



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR AND HAZARDOUS MATERIALS ENFORCEMENT  
BUREAU OF HAZARDOUS WASTE & UST COMPLIANCE AND ENFORCEMENT

MAIL CODE 09-03  
P.O. BOX 420  
TRENTON NJ 08625-0420  
Tel. (609) 943-3019  
Fax. (609) 292-3970

*hand delivered*

*4-12-12*

CHRIS CHRISTIE  
*Governor*

BOB MARTIN  
*Commissioner*

KIM GUADAGNO  
*Lt. Governor*

**CERTIFIED MAIL/RRR**  
**7010 1870 0001 4763 6111**

*6814*  
*2nd 3/15/12*

*Brent Kopenhaver*  
*448 Pine Run Rd*  
*Doylestown, PA*  
*18901*

February 24, 2012

Mr. Mark S. Alsentzer, President and CEO  
Mr. Brent Kopenhaver, Executive Vice President and Treasurer  
Pure Earth, Inc.  
One Neshaminy Interplex, Suite 201  
Trevose, PA 19053

**RE: ORDER TO CLOSE AND NOTICE OF TERMINATION/REVOCAION OF  
OPERATING PERMITS AND APPROVALS  
PURE EARTH RECYCLING (NJ), INC.  
3209 N Mill Rd, Vineland, NJ 08360  
EA ID #: PEA110006 - NJD045995693**

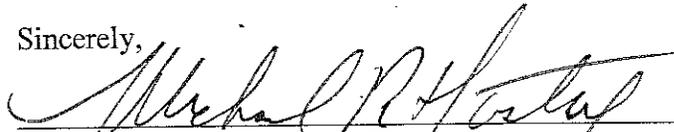
Dear Messers Alsentzer and Kopenhaver:

Enclosed for service upon you is an ORDER TO CLOSE AND NOTICE OF TERMINATION/REVOCAION OF OPERATING PERMITS AND APPROVALS issued by the Department pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

The Department is available to meet with the principals of this matter to discuss the closure schedule and release of escrow funds to accomplish same. Should such a meeting be requested and granted, be advised this does not affect the time frame within which you may request an administrative hearing under the **NOTICE OF RIGHT TO A HEARING** provision in the enclosed Order.

Should you have any questions concerning the enclosed Order or wish to request an informal meeting, please contact me at (609) 943-4989.

Sincerely,

  
Michael R. Hastry, Bureau Chief  
Hazardous Waste & UST Compliance & Enforcement

Enclosure



State of New Jersey

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

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BOB MARTIN  
*Commissioner*

**CERTIFIED MAIL/RRR**  
**7010 1870 0001 4763 6128**

February 24, 2012

Mr. Philip J. Guenzer, P.E., Vice President  
James R. Lapinski, Vice President of Operations.  
Pure Earth Recycling (NJ), Inc.  
3209 North Mill Road  
Vineland, NJ 08360

**RE: ORDER TO CLOSE AND NOTICE OF TERMINATION/REVOCATION OF  
OPERATING PERMITS AND APPROVALS  
PURE EARTH RECYCLING (NJ), INC.  
3209 N Mill Rd, Vineland, NJ 08360  
EA ID #: PEA110006 - NJD045995693**

Dear Messers Guenzer and Lapinski:

Enclosed for service upon you is an ORDER TO CLOSE AND NOTICE OF TERMINATION/REVOCATION OF OPERATING PERMITS AND APPROVALS issued by the Department pursuant to the provisions of the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.

The Department is available to meet with the principals of this matter to discuss the closure schedule and release of escrow funds to accomplish same. Should such a meeting be requested and granted, be advised this does not affect the time frame within which you may request an administrative hearing under the **NOTICE OF RIGHT TO A HEARING** provision in the enclosed Order.

Should you have any questions concerning the enclosed Order or wish to request an informal meeting, please contact me at (609) 943-4989.

Sincerely,

Michael R. Hastry, Bureau Chief  
Hazardous Waste & UST Compliance & Enforcement

Enclosure



State of New Jersey

CHRIS CHRISTIE  
Governor

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
DIVISION OF AIR AND HAZARDOUS MATERIALS ENFORCEMENT  
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MAIL CODE 09-03  
P.O. BOX 420  
TRENTON NJ 08625-0420  
Tel. (609) 943-3019  
Fax. (609) 292-3970

IN THE MATTER OF :  
:  
PURE EARTH INC.; and :  
:  
PURE EARTH RECYCLING (NJ), INC. ; :  
and :  
:  
RESULTZ INCORPORATED; and :  
:  
MARK S. ALSENTZER, Individually, and :  
as President and Chief Executive Officer of :  
PURE EARTH INC., PURE EARTH :  
RECYCLING (NJ), INC.; and :  
:  
BRENT KOPENHAVER, Individually, and :  
as Chairman, Executive Vice President and :  
Treasurer of PURE EARTH INC. and :  
PURE EARTH RECYCLING (NJ), INC., :  
and RESULTZ INCORPORATED; and :  
:  
PHILIP J. GUENZER, P.E , Individually, :  
and as Vice President of PURE EARTH :  
RECYCLING (NJ), INC.; :  
:  
JAMES R. LAPINSKI, Individually, and :  
as Vice President of Operations for PURE :  
EARTH RECYCLING (NJ), INC. :  
:  
Respondents :  
:

ORDER TO CLOSE  
  
AND  
  
NOTICE OF  
TERMINATION/REVOCAION  
OF OPERATING PERMITS  
AND APPROVALS

EA ID # PEA110006 - NJD045995693

This Order is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "NJDEP" or the "Department") by N.J.S.A. 13:1D-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and/or the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and duly delegated to the Director, Division of Air and Hazardous Materials Enforcement and the Director, Solid and Hazardous Waste Management Program pursuant to N.J.S.A.13:1B-4.

## FINDINGS

1. Pure Earth, Inc., a Delaware corporation, is a holding company headquartered in Trevose, Pennsylvania that conducts substantially all of its business through its wholly-owned operating subsidiaries and a 50%-owned joint venture. Pure Earth, Inc.'s principal executive offices are located at One Neshaminy Interplex, Suite 201, Trevose, Pennsylvania 19053.
2. On March 30, 2007, Pure Earth, Inc. purchased all of the outstanding shares of common stock from the shareholders of the following three entities located in Vineland, New Jersey: Pure Earth Recycling (NJ), Inc., Pure Earth Treatment (NJ), Inc., and Rezultz, Inc. Effective January 1, 2010, Pure Earth Treatment (NJ), Inc. was merged into Pure Earth Recycling, (NJ), Inc. and the newly combined entity conducted its operations under the name Pure Earth Recycling (NJ), Inc. from January 1, 2010 going forward.
3. Pure Earth Recycling (NJ), Inc. is a wholly-owned subsidiary of Pure Earth, Inc., and is located at Block 89, Lot 17 (now Block 603, Lot 2), 3209 North Mill Road, City of Vineland (Franklinville), Cumberland County, State of New Jersey. Pure Earth Recycling (NJ), Inc. was in the business of tank management including: cleaning, decontamination, removal, installation, testing and repair of above and underground tanks. In addition to cleaning tanks that contain flammable or combustible petroleum products, Pure Earth Recycling also cleaned tanks that held both caustic and acidic chemical compounds such as styrene, methyl ethyl ketone, and butyl acrylate.
4. Pure Earth Recycling (NJ), Inc. also operates at the above location a commercial solid and hazardous waste facility (Permit No. HWP100002) (EPA ID No. NJD045995693) to store and treat on-site and off-site generated waste prior to shipment to off-site authorized facilities. The authorized solid and hazardous waste management units consist of an indoor storage area Containment Pad A (maximum capacity 67,892 gallons), an outdoor container storage area known as Containment Pad B (maximum capacity 60,580 gallons), and an aboveground tank known as Tank # 9 (maximum capacity 8,000 gallons). The building which houses Containment Pad A also includes a below grade pit used for chemical stabilization, dewatering, bulking, solidification and screening of solid and hazardous waste.
5. Pure Earth Recycling (NJ), Inc. also operates a Class D Recycling Center for Used Oils (General Approval No. CDU070002) at the above location which processes and/or treats used oil and other recyclable materials in tanks and associated equipment. The equipment processes includes gravity separation, filtration and heating to treat used oil delivered to the facility. The facility operation also uses pH adjustment to treat used oil, as well as wastewater that was derived from the process, as necessary. Wastewater streams derived from the facility processes are discharged into the Landis Publicly Operated Wastewater Treatment Authority (the "Sewer Authority") sewer system, once pre-treatment standards for the Sewer Authority are met. Solid and sludge materials generated during the treatment process are to be disposed of at a permitted waste disposal facility. The recycled oil is marketed for fuel blending or further processing, in accordance with respective product-client agreements or contracts. Pure Earth Recycling also accepts wastewater containing trace organic or surfactant compounds, which can be treated at the facility by ultra-filtration or carbon adsorption methods. The resultant treated liquid waste stream, that meets the respective and appropriate pre-treatment standards, is discharged into the Sewer Authority sewer system.

7. In addition to the above, Pure Earth Recycling (NJ), Inc. (formerly known as Mid-Atlantic Recycling Technologies, Inc.) operates a Class B Recycling Center for Contaminated Soils (Permit No. CBG030002) at Block 89, Lot 14, 3137 Chamblings Court, Vineland City, Cumberland County. This regional recycling center receives petroleum contaminated soil and soil contaminated with manufactured gas plant residues from soil remediation contractors. The recycling center is also utilized for finished product storage and equipment storage.
8. Rezultz Inc., located in Vineland and Millville, New Jersey is a wholly-owned subsidiary of Pure Earth, Inc. Rezultz, Inc. owns approximately 8 acres of real property located at 3209 N. Mill Road, Vineland, New Jersey and approximately 8 acres of real property located at 3119 Chamblings Court, Vineland, New Jersey. Pure Earth Recycling (NJ), Inc. owns approximately 13 acres located at 3137 Chamblings Court, Vineland, New Jersey. All of these properties are adjacent to each other. Rezultz, Inc. also owns the recycling equipment used by the above operations to process and recycle waste products.
9. Based upon information and belief, Mark S. Alsentzer is President, Brent Kopenhaver is CFO/Treasurer, Philip J. Guenzer is Vice President and Operations Manager, and James Lapinski is operations manager of Pure Earth Recycling (NJ), Inc. Also based upon information and belief, Brent Kopenhaver is Treasurer of Rezultz, Inc.
10. Pure Earth, Inc., Pure Earth Recycling (NJ), Inc., Rezultz Inc., Mark S. Alsentzer, Brent Kopenhaver, Philip J. Guenzer, and James Lapinski, taken together as a whole, are collectively referred to as "Respondents."
11. Through the course of routine monthly inspections, the Department became aware, on or around early January 2011, that Respondents began reducing operations and acceptance of waste materials at the Pure Earth Recycling (NJ), Inc facility. Subsequent discussion with facility staff confirmed that Pure Earth Recycling (NJ), Inc. was experiencing business/financial difficulties and was considering sale of the facility.
12. In or around the end of January 2011, Pure Earth Recycling (NJ), Inc. ceased facility operations.
13. Inspection of the facility by the Department from January 2011 and thereafter identified repeated violations of routine operational and contingency plan/safety requirements, including but not limited to, NJDPES water monitoring requirements and RCRA waste storage and facility maintenance requirements. These violations and continuing lack of environmental oversight and monitoring have created a serious environmental and safety concern which continues as of the effective date of this Order.
14. Pursuant to 40 CFR 264.113(a), Pure Earth Recycling (NJ), Inc. was required to initiate closure of the permitted hazardous waste facility within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes. On 1/19/11, Pure Earth Recycling (NJ) received the final volume of hazardous wastes, or the final volume of non-hazardous wastes.

15. Pursuant to 40 CFR 264.113(b), Pure Earth Recycling (NJ), Inc. is required to complete closure activities of the permitted hazardous waste facility in accordance with the approved closure plan within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes.
16. On June 15, 2011, Department staff hand-delivered correspondence to the attention of Jim Lapinski, Vice President of Operations - Pure Earth Recycling (NJ), Inc. requesting the facility immediately cease any and all treatment, transfer, disposal or recycling operations requiring approval pursuant to N.J.S.A. 13:1E-1 et seq., the Solid Waste Management Act, or any rule, regulation or administrative order promulgated pursuant to N.J.S.A. 13:1E-1 et seq. and immediately initiate Closure of all operations at the facility. Pure Earth Recycling (NJ), Inc. was requested to notify the Department of commencement of Closure activities.
17. While Pure Earth Recycling (NJ), Inc was actively seeking financial capital and/or a buyer for the operations, they did not initiate Closure activities nor did they request, from the Department, the release of Closure Funds, held in escrow (Escrow Closure Funds) to initiate Closure.
18. Based on the facts set forth in these FINDINGS, the Department has determined that Respondents have violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Air Pollution Control Act, N.J.S.A. 26:2C et seq. and the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and the regulations promulgated pursuant thereto.

### ORDER

#### NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

19. Pursuant to 40 CFR 264.14(a), Respondents shall immediately prevent unknowing entry and minimize the possibility for the unauthorized entry of persons onto the Facility.
20. Respondents shall immediately initiate and maintain all NJPDES monitoring requirements as per NJPDES PERMIT No. NJ0072729.
21. Respondents shall immediately cease any and all waste treatment, transfer, disposal and recycling operations requiring approval pursuant to N.J.S.A. 13:1E-1 et seq.
22. Respondents shall immediately initiate and subsequently complete (within approved Department timeframes), closure of all operations at the facility.
23. Closure of the Hazardous and Solid Waste Facility (Permit No. HWP100002), shall be in accordance with the requirements of N.J.A.C. 7:26G—8 and 40 CFR Subpart G. Specifically, Pure Earth Recycling (NJ), Inc shall comply with the following closure standards:

1. Respondents shall close the facility in a manner that:
  - i. Minimizes the need for further maintenance; and
  - ii. Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and
  - iii. Complies with the closure requirements of 40 CFR Subpart G including, but not limited to, the requirements of § § 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, 264.601 through 264.603, and 264.1102.
24. During the closure period, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in § § 264.197, 264.228, 264.258, 264.280 or § 264.310.
25. During the closure period, owners and operators who store or process hazardous wastes in tanks shall comply with the following requirements:
  - i. At closure of a tank system, the owner or operator must remove or decontaminate waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and properly dispose of them at a Federally or State authorized facility.
  - ii. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in subparts G and H of this part.
26. Closure of the Class 'D' Recycling Center for Used Oils (General Approval No. CDU070002) shall be in accordance with the requirements of N.J.A.C. 7:26A-4.6(g). Specifically, Respondents shall comply with the following closure standards:
  - a. Owners and operators who store or process Class D recyclable materials in tanks shall comply with the following requirements:
    - i. At closure of a tank system, the owner or operator shall remove or decontaminate recyclable materials residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5; and

- ii. If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (24)(1)(i) above, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills found at 40 C.F.R. 265.310, as incorporated by reference at N.J.A.C. 7:26G-9.
27. Owners and operators who store, process, or transfer Class D recyclable materials in containers shall comply with the following requirements:
  - i. At closure, containers holding Class D recyclable materials or residues shall be removed from the site; and
  - ii. The owner or operator shall remove or decontaminate recyclable materials residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with Class D recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.
28. Owners and operators who store or process recyclable materials in process buildings shall remove or decontaminate recyclable materials residues, contaminated containment system components, contaminated soils, and structures and equipment contaminated with recyclable materials, and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.
29. Closure of the Class 'B' Recycling Center for Contaminated Soils (General Approval No. CBG030002) shall be in accordance with the requirements of N.J.A.C. 7:26A-4.8(b)9. Specifically, Respondents shall comply with the following closure standards:

Upon closure of the facility, the owner or operator shall remove or decontaminate petroleum contaminated soils, containment system components, and structures and equipment and manage them as hazardous waste, unless the materials are not hazardous waste under 40 C.F.R. Part 261, as incorporated by reference at N.J.A.C. 7:26G-5.
30. Respondents shall, during the pendency of the various closure activities, maintain and provide upon request of the Department, inventory lists of materials and all shipping, handler, facility, broker or end-market information.
31. Request for Closure Fund information shall be forwarded to:

Mr. Robert Confer, Chief  
Bureau of Landfill and Hazardous Waste Permitting  
Mail Code: 401-02C  
P.O. Box 420  
401 East State Street  
Trenton, NJ 08625-0420

31. **IT IS ALSO ORDERED THAT RESPONDENTS' AUTHORITY TO OPERATE THE SOLID AND HAZARDOUS WASTE FACILITY (PERMIT NO. HWP100002), THE CLASS D RECYCLING CENTER FOR USED OILS (GENERAL APPROVAL NO. CDU070002) AND THE CLASS B RECYCLING CENTER FOR CONTAMINATED SOILS (GENERAL APPROVAL NO. CBG030002) IS HEREBY TERMINATED AND/OR REVOKED.**
32. This Order shall be effective upon receipt by Respondents or someone on Respondents' behalf authorized to accept service.

### NOTICE OF RIGHT TO A HEARING

33. Pursuant to N.J.S.A. 52:14B-1 et seq., N.J.S.A.58:10A-10d(2), and N.J.S.A. 13:1E-9(e), Respondents are entitled to request a hearing. Respondents shall, in their request for a hearing, complete and submit the enclosed **ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM** along with all required information. Submittal or granting of a hearing request does not stay the terms or effect of this **ORDER**.

### GENERAL PROVISIONS

34. This Order is binding on Respondents and each of their principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.
35. No obligations imposed by this Order are intended to constitute a debt, which should be limited or discharged in a bankruptcy proceeding. All obligations are imposed pursuant to the police powers of the State of New Jersey, intended to protect the public health, safety, welfare and the environment.
36. This Order is issued only for the violation(s) identified in the FINDINGS hereinabove, and violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted. By issuing this Order, NJDEP does not waive its rights to initiate additional enforcement actions.
37. Neither the issuance of this Order nor anything contained herein shall relieve Respondents of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.

38. Pursuant to N.J.S.A. 13:1E-9e, NJDEP is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate and distinct offense.
39. Pursuant to N.J.S.A. 13:1E-9f, any person who violates the provisions of N.J.S.A. 13:1E-1 et seq. or any code, rule, or regulation promulgated pursuant thereto shall be liable to a penalty of not more than \$50,000 per day to be collected in a civil action, and any person who violates an Administrative Order issued pursuant to N.J.S.A. 13:1E-9c, including this Administrative Order, or a court order issued pursuant to N.J.S.A. 13:1E-9d, or who fails to pay a civil administrative penalty assessed pursuant to N.J.S.A. 13:1E-9e in full after it is due is subject upon order of a court to a civil penalty not to exceed \$100,000 per day of such violations. Each day during which the violation continues constitutes an additional, separate and distinct offense.
40. Pursuant to N.J.S.A. 13:1E-12, the Department, after hearing may revoke or suspend the registration issued to any person engaged in solid waste collection or solid waste disposal, including hazardous waste collection or disposal, upon a finding that such a person has violated any provision of the Solid Waste Management Act, or any rule, regulation, or administrative order, or has violated any provision of the laws related to pollution of the waters, air or land surfaces of the State; or has refused or failed to comply with any lawful order of the Department.
41. Pursuant to N.J.S.A. 13:1E-134(a) and N.J.S.A. 52:14B-1 et seq., the Department may revoke a solid or hazardous waste license based upon an accumulation of refusals or failures to comply with the Solid Waste Management Act, or any code, rule, regulation or Administrative Order which may constitute "unreliability".
42. Pursuant to N.J.S.A. 58:10A-10.d, NJDEP is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate and distinct offense.
43. Pursuant to N.J.S.A. 58:10A-10.e, any person who violates the provisions of N.J.S.A. 58:10A-1 et seq., or any code, rule, or regulation promulgated pursuant thereto shall be liable to a penalty of not more than \$50,000 per day to be collected in a civil action, and any person who violates an administrative order issued pursuant to N.J.S.A. 58:10A-10.b, including this Administrative Order, or a court order issued pursuant to N.J.S.A. 58:10A-10.c, or who fails to pay a civil administrative penalty assessed pursuant to N.J.S.A. 58:10A-10.d in full after it is due is subject upon order of a court to a civil penalty not to exceed \$50,000 per day of such violations. Each day during which the violation continues constitutes an additional, separate and distinct offense.

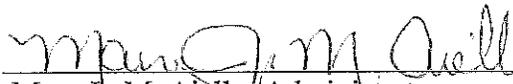
44. Pursuant to N.J.S.A. 58:10A-10.f, any person who purposely, knowingly, or recklessly violates this act, and the violation causes a significant adverse environmental effect, shall, upon conviction, be guilty of a crime of the second degree, and shall, notwithstanding the provisions of subsection a. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$25,000 nor more than \$250,000 per day of violation, or by imprisonment, or by both.

DATE: 2/23/2012



Edward M. Choromanski, Acting Director  
Air and Hazardous Materials Enforcement

DATE: 2/23/2012



Mary Jo M. Aiello, Administrator  
Solid & Hazardous Waste Management Program





## State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
*Southern Regional Office - Water Compliance & Enforcement*  
2 Riverside Drive, Suite 201  
Camden, New Jersey 08103-0137  
Phone: (856) 614-3655 Fax: (856) 614-3608

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

BOB MARTIN  
*Commissioner*

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
**7010 1870 001 4763 6111**

February 24, 2012

Scott Newman, Registered Agent  
Pure Earth, Inc.  
1000 Page Avenue  
Lyndhurst, New Jersey 07071

Brent Kopenhaver, Chief Financial Officer  
Pure Earth, Inc. and Pure Earth Recycling (NJ), Inc.  
One Neshaminy Interplex, Suite 201  
Trevose, Pennsylvania 19053

Philip Guenzer, Registered Agent  
Pure Earth Recycling (NJ), Inc.  
3137 Chammings Court  
Vineland, New Jersey 08360

RE: Administrative Order and Notice of  
Civil Administrative Penalty Assessment  
Mid Atlantic Recycling Technologies ("MART") and Pure Earth Inc. (Collectively "the Respondents")  
NJPDES no. NJ0147559  
PEA 120002 - 220062  
Vineland City, Cumberland County

Dear Sirs:

Enclosed for service upon you is an Administrative Order and Notice of Civil Administrative Penalty Assessment issued by the Department pursuant to the provisions of the Water Pollution Control Act, N.J.S.A. 58:10A-10b and d.

Notice is hereby given that the Respondents are entitled to request an administrative hearing. Any hearing request must include a copy of the cover letter and enforcement document for which a hearing is being requested, a complete Administrative Hearing Request Checklist and Tracking Form for Enforcement Documents (Tracking Form), and all information specified below and must be delivered within twenty (20) calendar days after receipt by the Respondents of this Administrative Order and Notice of Civil Administrative Penalty Assessment to:

Office of Legal Affairs  
Attn: Adjudicatory Hearing Requests  
Department of Environmental Protection  
401 East State Street, P.O. Box 402  
Trenton, New Jersey 08625-0402

with a copy to be filed at the same time with:

Mary F. Simpson, Acting Chief  
Water Compliance and Enforcement  
Southern Regional Office  
2 Riverside Drive, Suite 201  
Camden, New Jersey 08103

If no request for a hearing is received within twenty (20) calendar days of the Respondents' receipt of the Administrative Order and Notice of Civil Administrative Penalty Assessment, it shall become a final Order upon the twenty-first (21) calendar day following its receipt by the Respondents and the penalty shall be due and payable. Please be advised that an untimely or incomplete hearing request will be denied and that the Department does not have the jurisdiction to extend the twenty (20) day deadline. The Respondents shall, pursuant to N.J.A.C. 7:14-8.4(a)8 in their request for a hearing, submit documentation indicating that the Respondents notified the Department in writing, within thirty (30) days after that date that the Respondents were required to submit complete DMRs and/or WCRs as specified in the Findings of this AONOCAPA of extenuating circumstances that prevented timely submission of the complete DMRs and/or WCRs. The Respondents must also submit documentation of their correction of the violation by submitting the omitted information within ten (10) days after their receipt of notice of the omission.

If you have any questions concerning this Administrative Order and Notice of Civil Administrative Penalty Assessment please contact Keith Vaughn of my staff at the address above or by telephone at (856) 614-3655.

Very truly yours,



Mary F. Simpson, Acting Chief  
Water Compliance and Enforcement  
Southern Regional Office

Enclosure

c: Vineland City Health Department  
Mayor and Council, Vineland City  
Lisa Morelli, DAG, Division of law, Dept. of L&PS  
Andrew S. Levine, Stradley Ronon Attorneys at law



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Southern Regional Office - Water Compliance & Enforcement
2 Riverside Drive, Suite 201
Camden, New Jersey 08103-0137
Phone: (856) 614-3655 Fax: (856) 614-3608

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

BOB MARTIN
Commissioner

IN THE MATTER OF : ADMINISTRATIVE ORDER AND
MID ATLANTIC RECYCLING TECHNOLOGIES, :
NOW OPERATING AS PURE EARTH RECYCLING :
(NJ), INC. : NOTICE OF CIVIL ADMINISTRATIVE
AND :
PURE EARTH INC. : PENALTY ASSESSMENT

This Administrative Order and Notice of Civil Administrative Penalty Assessment ("AONOCAPA") is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection ("the Department") by N.J.S.A. 13:1D-1 et seq. and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and duly delegated to the Acting Chief of Water Compliance and Enforcement pursuant to N.J.S.A. 13:1B-4.

FINDINGS

- 1. Pure Earth Recycling (NJ), Inc., formerly known as Mid Atlantic Recycling Technologies ("MART"), operates a soil recycling facility located at Block 603, Lot 2 (formerly Block 89, Lot 14), 3137 Chamnings Court, Vineland City, Cumberland County, New Jersey ("the facility"). Pure Earth Recycling (NJ), Inc. is a wholly owned operating subsidiary of Pure Earth, Inc., a Delaware corporation headquartered in Treose, Pennsylvania.
2. The Department issued a New Jersey Pollutant Discharge Elimination System ("NJPDES") Permit No. NJ0147559 ("the Permit") to MART on August 16, 2006, effective October 1, 2006.
3. Part III of the Permit requires MART to submit monthly Discharge Monitoring Reports ("DMRs") for Monitoring Location J01J (stormwater runoff to infiltration/percolation lagoon) within twenty-five days after the end of every month beginning from the effective date of the permit ("EDP"). The permit also requires MART to submit monthly and semi-annual Waste Characterization Reports ("WCRs") for Monitoring Wells 01, 02, 03, and 04 within twenty-five days after the end of every month beginning with the EDP and twenty-five days after the end of every six month monitoring period beginning from the EDP, respectively.
4. On August 30, 2011, the Department issued a Notice of Violation ("NOV") to Pure Earth and MART, signed for by Brent Kopenhaver, Chief Financial Officer of Pure Earth, for permit violations at the facility including not restoring the infiltration/percolation lagoon to design capacity within thirty-six hours of a storm event.

5. On September 13, 2011, the Department issued another NOV to MART via Certified Mail for failure to submit Discharge Monitoring Reports (DMRs) and Waste Characterization Reports (WCRs) as required by the permit for the February, March, April, May, June, and July 2011 monitoring periods. The NOV required that the missing DMRs and WCRs be submitted to the Department within 10 days of receipt of the NOV. The NOV was returned on October 7, 2011 because it had not been claimed by the addressee (Mr. Kopenhaver). In a telephone conversation with Mr. Kopenhaver on October 19, 2011, he stated that any correspondence should be sent to his attorney, Andrew S. Levine. The NOV was sent to Mr. Levine via Certified Mail on October 20, 2011 and was delivered on October 28, 2011.

6. A review of Department records revealed that the missing DMRs had not been submitted within the required 10-day timeframe. It was discovered through this review that the March 2011 DMR and WCRs had been submitted on time, although the WCRs were incomplete, reporting values for pH in each Monitoring Well but not reporting values for Petroleum Hydrocarbons as required by the permit. It was also found that DMRs and WCRs had not been submitted for August and September 2011.

7. Based on the facts set forth in these FINDINGS, the Department has determined that MART, now operating as Pure Earth Recycling (NJ), Inc. and Pure Earth, Inc. ("the Respondents") have violated the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, and the regulations promulgated pursuant thereto, N.J.A.C. 7:14A-1 *et seq.*, and NJPDES Permit NJ0147559.

#### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

8. The Respondents shall comply with the terms of the NJPDES Permit, including all monitoring and reporting requirements, including monitoring of outfall J01J and Monitoring Wells 01, 02, 03, and 04.

#### NOTICE OF CIVIL ADMINISTRATIVE PENALTY ASSESSMENT

9. Pursuant to N.J.S.A. 58:10A-10d and N.J.A.C. 7:14-8.1 *et seq.*, and based upon the above FINDINGS, the Department has determined that a civil administrative penalty should be assessed against the Respondents in the amount of \$23,406. The Department's rationale for this civil administrative penalty is set forth in Appendix A which is attached hereto and incorporated herein.

10. Payment of the penalty is due when a final order is issued by the Commissioner subsequent to a hearing, if any, or when this Administrative Order and Notice of Civil Administrative Penalty Assessment becomes a final order (see following paragraph). Payment shall be made by certified or cashier's check payable to "Treasurer, State of New Jersey" and shall be submitted along with the bottom portion of the attached Enforcement Invoice to:

Division of Revenue  
New Jersey Department of Treasury  
160 South Broad Street, 3<sup>rd</sup> Floor  
PO Box 417  
Trenton, New Jersey 08625-0417

11. If no request for a hearing is received within twenty (20) calendar days after receipt of this Administrative Order and Notice of Civil Administrative Penalty Assessment by the Respondents, it shall become a final order upon the twenty-first calendar day following its receipt by the Respondents, and the penalty shall be due and payable.

12. Notice is given that pursuant to N.J.S.A. 58:10A-10d and N.J.A.C. 7:14-8.13, the Department may, in addition to any civil administrative penalty assessed, amend such penalty assessment to include a civil administrative penalty for the economic benefit (in dollars) which a violator has realized as a result of not complying, or by delaying compliance, with the New Jersey Water Pollution Control Act.

### NOTICE OF RIGHT TO A HEARING

13. The Respondents are entitled to request an administrative hearing. The Respondents shall, pursuant to N.J.A.C. 7:14-8.4(a) in their request for a hearing, furnish the Department with all of the information specified in the enclosed Administrative Hearing Request Checklist and Tracking Form. This information must be delivered to the Office of Legal Affairs at the address referenced in the cover letter to this document within twenty (20) calendar days from receipt of this Administrative Order and Notice of Civil Administrative Penalty Assessment. A copy of the Administrative Hearing request shall be filed at the same time to the address referenced in paragraph 16.

14. The Respondents shall, pursuant to N.J.A.C. 7:14-8.4(a)8 in their request for a hearing, submit documentation indicating that the Respondents notified the Department in writing, within thirty (30) days after that date that the Respondents were required to submit complete DMRs and/or WCRs as specified in the Findings of this Administrative Order and Notice of Civil Administrative Penalty Assessment of extenuating circumstances that prevented timely submission of the complete DMRs and/or WCRs. The Respondents must also submit documentation of their correction of the violation by submitting the omitted information within ten (10) days after their receipt of notice of the omission.

### GENERAL PROVISIONS

15. This Administrative Order and Notice of Civil Administrative Penalty Assessment is binding on the Respondents, their principals, directors, officers, agents, successors, assigns, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity.

16. The Respondents shall submit all documents required by this Administrative Order and Notice of Civil Administrative Penalty Assessment by certified mail, return receipt requested or by hand delivery to:

Mary F. Simpson, Acting Chief  
New Jersey Department of Environmental Protection  
Water Compliance and Enforcement  
Southern Regional Office  
2 Riverside Drive, Suite 201  
Camden, New Jersey 08103

Penalty payments shall be made as instructed and to the address in paragraph 10 above.

17. Obligations and penalties of this Administrative Order and Notice of Civil Administrative Penalty Assessment are imposed pursuant to the police powers of the State of New Jersey for the enforcement of law and the protection of the public health, safety and welfare and are not intended to constitute debt or debts which may be limited or discharged in a bankruptcy proceeding.

18. Notice is given that this Administrative Order and Notice of Civil Administrative Penalty Assessment is issued only for the violations identified in the findings hereinabove and that violations of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial, being instituted without further notice. By issuing this Administrative Order and Notice of Civil Administrative Penalty Assessment, the Department does not waive its right to initiate additional enforcement actions.

19. Notice is given that pursuant to N.J.S.A. 58:10A-10d, the Department is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate and distinct offense.

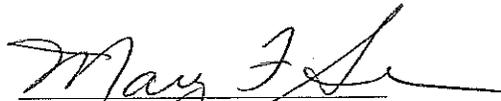
20. Notice is further given that pursuant to N.J.S.A. 58:10A-10e, any person who violates N.J.S.A. 58:10A-1 *et seq.*, or an administrative order issued pursuant to N.J.S.A. 58:10A-10b, or who fails to pay a civil administrative penalty in full after it is due or who fails to make payment pursuant to a payment schedule entered into with the Department shall

be subject to a civil penalty not to exceed \$50,000 per day of such violation, and each day's continuance of the violation shall constitute an additional separate and distinct violation.

21. Notice is further given that pursuant to N.J.S.A. 58:10A-10f, any person who purposely, knowingly or recklessly violates N.J.S.A. 58:10A-1 et seq., including making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this Act, or by falsifying, tampering with, or rendering inaccurate any monitoring device or method required to be maintained pursuant to this Act, or by failing to submit a monitoring report, or any portion thereof, required pursuant to this Act, shall, upon conviction, be guilty of a crime of the third degree, and shall, notwithstanding the provisions of subsection b. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$75,000 per day of violation, or by imprisonment, or by both. Any person who negligently violates N.J.S.A. 58:10A-1 et seq., including making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under this Act, or by falsifying, tampering with, or rendering inaccurate any monitoring device or method required to be maintained pursuant to this act, or by failing to submit a discharge monitoring report, or any portion thereof, shall, upon conviction, be guilty of a crime of the fourth degree, and shall, notwithstanding the provisions of subsection b. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or by imprisonment, or by both.

DATE:

2/23/12

  
Mary F. Simpson, Acting Chief  
Water Compliance and Enforcement  
Southern Regional Office

APPENDIX A

MART

Penalty Rationale

The Respondents have violated the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and the regulations promulgated pursuant thereto N.J.A.C. 7:14A-1 et seq., and NJPDES Permit NJ0147559, by failing to submit DMRs in violation of the permit as cited in the FINDINGS of this Administrative Order and Notice of Civil Administrative Penalty Assessment.

N.J.A.C. 7:14-8.9 CIVIL ADMINISTRATIVE PENALTY DETERMINATION

In accordance with N.J.A.C. 7:14-8.9(c), the Department shall assess penalties against the Respondents for failing to submit Discharge Monitoring Reports.

Penalty

Pursuant to N.J.A.C. 7:14-8.9(c) and N.J.A.C. 7:14-8.5(a), the Department has assessed the penalties as follows:

<u>Monitoring Period</u>	<u>Location</u>	<u>Amount</u>
February, 2011	J01J	\$3,000.00
April, 2011	J01J	\$5,000.00 (SNC)*
May, 2011	J01J	\$5,000.00 (SNC)*
June, 2011	J01J	\$5,000.00 (SNC)
July, 2011	J01J	\$5,000.00 (SNC)
Subtotal		\$23,000.00

The following abbreviations were used in the table above:

SNC= Significant noncomplier

\*n accordance with N.J.A.C. 7:14-8.5(a), the Department shall assess a minimum mandatory civil administrative penalty of not less than \$5,000 for each violation that causes a violator to be or continue to be a significant non-complier.

N.J.A.C. 7:14-8.13 CIVIL ADMINISTRATIVE PENALTY DETERMINATION

In accordance with N.J.A.C. 7:14-8.13(b)1, the Department shall assess a civil administrative penalty against the Respondents for economic benefit realized for failing to properly conduct sampling or monitoring equal to the cost of the missed sample analyses.

<u>Parameter</u>	<u>Economic Benefit Amount</u>
pH	\$77.00
Petroleum Hydrocarbons	\$329.00
Subtotal	\$406.00

**Total Penalty Assessment**

7:14-8.9 Failure to Submit DMRs	\$23,000.00
7:14-8.13 Economic Benefit	\$ 406.00
	<b>\$23,406.00</b>

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Water Quality**  
**COMPLIANCE AND ENFORCEMENT**

Invoice No.  
**120225510**  
 Page 1 of 1

Program Interest	
MID ATLANTIC RECYCLING TECHNOLOGIES INC 3137 CHAMMINGS CT	
Vineland	NJ 08360
ID# 220062	

Type of Notice
Original (Non-Initial)

Amount Due
\$23,406.00

NJEMS Bill ID - Instal. No.
956026 -000

Bill Date
2/23/12

Due Date
3/24/12

Assessments			
Activity	Assessment Type	Start Date - End Date	Amount
PEA120002 AONOCAPA	PENALTY	2/23/12 - 2/23/12	\$23,406.00

Summary	
Total Amount Assessed	\$23,406.00
Amount Received Before Creating Installment Plan	\$0.00
Amount Transferred to Installment Plan	\$0.00
This Installment Amount	\$23,406.00
Total Amount Credited	\$0.00
Total Amount Debited (Other than Amounts Assessed)	\$0.00
<b>TOTAL AMOUNT DUE</b>	<b>\$23,406.00</b>

**Instructions**

- \* Make checks payable to: **TREASURER - STATE OF NEW JERSEY**
- \* Write the **PROGRAM INTEREST ID#** and **INVOICE NUMBER** on your check
- \* Return the **BOTTOM PORTION** of this **INVOICE** with your **PAYMENT** to the address on the stub

**Invoice Number: 120225510**

separate along this line

**NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Water Quality**  
**COMPLIANCE AND ENFORCEMENT**

Invoice No.  
**120225510**

Program Interest ID#	Type of Notice	Bill Date	Due Date	Amount Due
220062	Original (Non-Initial)	2/23/12	3/24/12	\$23,406.00

For name and/or address change, check box and write corections on the back of this invoice

**DO NOT FOLD, BEND OR MARK** Enter the amount of your payment ---> \$

**RETURN THIS PORTION** with your check

made payable to:  
**TREASURER - STATE OF NEW JERSEY**  
 and mail to:  
**NJ DEPARTMENT OF TREASURY**  
**DIVISION OF REVENUE**  
**PO BOX 417**  
**TRENTON, NJ 08646-0417**

95 MID ATLANTIC RECYCLING TECHNOLOGIES INC  
 3137 CHAMMINGS CT  
 Vineland NJ 08360