



P.O. Box 278
Riverdale, MD 20738

Committee: Environment & Transportation

Testimony on: HB 869 “Wetlands and Waterways – Authorizations for Ecological Restoration Projects”

Position: Oppose

Hearing Date: February 25, 2022

The Maryland Chapter of the Sierra Club is opposed to HB 869 as written. The bill seeks to set up review criteria for applications for wetlands and waterways restoration projects in a manner that we believe creates unwarranted risks of environmental degradation.

While the Sierra Club agrees that we need a formal review process and criteria, we have many concerns over the language and priorities that are specified in HB 869. The bill could have the effect of promoting engineered restoration construction projects over less destructive techniques for mitigating environmental damage and the causes of stormwater runoff. This is not in the interest of the people of our state. According to EPA guidelines¹, the Clean Water Act specifies that avoidance should be the first action pursued because it is the least damaging project type. Yet, this bill could result in the reverse of these recommendations.

This is a time of extreme climate change and tremendous efforts are underway by the State of Maryland in planning and implementing to ensure the resiliency and sustainability of the environment and natural resources of the State. Nothing should be implemented that will undermine these goals and efforts. HB 869 has the potential to impede our state’s efforts to respond to the impacts of climate change and its effects on our natural resources.

Our comments on and recommendations for the bill text are as follows:

(B) (1): A definition of ecological restoration projects is needed in the bill text.

(B) (2) (I): Best available science should include stream morphology, geology, biology, hydrology, ecology, watershed management, and wildlife corridors, and should include reputable evaluations found in systematic reviews of the literature or the best level of evidence available.

¹ Environmental Protection Agency. March 2021. [Types of Mitigation under CWA Section 404: Avoidance, Minimization and Compensatory Mitigation.](#)

(B) (2) (II): This section should specify what the updating process is and require the process to be transparent to the public and include comprehensive and socially equitable public input.

(B) (3): Ecological projects should not be reviewed by people with expertise only in restoration projects. Reviewers should have deep expertise in the ecology of wetlands, waterways, and riparian habitats, as well as the total environmental impact of construction projects, including an understanding of lost ecosystem services and other environmental impacts.

(B) (3) (I): The reviewers should be trained in the sciences of stream morphology, geology, biology, hydrology, ecology, watershed management, and wildlife corridors. In addition, they should know the latest science, technology, and practices of ecological restoration projects.

(B) (3) (II) should be deleted because it is covered by (B) (3) (I).

4-It is critical that the review criteria are NOT tailored to restoration projects. Our suggested wording is “Establish review criteria that are specifically tailored to protecting critically needed environmental services provided by the wetlands, waterways, and riparian areas impacted by the proposal.”

B5- Delete and change to “Require applications to be reviewed in a manner that prioritizes and seeks to sustain the unique benefits of the subject ecosystem.”

B6- This language should be replaced with “Have as a baseline assumption that the requirement to minimize alteration, impairment or disturbance of a wetland or waterway shall not be waived.”

B7- Delete this section. Short-circuiting public oversight is unwarranted for this type of issue. Developing appropriate guidelines will ensure timely actions.

In conclusion, this bill does not clarify many terms used and prioritizes projects over impact on ecosystem services. This bill threatens intact stream valleys and wetlands which are essential to sustaining our state’s wildlife and ecosystems and to mitigating stormwater runoff and rising sea levels. Therefore, the Sierra Club requests an unfavorable report.

Lily Fountain
Chair Natural Places Committee
Lily.Fountain@mdsierra.org

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org