

DEPARTMENT OF THE ARMY PERMIT

Permittee\_ Lowes Home Centers Inc.

Permit No. . 200200950

Issuing Office New England District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

Placement of fill in 1.11 acres of federally jurisdictional inland wetlands and approximately 1.01 acre of non-jurisdictional state regulated wetland for construction of a 1.36 million square foot, one-story tall, Regional Distribution Center (RDC) warehouse, appurtenant parking facilities for 750 tractor trailers and 641 employee vehicles, access drive, and ancillary facilities including, but not limited to, truck standing areas, check-in/weigh-in station, stormwater conveyance and collection system and 4 stormwater infiltration basins as shown on the attached plans, entitled, "LOWES RDC OF PLAINFIELD, PLAINFIELD CT," in 46 sheets, dated, September 17, 2003. Other project features include the disturbance of an additional 0.33-acre of wetlands in association with completion of compensatory mitigation. The total disturbance to inland wetlands associated with the proposed activity is 2.45 acres.

Project Location:

Inland wetlands adjacent to Packers Pond and the Mill River in Plainfield, Connecticut.

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on \_\_\_\_\_ . If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

1. The permittee shall ensure that a copy of this permit is at the work site whenever work is being performed and that all personnel performing work at the site of the work authorized by this permit are fully aware of the terms and conditions of the permit. This permit, including its drawings and any appendices and other attachments, shall be made a part of any and all contracts and sub-contracts for work which affects areas of Corps of Engineers jurisdiction at the site of the work authorized by this permit. This shall be done by including the entire permit in the specifications for work.

**(Special Conditions continued on Page 4)**

**Further Information:**

1. **Congressional Authorities:** You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. **Limits of this authorization.**

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. **Limits of Federal Liability.** In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. **Reliance on Applicant's Data:** The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. **Extensions.** General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

\_\_\_\_\_  
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

\_\_\_\_\_  
(DISTRICT ENGINEER) (DATE)  
**Thomas L. Koning**  
**Colonel, Corps of Engineers**

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEE) (DATE)

(Special Conditions continued from Page 2)

If the permit is issued after the construction specifications but before receipt of bids or quotes, the entire permit shall be included as an addendum to the specifications. If the permit is issued after receipt of bids or quotes, the entire permit shall be included in the contract or sub-contract as a change order. The term “entire permit” includes permit amendments. Although the permittee may assign various aspects of the work to different contractors or sub-contractors, all contractors and sub-contractors shall be obligated by contract to comply with all environmental protection provisions of the entire permit, and no contract or sub-contract shall require or allow unauthorized work in areas of Corps jurisdiction.

2. In order to protect state-listed endangered and threatened amphibians at the site, in particular the spadefoot toad, grading for Infiltration Basin No. 1 or other areas located within designated critical habitat shall occur only from October through March of any year this permit is valid.

5. Compensatory wetland mitigation shall be performed in accordance with a final mitigation plan which shall be submitted within 90 days of permit issuance and which shall not be implemented until the Corps of Engineers approves it in writing. The final mitigation plan shall be based on the mitigation plan entitled, “FINAL MITIGATION PLAN, PROPOSED REGIONAL DISTRIBUTION CENTER, PLAINFIELD CT” and dated “September 15, 2003” and shall be in accordance with the attached New England District guidance.

6. The permittee shall provide a 50’ wide upland vegetated buffer extending along the entire eastern edge of ONSW-1 northward to converge with the existing easternmost forested buffer at Wetland C. The buffer will consist of planting of conservation seed mix, shrubs planted at 300 stems per acre and small trees (3’ to 12’ tall) relocated from upland disturbance areas on site, as described in the Final Mitigation Plan.

7. All work on site shall be undertaken in accordance with the approved Sediment and Erosion Control Plan and Stormwater Pollution Prevention Plan, print date August 2003.

8. Following construction of the RDC and installation of sound abatement measurements in accordance with the approved landscaping/grading plan, the permittee shall conduct a post-development assessment of both daytime and nighttime sound levels to verify that sound associated with operation of the facility conforms with the level set by the Regulations of Connecticut State Agencies for the prevention of adverse noise impact and with the Federal Highway Administration noise abatement criteria for residential development. If noise levels exceed either of the above criteria, the permittee shall be responsible for the implementation of additional sound reduction measures that may be recommended as a result of post-construction assessment coordination with both state and federal regulatory agencies.

9. All exterior lights shall be designed, located, installed and directed in such a manner as to conform to the “maintained horizontal illuminance recommendations” set by the Illuminating Engineering Society of North America (IES) and at no time shall illumination beyond the property line exceed 0.5 foot-candles.

10. The infiltration basins shall, at all time, successfully retain up to the 100-year storm on-site

and provide for complete infiltration of the designed water quality volume within 48 hours.

11. Monitoring of the infiltration basins shall be undertaken in accordance with a long-term monitoring and maintenance/management plan that will outline how the function of the infiltration basins shall be gaged to allow for quick recognition of poor performance, provide a regular maintenance/inspection schedule and describe the procedure for initiation of corrective measures. The draft plan shall be submitted within 90 days of permit issuance and shall not be implemented until the Corps of Engineers approves it in writing.

12. Biological monitoring of Infiltration Basin Number 1 shall be undertaken for a period of not less than 3 years, following removal of turbidity control and confirmation of infiltration performance, in accordance with the Final Mitigation Plan. If at the end of the assessment period it is determined that the basin is not contributing to amphibian habitat as anticipated, the permittee shall be responsible for the coordination of potential corrective actions with the federal and state regulatory and resource agencies.

13. Deed restrictions shall be placed on the lands identified in the Table 3 of the September 15, 2003 Final Mitigation Plan and as depicted on Mitigation figures 4 and 14, in order to preserve as open space, in perpetuity, the following areas:

- ONSW1 - 80.46 acres
- ONSW2 -16.8 acres
- Town A - 7 acres
- Town B - 1.5 acre
- Town C – 17 acres
- Town D – 140 acres

The deed restrictions and/or restrictive covenants for these sites will need to be submitted in draft form to the Corps within 60 days of permit issuance, and must be approved by the Corps in writing. The permittee will be required to execute the approved documents within 180 days of the date of permit issuance. The executed documents will need to be submitted to the Corps within 90 days of the date it is recorded.

14. All excess material shall be disposed of at an upland, non-wetland location.

15. Only clean fill shall be used.

16. No temporary fill (e.g., access roads, cofferdams) may be placed in waters or wetlands unless specifically authorized by this permit. When temporary fill is authorized in a wetland, it must be placed on geotextile fabric laid on existing wetland grade. The slope of all temporary fills must be stabilized to prevent erosion, through such means as placing weighted geotextile fabric on the slope. The temporary fill shall be completely removed upon completion of the project, and shall be placed upland in a manner that will prevent its later erosion and transport to a waterway or wetland. The temporary fill area shall be restored to its approximate original contours (but not higher).

17. All areas of wetlands, which are disturbed during construction, shall be restored to their approximate original elevation (but not higher) and condition by careful protection, and/or

removal and replacement, of existing soil and vegetation. In addition, if upland clearing, grubbing or other construction activity results in, or may result in soil erosion with transport and deposition into a wetland or waterway, devices such as geotextile silt fences, sediment trenches, etc. shall be installed and properly maintained to minimize such impacts during construction. These devices must be removed upon completion of work and stabilization of disturbed areas. The sediment collected by these devices must also be removed and placed upland, in a manner that will prevent its later erosion and transport to a waterway or wetland.