

Pay-and-pave system leaves wetlands behind



Wes Newell, a hydrologist with Backwater Environmental, examines a ditch his company cut through this field near LaGrange to restore it to its wetlands state. Some critics of the Wetlands Restoration Program say private companies such as Restoration Systems, which hired Backwater, can do a better job of restoring the state's wetlands.

STAFF PHOTOS BY HARRY LYNCH

Restorations by state agency nominal after 5 years, millions in funding

By JAMES ELI SHIFFER
 STAFF WRITER

In the past five years, the state Department of Transportation and real estate developers have paved over at least 100 acres of wetlands and 16 miles of streams to make way for a wider Interstate 85 in Durham, the N.C. 55 bypass around Holly Springs, Wakefield Plantation and roads, bridges and buildings across the state.

With each project, the developers have written a check to a little-known state agency that by law must use the money to restore twice that amount of wetlands and streams to the landscape. Since its creation in 1997, the N.C. Wetlands Restoration Program has collected \$58 million from N.C. DOT, private developers, state appropriations, grants and interest.

But to date, the agency has restored 10 of the minimum 205 acres. It has reconstructed less than five miles of stream. Of the 22 projects the program told lawmakers would be built by last summer, not one has started. Most of the money — \$47 million — is sitting unspent in state bank accounts, according to a News & Observer analysis of the agency's finances.

The program's troubles in carrying out its environmental rescue mission have led some lawmakers to say that this state-run "pay and pave" system isn't working and that it's time to turn over the responsibility to the private sector. Lawmakers have



Leon White, right, drills holes for the sticks that LaVelle Walker hammers into place along a section of Hominy Swamp in Wilson. A crew from Coastal Plains Nursery is completing work on a \$499,000 Wetlands Restoration Program project that began last summer.

taken back \$3.4 million from the program after it sat on the money for four years.

"This has been a wonderful attempt to do the right thing. It's time to try something else," said state Rep. Pryor Gibson, a Montgomery County Democrat and co-chairman of a legislative committee that

oversees the program. "It's time to say, 'Guys, this ain't working.'"

Supporters of the Wetlands Restoration Program say it's ready to execute a flurry of projects across the state by year's end.

WETLANDS

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"There's a recognition that the program has reached that level that it has got to show results," said Dempsey Benton, chief deputy secretary of the state Department of Environment and Natural Resources, which runs the program.

Ronald E. Ferrell, the program's manager since April 1997, blamed the difficulties on complex real estate transactions, the inexperience of a young agency and his own determination to hold off on projects until he is sure they will work.

"We could have done a number of these projects quicker and in some ways, we probably should have," Ferrell said. "I'm more interested in quality than quantity."

Others are paying attention to quantity. In May 2001, the General Accounting Office reported that the program hadn't restored any wetlands as of September 2000. While similar efforts in other states have yielded few results, only one, in Dade County, Fla., had received more money than the North Carolina program, the GAO found. That county had restored 1,204 acres of wetlands, or 93 percent of what was required.

Aim: to undo damage

No construction has begun on any of the Wetlands Restoration Program's 10 proposed sites in Wake, Durham and Orange counties. But the program's presence has been visible in the Triangle for years — where it has allowed the paving of local creeks and swamps.

A little stream called Goose Creek has the misfortune of flowing near a spot in eastern Durham where Interstate 85 meets U.S. 70. When DOT decided to expand the intersection with a massive overpass atop giant pilings, the road-building agency discovered that four acres of wetlands around Goose Creek were in the way.

In October 1999, DOT paid the Wetlands Restoration Program \$204,000. Then it sent in dump trucks to create a new mountain of soil. Goose Creek now flows into a concrete culvert so long that daylight on the other side looks like a pinhole.

Tommy Freeman watched it all happen from nearby Durham Rock Yard, where he works as a truck driver. "They hauled all that dirt in," he said. "There ain't no telling how many tons of dirt. It was a marsh area back there," he recalled. "They filled it in."

Each check written to the program makes it the agency's problem to figure out how to make up for damage like this. Officially, it's known as "in-lieu-fee mitigation." Unofficially, it's "pay and pave."

Roger Sheets, DOT's deputy secretary for environment, planning and local government affairs, said payments to the wetlands program have enabled \$2.5 billion worth of road projects, most of them constructed over streams. Without the Wetlands Restoration Program, Sheets said, "we can certify those projects never would have been completed and most certainly would have been delayed."

Speeding up construction was one intention of lawmakers when they created the program. The other was reversing an environmental debacle.

Eighteenth-century European farmers were the first to dig ditches in the soggy lands of Eastern North Carolina. In the next 200 years, about half of the state's wetlands were drained, and thousands of miles of streams were rerouted into straight channels, mostly to dry out the land for fields and pine plantations.

By the mid-1990s, however, fish kills, filthy rivers and devastating floods brought home to North Carolina what a mess it had made of the land. Far from being a blight on the landscape, wetlands and natural streams provide a home for fish, frogs and ducks. They absorb floodwaters and filter out pollution that washes off the land.

In response, the General Assembly made wetlands and stream restoration the mission of a new agency within DENR. Agreements



Greg Stahl of Raleigh loses a flying disc after retrieving it from a stream at Kentwood Park. Foot traffic at the park has eroded two streams, which the Wetlands Restoration Program plans to restore at an estimated cost of \$540,000. The project has been delayed for two years.

STAFF PHOTO BY ROBERT WILLET

Destruction of Triangle streams

Damage to these streams in the Triangle is to be offset by the restoration of 3,000 feet of eroded and mud-clogged streams in Kentwood Park in Raleigh, under the N.C. Wetlands Restoration Program. The Kentwood Park restoration project has been planned since 1998, but construction has yet to start.

1. January 1998: Town of Cary paid \$56,250 to damage 450 feet of Coles Branch with a road crossing for the Cary Parkway Extension.
2. March 1998: N.C. DOT paid \$22,750 to damage 182 feet of stream for the Northeast Creek Parkway.
3. May 1998: Briar Creek Associates paid \$25,250 to damage 202 feet of stream for the Briar Creek Parkway.
4. July 1998: The Centennial Authority of N.C. State University paid \$47,500 for damage to 380 feet of Richland Creek for the Edwards Mill Road Extension.



5. October 1998 to November 1999: Anvil Investments paid \$111,375 for damaging 891 feet of stream at the Wake commercial development at U.S. 1 and Falls of the Neuse Road.
6. October 1998: Preston Development (Anvil Investments) paid \$58,750 for damaging 470 feet of stream at N.C. 54 and Weston Parkway.
7. October 1999: Town of Cary paid \$28,250 for damaging 726 feet of stream where Cary Parkway crosses at a recreational lake for Silverton subdivision.
8. December 2000: The Raleigh School paid \$14,000 for damaging 112 feet of Richland Creek for a second road crossing.

with the Army Corps of Engineers, the federal agency in charge of protecting wetlands, and N.C. DOT gave the Wetlands Restoration Program the legal authority and the revenue to accept payments from developers and spend them on well-planned, large-scale projects.

Here's how it was supposed to work: The program's environmental experts would study the state's 17 river basins to find the best possible places to heal the landscape. Then the staff would acquire tracts and hire private companies to study, design and build new stream channels, water-control structures and other means of returning the sites to a quasi-natural state.

The corps gave the wetlands program a generous schedule for starting projects, with the understanding that the watershed research would take time. "Our planning end of things is the most important thing we do, in a lot of respects," Ferrell said.

Those plans are supposed to lead to beneficial changes on the ground, and in some cases, they have. Bright green grasses are springing out of small areas of coastal marsh resurrected at the N.C. Maritime Museum in Beaufort and Hammock's Beach State Park in Onslow County.

Hornly Swamp now winds its way through a Wilson city park after a \$492,000 reconstruction project dug a new channel last summer. Logs fixed in the stream will hamper erosion and create pools for fish. In the spring, sycamore, dogwood and willow trees planted along its banks will complete its transformation from a drainage ditch to a creek that filters out pollution and provides a better home for fish and amphibians.

"As a general rule, we're very satisfied with what we've seen, and what we have on the way," said Wayne

Wright, who was the regulatory chief in the corps' Wilmington office before he retired this month.

Delays and missed deadlines

Nevertheless, eight of 60 projects listed in the program's 2001 annual report are finished. Ferrell blamed delays on the complexities of acquiring land and rigid state rules governing real estate and construction.

"Our property acquisition process, which we have since corrected, has caused a lot of these projects to either be delayed or just to finally fall off," he said. The program now employs a full-time worker in the State Property Office, and it has sped up selection of landscape architects and engineers.

No construction has started on planned rescues of streams in two Raleigh city parks that drain into the polluted Neuse River, despite the agency's prediction that they would be done by summer 2000.

A few stakes planted in the stream bank are the only sign of anything unusual at one of the sites, Kentwood Park. Frisbee enthusiasts love this grove of pines off Kaplan Drive, because it has a golf course designed for flying discs. But people tromping after lost Frisbees have turned two streams into eroded canyons.

The restoration program envisions a \$540,000 reconstruction of the two arms of Bushy Branch that flow through Kentwood Park. Though the program commissioned a study of the site in fall 1998, negotiations with the city of Raleigh over the use of the land have delayed construction for nearly two years, said Larry Hobbs, an implementation specialist with the program.

The program also wants to restore a tributary of Walnut Creek in Chavis

Park in Southeast Raleigh. Today, the creek meanders among thick brush, Styrofoam cups and an occasional discarded mattress. Confusion over whether the Raleigh Housing Authority owned some of the land dragged that project out for 18 months, Ferrell said. He said he expects construction in both parks to start this spring.

"It was just learning as you go, the amount of time things take," he said.

The only wetlands restoration effort near the Triangle has dragged on even longer.

In 1998, the agency announced its first effort to restore a swamp that had been ditched out of existence. On a remote flood plain along the Neuse River in eastern Johnston County, workers would plug up a stream on the grounds of Johnston Community College's Howell Woods Environmental Learning Center. The water table would rise and reclaim the former farm field, which would be planted with bald cypress and other water-loving trees.

Four years later, no wetlands have been restored at Howell Woods. Problems emerged with a decision to enlarge the project from 28 acres to 139 acres, wrangling with the college's trustees and competition from a private wetlands company. Ferrell said trees were planted and some water-control structures built in spring 2000, but he now predicts construction in the spring.

Finishing the work at Howell Woods is more urgent than ever. The agency wants the corps to count the Howell Woods site as a replacement for the wetlands lost around Goose Creek in Durham and other Piedmont sites, even though those sites are up to 50 miles away.

A guiding philosophy of the program is restoring landscape close to

- ON THE BOOKS**
- Other wetlands projects planned for the Triangle.
1. LITTLE BEAVER CREEK, Wake County, 10 acres of wetlands and 5,000 feet of stream
 2. HOWELL WOODS, Johnston County, 139 acres of wetlands
 3. CHAVIS PARK, Wake County, 2,500 feet of stream
 4. SMITH/AUSTIN CREEK, Wake County, 9,500 feet of stream
 5. BERTIE CREEK, Wake County, 1,200 feet of stream
 6. LOUISBURG, Franklin County, 2,000 feet of stream
 7. BEAR SWAMP CREEK, Franklin County, 2,000 feet of stream
 8. SANDY CREEK, Durham County, 2 acres of wetlands
 9. ELLERBEE CREEK, Durham County, 2,500 feet of stream
 10. HILLSBOROUGH, Orange County, 1,500 feet of stream
 11. CHEVIOT HILLS, Wake County, 3,000 feet of stream.

where degradation occurs. But the agency doesn't have a wetlands restoration project closer to the Triangle that could meet deadlines set by the corps.

"We had a requirement that we needed to meet," Ferrell said. "It doesn't mean that we like it and we want to do that a lot. We don't. ... We're still in the process of trying to find something better suited to that particular impact."

Problems kept under wraps

The Wetlands Restoration Program chose not to share its problems with its legislative overseers. Instead, its annual reports to the legislative Environmental Review Commission have featured projections of success that proved impossible to fulfill.

Ferrell said his presentations to the commission didn't dwell on troubles either.

"I don't spend a lot of time talking about problems," he said. "Do I want to go to the General Assembly and make a big case out of, 'We didn't know what we were doing.' There are all these little pieces that cropped up. I've never felt like that was in my best interest. I use the 15 minutes they give me to accentuate the positives of the program."

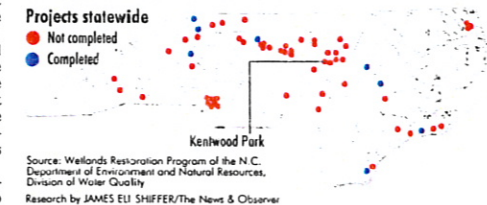
Ferrell said he has revised his annual reports to avoid the "optimistic" schedules of past reports. "All the information I've put in those reports are put in those reports with the best intentions. ... Things happen. Things don't get done in advance or on the time schedules we have. But they're not put in there with the intention of deceiving somebody that we've done more than we have. Overly optimistic, particularly in the earlier years, there's no doubt in my mind that that's an accurate description."



'Live sticks,' which are viable branches from native plants and trees, are planted to restore the banks of eroded waterways. STAFF PHOTO BY HARRY LYNCH

Rebuilding wetlands and streams

The N.C. Wetlands Restoration Program was set up to rebuild swamps and streams in the state. But of the \$58 million it has received since 1997, the agency has spent only \$8.2 million to restore 10 acres of wetlands and less than five miles of streams.



Source: Wetlands Restoration Program of the N.C. Department of Environment and Natural Resources, Division of Water Quality. Research by JAMES ELLI SHIFFER/The News & Observer

By last summer, however, the rosy projections couldn't keep the problems from emerging into public view.

Program under review

The May report from GAO, Congress's investigative arm, raised questions about whether in-lieu fee programs such as the Wetlands Restoration Program were accomplishing anything.

When data collected from the corps showed the Wetlands Restoration Program had taken in \$15 million without restoring any wetlands by the summer of 2000, U.S. Rep. Walter B. Jones, a Republican from Greenville, took notice. He already was pushing a bill to improve the prospects of private companies that offered the same service. He called the agency's lack of progress "inexcusable" and "an environmental tragedy."

In July 2001, Ferrell, Benton and two DOT officials traveled to Washington to do damage control. They met with staff members of at least eight House and Senate lawmakers from North Carolina to tout the program's virtues.

The program faced a more tangible threat in Raleigh. Lawmakers scrounging for money to balance the budget noticed the wetlands agency's bank account. They took \$3.4 million, part of the \$9.2 million given to the agency on its founding in 1997 to reverse decades of swamp draining.

"My goal was to hold onto that money until we had done some of the planning activities that we had, where we could do some really good projects that could really send the message on what this program was all about," Ferrell said. "In that respect, I made a bad decision. It's a situation where you're damned if you do and damned if you don't. I could have spent it easily, then somebody could ask me, 'What did you get for it?'"

More money might be taken from the program in the near future. "Seeing that amount of money in their bank accounts kind of raised my eyebrows," Gibson said. "Given that we cut programs and are probably going to cut even more ... this kind of sticks out."

He said he has drafted legislation that would create a pilot program to farm out wetlands mitigation to private companies.

But Ferrell and DOT officials are counseling patience.

"I'm confident that if we're allowed to continue operating this program for another five years and hopefully for a lot longer than that, then the value of what we've done will become apparent," Ferrell said. "Right now, it's not."

News researcher Susan Ebbs contributed to this report.

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