STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
WATERSHED & LAND MANAGEMENT
Mail Code 501-02A, P.O. Box 420, Trenton, New Jersey 08625-0420
Telephone: (609) 777-0454 or Fax: (609) 777-3656
www.nj.gov/dep/landuse

PERMIT

In accordance with the laws and regulations of the State of New Jersey, the Department of Environmental Protection hereby grants this permit to perform the activities described below. This permit is revocable with due cause and is subject to the terms, conditions, and limitations listed below and on the attached pages. For the purpose of this document, "permit" means "approval, certification, registration, authorization, waiver, etc." Violation of any term, condition, or limitation of this permit is a violation of the implementing rules and may subject the permittee to enforcement action.

Approval Date
1/27/2022

Expiration Date
1/26/2027

Permit Number(s):	**Type of Approval(s):**	**Governing Rule(s):**
1436-13-0005.2 LUP210001	FWW GP4 Hazardous Site Investigation/Cleanup Water Quality Certificate	N.J.A.C. 7:7A-1.1(a)

Permittee:

Edward Meeks
Hercules
500 Hercules Road
Building 8145
Wilmington, DE 19808

Site Location:

Block(s) & Lot(s): [6701, 1]
Municipality: Roxbury Twp
County: Morris

Description of Authorized Activities:

This document authorizes remediation of the site pursuant to an approved Remedial Action Workplan. Activities include the excavation and blending of impacted soils, advancement of soils through a processing plant, bioremediation of soils and in-situ biological degradation. Approximately 70,000 cubic yards of soils will be excavated and remediated.

The project will temporary impact 0.184 acres of forested wetlands, 0.022 acres of emergent wetlands, and the temporary disturbance of 2.554 acres of transition areas under the General Permit No. 4.

This authorization to conduct activities in wetlands and/or waters includes the issuance of a Water Quality Certificate.

Prepared by:

Gary Nickerson

Received and/or Recorded by County Clerk:

If the permittee undertakes any regulated activity, project, or development authorized under this permit, such action shall constitute the permittee's acceptance of the permit in its entirety as well as the permittee's agreement to abide by the requirements of the permit and all conditions therein.

This permit is not valid unless authorizing signature appears on the last page.

STATEMENT OF AUTHORIZED IMPACTS:

The authorized activities allow for the permittee to undertake impacts to regulated areas as described below. Additional impacts to regulated areas without prior Department approval shall constitute a violation of the rules under which this document is issued and may subject the permittee and/or property owner to enforcement action, pursuant to N.J.A.C. 7:7A-22.

FWW GP4 Hazardous Site Investigation/Cleanup	Permanent Disturbance (Acres)	Temporary Disturbance (Acres)
Freshwater wetlands		0.206
Transition areas		2.554
State open waters	0	0

PRE-CONSTRUCTION CONDITIONS:

1. Prior to the commencement of site clearing, grading, or construction onsite, the permittee shall install a sediment barrier at the limits of disturbance authorized herein, which is sufficient to prevent the sedimentation of the remaining freshwater wetlands and transition areas and shall serve as a physical barrier protecting these areas from encroachment by construction vehicles or other soil-disturbing activities. All sediment barriers and soil erosion control measures shall be kept in place and maintained throughout the duration of construction, until such time that the site is stabilized.

SPECIAL CONDITIONS:

1. **In order to protect Indiana Bat, tree clearing is prohibited from 4/1 through 11/15 of any calendar year.**

2. The Site Remediation Program Interest number associated with the project is No. 000741. The Licensed Site Remediation Professional (LSRP) for this project is Mark Foley, license No. 575999. The remediation shall comply with the Remedial Action Workplan submitted for the project, and any amendments thereto. Any modification or changes to the construction activities authorized by this permit and/or the approved plans shall be approved by the Department in writing.

FRESHWATER WETLANDS PERMIT CONDITIONS:

1. This permit authorizes the temporary disturbances of approximately 0.206 acres of freshwater wetlands and 2.554 acres of transition area under a Freshwater Wetlands General Permit No. 4. The wetlands affected by this permit authorization are of Intermediate and Exceptional/Ordinary resource value and the standard transition area or buffer required adjacent to these wetlands is 50 and 150 feet respectively. This general permit includes a transition area waiver, which allows encroachment only in that portion of the transition area, which has been determined by the Department to be necessary to accomplish the regulated activities. Any additional un-permitted disturbance of freshwater wetlands, State open waters and/or transition areas besides that shown on the approved plans shall be considered a violation of the Freshwater Wetlands Protection Act Rules unless the activity is exempt or a permit is obtained from the Department prior to the start of the proposed disturbance.

2. If the permittee, before or during the work authorized, encounters a possible historic property, as described at N.J.A.C. 7:7A-12.2(l), that is or may be eligible for listing in the New Jersey or National Register, the permittee shall preserve the resource, and immediately notify the Department and proceed as directed.

3. This authorization for a General Permit is valid for a term not to exceed five years from the date of this permit. If the permittee wishes to continue an activity covered by the permit after the expiration date of the permit, the permittee must apply for and obtain a permit extension or a new permit, prior to the permit's expiration. If the term of the authorization exceeds the expiration date of the general permit issued by rule, and the permit upon which the authorization is based is modified by rule to include more stringent standards or conditions, or is not reissued, the applicant must comply with the requirements of the new regulations by applying for a new GP authorization or an Individual permit.

FRESHWATER WETLAND MITIGATION CONDITIONS:

1. The permittee shall mitigate for the temporary disturbance of 0.184 acres of forested wetlands, 0.022 acres of emergent wetlands, and the temporary disturbance of 2.554 acres of transition areas through an on-site restoration project as shown on the plans entitled "FORMER KENVIL WORKS FACILITY **KENVIL, ROXBURY TOWNSHIP, MORRIS COUNTY, NEW JERSEY** TNT PROJECT AREA FRESHWATER WETLANDS GENERAL PERMIT 4 SITE AND RESTORATION PLAN" sheet 1 of 2, dated January 2022, unrevised and prepared by Kennedy Jenks; and

   "FORMER KENVIL WORKS FACILITY **KENVIL, ROXBURY TOWNSHIP, MORRIS COUNTY, NEW JERSEY** TNT PROJECT AREA FRESHWATER WETLANDS GENERAL PERMIT 4 RESTORATION PLAN DETAILS " sheet 2 of 2, dated January 2022, unrevised and prepared by Kennedy Jenks.

2. **All mitigation shall be conducted prior to or concurrent with the construction of the approved project** (N.J.A.C. 7:7A-11.3(a)). Concurrent means that at any given time, the mitigation must track at the same or greater percentage of completion as the project as a whole.

3. If the permittee fails to perform mitigation within the applicable time period the acreage of mitigation required shall be increased by 20 percent each year after the date mitigation was to begin (N.J.A.C. 7:7A-11.3(c).

4. The following conditions shall apply to the (creation, restoration or enhancement) project:

   a. The permittee shall obtain a secured bond or other financial surety acceptable to the Division from a firm licensed to provide such services in New Jersey. (N.J.A.C. 7:7A-11.17)

   b. The permittee shall notify the Mitigation Unit at the Division of Land Resource Protection in writing **at least 30 days prior to the start of construction of the wetland mitigation project** to arrange an on-site pre-construction meeting among the permittee, the contractor, the consultant and the Division.

   c. To ensure the intent of the mitigation design and its predicted wetland hydrology is realized in the landscape, the mitigation designer shall be present on-site during all critical stages of mitigation construction and during the restoration of any temporarily impacted areas. Critical stages of construction include but are not limited to herbicide applications, earthmoving activities, planting, and inspections.

d. The permittee shall be responsible for ensuring that best management practices are used throughout construction to control the spread and colonization of highly invasive plants. Specifically, all equipment, especially tracks and tires, must be thoroughly cleaned every time equipment or vehicles move from an area containing invasive plants or from off-site to the mitigation area. In addition, soil containing root fragments and above-ground vegetative material from invasive plants shall be carefully managed during earthmoving activities and disposed of at a suitable off site location rather than mulched and reused or stockpiled elsewhere on the site. For information on the specific species that are considered to be invasive, please refer to the Invasive Plant Atlas at http://www.invasiveplantatlas.org/index.html.

e. If changes to the mitigation design are necessary to ensure success of the project as a result of on-site conditions, the mitigation designer shall immediately notify the Division in writing and submit an alternative plan which achieves the proposed wetland conditions. The Division shall review the plan in accordance with N.J.A.C. 7:7A-11.7. Any modifications to the plan that are reviewed and approved by the Division must be shown on a signed and sealed revised plan. The As-Built plans required as a part of the Construction Completion Report may serve as the signed and sealed revised plan required to be submitted as part of the construction modification process described above if time constraints warrant such action and have been approved by the Division in writing.

f. **Within 30 days of final grading of the mitigation site and prior to planting**, the permittee shall notify the Mitigation Unit at the Division of Land Resource Protection in writing to arrange a post-grading construction meeting among the permittee, contractor, consultant and the Division.

g. **Within 60 days following the final planting of the mitigation project**, the permittee shall submit a Construction Completion Report to the Division detailing as-built conditions (see below) and any changes to the approved mitigation plan that were made during construction (N.J.A.C. 7:7A-11.12). The Construction Completion Report shall contain, at a minimum, the following information:

    i. A completed Wetland Mitigation Project Completion of Construction Form. This form is located at http://www.nj.gov/dep/landuse/forms/index.html and certifies that the mitigation project has been constructed as designed and that the proposed area of wetland creation, restoration or enhancement has been accomplished;

    ii. As-Built plans which depict final grade elevations at one foot contours and include a table of the species and quantities of vegetation that were planted including any grasses that may have been used for soil stabilization purposes; and

    iii. Photos of the constructed wetland mitigation project with a photo location map as well as the GPS waypoints in NJ state plane coordinates NAD 1983.

j. **Within 30 days following final planting of the mitigation project**, the permittee shall post the mitigation area with permanent signs which identify the site as a wetland mitigation project and that all-terrain vehicle use, motorbike use, mowing, dumping, draining, cutting and/or removal of plant materials is prohibited and that violators shall be prosecuted and fined to the

fullest extent under the law. The signs must also state the name of the permittee, a contact name and phone number, and the Department's permit number.

k. The permittee shall monitor **all freshwater wetland and transition area projects** for a minimum of 5 years, unless otherwise stipulated within the approved mitigation proposal, beginning the first full growing season after the mitigation project has been completed. The permittee shall submit monitoring reports to the Division of Land Resource Protection no later than December 31st of each full monitoring year (N.J.A.C. 7:7A-11.12(g)). All monitoring reports must include the standard items identified in the checklist entitled, "Wetland Mitigation Monitoring Project Checklist", which can be found at http://www.nj.gov/dep/landuse/forms/index.html.

l. Once the required monitoring period has expired and the permittee has submitted the final monitoring report, the Division will make the finding that the mitigation project is either a success or a failure. This mitigation project will be considered successful if the permittee demonstrates all of the following:

   i. That the goals of the wetland mitigation project, including acreage and the required transition area, as stated in the approved wetland mitigation proposal and the permit have been satisfied. The permittee shall submit a field wetland delineation of the wetland mitigation project based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989) which shows the exact acreage of State open waters, emergent, scrub/shrub and/or forested wetlands in the mitigation area;

   ii. The site has an 85 percent survival and 85 percent area coverage of the mitigation plantings or target hydrophytes, which are species native to the area and similar to ones identified on the mitigation planting plan. All plant species in the mitigation area must be healthy and thriving and all trees must be at least five feet in height;

   iii. The site has less than 10 percent coverage by invasive or noxious species.

   iv. The site contains hydric soils or there is evidence of reduction occurring in the soil; and,

   v. The proposed hydrologic regime as specified in the mitigation proposal has been satisfied.

m. The permittee is responsible for assuming all liability for any corrective work necessary to meet the success criteria established above (N.J.A.C. 7:7A-11.12(i)). The Division will notify the permittee in writing if the mitigation project is considered to be a failure. Within 30 days of notification, the permittee shall submit a revised mitigation plan to meet the success criteria identified above for Division review and approval. The financial surety, if required, will not be released by the Division until such time that the permittee satisfies the success criteria as stipulated above.

STANDARD CONDITIONS:

1. The issuance of a permit shall in no way expose the State of New Jersey or the Department to liability for the sufficiency or correctness of the design of any construction or structure(s). Neither the State nor the Department shall, in any way, be liable for any loss of life or property that may occur by virtue of the activity or project conducted as authorized under a permit.

2. The issuance of a permit does not convey any property rights or any exclusive privilege.

3. The permittee shall obtain all applicable Federal, State, and local approvals prior to commencement of regulated activities authorized under a permit.

4. A permittee conducting an activity involving soil disturbance, the creation of drainage structures, or changes in natural contours shall obtain any required approvals from the Soil Conservation District or designee having jurisdiction over the site.

5. The permittee shall take all reasonable steps to prevent, minimize, or correct any adverse impact on the environment resulting from activities conducted pursuant to the permit, or from noncompliance with the permit.

6. The permittee shall immediately inform the Department of any unanticipated adverse effects on the environment not described in the application or in the conditions of the permit. The Department may, upon discovery of such unanticipated adverse effects, and upon the failure of the permittee to submit a report thereon, notify the permittee of its intent to suspend the permit.

7. The permittee shall immediately inform the Department by telephone at (877) 927-6337 (WARN DEP hotline) of any noncompliance that may endanger public health, safety, and welfare, or the environment. The permittee shall inform the Watershed & Land Management by telephone at (609) 777-0454 of any other noncompliance within two working days of the time the permittee becomes aware of the noncompliance, and in writing within five working days of the time the permittee becomes aware of the noncompliance. Such notice shall not, however, serve as a defense to enforcement action if the project is found to be in violation of this chapter. The written notice shall include:

    i. A description of the noncompliance and its cause;

    ii. The period of noncompliance, including exact dates and times;

    iii. If the noncompliance has not been corrected, the anticipated length of time it is expected to continue; and

    iv. The steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

8. Any noncompliance with a permit constitutes a violation of this chapter and is grounds for enforcement action, as well as, in the appropriate case, suspension and/or termination of the permit.

9. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the authorized activity in order to maintain compliance with the conditions of the permit.

10. The permittee shall employ appropriate measures to minimize noise where necessary during construction, as specified in N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29.

11. The issuance of a permit does not relinquish the State's tidelands ownership or claim to any portion of the subject property or adjacent properties.

12. The issuance of a permit does not relinquish public rights to access and use tidal waterways and their shores.

13. The permittee shall allow an authorized representative of the Department, upon the presentation of credentials, to:

    i. Enter upon the permittee's premises where a regulated activity, project, or development is located or conducted, or where records must be kept under the conditions of the permit;

    ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

    iii. Inspect, at reasonable times, any facilities, equipment, practices, or operations regulated or required under the permit. Failure to allow reasonable access under this paragraph shall be considered a violation of this chapter and subject the permittee to enforcement action; and

    iv. Sample or monitor at reasonable times, for the purposes of assuring compliance or as otherwise authorized by the Federal Act, by the Freshwater Wetlands Protection Act, or by any rule or order issued pursuant thereto, any substances or parameters at any location.

14. The permittee shall not cause or allow any unreasonable interference with the free flow of a regulated water by placing or dumping any materials, equipment, debris or structures within or adjacent to the channel while the regulated activity, project, or development is being undertaken. Upon completion of the regulated activity, project, or development, the permittee shall remove and dispose of in a lawful manner all excess materials, debris, equipment, and silt fences and other temporary soil erosion and sediment control devices from all regulated areas.

15. The permittee and its contractors and subcontractors shall comply with all conditions, site plans, and supporting documents approved by the permit.

16. All conditions, site plans, and supporting documents approved by a permit shall remain in full force and effect, so long as the regulated activity, project, or development, or any portion thereof, is in existence, unless the permit is modified pursuant to the rules governing the herein approved permits.

17. The permittee shall perform any mitigation required under the permit in accordance with the rules governing the herein approved permits.

18. If any condition or permit is determined to be legally unenforceable, modifications and additional conditions may be imposed by the Department as necessary to protect public health, safety, and welfare, or the environment.

19. Any permit condition that does not establish a specific timeframe within which the condition must be satisfied (for example, prior to commencement of construction) shall be satisfied within six months of the effective date of the permit.

20. A copy of the permit and all approved site plans and supporting documents shall be maintained at the site at all times and made available to Department representatives or their designated agents immediately upon request.

21. The permittee shall provide monitoring results to the Department at the intervals specified in the permit.

22. A permit shall be transferred to another person only in accordance with the rules governing the herein approved permits.

23. A permit can be modified, suspended, or terminated by the Department for cause.

24. The submittal of a request to modify a permit by the permittee, or a notification of planned changes or anticipated noncompliance, does not stay any condition of a permit.

25. Where the permittee becomes aware that it failed to submit any relevant facts in an application, or submitted incorrect information in an application or in any report to the Department, it shall promptly submit such facts or information.

26. The permittee shall submit written notification to the Bureau of Coastal and Land Use Compliance and Enforcement, 401 East State Street, 4th Floor, PO Box 420, Mail Code 401-04C, Trenton, NJ 08625, at least three working days prior to the commencement of regulated activities.

27. The permittee shall record the permit, including all conditions listed therein, with the Office of the County Clerk (the Registrar of Deeds and Mortgages, if applicable) of each county in which the site is located. The permit shall be recorded within 30 calendar days of receipt by the permittee, unless the permit authorizes activities within two or more counties, in which case the permit shall be recorded within 90 calendar days of receipt. Upon completion of all recording, a copy of the recorded permit shall be forwarded to Watershed & Land Management at the address listed on page one of this permit.

APPROVED PLAN(S):

The drawing(s) hereby approved consist of two sheets prepared by Kennedy Jenks, dated January 2022, and entitled:

> "TNT PROJECT AREA FRESHWATER WETLANDS GENERGAL PERMIT 4 HERCULES LLC – FORMER KENVIL WORKS FACILITY KENVIL, ROXBURY TOWNSHIP, MORRIS COUNTY, NEW JERSEY"
>
> a. "SITE AND RESTORATION PLAN," sheet 1 of 2
> b. "RESTORATION PLAN DETAILS," sheet 2 of 2

APPEAL OF DECISION:

Any person who is aggrieved by this decision may submit an adjudicatory hearing request within 30 calendar days after public notice of the decision is published in the DEP Bulletin (available at www.nj.gov/dep/bulletin). If a person submits the hearing request after this time, the Department shall deny the request. The hearing request must include a completed copy of the Administrative Hearing Request Checklist (available at www.nj.gov/dep/landuse/forms.html). A person requesting an adjudicatory hearing shall submit the original hearing request to: NJDEP Office of Legal Affairs, Attention: Adjudicatory Hearing Requests, Mail Code 401-04L, P.O. Box 402, 401 East State Street, 7th Floor, Trenton, NJ 08625-0402. Additionally, a copy of the hearing request shall be submitted to

the Director of Watershed & Land Management at the address listed on page one of this permit. In addition to your hearing request, you may file a request with the Office of Dispute Resolution to engage in alternative dispute resolution. Please see www.nj.gov/dep/odr for more information on this process.

If you need clarification on any section of this permit or conditions, please contact Watershed & Land Management's Technical Support Call Center at (609) 777-0454.

Approved By:

Suzanne Biggins 2022.01.27 12:28:59 -05'00'

Suzanne U. Biggins, Supervising Environmental Specialist
Watershed & Land Management

c: Municipal Clerk, Roxbury Twp
Municipal Construction Official, Roxbury Twp
Agent (original) – Lora Sterner