

THE LOWE'S SOCIAL RESPONSIBILITY RECORD

I. CORPORATE PROFILE

Lowe's Companies, Inc. is the nation's 14th largest retailer with annual sales of greater than \$26 billion. Lowe's is the second-largest home improvement retailer behind Home Depot. Between them the two giants hold more than one-third of the hardware market. The company sells 40,000 products for both building contractors and do-it-yourselfers (or DIYs, as they are known).

The company began in 1921 as L.S. Lowe's North Wilkesboro Hardware. The global headquarters is still in North Wilkesboro, NC. An employee profit sharing plan bought 89 percent of the company with financing through a public offering. Lowe's was listed on the New York Stock Exchange in 1979. Subsequent stock offerings and transactions diluted the employee share to less than 8 percent.

Robert L. Strickland became chairman in 1979. He guided the company to become more amateur, DIY-friendly, imitating the Home Depot format. In 1982, Lowe's made more than half its sales to consumers for the first time. Over the ensuing years, Strickland became involved with other retail chains, as a director of Krispy Kreme Donuts and the Hannaford supermarkets. Lowe's development and other business ventures are often interlaced with these other companies. For instance, Krispy Kreme donut outlets appeared in some Lowe's stores beginning in 1996. Hannaford Bros. supplied the real estate for the controversial Vermont Lowe's covered in Section II of this report.

Strickland is politically powerful and active as well. He vocally supported the Newt Gingrich "Contract With America." He is listed on the Business Advisory Council of the Federalist Society, a right-wing group successfully reshaping the federal judiciary. Robert Bork, Ed Meese, US Senator Orrin Hatch, and Kenneth Starr are key players in the Federalist Society, and four current US Supreme Court Justices are considered "close affiliates." Politically, most of the identifiable Lowe's money goes to right-wing Republicans including, not surprisingly, North Carolina's Jesse Helms and Lauch Faircloth.

Other interesting board connections include Claudine Malone, with Hannaford Bros. since 1991, and Peter Browning with Wachovia Corp since 1997. Wachovia Bank is the trustee for the Employee Stock Ownership Trust which bought out the original Lowe's owners. (Schedule 14-A Proxy statements, May 28, 1999) Richard K. Lochridge serves on the Hannaford board (since 1993) and also as a Petsmart director. Jack Shewmaker, formerly on Lowe's board, currently serves on Wal-Mart's board. Both Malone and Strickland serve on the board of the Federal Reserve Bank of Richmond. Strickland also was appointed the "public interest" director on the Federal Home Loan Bank board of Atlanta (FHLBB press release, Apr. 10, 2002).

In 1989, Home Depot surpassed Lowe's as the nation's largest home improvement retail chain. Since then, Lowe's moved from a typical 20,000 square-foot design to building giant warehouse outlets, in imitation of Home Depot.

Robert Tillman took over as chairman from Strickland in 1992 and also became CEO. Tillman continued the trend to ever larger boxes, while following Home Depot around by locating new stores everywhere it does. In 2001, Lowe's management earmarked \$2.4 billion for store expansions and new distribution warehouses.

Lowe's tries to distinguish itself from arch-competitor Home Depot by supposedly having a bright, 'female-friendly' interior. To that end, they are stocking full lines of home appliances, and adding adjunct Lawn and Garden Centers to their traditional lumber and hardware.

What follows is a further exploration of both Lowe's specific record and some of the general social problems associated with the spread of their business model.

II. ENVIRONMENTAL RECORD

Lowe's 'Dirty Water'

Stormwater Runoff Pollution

An average sized Lowe's 'supercenter is 180,000 square feet sited on 15 to 30 acres, with approximately 12 acres of impervious cover (the store building along with associated driveways and parking). Compared to an undeveloped meadow, each acre of pavement increases runoff by nearly 1,500 percent. The runoff flows at a four-fold greater velocity as well, vastly increasing flooding and erosion downstream. Based on Austin's average annual rainfall converted to runoff, a Lowe's could add as much as 29 acre-feet, or more than 9 million gallons of polluted stormwater runoff to area streams.

Big box, big problem

Impervious surfaces collect pollutants deposited from the atmosphere, leaked from vehicles or other sources. During storms this material is washed off the roofs and pavement and rapidly delivered to streams. Stormwater pollution harms the value of the water for aquatic life, recreational use and drinking water. The aesthetic damage harms property values. Human health risks increase from recreational contact, drinking the water, and eating contaminated fish.

Vermont Stormwater Permits Denied

Controversy began when Lowe's proposed a new store in South Burlington, Vermont in December 2000 on property owned by the Hannaford's supermarket chain (*Associated Press*, Aug. 31, 2001). The Conservation Legal Foundation (CLF) stated: "The Lowe's development would add tons of stormwater pollution to Potash Brook and Lake Champlain's Shelburne Bay." Vermont's Agency for Natural Resources granted a stormwater permit to Lowe's. The CLF appealed the decision to the state Water Resources Board, which denied the permit on June 29, 2001 as a violation of the nation's Clean Water Act. This law says no pollutants can be added to a water body that's already designated "impaired." (*Barre Montpelier Argus Times*, Aug. 30, 2001 and Sep. 27, 2001)

Harm to Lake Known

Many observers had already thoroughly documented the manifest harms to Lake Champlain from pollution. University of Vermont studies noted algae problems caused by an excess of phosphorus in the Lake. Three dogs died in 1999 after swimming in the lake because of high phosphorus. Excessive bacteria counts forced a beach closing. (*Burlington Free Press*, Mar. 24, 2002) While much of the nutrient load was from agricultural activities and sewage systems, a disproportionate amount was from urban stormwater runoff, which Lowe's proposed to increase. Even *Vermont Business*, an ally

in the permit fight, was moved to note that the lake brings in \$800 million a year in related economic activity (*Vermont Business*, Jun. 1, 2002), which was threatened by a deterioration in water quality.

Lowe's claims non-existent pollution "reduction"

In their bid to escape responsibility for preventing further damage to Lake Champlain and Potash Brook, Lowe's claimed a spurious pollution "reduction." They proposed to reduce pollution levels below those allowed under a previously existing permit for the property. "[CLF attorney] Kilian countered later that the comparison should not be with a hypothetical level of pollution once permitted but never reached, but with the levels of pollution that exist now." (*B M Times Argus*, Jul. 26, 2001)

Lowe's: We can clean it up, but we don't want to

For its part, Lowe's admitted that it could feasibly obey the order but claimed it was unfair because other existing businesses were being permitted to pollute (*B M Times Argus*, Aug. 22, 2001). Lowe's attorney, Kevin Leahy, said: "I disagree with the standard but we believe its one Lowe's can achieve, and we'll ultimately get our permit. At the end of the process Lowe's is going to be an example to other businesses in the Potash Brook area for stormwater treatment." (*B M Times Argus*, Aug. 30, 2001) In effect, they were arguing not hardship, but an "equal right" to pollute as others had been doing. Instead of showing leadership, they were asking to be exempt because others were allowed to pollute. Applied universally, such a standard would frustrate achieving any cleanup, a 'non-rule' rule.

Lowe's fights for "right to pollute"

Rather than proposing not to pollute, Lowe's instead chose to fight. Much of the organized business community of Vermont rallied behind them, scared of the precedent. (*B M Times Argus*, Aug. 31, 2001) In *Vermont Business* magazine (Sep. 2001), the commentary took an alarmist tack. Lowe's and its allies claimed Vermont would face a "de facto moratorium" on growth if the state government enforced a law that had been on the books and not enforced since 1972. (*Rutland Times Herald*, Jul. 25 & 26, 2001)

After battle, Lowe's finally agrees not to pollute

In the end, after all the rancor, the company did what it was asked to do to begin with, namely clean up its stormwater. They announced a deal with state agencies, legislators, and Governor Dean. It was decided that projects like Lowe's could go forward with their projects so long as they cleaned up their own or some existing contamination, such that there was no net increase in pollutant loads. While this was ballyhooed as being a great innovation, in fact it is the procedure called for by the Clean Water Act. (*AP* Apr. 2, 2002; May 3, 2002; Nov. 3, 2002)

Fined by EPA for Massachusetts Pollution

Lowe's paid a penalty of \$137,500 to settle claims with the US Environmental Protection Agency for stormwater violations in Massachusetts in 2001. Lowe's failed to obtain their

federal permits or control runoff for four construction sites. They didn't get federal permits or prepare Stormwater Pollution Prevention Plans for sites in Woburn, Danvers, Brockton, and East Springfield. The Woburn site was physically inspected in August 2001, revealing silt-laden runoff discharging into the Aberjona River. (*Dow Jones News*, Feb. 13, 2003)

Austin's Water Pollution Problems

A series of articles in the Austin American-Statesman raised concerns about arsenic in the aquifer, as well as other contaminants in Barton Springs pool—most notably, polyaromatic hydrocarbons, or PAHs. This press attention sparked a 90-day closure of the Springs pool and a further intensive investigation by City staff of hydrocarbon pollution in creeks around the City. Although the *Statesman* series was widely denounced as sensational in its claims of danger to swimmers' health, the stories did document high concentrations of PAHs in sediments near the pool, along with some relatively high arsenic readings in the springs pool itself. Lowe's has some connection to both the PAH problems, and the arsenic situation.

Lowe's parking lot one of the culprits

The City's findings on PAHs tended to implicate certain products used to resurface asphalt parking lots that contain recycled coal tars. (*Austin American-Statesman*, Feb. 4, 2003) Tests of six parking lots in various locations around Austin found elevated levels of one PAH—benzo(a)pyrene—in sediments. One of them was the Lowe's superstore, 5510 South I-35, near the intersection of Stassney and Interstate 35. The Lowe's sample showed 68,000 parts per billion. The amounts deemed safe by the Texas Council on Environmental Quality are 500 ppb for residential settings and 2,400 ppb for commercial/industrial locations.

Coal tar sealant products are also sold by Lowe's

Lowe's also sells at least two of the asphalt sealer products identified by the City's researchers as containing coal tar. [brand names: Gardner Race-Way and Gardner Driveway Patch]

Arsenic and Old Wood

Lowe's sells Arsenic-treated wood

Arsenic is a classic poison in history, fabled for its use in royal assassination plots and in fictional murder mysteries. While justly feared and shunned, arsenic found some use as a pest killer. **CCA (chromium copper arsenate) "pressure-treated" wood** is treated with pesticides to enhance long life outdoors. The product is ubiquitous, used in everything from picnic tables to childrens' playscapes and telephone poles. Copper, chromium and arsenic are all poisonous to human beings in sufficient quantities, and

children are especially sensitive. One 12-foot long 2 x 6 contains one ounce of arsenic, enough to kill 250 adults (“The Arsenic Index,” Healthy Building Network) These pesticides also leach into groundwater aquifers.

Hazards of Lowe’s Poisoned Wood Products

This pesticide-saturated lumber product poses serious problems for both human health and aquatic life. “There’s no doubt that handling pressure treated wood, sawing it or burning it can make you or your family sick.” (*LA Times*, Apr. 15, 2001) According to the National Academy of Sciences, arsenic exposure produces lung, bladder and skin cancer, and is suspected of causing kidney, prostate and nasal cancer as well. (*Stormwater Newsletter*, National Stormwater Center, Mar. 2002) Arsenic also causes birth defects, nerve damage, muscle tremors, gastritis, diabetes, possible sterility and other reproductive problems as well as acute poisoning. Manufacture of this wood product, used outdoors for a wide variety of purposes—including picnic tables, child playscapes and utility poles—involves forcing pesticides into the pores of the wood under pressure. A report by two public interest groups claims that arsenic treated wood is used to build 90 percent of all outdoor wooden structures in the U.S. (“Poisonwood Rivals,” Environmental Working Group & Healthy Building Network) While the product is scheduled for phase-out for residential uses, the current and past record of Lowe’s handling of arsenic-laden lumber raises questions about their commitment to the environment. [brand name: Top Choice]

Lowe’s, Industry Ignored the Threats for Decades

The known threats from pressure-treated wood were evident for decades. The EPA banned all arsenic pesticides except those in treated wood many years ago. “For at least two decades, the industry has been fending off critics who say the three elements that compose CCA—copper, chromium, and arsenic—can leach out of the wood and cause serious health problems. Indeed worrisome case studies demonstrating illness from CCA exposure has shown up in medical journals since the early 1980s.” (*Barron’s*, Jun. 17, 2002)

Beginning in 1982, the EPA reviewed treated wood but decided against a ban. It sought to place a mandatory warning on pressure-treated wood (*St. Petersburg Times*, Mar. 11 and Apr. 16, 2001). The industry resisted and instead got the government to agree to a voluntary labeling scheme. The industry’s settlement letter with EPA pledged that consumer sheets would be handed out and warning signs “prominently displayed.” (*S P Times*, Mar. 11, 2001) By 1994, both industry and regulators conceded that the voluntary program was a complete failure, with retailers not supplying warnings.

Producers and retailers came under pressure in 2001 from environmental groups to finally remove these products from the shelves. A class action suit was filed in US District Court against Lowe’s and other producers and retailers on behalf of a Miami homeowner who built a deck with arsenic-treated wood (*Miami Herald*, Mar. 16, 2001). At this time, many of the same groups were also heavily involved with an effort to pressure the EPA to remove arsenic from drinking water.

Arsenic limit found unsafe

In 1999, the National Academy of Sciences found that the EPA's allowed arsenic standard of 50 mg/l for drinking water "could easily result" in a 1 in 100 risk for cancer. Many compounds and industrial practices with far smaller carcinogenic risks have been tightly regulated or banned for many years. Due to arsenic's high risk, and political pressure placed on the Bush administration, this standard was reduced to 10 mg/l on October 31, 2001. It should be noted that even this amount cannot be construed as "safe", it merely brings the US into line with international standards. The Texas Clean Water Action website says the NAS report "demonstrates that even at 3 ppb arsenic can have an adverse effect on human health..." Groups assert that Lowe's treated wood has potential to leach enough arsenic into water and soil to greatly exceed these standards, which are already demonstrated to be inadequate to protect human health.

Lowe's Arsenic-Treated Wood can leach into Soil, Water

Arsenic leaches out of the boards and accumulates in the environment of both soil and water (see "Contamination of soil with copper, chromium and arsenic under decks built from pressure treated wood," D. Stillwell and K. Gorny, *Bulletin of Environmental Contamination and Toxicology*, 1997; and "The effects of using wood treated with CCA in shallow-water environments," J. & P. Weis, *Estuaries*, 1996). As the consumer safety information sheet provided by the retailers admits, "some chemical may migrate from treated wood into surroundings over time and may also be dislodged from the wood surface upon contact with skin." (*Stormwater Newsletter*, Mar. 2002)

Florida researchers "tested soil under eight pressure-treated decks around the state in 1999 and found arsenic in every case. Of 73 samples, 61 had higher arsenic levels than the state's safety limit for cleanup at industrial sites. One sample, taken under a deck tacked onto the back of a trailer in Miami, had nearly 300 times more arsenic than the state's safe limit." (*SP Times*, Mar. 11, 2001)

Arsenic and metals also accumulate in the food chain, affecting benthic organisms which are the prey base for the endangered Barton Springs salamanders (see Weis and Weis, above; and also "Effects of CCA pressure-treated wood in the aquatic environment," *Ambio*, 1995)

Arsenic can move quickly into the aquifer

Arsenic is very persistent and normally binds very tightly to soil particles. Over time erosion will slowly move arsenic into streams. "However, under some circumstances, arsenic can dissolve, and become much more mobile in the environment." (see "Worldwide occurrences of Arsenic in Ground Water, D. Nordstrom, *Science*, Jun. 21, 2002)

Severe hazard to children from Lowe's playsets

One of the most sensational, but well-founded, concerns about the health effects of arsenic was the cancer risk to children from wooden "playscapes" marketed by Lowe's. These are still sold in the Lowe's stores today. The Healthy Building Network and Environmental Working Group sent volunteers in 14 cities out to buy the playsets from

Lowe's and Home Depot. With a wet swipe simulating the size of a hand print, the groups then had the cloth analyzed for its content. What they found were astronomically high arsenic readings, well in excess of legal allowed exposures to the chemical.

The groups then called upon both manufacturers and retailers, including Lowe's, to stop marketing the treated wood. (*St. Petersburg Times*, Nov. 8, 2001) Finally, in February 2002, Home Depot and Lowe's announced they would phase out use of the wood for residential uses and playgrounds, but the ban "will not affect commercial applications." (*Washington Post* Feb. 13, 2002) Lowe's has ignored calls to halt sales for residential uses before January 2004. Even this residential restriction is a little squishy, because any stocks produced but not yet sold still can be marketed after this year. After all this time, the companies—including Lowe's—and the EPA, still sought to downplay the risks to consumers, even as they tacitly acknowledged the severity of the threats (*Stormwater Newsletter*, Mar. 2002).

Lawn and Garden Chemicals

Lowe's Garden Center Markets Poisons

Besides treated wood, Lowe's is a major pusher of non-agricultural lawn and garden broad-spectrum chemical poisons. There is no telling how many tons of potentially harmful (or useful) chemicals flow through a Lowe's outlet during a year. Even though it began as a building supply retailer, Lowe's is emerging as one of a handful of leading marketers of chemicals for household use. Some, like pesticides and herbicides, are pollutants of the water supply. Many pesticides, like DDT or dursban, were banned or curtailed because of their lethal effects on both wildlife and humans. Since Rachel Carson published *Silent Spring* in 1962, there has been more and more recognition of the problems posed by uncontrolled pesticide use.

Fertilizers also pollute

Ordinary fertilizers are not generally classified as pollutants. They don't often present lethal harms. Fertilizer is nevertheless a contaminant that can destroy a water supply and imperil aquatic life.

What comes in must go out

The problems associated with this chemical stockpile are basically two-fold: first, as a potential source of point-source pollution escaping from the Lowe's store itself; and second, in more diffuse pollution due to the use of the chemicals by the customers. A lot of the reported problems with fertilizer, pesticide, and herbicide applications are due to their misuse and overuse. However, their use *even as directed* is still problematic atop the Edwards Aquifer. The location of the proposed store on Brodie Lane suggests that much of the targeted consumer market will live on the aquifer recharge and contributing zones.

From “Silent Spring” to Barton Springs

Disturbingly, pesticides have begun turning up in the water at Barton Springs. Swimmers during the last three years have been forced to dodge large masses of dead brown algae that sometimes appear at the pool—the result of too many nutrients, including fertilizer, in the water. This situation can only get worse with careless development and an increase in use of the type of chemicals sold by Lowe’s.

Pesticide Abuse

Normally, the proportion of pesticides lost to runoff is low--rarely exceeding one-half of one percent of the total applied. However, even this little bit can cause major mayhem, at least in the case of highly soluble diazanon, discussed below. Leaching both through the soil and into the underground water table is possible. Among many of the compounds most likely to leach are chemicals sold in Lowe’s—2,4-D, malathion, MCPP, dicamba, and atrazine. Society is gradually getting smarter about pesticides and herbicides, moving away from longer-lived compounds to using chemicals which are less persistent in the environment. The older organochlorines and arsenic will adsorb to soil particles and basically only be lost as soil is eroded.

Lowe’s lawn poisons commonplace

The EPA permits over two hundred pesticides to be used for lawncare, but only about 35 are used in over 90 percent of lawn treatments. Nearly 80 million pounds of pesticide active ingredients are used every year. The US Fish and Wildlife service reports that “homeowners use up to 10 times more chemical pesticides per acre on their lawns than farmers use on crops.”

Pesticides harm human health

Compounds that are toxic to bugs are harmful to people as well. Byproducts of chlorpyrifos were found in 93 percent of the urine samples taken from children aged 3 to 13. In another study, 99 percent of 110 Seattle children aged two to five had detectable levels of organophosphate pesticides in their urine.

Killing Wildlife

It takes only one granule of diazanon to kill a bird. Recent testing of dead birds for West Nile virus in New York state established that the most common cause of death for the birds was pesticide poisoning. Pesticides are suspected as a cause for worldwide amphibian declines and deformities. Exposure to as little as one part per billion of atrazine, a widely used weed killer sold in Lowe’s, can feminize a frog. Wild frogs with missing or extra hind limbs have been found recently in 43 states. This condition was attributed by a National Academy of Sciences study to exposure to Malathion and atrazine. According to the US Geological Survey, 96% of all fish in major rivers and streams contained pesticides at detectable levels. Pollinating insects are disappearing at alarming rates due to pesticides.

Harms Aquifers

The top five selling lawn-care pesticides, 2,4-D, glyphosate, MCPP, dicamba, and diazanon are all listed by state of California as having the potential to contaminate groundwater based on physical and chemical characteristics.

Special Dangers for a Limestone Aquifer

The special case of a karst aquifer leaves not much margin for mistakes. As a text on chemical pollution states, "Pesticides may be rapidly transported thousands of metres through fissures, and once in the saturated aquifer, persist. In the soil there is considerable breakdown of pesticides, and this continues in the unsaturated zone beneath, but it is much slower once the aquifers are reached." [*Unwelcome Harvest*, G. Conway, and J. Pretty, 1991] So the thin soils and fractured limestone of the Edwards Aquifer make for a high risk of contamination.

Dursban Announcement met with no Response

Valuing sales over safety, Lowe's continued to market the pesticide Dursban for 19 months following EPA's announcement in June 2000 that the manufacture of the product would be banned by Dec. 2001. Environmental Working Group and other nonprofit safety organizations called on Lowe's to voluntarily stop sales prior to the deadline, but they refused. [*St. Petersburg Times*, Jun. 9, 2000; US News and World Report, date not found; *Austin American-Statesman*, Jun. 9, 2000]

Red Alert for Diazanon

This chemical is deemed "highly toxic to aquatic life at exceptionally low levels." [*Center for Watershed Protection*, 2001] Unfortunately, diazanon is in heavy use to get rid of fire ants in Texas and the south. Spray treatments are often directed to sidewalk cracks, driveway edges and foundations, near or on impervious surfaces that readily channel runoff away into streams during a storm. Being soluble, it is highly mobile in the environment.

Diazanon kills water fleas, an organism near the base of the aquatic food chain, at levels as low as 300 parts per trillion (ppt). So endangered salamanders, fish, and other higher animals could see diminished survival prospects. The mean runoff concentration in eleven residential watersheds in the Dallas-Ft. Worth area was found to be almost 1,800 ppt. Potentially toxic levels were found in 27 percent of storm samples collected in the San Francisco Bay area. Researchers concluded that this mass loading could be produced by as little as .3 percent of the diazanon applied in the Bay Area getting into the water supply.

Lowe's delays on removing Diazanon too

The *Seattle Times* reported (Feb. 7, 2002) that diazanon, another chemical scheduled for phase-out, was being sold at bargain basement prices at several retail outlets. Experts feared that this might encourage over- or misapplication. Lowe's pledged that they would end sales in 2002.

Lowe's fined for dumping pesticides in Ft. Wayne, Indiana

EPA Region 5 proposed to levy a fine of \$20,625 against Lowe's for an incident where employees dumped 12 bottles of Ortho Diazinon concentrate. The workers allegedly dumped the pesticide into an area behind a Lowe's store, next to a wetland. Each bottle of concentrate could make 1,200 gallons of pesticide spray, so this should be classed as a significant spill. Yet, allegedly "the release did not affect wildlife in the wetland." (*Ft. Wayne News-Sentinel*, Oct. 27, 1998)

Lowe's continues to sell other pesticides identified as hazards

The remaining herbicides and insecticides pose problems even though they are supposedly less toxic or long-lived than DDT, diazinon, or dieldrin. The trend to remove the obvious offenders still leaves many others which are quite popular indeed, and for that reason, they will be hard to remove without major public outcry. The most popular on Lowe's shelves include Roundup, and various "weed and feed" products containing 2,4-D, and atrazine. 2,4-D is among herbicides associated with a higher incidence of non-Hodgkin's lymphoma occurring among Kansas wheat farmers. Atrazine is among probable human carcinogens still sold over the counter at Lowe's.

Headed for a last Round-Up?

The government of Denmark recently discovered glyphosate, the active ingredient in Roundup, in shallow groundwater at levels more than five times the allowed amount. The hope was that bacteria in the soils would break it down before it could reach the water table. The entire government/industry strategy to switch to the shorter-lived pesticide chemicals may ultimately run up on the rocks of their solubility and mobility in the environment. There doesn't seem to be any alternative to eventually reducing pesticide use—which runs against the interest of Lowe's and the other chemical peddlers.

Lowe's Ant Poison Deadly to Endangered Florida Scrub Jays

The *Sarasota Herald-Tribune* reports (Aug. 23, 2002) that Lowe's and other retailers are selling Over'N Out Fire Ant Killer, "toxic to birds, fish, and aquatic invertebrates. In Florida do not use this product within a one-mile radius of scrub oak habitat, which is home to the Florida scrub jay, the sand skink, and the bluetail mole skink." (words on the warning label) Sarasota County is home to the largest remaining population of Florida scrubjays, an endangered species. Parks and wildlife managers expressed concern people wouldn't read the labels. The active ingredient, fipromil, is similar to DDT and chlordane, chemicals long banned in the US because of their carcinogenicity and threat to wildlife.

Lowe's Spreads Fire Ants

Ironically, Lowe's themselves spread a pest threat by shipping plants across state lines that were infested with imported red fire ants. The ants were found in shipments to Lowe's stores in nine cities in Maryland, southwest Virginia, and West Virginia (*Roanoke Times*, Aug. 17; Aug. 20; and Aug. 21, 2002). Fire ants are hazard to humans and wildlife due to their ferocious stings. Being an imported species, they have no effective natural predators that can check their spread. Initially, Lowe's reported that only one store had sold plants from the infested shipment, but eventually they acknowledged that all nine stores may have sold them.

The implications go far beyond these incidents. This is an ongoing menace given Lowe's nationwide operations and aggressive expansion of its garden centers. The best way to check the spread of exotic nuisance pests and plants is to minimize the sales and shipments of plant materials from outside of the local area.

Promoting Fertilizer Contamination

The Problem with Fertilizer

Overuse of fertilizers is common. In the United States, each acre of lawn absorbs an average 5 to 7 pounds of fertilizer a year. In 1984, the EPA estimated that nearly 1 million tons were applied to lawns annually—more than the nation of India applied to food crops. Lowe's has an incentive to promote even more use of fertilizer products.

Nutrients that make yards grow also grow algae in creeks and lakes. If applied correctly, fertilizer will be used by the grasses and not run off the yards. Applied just before a rain, the nutrients wash off to become part of the runoff problem.

Fertilizer nitrates get into aquifers

Also of concern is leaching below the root zone into the water table. In the United Kingdom, the shortest measured travel time for nitrates to reach groundwater was for limestone aquifers. These are the aquifers most like the Barton Springs segment of the Edwards Aquifer. "In the UK, the most severely contaminated aquifers are those in the Jurassic limestone area of Lincolnshire which is characterized by extensive rock fissuring." [Conway and Pretty, 1991]

Extreme concentrations in drinking water can be deadly

Much of rural America's well water is polluted with nitrates, which gets into groundwater from synthetic fertilizer. Nitrates can cause birth defects and are toxic to babies. They can also cause adult cancers. (*Diet for a Poisoned Planet*, D. Steinman, 1990) A 1984 USGS survey covering 25 years of records for 124,000 wells showed 7,900 wells exceeding drinking water standards for nitrates, with half of these wells located in Texas. The American Water Works Association surveyed 1,500 wells nationwide between 1981 and 1984, and found 23 percent of them exceeding the standard.

According to the National Cancer Institute, the cancer incidence among children below 15 years of age increased 32 percent between 1950 and 1985 in the US, with urinary bladder cancer increasing 51 percent and kidney/renal cancer incidence increasing 23 percent. These are the body organs which some studies suggest are affected by excess nitrogen in drinking water.

Lakes and rivers get degraded by algae

Nitrogen poses somewhat different problems for surface water. Nutrient enrichment can cause excess algae, a condition called eutrophication. As algae first blooms, then dies off, oxygen gets removed from the water. This kills off the life in a pond or lake (or in

Barton Springs pool and Town Lake), causing the familiar 'stagnant pond' condition. The dead and rotting algae gives off a stench. Because of taste and odor problems, this deoxygenated water is then also degraded for drinking purposes. Note that this occurs even though the water body technically meets the drinking water standard established for nitrogen concentrations. A nitrogen concentration that is safe for well water is potentially still not adequate as a standard for surface water if it triggers eutrophication.

Over time, a highland water body becomes cloudier, more like a muddy lowland lake. The progressive loss of the famous clarity of Lake Tahoe is mostly due to fertilizer runoff. Clearly, too much fertilizer application in the Barton Springs watersheds poses a problem for future beneficial use.

Lowe's sells toxic "fertilizer" laced with steel mill waste

Ironite Products of Scottsdale, AZ 'recycles' toxic steel mill waste by mixing it in with their fertilizer product. A 1997 Seattle Times article and a 2000 court settlement with Sierra Club and the Washington Toxics Coalition caused the EPA to close a loophole which formerly allowed completely untreated steel mill waste to go into the fertilizer. Now, there is at least some restriction on concentrations. In June 2002, environmental groups called on Lowe's to pull Ironite from their shelves, but nothing happened.

Ironite contains lead and arsenic. EPA denied it was dangerous, but said it "continues to believe that concerns regarding exposure to arsenic in Ironite products are worthy of serious consideration, particularly since it is a widely marketed consumer product intended for use by home gardeners and others. As such the potential for misuse and/or accidental exposure (especially to children) cannot be discounted." The newly adopted limits on steel-mill wastes in fertilizer are supposed to protect human health and the water supply. However, within an area of thin soils over a sensitive limestone aquifer, use of Ironite is surely not appropriate. Using Ironite upstream of the aquifer can only add to the emerging water quality problems at Barton Springs.

Wasting the Land

Destruction of Wetlands

The value of native wetlands for breeding wildlife, controlling flooding, and maintaining water quality is well known. For some time, the national government has articulated a policy goal of 'no net loss' of wetlands. In practice, this means continuing shrinkage as developers like Lowe's fill them in, or alter flow around and through them. Artificial "constructed wetlands" for stormwater treatment lack the biological diversity of real wetlands and are often overloaded by polluted runoff.

With half of original American wetlands lost, you would think that a profitable national chain like Lowe's could follow some kind of consistent policy to avoid them. Instead, their decisions seem to only be ruled by market expediency and cost.

Plainfield, Connecticut

Lowe's sought and received regulatory approval to fill four wetland acres to build a large regional distribution warehouse on 200 acres. Their plans disturbed a further 4.1 acres of wetlands elsewhere on the site, and negatively impacted 127 acres of farmland in all. (*The Day* [New London, CT]: Sep. 14, 2002; and Jan. 14, 2003)

Pinellas County, Florida

Developers sought a rezoning to place a Lowe's next to a proposed Wal-Mart on US 19. Neighbors complained that filling in wetlands on the Lowe's land would increase flooding on their property and raised other concerns about traffic safety and incompatibility with nearby residential areas. (*St. Petersburg Times*, Jan. 29, 2003)

Tallahassee, Florida

Lowe's first filled in 6.7 acres of the wetlands. Beavers were blocking the flow draining out of remaining wetland areas on the site. The *Tallahassee Democrat* (Aug. 21, 2001) reported that contractors deployed loud rock music to run the beavers off. "The [beaver] dams keep water from flowing out of a wetland, which is being used to treat and control additional runoff created by the development." While the humane removal of the beavers made a cute story, what was missed was the impact on the remaining wetlands, which spelled their doom.

Apparently, Lowe's sought to replace the constant level of water characteristic of a natural wetland with a fluctuating water level so as to expediently dispose of the stormwater. Fluctuations in water level will quickly kill off most wetland plants. ("Impact of Stormwater on Puget Sound Wetlands," in *The Practice of Watershed Protection*, T. Schueler and H. Holland, 2000) Therefore, Lowe's turned a natural wetland area into a degraded dumping ground for polluted stormwater.

Greenbelt, Maryland

Citizens to Conserve and Restore Indian Creek opposed plans to build a combined Lowe's/ Wal-Mart/ storage unit complex in a D.C. suburb that would harm "wetland areas and the Anacostia River watershed." (*Washington Business Journal*, date?)

Unity Township, Pennsylvania

Wal-Mart and Lowe's sought to build a combined center on 38.9 acres. The Pittsburgh Tribune-Review (Aug. 22, 2002) reported that township citizens were concerned by their plans to fill in 1.75 acres of wetlands and relocate a stream. Unity resident Dr. Mary Stubbs urged the state environmental agency to consider the effects of "jeopardizing water quality in the area for another Wal-Mart or Lowe's...This development has no plan to relocate the existing wetlands, but it just wants to fill them in."

Drew Banas of Loyalhanna Watershed Association asked the regulators to study the water quality impacts on a nearby creek. He noted that a section of the creek was the backup water supply for Latrobe, PA. He said his association was cleaning up seven major mine drainage runoffs from other tributaries of Loyalhanna Creek and had received \$300,000 in state aid to do it. "Why are we adding pollution in the watershed we're trying to clean up?," Banas asked.

Cherrydale, South Carolina

Residents appealed a permit application by Lowe's to fill in 1.67 acres of wetlands at the base of Paris Mountain. An eventual settlement allowed the loss of wetlands, but also set aside 20 acres out of 45 acres, to try to protect a stream and a remaining wetland area on the property known as Dreamland Lake. (*Greenville News*, Mar. 18, 2003)

Fouling the Air

Area pollution sources impair air

After many years of trying to avoid federal designation as a ground-level ozone 'nonattainment' area, Austin's air is now officially classed as unhealthy. The designation can trigger the loss of federal highway funds. Corrective measures now in the works include extra vehicle inspections which could cost as much as \$200 per vehicle per year. A surprisingly large portion of the ozone precursors—about 25 percent—are generated by exhaust from "off-road mobile sources." ("State Implementation Plan," Texas Natural Resources Conservation Commission, cited in *Texas Environmental Almanac*, TXCPS, 1995) These include boat motors, aircraft, construction equipment, and ***lawn and garden equipment***.

Lowe's two-stroke engines are important source of the problem

Small, handheld power equipment like leaf blowers, edgers, and chainsaws are a "previously unregulated \$1.5 billion a year industry." ("Dirty little engines get cleaner," *Fortune*, May 13, 2002) This is not inclusive of the many gasoline-powered lawn mowers, the same dirty two-stroke technology. Up to "70 percent of sales take place at big-box retailers like Home Depot, Wal-Mart, and **Lowe's**." The *Fortune* article explains that new, lower emitting models are coming on the market. They are quieter and cut fuel consumption by as much as 30 percent, emissions by 15 percent. If in heavy use, they can pay for themselves in as little as a year. Four-stroke engines or electric engines are even cleaner, but higher sticker prices are a deterrent to people buying them. However, if clamping down on the small dirty engines sold by Lowe's can avoid or delay the expensive vehicle inspection program, it might well be worth the expense.

III. SAFETY ISSUES

Safety's Not In Store for Lowe's

Safety is an ever-present, nearly obsessive theme in Lowe's community relations and certain of its commercial promotions. The company launched the nonprofit Lowe's Home Safety Council in 1993 allegedly to promote more safety awareness in the home.

Of course, the Council's activity is not altogether altruistic. "Retailers are leaping to exploit safety's link to community relations—and to vendors. Lowe's Home Safety Council sponsorship is probably the largest of these programs." ("Building materials retailers boost profits by selling personal security and safety products," A. Lasek, *Building Supply Home Centers*, June 1, 1995) Mentally connecting personal security in the home; sentimentality about the home; and Lowe's home products is a shrewd public relations move. Lowe's name gets publicized in a less blatantly commercial way, making them seem concerned about the community while incidentally boosting product sales.

"Since the establishment of the council and its involvement with communities, Lowe's has experienced significant increases of home safety product sales," said David Oliver, then-Executive Director of the Council. Underscoring the commercial motive, Lowe's Executive Vice President for Merchandising, Dale Pond, was elected to chair the Council in 2000. ("Safety by Numbers," *Discount Merchandiser*, May 2000) Less cynically, it should be noted that the company distributed almost a quarter million free smoke detectors nationwide.

The council also enlists several Lowe's suppliers, including 300 vendors from the home products industry, while including none of its retail competitors. (*Discount Merchandiser*, May 2000) This organization could also serve a politically useful purpose of subtly undermining new safety regulations and product liability laws, by promoting cheaper safety instruction as a substitute for regulation. While seemingly innocuous enough, these activities—which indirectly promote Lowe's business and political agenda—are tax-exempt as serving "educational" purposes.

Many of their most visible community events have centered on fire prevention. Ironically enough, when it comes to safety, it is Lowe's which must get its own house in order.

Big Box, Big Fire Hazard

An article in the National Fire Prevention Association's journal outlines the extraordinary fire hazard lurking in a typical Lowe's ("Hot fires in big boxes," A. Wolf, *NFPA Journal*, Jan/Feb 1998). "In addition to products that present ordinary fire hazards, these stores often carry products that present severe fire hazards such as those made of Group A plastics. Patio furniture, toys, kiddie pools, wastebaskets, and other housewares fall into this category. Such stores may also carry paints, cleaners, aerosol products, flammable and combustible liquids, pool chemicals, and pesticides."

Pool chemicals cause extreme hazards

Oxidizers, which are not in themselves flammable, can greatly increase how fast and how hot fires become. Explosions can result when chlorine from pool chemicals reacts with nitrogen from algacides, fertilizers, or the dry chemicals in fire extinguishers. "Dry chlorine can spontaneously combust when exposed to products as innocuous as Coca-cola, said Keith Rosenblum, a safety consultant with Rosenblum and Associates,

Marietta, Ga." ("Major home center fires attributed to pool chemical contamination," *Do-it-Yourself Retailing*, Sep. 1, 1996) Pool chemicals played a major role in two home improvement center fires (one at a Lowe's in Albany, Georgia, the other at a Home Depot in Quincy, Massachusetts).

Profits before safety

Retailers, including Lowe's, resist the expense of in-rack sprinklers that can handle the fire threat from large quantities of pool oxidizers. "Installation of expensive sprinkler systems for items carried only a few months a year could restrict the flexibility warehouse owners want. And piping in racks poses other risks, such as the chance a sprinkler could be knocked off by forklift putting product on the shelf." (*NFPA Journal*, Jan/Feb 1998) Bruce Jacobsen, a NFPA Hazardous Chemical Technical Committee member from Olin Corporation (a Lowe's supplier for pool chemicals) said shelf life would be reduced were the products stored outdoors.

Packing it in and stacking it up

A traditional hardware store houses large quantities in a warehouse, and only brings stock out as needed. In contrast, the aisles of the home improvement big boxes are often clogged with merchandise, potentially impeding evacuation or firefighters entering the building. Also, racks stacked high with boxes don't allow the water from overhead sprinklers to reach the lower shelves. Quincy, MA Fire Chief Thomas Gorman said, "They use every inch of their space for selling. They're stocking constantly all day." (*NFPA Journal*, Jan/Feb 1998)

Burning down the box

All of these hazardous conditions are not novel in themselves. But combined, they are. A warehouse stuffed with flammable materials usually doesn't coexist with a crowded retail environment. Pool chemicals aren't usually stored in the same area as fertilizers, motor oil from lawnmowers, pesticides, and paint. Yet conditions such as these are common in Lowe's.

Baker Blaze tests firefighters

In August 1989, Lowe's store in Baker, Louisiana nearly completely burned down. One firefighter was hospitalized and dozens of nearby residents evacuated. At that time, Lowe's average store size was smaller, there were fewer products, and fortunately, few people were in the store at the time the blaze began. Nevertheless, it took eighteen fire, law enforcement, and environmental agencies to deal with this fire. Had the departments involved not already been experienced at dealing with petrochemical refinery fires, consequences might well have been worse. "The stuff coming out of there now you wouldn't want to put in your lungs," state police Trooper Jerome Viator said. "Bennie Hughes, hazardous materials officer for the Barton Rouge Fire Department said fertilizers, paint, paint thinner, solvents, swimming pool chlorine compounds, air conditioning coolant and household pesticides were consumed in the fire. Authorities were also concerned that piles of pressure-treated lumber stored outside the building would catch fire and emit toxic fumes, Hughes said, and firefighters sprayed a continuous stream of water on the lumber as the fire advanced toward it." Environmental technicians

had to sample the water constantly as it ran off to see that it was not contaminated. ("Lowe's warehouse destroyed in fire," *Baton Rouge Morning Advocate*, Aug. 25, 1989) Department of Environmental Quality officials said the store remains would have to be disposed of as hazardous waste ("Fire marshal's aid requested on Lowe's blaze," *Baton Rouge State Times*, Aug. 25, 1989) Baker Fire Chief J. E. "Goose" Carroll said the store's sprinkler system did not work. "We've been after them to fix it," he said. ("Fire marshal investigating Baker blaze," *Baton Rouge Morning Advocate*, Aug. 26, 1989)

Albany inferno rings nationwide alarms

On April 16, 1996 a 100,000-square foot store Lowe's in Albany, Georgia went up in flames and was nearly completely destroyed. ("Fire nearly destroys Lowe's store in Georgia," K. Wessel, *Winston-Salem Journal*, Apr. 18, 1996) "Though the fire was traced to the area where oxidizing pool and spa chemicals were stored, the cause of the blaze was never determined. Once ignited, however, the fire spread through the rack of pool chemicals, producing large amounts of irritating smoke. The building's estimated 100 employees and 85 patrons safely evacuated the store before firefighters arrived minutes later. First-responding firefighters reported that the building's structural integrity was already failing when they pulled up." (*NFPA Journal*, Jan/Feb 1998) The NFPA investigator's report said plastic and cedar furniture was stored beside pool chemicals on the same aisle where the fire began. According to manufacturers' instructions, these chemicals should not have been stored near the other products without barrier separations. The racks were also higher and deeper than those required for oxidizers and they lacked the NFPA-recommended in-rack sprinklers. Also, those sprinklers that were present weren't capable of discharging enough water to douse an oxidizer-fed fire.

Lowe's lawsuit fails to lose liability

In the wake of the Albany fire, Lowe's sued their supplier of pool chemicals, Olin Corporation. Lowe's claimed Olin failed to adequately warn them of fire dangers with their Pace Superchlorinator product. At the time of the fire, more than 10,000 pounds of the Pace product were on sale display in the Albany Lowe's. Olin replied that they met all the federal requirements for labeling, and had also provided Lowe's with a non-required guidebook. Both the trial and appellate courts sided with Olin against Lowe's in stating that the federal law, FIFRA, pre-empted any additional warning requirements under Georgia common law. See *Lowe's Home Centers, Inc v. Olin Corporation, No. 02-10518, Dec. 6, 2002 (11th Cir)*

Home Depot arson raises fire safety question again

Following the Lowe's Albany fire in 1996, another incident outlined the growing urgency of the big box fire hazard. A Home Depot in Tempe, Arizona burned down as the result of deliberate arson, with someone setting a plastic seat cushion on fire with a butane lighter sold by the store. Smoke removal was very difficult due to the size of the store. A decontamination unit had to be set up due to the hazardous materials inside (see News for Oct. 10, 1998 at "sprawlbusters.com").

Bombs explode at Lowe's

On Sep. 22, 1999 the scenario of a deliberately set fire recurred in an even more frightening way, at Lowe's. Two pipe bombs exploded within minutes of each other at stores in Asheboro and Salisbury, North Carolina. The Asheboro bomb put a woman in the hospital with second- and third-degree burns. Within a week, a third unexploded bomb was found in Concord, NC and a small fire broke out in Lexington, NC. (Editorial, *Piedmont, NC News and Record*, Oct. 5, 1999) Both explosions occurred in the paint department. Fortunately most of the spilled paint was water-based, rather than more toxic and flammable oil-based paints. "More than 30 minutes after the explosion, visibility within the store was still seriously hampered because of smoke and fumes." (*Greensboro News and Record*, Sep. 23, 1999) The bomber was caught and sentenced to a long prison term. ("Accused Lowe's bomber faces 132 years," *Atlanta Journal-Constitution*, Nov. 30, 1999) This time, the sprinkler systems seemed to have worked to contain the fires in the paint department, but vulnerabilities in other parts of the store may exist. Since then three more arson incidents occurred in the St. Louis area in April 2000, affecting a Lowe's in Kirkwood, MO and two Home Depot outlets nearby.

Danger in the Aisles

"Look down any aisle and you're likely to find a product that, if used incorrectly, can give a customer a serious headache, rearrange his face, set fire to his home, or even cut short his life." ("The labyrinth of hazardous materials regulation," B. Thompson, *Building Supply Home Centers*, Mar. 1, 1989) The Home Center Institute estimates that the average building supply home center has at least 3,000 product units of hazardous materials on the shelf. The federal Occupational Safety and Health Administration (OSHA) imposed a Hazard Communication standard on the industry in August 1989. Many retailers sought the shield of a 'consumer use' exemption that exempts employees from training if the product exposure is similar to what a customer would receive.

Lowe's survey finds employees' hazardous exposure

To prepare for implementing the OSHA rule, Lowe's hired a consultant to study employees' exposures to hazardous chemicals. Steve Hunt, of Fred S. James Company of the Carolinas, found that Lowe's employees often used herbicides. "That's a hazardous chemical and they need to wear a respirator and gloves to use it," Hunt said. The same study also found Lowe's employees used toxic glues to build cabinets.

Customer injury suits proliferate

On May 22, 2001, Gary Michael Morgan and Jennette Lee Yates were shopping for lumber at a Lowe's in Raleigh, NC when several 75-pound sheets of plywood fell off a forklift on top of them. Morgan's leg and Yates' pelvis were broken. Two lawsuits were filed in Wake County Superior Court claiming Lowe's was negligent. Plaintiffs say that Lowe's should not have allowed forklifts to move the plywood during business hours, or should have barricaded the aisles or notified the customers when the forklift was in use. In another incident, a roll of linoleum struck a woman in the chest at another North Carolina Lowe's.

Fatal accidents at the other boxes

"As more big box stores combine warehouse-like storage and retail areas, consumer advocates say more customers are being hurt by merchandise falling from sky-high shelves and items tumbling off forklifts. Since the mid-1990s, three adults and two children have been killed by falling items from dressers to drill bits at Wal-Mart, Home Depot, Sam's Club and other stores." ("Big Box stores face an eruption of lawsuits," A. Weigl, *Raleigh News and Observer*, Oct. 13, 2001)

New Rash of Suits Hits

Since 2003 began, 30 store injury suits have been filed against Lowe's, with 33 filed in all of 2002. "Chris Ahearn, a spokesperson for Lowe's, said the company's internal records indicate that fewer lawsuits have been filed against the company than the federal [court] database shows. She declined to disclose the company's internal information on lawsuits. 'We've actually been seeing a downward trend,' Ahearn said." ("Personal injury suits hit Home Depot," J. Lovel, *Atlanta Business Chronicle*, Jul. 21, 2003)

Lowe's Criticized for Promoting Inhalant Drug Abuse

The JFK Center for Civil Rights filed suit to enjoin national chains to halt the sale of products that could be used for 'huffing.' Teens and younger kids as well as some adults will inhale chemical substances like glue, pain thinner, or solvents to get high. Permanent brain damage and sudden death are among the common results. National Inhalant Prevention Center gets reports of 100 to 125 deaths a year from huffing. The JFK Center sent out several minors to retail stores in the LA area. None had their I.D.s checked. The suit, filed Apr. 11 in Superior Court in San Bernardino, says retailers are violating a 1979 state law that bans sale of toluene to minors. ("Huffing lawsuit," ABCnews.com, Apr. 23, 2003) After initially requiring ID checks, Lowe's suddenly reversed course and dropped the requirements. Lowe's claimed customers complained about the ID checking. The about-face might have been more about lost sales, or the lost time to cashiers and delay at peak times in the checkout lanes. ("Lowe's reverses policy," AP, May 15, 2003)

IV. EMPLOYEE RELATIONS

Lowe's—Pioneer in Fake Health Plans

Along with such friends of the wage worker as McDonald's and Wal-Mart, Lowe's offers "limited benefit" health plans to its hourly employees. The plans are ridiculed in the insurance industry as "not really insurance." Lowe's offers its part-timers a choice of two plans with a maximum annual benefit of \$2,500 or \$5,000. The cost of an average hospital stay exceeds \$13,000. "The plans spotlight the growing disparity at many companies between the treatment of higher-ranking employees—who generally get comprehensive health-insurance policies—and hourly workers, who tend to be the lowest paid and least able to cope with medical costs." ("Health plan has \$1,000-a year cap," C. Terhune, *Wall Street Journal*, May 18, 2003)

Lowe's and Discrimination: Just Whistlin' Dixie

Race Discrimination sparks Kentucky flap

In February 1996, Lowe's submitted the low bid for a contract valued at more than \$250,000 to supply lumber to state agencies. The contract was cancelled after Lowe's declined to provide racial and gender employment data for its Kentucky stores. State agencies were then barred from doing business with Lowe's for 12 months. Lowe's next notified Rev. Louis Coleman that it would work with the Lexington Urban League to increase minority employment and training at its 20 Kentucky stores. (*Kentucky Post*: "Lowe's loses state contracts," Feb. 29, 1996; and "Stores to help minorities," Mar. 30, 1996. "Lowe's shows plan to increase minority employment at Kentucky stores," *Lexington Herald-Leader*, Apr. 1, 1996)

Sued for Sexism in Kentucky

The agreement over civil rights in spring of 1996 apparently didn't signal a new dawn of sensitivity at Lowe's. By the fall of 1996 two lawsuits were filed, on October 11th and November 28th, alleging gender discrimination of a very harsh variety. Six plaintiffs, only one of which still worked there, claimed they were subjected to sexual harassment, and discrimination in promotions and pay relative to males.

- Teresa Coffman said she received "unwelcome touching" and verbal insults.
- Laura Jenkins was asked to provide sexual favors to managers in order to keep her job and was subjected to "numerous comments about her anatomy."
- Vicki Johnson "was referred to by various slang terms synonymous with the word 'female' and was referred to as '69' by male co-workers and management." She attempted to stop the behavior as a manager, and the "offensive behavior increased."
- Debra Padgett was told to perform sexual favors to keep her job and threatened with rape.
- Janice Spears was called a whore, asked for sex by male managers, groped, and told she only had her job because of the size of her breasts.

- Thelma Stines “was asked to provide ‘sexual entertainment’ at company events, and received unwelcome touching and verbal abuse.”

("Lowe's Home Centers sued over alleged job bias, sex harassment," J. Jordan, *Lexington Herald-Leader*, Nov. 29, 1996)

The Old South Rises Again, up to New Jersey

On a maiden voyage into a new market, north New Jersey's first Lowe's store was hit with a discrimination suit. Four Hispanic men, two Hispanic women and an African-American man sued Lowe's and four supervisors. Luis Salas, an assistant store manager who is a plaintiff said, "Even before a dollar was sold in that store, over 200 people were either terminated or they quit, because of the working conditions there," noting that the store opening was delayed by 6 months. Salas ventured the opinion that as most of the managers were transferred from stores in the south, they were not used to the high pace and volume of business in New Jersey. Plaintiffs claimed they were denied the same bathroom breaks and non-emergency phone calls that white employees got. They were called "[expletive] Mexicans" and blacks were called "monkey faces." One employee whose wife was distraught over the terror attacks on New York was told "you're not American, so why do you care." Managers allegedly caused a diabetic employee to pass out by refusing to let him take his insulin, then fired him after he was released from the hospital. One woman claimed that she was target of sexually explicit comments from her supervisor. ("Lowe's minority workers in New Jersey sue, alleging bias, abuse, harassment," P. Sampson, *The Record*, Bergen, NJ, Feb. 10, 2002)

Kentucky complaints again

Robert Parker Wilson, an employee of Lowe's for seven years, claimed that he endured racial intimidation. He said this abuse began in November 1991 when he was hired and went on nearly daily. He claims he complained to the managers, some of whom joined the abuse, while others ignored his complaints. He filed a formal complaint first with the Kentucky Commission on Human Rights in March 1999, then filed suit against Lowe's in December 2001. ("Civil Rights suit back," *Kentucky Post*, Covington, KY, Dec 29, 2001)

Alleged Age Discrimination

Lowe's employee and former store manager Charles Spencer claimed he was terminated for age reasons and because he refused to fire another man for his age.
Spencer v. Lowe's, No:1:98cv11-B-D, U.S. Dist Ct (N. Dist of Mississippi)

Used out-of-state workers to build store in upstate NY

Union leaders were miffed when a general contractor, Gioffre Construction of Dublin, Ohio got approval from the state Workers' Compensation Board to build a Lowe's in Greece, New York without workers' comp coverage. This made it more economically feasible to use out-of-state workers. The waiver was later revoked, but the jobs were already filled. ("Bill would limit non-state workers," J. Spector, *Rochester Democrat and Chronicle*, Feb. 14, 2003)

V. COMMUNITY IMPACTS

Corporate Welfare for Lowe's

Tax subsidies

Lowe's sought controversial subsidy deals in Scottsdale, AZ; Carol Stream, IL; Glen Carbon, IL; New Orleans, LA; Festus, MO; Schuylkill County, PA; Marshall, TX; and Nacogdoches, TX.

Scottsdale, Arizona Anger

In Scottsdale, public anger over the Lowe's subsidy deal has sparked demonstrations, a referendum to overturn a city council decision in favor of the deal, lawsuits, and a recall effort against the councilmembers who favored the plan. An odd bedfellows coalition combines the Scottsdale Chamber of Commerce with the AFL-CIO in unity against the Lowe's development subsidy. ("Unions, chamber on same side of Los Arcos coin," *Business Journal of Phoenix*, Jun. 30, 2003) The subsidy is \$42 million sales tax money, but with inflation, could ultimately come to as much as \$238 million over 40 years ("Scottsdale mayor sours over Los Arcos," M. Summucks, *Business Journal of Phoenix*, Jun. 2, 2003; see also *Arizona Republic*, Jun. 12, Jun. 26, Jun. 28, Jul. 1, Jul. 2, Jul. 5, Jul. 9 and Jul. 18, 2003.)

Taking taxes in the Big Easy

In New Orleans, subsidy deals under an arrangement called TIF (Tax Increment Financing) have been especially controversial. Groups like the Urban Conservancy opposed recent deals where Wal-Mart and Lowe's got breaks to build in so-called blighted areas. These projects will bulldoze homes in historic neighborhoods, attracting more traffic and giving up the tax revenue in exchange for more low-wage jobs. The Urban Conservancy complains, "The City Council's \$3.6 million tax giveaway to the Lowe's planned for a less politically-connected neighborhood on Elysian Fields is an example of how the wheels of retail will roll on, unless checked, until all of New Orleans looks like an interstate off-ramp with only a charming little French Quarter preserved for the tourists...[New Orleans is telling developers] we'll pay you to ugly up our city through the miracle of TIF!" (Urban Conservancy website, "Stay local," Jul. 19, 2003)

In a 'TIF' over tax subsidies

The Bureau of Governmental Research, a think tank, examined Tax Increment Finance districts in New Orleans. The City Council approved the TIF for Lowe's in May 2003. The idea behind TIF is that public improvements to private property make it worth more, and that the resulting increased tax revenue can then pay for the new infrastructure improvements. The BGR study, which came out in April 2003, questioned the idea that the TIF is really self-financing. First, it is impossible to know whether the development would have happened anyway without the TIF. The improvements "self-financed" are

usually roads, utilities, and drainage that only benefit the site. TIF developments can increase local government costs for police, fire and other services without providing additional money to pay for these services. They don't support general services for the entire city either—things like libraries, parks and schools. Gains in economic activity for one area or store may also be offset by losses for other businesses. Sales tax TIF, as opposed to property tax TIF, comes in for particular attack by BGR. Their report says it is an “unnecessary subsid[y] for big retailers” and provides an “unfair advantage” over local stores. BGR also raises the ‘piracy’ issue—where the TIF “becomes a weapon in bidding wars for business development” between jurisdictions. (see the case of Cape Girardeau, MO, below.) The study concludes it is “dangerous to view TIF as free money.” (“Tax Increment Financing in New Orleans,” BGR, Apr. 2003)

California study explodes TIF myths

In 1998, the Public Policy Institute of California compared areas with TIFs to similar areas in the same cities that didn't have TIFs. They found that the TIF areas had only minimal extra growth, and that cities spent two dollars for every one dollar gained in new business. Also, the tax revenue ended up allocated to the local redevelopment agencies rather than the general budget. (www.ppic.org/publications/PPIC108.pdf/index.html)

Carol Stream, Illinois: Loot Lures Lowe's

Village board members unanimously approved a 135,000 square-foot Lowe's with a separate 28,206 s.f. Garden center. This was over objections of nearby residents who feared lights, litter, and traffic. With a Home Depot on the way, one would think this was quite a bit of home improvement for one small town. “Village officials have put both projects on a fast track as they seek to generate more tax revenue to bolster the village's budget. The village plans to offer both Lowe's and Home Depot sales tax incentives...terms of those agreements are still being negotiated.” Evidently, the incentives were not needed to lure the two home improvement retailers. (*Daily Herald*, Arlington Heights, IL, May 6, 2003)

Glen Carbon, Illinois: Lowe's subsidy deal destroys local business

A \$4 million TIF resulted in direct displacement of eight local businesses, with five of them unable to relocate. One located out of town. (*St. Louis Post-Dispatch*, Jan. 13, 2003) In yet another redundant pairing, Lowe's sought to compete with a Home Depot in nearby Edwardsville. Across from Home Depot, the local hardware store, Goshen-Do-It Bargain Center, has operated since 1959 without a subsidy. (“Lowe's considers location,” J. Saxton, *Belleville News-Democrat*, Aug. 23, 2002) “One of the major concerns with opening the Home Depot...is that it has brought even more congestion to one of Edwardsville's busiest intersections. Adding a Lowe's would only add to the congestion.” (“Lowe's expresses interest,” R. Pierce, *St. Louis Post-Dispatch*, Aug. 26, 2002) This problem was to be solved with—no surprises here—state taxpayer money, by widening the road which Lowe's shares with Home Depot.

Cape Girardeau, Missouri gets short end of tax deals

In a classic illustration of a zero-sum game, Cape Girardeau's finance director John Richbourg “named commercial development in other area towns as one reason Cape

Girardeau has not seen revenue come in at expected levels. In fact, Richbourg has specifically named Sikeston's Lowe's and Jackson's Bucheit [home improvement] store as examples of the development that has cost Cape Girardeau tax dollars." ("Area TIF projects affecting Cape," B. Miller, *Southeast Missourian*, Jul. 8, 2003) Sikeston and Jackson both used TIF, a subsidy where developments retain their own sales and property taxes to build infrastructure. The Lowe's in Sikeston used a TIF to build a stormwater system, roads, and a traffic light. The two towns thereby lured home improvement dollars away from Cape Girardeau. Sales growth in Cape Girardeau, heavily dependent on out-of-town shoppers, has not kept up with inflation. This caused shrinking tax revenues, forcing the city to dip into reserves for the last three years. "The city is looking for ways to increase revenues as city leaders have declared a financial catastrophe will occur if sales tax revenue remains flat."

Festus, Missouri gives deals to both Home Depot and Lowe's

In February of this year, the city approved a \$1.8 million tax-incentive package to "reimburse" Lowe's for site-preparation costs. Sales tax rebates would cover road improvements, a 500,000-gallon water tower, and a water pump. The deal was defended with the rationale that the infrastructure could spur other development besides Lowe's in the area. But this illustrates how suspect these kind of deals are. Festus offered a nearly identical subsidy package to Home Depot. As in so many other places, the precedent is made to open up the local government budget chasms even wider, under a misguided pressure to treat the two home improvement chains the same. The Home Depot siting, besides being redundant with Lowe's deal, directly displaced several existing local tax-paying businesses. (*St. Louis Post-Dispatch*, Feb. 20, 2003)

TIF fraud found in Pennsylvania

An advocacy group, 10,000 Friends of Pennsylvania, cataloged a litany of suspect TIFs where the redeveloped properties weren't actually "blighted," the condition for getting the TIF. In many cases these were 'greenfield' sites—i.e., not developed at all, with sinkholes labeled 'blight.' Instead of redevelopment, this was promoting sprawl. One of the Pennsylvania sites questioned was a Lowe's in Schuylkill County. Two other small businesses located in the district after it was declared, but since then, the rest of the industrial park was taken out of the TIF designation. ("Tax breaks generate controversy," *The Harrisburg Patriot*, Feb. 22, 2003)

Marshall, Texas to Lowe's subsidy mongers: get out of town

Lowe's asked for tax abatements and sales tax rebates to build in this east Texas town near Caddo Lake. The city manager said: "I think it's important that retailers have the same opportunity. Retailers need to play on the same playing field. I would love to see the Lowe's come to town, but is it appropriate to give these incentives? I don't think so." (*Marshall News-Messenger*, in 2003, no date available)

Lowe's lobbies Congress to evade state business taxes

Lowe's and other large corporations lobbied for a bill that would restrict states and local governments in taxing national companies. Proposed legislation "would cost the states \$9 billion in annual revenue in the first few years, a figure that could quickly grow as

companies adjust operations to make full use of the proposed loophole, according to the Multistate Tax Commission, which represents states on tax matters. Cities and counties stand to lose billions more.” Critics said that under the bill a company could transfer taxable income from one state to another where corporate profits aren’t taxed, the “ same technique that companies use to avoid federal taxes when they acquire a Bermuda mailbox.” This push for lower taxes comes despite the fact that the percent of profits subject to state corporate taxes was almost halved between 1980 and 2000. (“Now, a Corporate Push to Avoid State and Local Taxes,” *New York Times*, July 18, 2002)

Driving for Dollars

One perk often demanded by Lowe’s is taxpayer-funded roadway and traffic “improvements.” These are so numerous, and often so unremarked upon by local jurisdictions that it is difficult to know just how much money has been spent on them. Sometimes, a new taxpayer-funded traffic signal or turn lane is even celebrated as a gain to the community, a beneficial side effect for bringing a Lowe’s into the area! The prospect of more tax base or jobs often seems to excuse nearly any problem with a Lowe’s project. Other areas, more sensitive to the unbudgeted costs of growth, are not only acting to quantify this expense, but also trying to present a bill to Lowe’s for it. The following is a small sample of the road gifts that Lowe’s regularly receives from local government.

Clovis, California accepts traffic delays, taxpayer expense for Lowe’s

After combining 14 properties to assemble a site, and garnering endorsements from Clovis business leaders, Lowe’s said they wouldn’t build without a four-way signal. Town engineers said only a left-turn lane on one side of the road in front of the Lowe’s was needed and that a signal would produce “significant traffic backups.” Without a signal, Lowe’s would still have seven entrances and exits to their property. This store is not bigger or different from any other Lowe’s. So one wonders, why does Lowe’s need any special consideration here? But demanding more makes sense for Lowe’s, because the town is desperate for more tax revenue and any economic activity at all to revive a “struggling” commercial corridor. (“Lowe’s insist on traffic signal; Planners say four-way system could result in congestion,” M. Benjamin, *Fresno Bee*, Jul. 16, 2002)

Lowe’s mars San Luis Obispo, California view with highway overpass

The State of California proposed a \$12 million overpass exclusively to serve a development called Marketplace, featuring a Lowe’s, Target, Macy’s, and Kohl’s as major tenants. Sales tax from the development will pay for the overpass, in a TIF-like arrangement. San Luis Obispo’s Architectural Review Committee members made suggestions for the design, with one member saying, “We’re trying to take a basically ugly looking thing and make it as good looking as we can.” Their efforts were directed at trying to make the overpass as thin as possible in order to see the hills beyond. Residents at the hearing opposed the project altogether. (“California unveils plan for overpass in San Luis Obispo,” *The Tribune*, May 21, 2003)

Plainfield, Connecticut votes roads for Lowe’s

Voters approved a \$7 million access road to the site of a giant, 1.36 million square feet regional distribution center. A related ballot question of whether to buy 139 acres of open space and wetlands for \$70,000 also passed. ("Plainfield approves road for Lowe's," *The Day*, New London, CT, May 14, 2003) The road was controversial because of noise issues, increased truck traffic, incompatibility with the rest of the area, and removal of houses. The town also extended water and sewer as part of the project while waiving normal hookup fees, another subsidy. ("Town: \$7 million would pave way for Lowe's," M. Lemanski, *Norwich Bulletin*, Apr. 15, 2003)

Tiny Richland Township, Pennsylvania Pays Giant Lowe's

This small municipality paid to install three driveway access points, a traffic signal, and a widened roadway for a left turn lane in front of the proposed Lowe's. "Supervisor Patricia Keller asked whether developers also would help pay for an extra police officer that may be needed in the area once construction is finished, but developers didn't have an answer." News coverage hinted at a possible incompatibility issue with the Lowe's. The chair of the town's Preservation Board requested that a separate parcel immediately behind the Lowe's leave historic buildings and a greenbelt along a stream intact. ("Proposed Lowe's has traffic woes; supervisors discuss road improvements in Richmond Township," *Morning Call*, Allentown, PA, Aug. 13, 2002)

York, S.C. Seeks Road Cash for Lowe's

At the request of Lowe's, York scrambled to get state money to build a two-lane road between a proposed Lowe's and a Wal-Mart supercenter. "Lowe's asked the city to install the road to provide better access so customers wouldn't have to cut through the Wal-Mart parking lot." Cost of this favor to huge companies? \$226,000. "We consider a state investment in the Lowe's road to be an investment in York's continued economic success," said the mayor. ("York wants to pave road for possible Lowe's arrival," *The Herald*, Rock Hill, SC, Feb. 1, 2003)

San Antonio gets off light, Austin Lowe's gets an exit

There were no tax abatements or TIFs for a Lowe's/Walmart center in northeast San Antonio, but a traffic light was provided at public expense. (*San Antonio Express-News*, Jan 26, 2002) A freeway exit was actually moved in Austin to benefit a planned Lowe's/Wal-Mart supercenter. While not necessarily a subsidy because the builder offered \$760,000, the move was an unusual concession to a private development interest. ("Developer paying for state to move exit ramp on I-35," *Austin American-Statesman*, Oct. 14, 2002)

Ohio study shows big box growth doesn't pay its own way

The Cuyahoga County Planning Commission found that Lowe's-style big box retail costs more in services than it returns in taxes, even without special subsidy deals like the TIFs. The report estimated that retail uses on average demanded greater amounts of police and fire protection than light industrial or residential uses and that retail was a net money loser for municipalities. ("Northeast Ohio Regional Retail Analysis," Aug. 2000) In

Vermont, a state environmental board impact assessment found that a 100,000 square foot superstore costs the public \$3 for every \$1 of public benefit. (“Big Box Sprawl,” Beaumont & Tucker, *Municipal Lawyer*, Mar/Apr. 2002)

Harm to Communities

Big Boxes have big effects

Academic and government studies show that big box stores increase traffic congestion, automobile accidents, air and water pollution, and kill off existing local businesses. According to the Metropolitan Chapter of the American Planning Association, a 150,000 square foot store increases traffic congestion costs by \$5 million a year, and increases the number of traffic accidents over industrial or residential land uses. Other so-called "hidden" social costs may not be readily quantifiable, but they are nonetheless visible.

Lowe's displaces businesses, residents

Any community subsists on ties forged by close contact, shared memories, and a history. Forcing a large business like Lowe's into a tightly-knit community can cause negative consequences. Some of these involve displacements of existing homes and businesses. Sometimes this causes a permanent loss of jobs or community character.

Vista, California

Plans for a 185,000 s.f. Lowe's were approved by the Vista City Council following concerns and objections expressed by residents. The plan required the use of city land, relocation of a church and a portion of an apartment complex. Not only would residents have to leave the Sunset Vista apartments, but two other nearby apartment complexes felt they'd be affected adversely as well. One owner said, “You’ve got to find a tenant with a sense of humor to rent in the middle of a construction zone.” Once again, Lowe's got “tax incentives” to the tune of \$1.5 million. (“City approves Lowe's sale,” *Californian North County Times*, May 23, 2001)

South Venice, Florida

A popular movie theater was demolished to make way for a retention pond to handle the runoff from a giant 173,000 square-foot Lowe's. Numerous residents told the newspaper they were upset and one even collected petition signatures to save their local movie house. (“South Venice, Fla. Movie theater to close, make way for Lowe's,” *Sun Herald*, Oct. 31, 2001)

Glen Carbon, Illinois

After the village gave THF Realty a TIF of \$4 million to bring in a Lowe's, this forced the closure of a used car lot, beauty salon, sports bar, a popular bowling alley, skating rink, racquet club, animal hospital, and a laundry. Five of the seven businesses, all in

leased space, were unable to reopen. Thus we see hometown diversity replaced by a commercial monoculture, all subsidized with tax dollars in a classic “economic development” scheme. (“Court battle clears way to build Lowe’s in Glen Carbon,” J. Riley, *St. Louis Post-Dispatch*, Jan 13, 2003) Steve Burian, owner of Integrity Motors said, “It’s hard to believe they [the village government] are forcing one business out so another can come in.” (“Glen Carbon, IL, Deal with Lowe’s upsets business owner,” *Belleville News-Democrat*, Oct. 10, 2002) The owner of the popular Cottonwood Lanes bowling alley, Bruce Kiger, 54, “put his life savings in the bowling alley to keep it afloat in 2000, but when it closes Wednesday, he will face nearly \$100,000 in debts. ‘I had plans to give this business to my two kids, but now I feel like someone has taken my life away and I have to start all over somehow,’ Kiger said.” (“Popular Glen Carbon Bowling Alley to Close,” *B News-Democrat*, Dec. 30, 2002)

New Orleans, Louisiana

The Lowe’s proposed for Elysian Fields Avenue “would cause the demolition of 20 homes in the vicinity of Spain Street, most currently occupied. Some conservationists are concerned that, once again, New Orleans “big box” ordinance was waived. (“Lowe’s project stirs criticism of ‘big box’ law,” E. Boyer, *New Orleans City Business*, Mar. 31, 2003)

Festus, Missouri

Eight businesses were told to leave to make way for a Home Depot. Basically, this was only necessary because Lowe’s received the same subsidy deal to locate literally across the street. (*St. Louis Post-Dispatch*, Feb. 20, 2003)

San Antonio, Texas

After Frontier Meat and Service sold their plant on Austin Highway to Lowe’s for a store site, they chose not to relocate. Frontier Meat supplied all the Jim’s Restaurant locations for 30 years. Both companies are owned by Frontier Enterprises, which chose to buy its meat and other food supplies from an outside contractor. This move caused 71 people to lose their jobs with no assurance of a re-hire. (“Closing of San Antonio Food Service’s firm to cost up to 71 Jobs,” *San Antonio Express-News*, Jan. 9, 2002)

Lowe's Harms Historic Heritage

An organization driven constantly to expand and revolutionize the present, like Lowe's, is ill-equipped to respect the past. In their incessant drive to invade every market Home Depot may be interested in, Lowe's heedlessly tramples the historic context in many towns and cities.

Lowe's destroys historic building in Hillsboro, Oregon

Lowe's bought the old county hospital from Washington County, Oregon 17 days before a state board could consider preserving it as a historic site. The deal was \$656,000 for a parcel containing the building, along with an additional 15 acres of county property for \$7 million. The transaction was speeded up to beat a scheduled Feb. 23 hearing by the

State Historic Preservation Office. "As a private owner, Lowe's can block the 77-year old building's placement on the National Register of Historic places and proceed with plans to demolish it and build a retail store." (Local stories, *The Oregonian*, Feb. 9, 2001)

New Orleans store blows 'big box' restrictions

The Lowe's at 2301 Elysian Fields is the same suburban sprawl stuff they always do, placed in one of America's most historic and urban settings. It wasn't supposed to be that way. The Planning Commission established guidelines years ago calling for "a continuous built edge" along the street for new developments, with parking divided into several sections and no more than half of the parking in front of the store, to encourage pedestrian-friendly design. Lowe's got an exception to build their typical design in inner-city New Orleans, over community opposition. Moreover they were able to remove 20 homes, a truck stop and a warehouse, all with TIF dollars. They got permission to erect a 60-foot high sign on a pylon visible from an interstate and a 7-foot high monument sign on Elysian Fields. ("Lowe's proposal gets preliminary OK," B. Egger, *Times-Picayune*, Mar. 21, 2003)

High tech's history shoved aside for Lowe's

Lowe's purchased Building 25 on the IBM campus in south San Jose, in order to demolish it and build a store there. This office was once home to the company's most innovative researchers at the dawn of the high-tech era 50 years ago. The plant was the birthplace of the magnetic disk drive, and a tour stop for Soviet Premier Nikita Krushchev. It was architecturally significant as a modernistic building with floor-to-ceiling windows open to gardens, trees, and sky. The flying head disk drive, invented here, allowed companies to make real time transactions on-line, like airline reservations. ("Lowe's seeks IBM's Building 25, a Site Rich in Silicon Valley History," *San Jose Mercury News*, Jun. 6, 2003) Supposedly the building qualifies locally for landmark status. (*Silicon Valley/San Jose Business Journal*, Sep. 30, 2002) At its peak in the early 1990s, the IBM campus housed 11,000 workers. The Lowe's attitude about preservation doesn't honor our past.

Lowe's Desecrates Historic Gravesites

Lowe's came under fire in 1997 for savaging a 1,400 year old Native American burial ground and Confederate battle site near Nashville along the Cumberland River. The battle site was the location of the last significant battle of the Civil War—a two week siege laid by the Confederate army against Nashville. A caustic commentary on a website says, "The residents of West Meade, local Native Americans, and others rallied to stop the rezoning of the property. Their bid was unsuccessful despite proving that locating a supercenter across the street from an elementary school would endanger the children as well as concerns over crime and inadequate road systems to handle the traffic. Add to this the destruction of the native site and the Confederate archaeological features, it is beyond belief that the zoning change was ever approved." Developer JDN Realty persisted with the work on behalf of Lowe's and Wal-Mart—despite court actions, demonstrations, boycotts, and appeals from Native American religious leaders. Finally, probably as a response to the pressure, some of the disinterred bodies were removed to

another portion of the tract, and 13 acres donated to the local Parks and Recreation Department for a greenway. (“ACWRT (UK) Helps to Preserve Battle of Nashville site,” C. Creamer, *The City Paper*, Nashville, TN, date? Aerial photos illustrating this story show a pristine landscape for miles around along the Cumberland River, except for the stores in the foreground. This was an anti-sprawl issue as well)

Empty Boxes

“Big box glut has forced many aging stores to go belly-up. And after the merchandise is cleared off the racks, their buildings sit behind. The abandoned behemoths have become an eyesore on the landscape and a financial and security liability for local governments helpless to do much about them.” (“Empty stores are a hard sell,” *Philadelphia Inquirer*, Jun. 20, 2001) Whereas the US had only 5 square feet of retail space per person in 1980, today that number is 20 square feet. According to the National Trust for Historic Preservation, out of 5 billion square feet of retail space, half a billion sits empty. This is the equivalent of 11,000 football fields of dead real estate surrounded by thousands of acres of asphalt parking lot. (“Big box sprawl and how to control it,” C. Beaumont and L. Tucker, *Municipal Lawyer*, Mar/Apr. 2002)

The dead stores apparently are not any obstacle to building even more in the face of general oversupply. In “Emerging Trends in Real Estate 2003,” Price Waterhouse Coopers points to a further inevitable consolidation and shake-out in the retail business. New expansions will cannibalize the business of old store formats, with warehouse clubs and superstores--like Lowe’s--trouncing malls, department stores, and specialty shops. The analysis concludes that “The most over-retailed country in the world hardly needs more shopping outlets of any kind.”

Throwaway Buildings are the norm

“The reality of these types of properties is that there is a large loss in value due to the length of time it takes to sell these properties...Why does it take so long to sell or lease a big box property? Part of the answer is retail demographics. Many areas are saturated with retail facilities and the population's income cannot support another large user. Part of the answer is retail image. Much of the growth in big box retail has been in new construction, not in-fill. Many retailers want their 'image' in the construction of the building...In fact, in many cases, retailers choose to demolish the building and start again rather than spend the costly dollars to rehabilitate another firm's corporate image.”

"Big Box Retail Properties: Pitfalls of Valuation," M. Skolnik & G. Heiland, at International Association of Assessing Officers conference, Orlando, FL, Sep. 1998.

At the International Council of Shopping Centers convention held in Las Vegas this spring, speakers testified to the difficulty of recycling the big boxes into any other use, even another retail store. "You're likely not going to replace [that big box] with another tenant that fits that format," said Alan Smith, of Konover and Associates.

("Open air challenges are hot subject at retail convention," T. Silva, *San Antonio Business Journal*, May 28, 2003)

Lights out in Houston

In one recent two-year period, eight retailers closed 34 stores, representing 1.7 million square feet, equal to "one of the city's largest malls." ("Big Box bankruptcies taking a toll on the city's retail real estate industry," *Houston Business Journal*, Feb. 22, 1999) After Lowe's entered the market in 1996, Builders' Square closed several stores.

Builders Square ghost store haunts Corpus Christi

Under competitive pressure from Lowe's, Hechinger Co closed 89 stores nationwide in 1999 under a Chapter 11 reorganization. One of the shuttered stores was a 107,000 square-foot Builders Square store at Moore Plaza, operating since 1983. The store's closing "adds to the growing list of vacant 'big box' store locations in Corpus Christi"--many standing idled for years. ("Builders Square in Moore Plaza to Close," *Corpus Christi Caller*, Jun. 12, 1999)

Aiken, Georgia Lowe's takes three years to fill

Lowe's abandoned a 44,000 square-foot store for a larger 77,000 s.f. building. Ronny Bolton, a member of Aiken's Planning Commission, sat on a special committee trying to fill multiple empty boxes in town. He says the space is difficult to fill because the buildings are not energy efficient and are not easy to convert into other stores. The broker handling the Lowe's said sometimes it's easier to tear down a store and rebuild, than to convert or divide the buildings. ("Big Box Buildings find new tenants," *Augusta Chronicle*, GA, Sep. 6, 2002)

West Columbia's Crippled Stores

"West Columbia, SC is home to almost a dozen empty or soon-to-be-evacuated big-box stores, including Wal-Mart, **Lowe's**, Target, and Circuit City. All are building larger outlets nearby. Leapfrogging across the landscaped costs these companies less than recycling existing properties. But the only reason it's so cheap is because the rest of us are paying the price. The new stores are chewing up valuable farmland and open space, exacerbating traffic and air pollution burdening public services and morphing our community into placeless blobs of sprawl. The empty stores create blight and erode local property values." ("Abandoned malls, suburban blight," *Miami Herald*, Dec. 20, 2000)

Dead Lowe's get dumped

The abandoned Lowe's in Alexandria, Louisiana sat empty for three years, after the company opened a larger one across the road. When Lowe's built the original store in 1992, it was "only" 65,634 square feet of showroom and 23,111 square feet of warehouse. When bigger boxes became fashion, this building became economically "obsolete" and was closed in 1999. HP Commercial Accelerated Real Estate Dispositions took over marketing of this store as well as other Lowe's in Houma and Lake Charles, Louisiana; and Laurens, West Columbia, and Orangeburg, South Carolina. The brokers said the building would likely sell for less than its appraised value of \$3.2 million. They actually resorted to auctioning it on the internet. ("Former Lowe's building to be auctioned on-line," *Alexandria Daily Town Talk*, Jan. 30, 2001) A former Lowe's was empty for years on a main street in Concord, North Carolina until it was

finally purchased for a motorcycle dealership. (“Rules are spelled out for big box retailers,” *Charlotte Observer*, NC, Aug. 11, 2002)

Dead Lowe's gets reincarnated—as a flea market

Quoting the adage, "one man's junk is another man's treasure," Larry Moore reopened a former Lowe's building in Charlotte, North Carolina as a rent-a-stall flea market. His pitch was that the new "Big City Marketplace" may be the largest air conditioned flea market on earth, at 100,000 square feet (plus Garden Center). ("Former Lowe's building gets new life as flea market," A. Gibson, *Charlotte Business Journal*, Jun. 9, 2003)

Dying Small Business

Lowe's has caused the closing of numerous small hardware stores across the nation. Some of them were historic landmarks operated as family businesses for more than 100 years. In 1975, the US had approximately 24,000 independent hardware stores. Today, despite much population and economic growth, the number of independents has shrunk to 21,000. Independent nurseries and appliance stores are also under threat from the Lowe's expansion plans.

Rival Home Improvement Chains Perish

In northeastern Ohio, the DIY Home Warehouse, which once had a small chain of 14 stores, closed its last six stores due to “continued competitive pressures from national warehouse retailers.” The 31-store Pergament chain, based in New York, was forced into bankruptcy in March 2001. In January 2001, the California-based HomeBase closed 22 stores and converted 62 others into “home decorating centers.” Payless Cashways, Frank's Nursery, Woodworker's Warehouse and West Lumber are all recent bankruptcies. The net result is quite a few less people employed in this retail sector. (see “News” at www.sprawlbusters.com for Jul. 14, 2001)

Independent hardware store in Ft. Worth closes

Faced with rising rent and taxes and falling business Armbrister's Wedgewood Hardware was forced to close after 38 years in business. In the early 1990s a Home Depot opened nearby. Lowe's followed in 1998. After each one opened, Eddie Armbrister observed a decline in sales. He cut prices and tried to emphasize service, but to no avail. He tried to sell but found no buyers. Armbrister's was founded by Eddie's father in 1964. He worked in the store as a kid and took it over in 1992. Time will tell if this kind of family legacy will continue to have a place in the land of boxes. (“Independent Fort Worth Hardware Store Calls It Quits,” *Ft. Worth Star-Telegram*, Oct. 30, 2002)

Lowe's enters crowded, declining Albany, NY Market

“In the next two years, the amount of retail space occupied by huge home-supply centers in the Capital Region will vault over 1 million square feet. As the hardware supply ratchets up, however demand for it seems as shaky as a new deck with a bunch of screws loose.” (“Home centers enter crowded market,” D. Orenstein, *Albany Times Union*, Feb. 8, 1998) With sales of building supplies falling in Albany, it seems strange for Lowe's to

be showing up where Home Depot already ‘cannibalizes’ its own stores’ trade with an oversaturation strategy. Caught in the crossfire are independents like Phillips Ace Hardware, a century-old chain of 5 stores in the Albany area. The owner says business was better in the 80s before the superstores showed up.

Independent nurseries under attack from Lowe’s

“Soergel’s Orchards, which had grown in the past four decades from a seasonal fruit and vegetable stand to a bustling year-round operation with eight greenhouses, a gift barn and produce market now says its business has leveled off. The reason, according to Randy Soergel, whose family has operated the farm for more than 150 years, is that retail giants such as Home Depot, Lowe’s Home Improvement Warehouses, and Wal-Mart, which have sprouted quickly around Pittsburgh since the mid-1990s, have moved into the market for plants, shrubs, and garden supplies.” Retail sales of all lawn and garden products were \$9.4 billion a year in 2002, up 7.3 percent in one year, despite the recession. “According to the trade magazine *Nursery Retailer*, home centers such as Lowe’s and Home Depot now control about 48 percent of the landscape and garden business.” (“Nurseries counting on variety, service as they dig in against big box blitz,” *Pittsburgh Post-Gazette*, May 21, 2003)

Zero-Sum is Losing Game with Lowe’s

Dr. Kenneth Stone, an economics professor with Iowa State University, studied the impacts of big box building materials stores on towns in Iowa. With a careful comparison of towns hosting a Lowe’s or other large building supply store with similar towns that don’t have them, he found that the “gain in retail sales comes at expense of existing stores, primarily smaller ones. In other words, zero-sum game applies.” (“The impact of ‘Big Box’ Building Materials Stores on Host Towns and Surrounding Counties in a Midwestern State,” K. Stone & G. Artz, paper presented to AAEA annual meeting, Chicago, IL, Aug. 5-8, 2001)

Nobody can tell the difference

While the threat to local business is real, the cost savings to consumers may not be. Most remaining small hardware stores are organized into large buying cooperatives to get prices down. Once one of the two large chains gets into a city, there may not be much benefit to having both there. Once both are present, there is great uniformity in pricing and selection, virtually no difference at all. According to the *National Home Center News*, (May 24, 1999) “The profit margins that dealers are reaping from the sale of their products appears to be equalizing among all store types, which could be an indication of the overall pricing competitiveness within the market and how that competitiveness is homogenizing what dealers carry and what they can charge for their inventory.” Where there are alternatives within a reasonable drive time, there may be no further gain to consumers from adding another large store. Of course, there’s benefit in bringing a store closer to home. However, that benefit must be balanced against all the other social, financial, and environmental costs documented here.

Incompatibility

Cramming a big store into a small community can be compared to stuffing two tons into a 50-pound sack. By bursting the container, you disorder the contents. Most cities and towns have some sort of master plan, a vision for what they want the community to be. Lowe's persistently tests the limits in town after town, city after city. In case after case, Lowe's seeks to rezone property from one designated use to another. They locate next to residential homes. Sometimes Lowe's resorts to threats and lawsuits when they are told 'no.' Sometimes a community successfully resists the pressure and their own temptation to yield to the siren song of "tax revenue."

Communities are 'collateral damage' in store wars

Instead of allowing the community to choose the number and location of stores they need, Lowe's pushes them to be "fair" to both major home improvement chains by letting them both in, to a point of oversaturation. About 70 percent of Lowe's stores are within 10 miles of a Home Depot. ("Cumulative Attraction' draws Lowe's, Home Depot Locations Together," *Tampa Tribune*, Apr. 10, 2003) Robert Strickland, longtime Lowe's chair and major stockholder, compared the rivalry between the two to two elephants dancing in a chicken coop. "The elephants may bruise, but the chickens lose." ("He got it nailed: Lowe's chief has proof of accomplishment," *Winston-Salem Journal*, NC, Dec. 8, 1997) Once all the small independents are gone, there is still an issue of what mix of land uses a city or town wants. In the war between the two giants—both of whom are prospering—it is the community that gets wounded, caught in their crossfire.

The typical scenario

In news story after news story, a pattern is clear: Home Depot almost always locates first, Lowe's follows them. Sometimes Lowe's will pioneer an area, but mostly they focus on following HD. This is sometimes denied, but what is undisputed by both chains is that Home Depot is pursuing an oversaturation strategy that deliberately cannibalizes their own store's trade. They do this to position the stores so close together that there is no market space to let Lowe's in. This strategy assures future unprofitability, and thus, empty boxes.

Dummy group fronts for Lowe's

The two chains' rivalry is so intense as to be comic sometimes. Lowe's is plausibly accused of hiding behind a fake environmental group to keep HD out of a Long Island town. (www.timesreview.com, see "Lowe's" and "Headriver LLC.")

Lowe's Sues Ohio Town

When the tiny town of Union Township put their foot down and told Lowe's no on their rezoning request, the giant company sued to force them to comply. Town trustee Mary Walker said, "My problem with Lowe's is the intensity of the development for retail use that they were asking for in the original case was just an awful lot in an area that was maxed out road-wise." ("Union Township, OH. Lowe's Sues Town," *Sprawlbusters*, Nov. 27, 1999)

Bethlehem, Pennsylvania Citizens Lose Against Lowe's

No Mall (Neighborhood Organizations Mobilized to Assure Local Livability), fought a Lowe's seeking to convert a closed Durkee spice plant, because of community and traffic impacts. In an issue common to small communities in the northeast US, residents wanted to preserve scarce industrial sites. Although some believe industry will never return, it is true that: a) the jobs paid better than Lowe's; b) industrial siting issues are already resolved, with prime locations staked out on canals, highways, and railroads; c) those infrastructure features represent decades of community investment that's effectively scrapped when a box store moves in; and d) unlike in the southern and western states, there's often no other available vacant land left inside city limits of a small township completely surrounded by other small towns. The Bethlehem battle raged for more than 2 years, but Lowe's eventually got its way. ("Retail center gains approval," *Times Union*, Albany, NY, Feb. 13, 2003)

Cotati, California pressured to erase big box ban

In 1997, Cotati passed Measure F by only 65 votes in a heated campaign that limited store sizes to less than 43,000 square feet. For the last three years, San Rafael developer Tom Monahan sought to get tenants for a high-tech office park. He got Lowe's signed instead, contingent on overturning Measure F. "Tom Scott, Oliver's [food market] general manager, told the council a Lowe's store could hurt Cotati's small-town character and have little positive effect on city finances." He pointed to a neighboring town with a Home Depot and other giant retail chains that is also struggling. "We're all still making do without the big box," Scott said. "What makes Cotati special is the absence of these things." City administrators readied a special election to reverse the big box ban in spite of the objections. ("Fate of big box ban up to voters," *Press Democrat*, Jun. 26, 2003)

Scenic, historic areas threatened by Lowe's encroachment

In eastern Shelby County, Tennessee, there's been discussion of selling or leasing parkland for development along the Germantown Parkway. The site has possibly high value because there are only very limited numbers of parcels left in the area, which has seen an intense flurry of development, including a **Lowe's** and a BMW dealer. Much of the citizenry wants to see conservation easements continue to protect farmland and rolling hills. ("Could Shelby Farms be a cash cow?", *Commercial Appeal*, Memphis, TN, Sep. 22, 2002) Lowe's is also one of the offenders encroaching upon the entrance to Indiana's National Parkway, a 54-mile journey along the route westward that pioneers took, a road rich in historic buildings, remnant forests, and thriving small towns.

Small is beautiful

Can Lowe's addiction to giantism be broken? After all, it's only in the relatively recent past that stores broke the 100,000 square-foot barrier. Bob Tillman, the Lowe's CEO, told a civic group in North Carolina, "The garden center in our new stores is twice as large as our entire stores were in the 80s." (Charlotte Rotary Club speech, May 1, 2001) The reasons for huge size are mostly about reducing costs per unit of goods sold. Approaching complete saturation in non-metropolitan markets, Lowe's is moving into cities. While they slug it out with Home Depot in the suburbs, there has been a move by Lowe's to shrink stores for an easier fit into crowded urban spaces. ("Lowe's designs for smaller markets," *Charlotte Business Journal*, Jun. 3, 2003; also "Lowe's sees big profits

in small stores,” *Associated Press*, Aug. 6, 2003) Right now, though, they are as big and as bad as they want to be. As Bob Tillman told the *Wall Street Journal*, “we want to be the 500 pound gorilla of the 21st century.”