Dear Chairwoman Carter-Conway:

The Maryland Clean Agriculture Coalition members signed above OPPOSE SB 314 and request an UNFAVORABLE report by this committee.

The Bay Restoration Fund (BRF) has been among the most successful tools in preventing pollution to Maryland’s rivers and streams and the Chesapeake Bay. According to the fiscal note, since its inception in 2004 under Governor Ehrlich, the BRF has supported upgrades to 49 major wastewater facilities. The fiscal 2018 capital budget provides a glimpse at the many types of wastewater and sewer infrastructure projects that BRF will fund in the future, unless jeopardized by this bill.

SB 314 proposes to syphon up to $10 million annually from projects proven to restore water quality and protect communities across the state from sewage spills and toxic runoff in order to purchase undefined nitrogen and phosphorus credits. There is no language in the legislation that explains the details of the credit system. The legislation only states that regulations “BE ADOPTED IN CONSULTATION WITH THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF NATURAL RESOURCES.”

The bill’s vague and overly broad language is especially concerning considering that it seeks to transfer up to $10 million per year indefinitely from a proven tool to a system that is not yet defined. Simply put, the state has not yet gone through a rulemaking process to authorize nutrient trading, so no program exists. Although the Water Quality Trading Advisory Committee has been meeting for more than a year, no consensus on how to create an effective and environmentally protective nutrient credit program has emerged. Rather, our members, along with other environmental advocates, remain very concerned by the contents of the draft trading rules.

We are concerned that using BRF funding as “seed money” to jumpstart a nutrient trading program would preempt the many tough questions that remain about such a program. Such questions include when the credits could be purchased, how the price is set, what they apply to, and how the program is overseen.

Furthermore, we are concerned that any nutrient credit trading program could reallocate pollution loads from one sector to another outside of the formal process outlined in the Chesapeake Bay TMDL and the Watershed Implementation Plans. This legislation contains no details to alleviate that concern.

For all these reasons, we respectfully request an UNFAVORABLE report on SB314.

For more information, contact: Dawn Stoltzfus, coordinator, Maryland Clean Agriculture Coalition, at 410-990-0284 or dawn@thehatchergroup.com