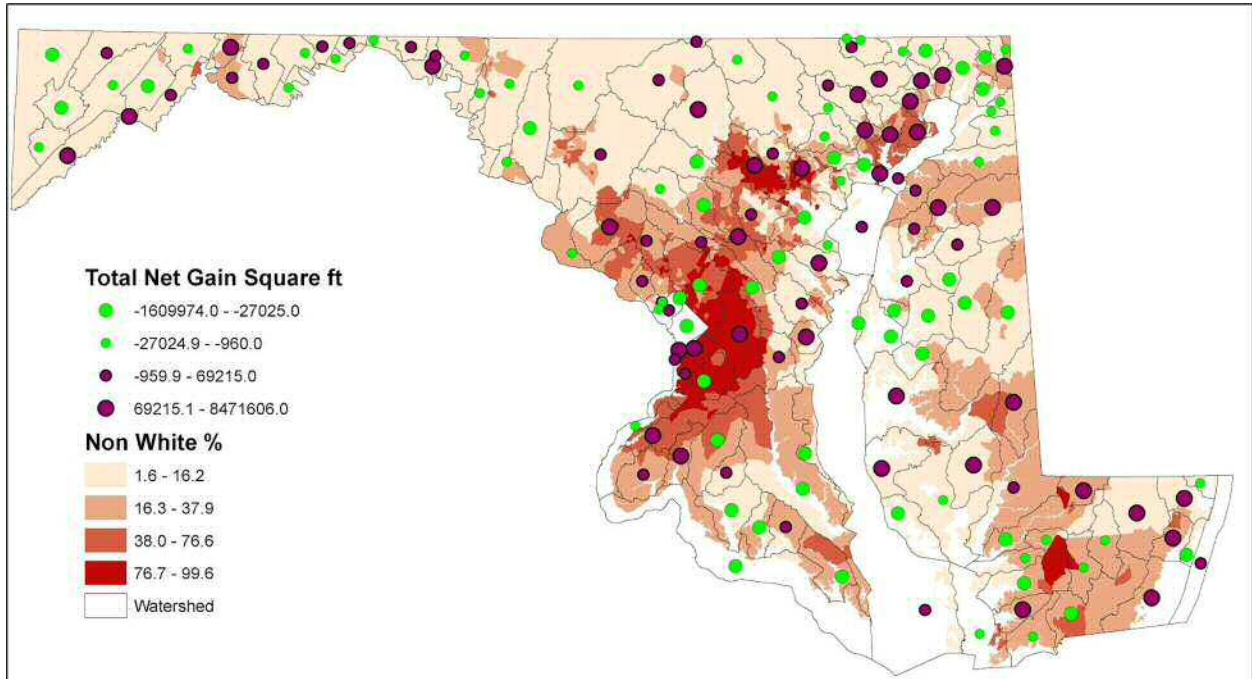
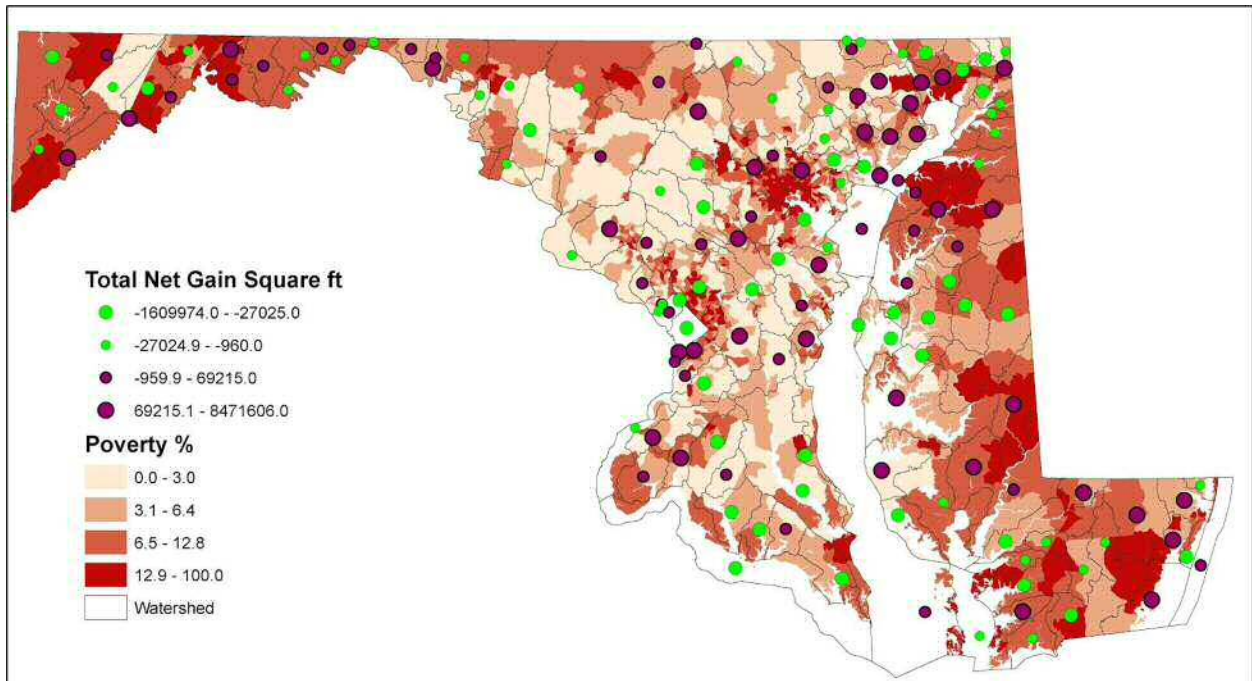


Figure 5: Net Wetlands Impacts by Poverty



### Background on Clean Water Act Section 319 Money

# Maps

