March 25, 2025

To: Maryland Senate Committee on Education, Energy, and the Environment
Subject: SB 722 (HB1155): Department of the Environment - Definition of Ecological Restoration
POSITION: UNFAVORABLE

Thank you for the opportunity to comment on SB 722 (HB1155). I urge small but crucial amendments to this important legislation. It is not clear if the oversights were intentional or not, so I will emphasize that **in the absence of the below minor changes in the bill language, I am in strong opposition to the amendments.** *This is not the time for the State of Maryland to weaken its own environmental protections given the dramatic assault on federal protections by the Trump administration*.

1. Change "OR BIOLOGICAL" to "AND BIOLOGICAL" in Section 1–1001, item (1) IMPROVEMENTS TO PHYSICAL, CHEMICAL, OR BIOLOGICAL CHARACTERISTICS OR PROCESSES.

The objective of ecological restoration as per the Clean Water Act Sec 101(A) is to improve the physical, chemical AND biological integrity of the nation's waters. In the case of Maryland's waters, the biological components include our highly valued commercial fisheries, including fish, oysters, crabs, as well as the diverse forage fish, insect, planktonic and plant life that support them. The full suite of natural biological components of streams and rivers that feed our Chesapeake Bay are crucial to healthy continuance of its world-class fisheries, which are already severely stressed by climate change, nutrient pollution and erosion. Conventional approaches (involving heavy equipment) to stream restoration work make things look tidy for a time from a physical and chemical standpoint, but if the complex biological components of the stream are poorly protected or destroyed in the process, the permanent harm they cause will become evident in the outyears. In short, our children will suffer the severe consequences of today's destruction of Maryland's stream ecosystems. Highly effective alternative practices that achieve physical and chemical objectives while maintaining and supporting the complex natural biological components of aquatic ecosystems are available, tried and true. They include such steps as the upland capture of runoff before it hits streams, and the maintenance and enhancement of upland forest resources that further capture run-off and improve habitat for healthy stream ecosystems. These practices targeting physical, chemical AND biological features of stream health are even ultimately more effective at erosion and storm water control than conventional "stream restoration" practices, which must be repaired and replaced as unmitigated storm water run-off continues.

From a legal standpoint, any stream restoration project that fails to protect all three aspects – the physical, chemical and biological –is not consistent with the Clean Water Act Sec. 101 (A). It is also not consistent with US Army Corps of Engineers/Environmental Protection Agency mitigation rules. Finally, it is not consistent with Maryland state objectives. In Chapter 465 (HB 869/SB 0945, approved by the Governor in 2022) the law directed MDE to *"… develop legislative and regulatory recommendations based on the results of the comprehensive study, analysis, and evaluation required under subsection (a) of this section, including**:** (1) the definition of ecological restoration that incorporates measurable scientific aims, including: (i) the reduction of nitrogen, sediment, and phosphorus pollution; and (ii) the improvement of benthic environment as compared with conditions existing at the site of the project during site selection;".* This Maryland law has the word "including" used twice and not a single use of the word "or".

2. The term "Resiliency" in SUBTITLE 10. ECOLOGICAL RESTORATION 19 1–1001(3) should be clarified to mean PROTECTING OR IMPROVING **ECOLOGICAL** RESILIENCY

This small edit is hugely important because it will help state officials and those engaged in stream restoration projects to distinguish the State's objectives. The goal is ecological resiliency, consistent with the protection of physical, chemical and biological components of the stream ecosystem. This understanding is not clear in the absence of the suggested addition of the work "ecological". In the absence of that addition, the objective may be interpreted to mean simply resiliency of stormwater flow capacity, for example.

Conclusion: This bill as written would weaken the definition of stream "improvement" and make the objective of stream "resiliency" more vague. These changes, intentionally or not, would constitute a serious erosion of Maryland natural resource protection. Given Trump Administration rollbacks and funding cuts, this is *not* the time for the State of Maryland to weaken its own environmental protections. In light of these realities, this bill should not pass unless it clarifies the protection of *biological characteristics* and *ecological* resiliency of its stream resources, to align with clear state objectives and federal law.

Submitted by:

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