



US Army Corps
of Engineers
New York District
Jacob K. Javits Federal Building
New York, N.Y. 10278-0090
ATTN: Regulatory Branch

PUBLIC NOTICE

In replying refer to:

Public Notice Number: 2003-00977-YN
Issue Date: SEPTEMBER 29, 2004
Expiration Date: OCTOBER 29, 2004

To Whom It May Concern:

The New York District, Corps of Engineers has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

APPLICANT: Rob Jess
Lowe's Home Centers, Inc.
P.O. Box 1111
Hwy 268 East (East Dock)
North Wilkesboro, NC 28659

ACTIVITY: Discharge fill material into waters of the United States to facilitate the construction of a commercial development.

WATERWAY: Unnamed tributary and adjacent wetlands (Susquehanna River Watershed)

LOCATION: Town of Oneonta, Otsego County, New York.

A detailed description and plans of the applicant's activity are enclosed to assist in your review.

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

ALL COMMENTS REGARDING THE PERMIT APPLICATION MUST BE PREPARED IN WRITING AND MAILED TO REACH THIS OFFICE BEFORE THE EXPIRATION DATE OF THIS NOTICE, otherwise, it will be presumed that there are no objections to the activity.

CENAN-OP-RW
PUBLIC NOTICE NO. 2003-00977-YN

Any person may request, in writing, before this public notice expires, that a public hearing be held to collect information necessary to consider this application. Requests for public hearings shall state, with particularity, the reasons why a public hearing should be held. It should be noted that information submitted by mail is considered just as carefully in the permit decision process and bears the same weight as that furnished at a public hearing.

Our preliminary determination is that the activity for which authorization is sought herein is not likely to affect any Federally endangered or threatened species or their critical habitat. However, pursuant to Section 7 of the Endangered Species Act (16 U.S.C. 1531), the District Engineer is consulting with the appropriate Federal agency to determine the presence of and potential impacts to listed species in the project area or their critical habitat.

Based upon a review of the latest published version of the National Register of Historic Places, there are no listed sites within the permit area. However, the applicant has discovered an archeological site within the permit area that may be eligible for listing in the Register. This office will follow the procedures outlined in Title 33 of the Code of Federal Regulations, Part 325, Appendix C, in order to ensure compliance with Section 106 of the National Historic Preservation Act. Presently unknown archeological, scientific, prehistoric, or historic data may be lost by work accomplished under the required permit.

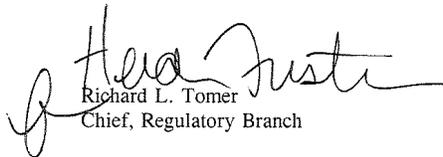
Reviews of activities pursuant to Section 404 of the Clean Water Act will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 (b) of the Clean Water Act and the applicant will obtain a water quality certificate or waiver from the appropriate state agency in accordance with Section 401 of the Clean Water Act prior to a permit decision.

In addition to any required water quality certificate, the applicant has obtained or requested the following governmental authorization for the activity under consideration:

- Town of Oneonta: Various
- New York State Department of Environmental Conservation: SPDES Permit

It is requested that you communicate the foregoing information concerning the activity to any persons known by you to be interested and who did not receive a copy of this notice. If you have any questions concerning this application, you may contact this office at (518) 270-0588 and ask for Andrew C. Dangler.

For more information on New York District Corps of Engineers programs, visit our website at <http://www.nan.usace.army.mil>


Richard L. Tomer
Chief, Regulatory Branch

Enclosures

**CENAN-OP-RW
PUBLIC NOTICE NO. 2003-00977-YN**

WORK DESCRIPTION

The applicant, Lowe's Home Centers, Inc., has requested Department of the Army authorization for the discharge of fill material into waters of the United States to facilitate the construction of a commercial development. The site consists of 40 acres and is located along Route 23, in the Town of Oneonta, Otsego County, New York.

The development would consist of 3 buildings including a 169,793 square foot Lowe's Store, and two smaller retail buildings. The work would involve the discharge of fill material into waters of the United States, including 0.19 acre of wetland and 820 linear feet of an unnamed intermittent stream channel, to facilitate the construction of the buildings and parking lots. The stated purpose of the project is to construct a home improvement warehouse within Oneonta's "Southside" located along Route 23 near the Otsego/Delaware County line.

To mitigate impacts to the aquatic environment, the applicant would relocate the intermittent stream into 1,123 linear feet of new channel, create 0.78 acre of associated upland buffer, as well as 0.81 acre of emergent/scrub/shrub wetland adjacent to the new channel, and preserve a 300 foot riparian buffer along the Susquehanna River.

