

Committee: Environment and Transportation

Testimony on: HB 1165 Stream and Watershed Restoration

Position: Support only with amendments

Hearing Date: March 1, 2024

My name is Marion Edey and I am testifying on behalf of 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 target the streams slated for restoration, that is a good thing, and could allow us to collect a lot of useful data.

But the bill as now written does not mention what should be the most important criterion of all: We need to restore the most impaired streams first. To make this reform, the bill needs amendments.

What makes our existing policies so controversial and destructive is not so much how stream restorations are done, but where they are done, and how many are done.

This is because stream restorations almost inevitably destroy the natural ecosystems in stream valleys. Thousands of trees must be taken out to make room for heavy machinery used to dig up and reshape stream beds and banks. This kills the native vegetation and the micro-organisms in the soil. The stream is then 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 our native insects, birds, and amphibians. Their populations are crashing, because of habitat loss, driven in part by stream restorations. Despite the best efforts of contractors, the natural stream ecosystem will probably never recover.

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 of the water, so that some streams at least will no longer require restorations.

The provisions in this HB 1165 which offer the most hope of improvement are your efforts to reform the process used to target which streams are selected to be “restored”. But the language is too general. Other legislators have drafted language with stronger guard rails, public participation and tree conservation requirements. I urge you Please to adopt these measures and incorporate them into your bill.

There are other sections of your bill which could do more harm than good. There is an old saying that an ounce of prevention is worth a pound of cure. We need to prioritize prevention, but the 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 such projects are done.

There is no money here for 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. In this way the bill could lock us into a system which is not working well, with too much reliance on a destructive cure and not enough investment in prevention.

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 would result in much greater tree and eco-system loss than would occur if we target the most impaired streams first. Many of the most impaired streams are in urban areas where upland controls are more difficult to achieve and where restoration may be the only good option.

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, we can expect more and more controversy over storm water issues, and your work on this issue will not be complete.

Thank you for your time and consideration.

