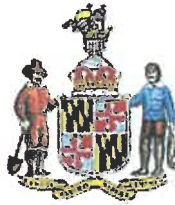


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STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

ENVIRONMENTAL CRIMES UNIT
1800 Washington Boulevard, Suite 6115
Baltimore, Maryland 21230-1719
410-537-3333

WRITER'S DIRECT DIAL NO.
410-537-3022

May 23, 2023

Sent via electronic mail

M. Trent Zivkovich, Esq.
Whiteford, Taylor, Preston, LLP
7 Saint Paul Street, Suite 1500
Baltimore, Maryland 21202

Re: State of Maryland v. Curtis Bay Energy, LP

Dear Counsel:

This letter confirms the plea agreement that has been offered to your client, Curtis Bay Energy, LP (the "Defendant"), by the Maryland Office of the Attorney General, Environmental Crimes Unit (this "Office"). If the Defendant accepts this plea agreement, please have it signed in the appropriate spaces below and complete the included corporate officer affidavit.

Offenses of Conviction

- 1) The Defendant agrees to plead guilty to a 40 count Criminal Information to be filed in the Circuit Court for Baltimore City related to violations of Maryland Solid Waste regulations and permit requirements. Pursuant to Maryland Code Annotated, Environment Article § 9-343, these crimes are punishable as misdemeanor violations with a maximum criminal fine of \$25,000 for a corporate defendant. The specific charges are as follows:
 - a) **Fail to Treat – Special Medical Waste – Refuse Disposal Permit Violation – 10 Counts**
 - i) The Defendant will plead guilty to ten counts of failing to treat special medical waste as required by its applicable permit, specifically: "On or about the dates listed below, the DEFENDANT, CURTIS BAY ENERGY, LP, did fail to perform a duty imposed



by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June 12, 2022) Section III.B.1, by failing to comply with the requirements of COMAR 10.06.06, to wit: treatment by incineration before disposal, with regard to the handling and treatment of special medical waste, at or near 3200 Hawkins Point Road, Baltimore City, in violation of Annotated Code of Maryland, Environment Article, §§ 9-268 and 9-343, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State.”

ii) Dates to be charged: 6/20/2019, 8/26/2019, 9/27/2019, 11/13/2019, 2/24/2020, 3/9/2020, 3/11/2020, 3/13/2020, 3/16/2020, 3/23/2020.

iii) The elements of failing to treat special medical waste in accordance with the permit are as follows:

(1) the Defendant,

(2) did fail to perform a duty,

(3) imposed by Maryland Refuse Disposal Permit No. 2017-WMI-0036, Section III.B.1, by,

(4) failing to comply with the requirements of COMAR 10.06.06, to wit: treatment by incineration before disposal, with regard to the handling and treatment of special medical waste.

(a) Special Medical waste is defined as “ (a) Liquid or semiliquid blood or another potentially infectious material; (b) A contaminated article that releases liquid or semiliquid blood or another potentially infectious material if compressed; (c) An article that contains dried blood or another potentially infectious material and is capable of releasing the blood or material during handling; (d) Pathological and microbiological waste containing blood or another potentially infectious material; (e) Contaminated sharps; and (f) Anatomical material.” COMAR 10.06.06.02B(22).

(b) A person “shall (1) Treat special medical waste, excluding sharps, before disposal; and (2) Use one of the following treatment methods: ... (f) Incineration.” COMAR 10.06.06.04A.

(c) "Incineration" means a process during which an article is burned "(a) In an incinerator that meets the requirements of the Department of the Environment as set forth in COMAR 26.11.08; (b) To carbonized or mineralized ash that is capable of disposal as solid waste; and (c) So the article is rendered incapable of transmitting disease to humans." COMAR 10.06.06.02B(12).

(d) A person "shall dispose of special medical waste after treatment by one of the following methods: . . . (2) Depositing in a facility approved to accept the type of solid waste being disposed in accordance with [State laws and regulations pertaining to solid waste disposal and local ordinances and regulations to the extent that the local requirements are not preempted by or in conflict with State law]" COMAR 10.06.06.07A.

b) Fail to Provide Adequate Personnel and Equipment - Refuse Disposal Permit Violation – 10 Counts

i) The Defendant will plead guilty to ten counts of failing to provide adequate personnel and equipment to ensure proper operation of the facility, specifically: On or about the dates listed below, the DEFENDANT, CURTIS BAY ENERGY, LP, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June 12, 2022) Section IV.G by failing to provide adequate personnel and equipment to ensure proper operation of the facility, at or near 3200 Hawkins Point Road, Baltimore City, in violation of Annotated Code of Maryland, Environment Article §§ 9-268 and 9-343, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State.

ii) Dates to be charged: 6/20/2019, 8/26/2019, 9/27/2019, 11/13/2019, 2/24/2020, 3/9/2020, 3/11/2020, 3/13/2020, 3/16/2020, 3/23/2020.

iii) The elements of failing to provide adequate personnel and equipment to ensure proper operation of the facility are as follows:

(1) the Defendant,

(2) did fail to perform a duty,

(3) imposed by Maryland Refuse Disposal Permit No. 2017-WMI-0036, Section IV.G,
by,

- (4) not providing adequate personnel and equipment,
- (5) to ensure proper operation of the facility in compliance with the permit's requirements.

c) Fail to Prevent Leakage - Refuse Disposal Permit Violation – 2 Counts

- i) The Defendant will plead guilty to two counts of failing to prevent leakage during transport, as required by its applicable permit, specifically: “On or about the dates listed below, the DEFENDANT, CURTIS BAY ENERGY, LP, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June 12, 2022) Section III.D.5, by failing to transport ash in such a manner as to prevent leakage of liquid on public roads and release of material during transport, at or near 3200 Hawkins Point Road, Baltimore City, in violation of Annotated Code of Maryland, Environment Article §§ 9-268 and 9-343, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State.”
- ii) Dates to be charged: 2/24/2020, 3/09/2020.
- iii) The elements of failing to prevent leakage during transport are as follows:
 - (1) the Defendant,
 - (2) did fail to perform a duty,
 - (3) imposed by Maryland Refuse Disposal Permit No. 2017-WMI-0036, Section III.D.5, by,
 - (4) transporting ash,
 - (5) in a manner that did not prevent the leakage of liquid on public roads and release of material on public roads.

d) Failure to Maintain Adequate Records - Refuse Disposal Permit Violation – 17 Counts

- i) The Defendant will plead guilty to 17 counts of failing to maintain copies of all required ash monitoring records, as required by its applicable permit, specifically: “On or about the dates listed below, the DEFENDANT, CURTIS BAY ENERGY, LP, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June

13, 2017- June12, 2022) Section IV.Q, by failing to retain written records of periodic ash inspections conducted at 3200 Hawkins Point Road, Baltimore City, in violation of the Annotated Code of Maryland, Environment Article, §§ 9-268 and 9-343, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State.”

ii) Dates to be charged: 1/15/2019, 2/15/2019, 3/15/2019, 4/15/2019, 5/15/2019, 6/20/2019, 7/15/2019, 8/15/2019, 8/26/2019, 9/15/2019, 9/27/2019, 10/22/2019, 11/13/2019, 11/15/2019, 2/24/2020, 2/27/2020, 3/5/2020.

iii) The elements of failing to maintain adequate records are as follows:

- (1) the Defendant,
- (2) did fail to perform a duty,
- (3) imposed by Maryland Refuse Disposal Permit No. 2017-WMI-0036, Section IV.Q, by,
- (4) failing to retain written records of periodic ash inspections.

e) Material Extension of Refuse Disposal Facility – Environment Article - 1 Count

i) The Defendant will plead guilty to one count of materially extending a refuse disposal facility without a permit, specifically: On or about December 11, 2019, the DEFENDANT, CURTIS BAY ENERGY, LP, did materially extend a refuse disposal system without a permit issued by the Maryland Department of the Environment, at or near 3200 Hawkins Point Road, Baltimore City, in violation of the Annotated Code of Maryland, Environment Article, § 9-204, contrary to the form of the Act of Assembly, in such case made and provided, and against the peace, government and dignity of the State.

ii) The elements of extending a refuse disposal facility without a permit are as follows:

- (1) the Defendant,
- (2) materially extended,
- (3) a refuse disposal system,
 - (a) A “Refuse disposal system” includes: “(1) An incinerator ... (5) A solid waste processing facility; and (6) Any other solid waste acceptance facility.” Environment Article § 9-201(e).
- (4) without a permit issued by the Maryland Department of the Environment.

- 2) A Statement of Facts in Support of the Plea (Attachment 1) will be included with this written plea and the corporate officer affidavit and submitted at the hearing as Joint Exhibit 1.

Penalties and Sentence

- 3) The Office and Defendant will recommend a sentence of:
- a) **Counts One to Forty.** A fine in each count of \$25,000 (\$1,000,000 total), payable to the Maryland Clean Water Fund and two years of probation.
 - i) As required by Environment Article § 9-320(b)(1), the fine shall be paid to the Maryland Department of the Environment (“MDE”) into the Maryland Clean Water Fund. The Maryland Department of the Environment will invoice the Defendant, if required. Failure to receive an invoice does not relieve the Defendant of the obligation to pay the required fine.
 - ii) The fine may be paid in installments over the course of probation, with 50% due within one year of sentencing and the full fine paid at least 45 days prior to the expiration of the probationary period.
 - b) **Special Conditions of Probation.**
 - i) **Supplemental Environmental Project.** As a special condition of probation, the Defendant agrees to fund a \$750,000 Supplemental Environmental Project (“SEP”) that will support projects focused on and intended to provide a direct, environmental and related public benefit to the Curtis Bay community in Baltimore City and surrounding areas.
 - (1) A SEP is an environmentally beneficial project or activity that protects and/or improves the environment and/or reduces risks to public health.
 - (2) The Curtis Bay community is identified as an overburdened community where both environmental and socio-economic stressors have contributed to persistent environmental health disparities.
 - (3) The Office and Defendant agree that all reasonable efforts will be made to direct all SEP benefits to the Curtis Bay community and immediately surrounding areas to the greatest extent possible. However, if necessary, the State and Defendant agree portions of the \$750,000 SEP may be directed to environmental projects improving environmental and environmental health disparities in the greater region.

- (4) The SEP shall itself be a dedicated fund, to be established and funded by Defendant in the amount of \$750,000, which shall be provided to the community as separate, individual grants of varying amounts made to vetted organizations for projects and efforts intended and designed to improve, protect, and/or reduce risks to public health or the environment and to the extent practicable, to specifically address matters related to solid waste management and water pollution in the community in the targeted communities (the "SEP Purpose.")
- (5) The Office and Defendant agree to utilize the Chesapeake Bay Trust ("CBT") to receive and take possession and control of the SEP payment from Defendant, to conduct outreach to identify needs in the Curtis Bay community and surrounding areas consistent with the SEP Purpose, to design and formally establish a program consistent with the goals and intent of this agreement and the SEP Purpose (the "SEP Program"), to solicit projects and then review, approve, and disburse individual grants to vetted organizations designed to achieve the SEP Purpose, all in a manner consistent with this Agreement.
- (6) CBT shall be responsible for identifying and selecting all grantees in a manner consistent with its own established statutory requirements and best practices, and CBT shall be permitted to utilize funds from the SEP to pay its normal and ordinary overhead and reasonable expenses for the oversight and operation of the SEP Program as provided herein.
- (7) The Office and Defendant shall work cooperatively with each other and CBT to design a SEP Program that is intended to achieve the SEP Purpose.
- (8) Defendant may pay to CBT the \$750,000 required under this Agreement for the SEP Program in installments over the course of probation, with at least 25% of the total amount due within six months of sentencing, 50% within a year of sentencing and the full amount 45 days prior to the expiration of the probationary period.
- (9) The SEP Program shall be managed pursuant to a separate agreement executed by the Office, Defendant, and CBT. Once established and funded by Defendant, CBT shall have sole responsibility for the award of any subsequent grants by the SEP Program and its operation and oversight.

- (10) The Office and Defendant agree that if an acceptable SEP Program cannot be established with CBT during the period prior to the plea hearing or within six months of sentencing through no fault of the Defendant, then the SEP funding, or remaining balance, will be placed into a dedicated trust to complete the obligation, with such action satisfying the probationary condition.
- ii) **Compliance with all Environmental Laws and Permits.** Consistent with the requirements and provisions herein, the Defendant agrees to comply with all permits and environmental laws and regulations.
- iii) **Review and Revision of Standard Operating Procedures.** The Defendant agrees to review all current Standard Operating Procedures (“SOPs”) and where appropriate, update as necessary. These will be submitted to MDE with a copy to this Office. Defendant's operational staff will be trained on the revised SOPs with proof of training provided within 18 months of sentencing to MDE and this Office.
- iv) **Violations of Probation.** The State and Defendant agree that the State will not seek to violate criminal probation for 1) minor infractions at the Defendant’s facility, 2) self-reported violations of air emissions standards, isolated permit violations, and accidental spills or discharges, or 3) any subsequent Federal or State criminal, civil or administrative filings, convictions, deferred prosecution agreements, or other similar settlements for violations occurring, arising or associated with any investigation that began on or before March 31, 2020. As used herein, the term "minor infractions" shall mean any operational violation that cannot be corrected or otherwise prevented from occurring again by means of a corrective action that can be completed within ten days. The State reserves the right to pursue a revocation of probation for violations at the Defendant’s facility that present a substantial threat to the environment and public health, such as the violations included in this criminal filing and plea agreement.
- v) **Subsequent Criminal Charges.** The State reserves the right to file subsequent criminal charges for any alleged criminal conduct occurring after the execution of this agreement.

c) Modification of Probation.

- i) Upon full payment of the fine and satisfaction of all special conditions of probation, the State will not oppose a modification, filed pursuant to Maryland Rule 4-345, requesting early termination of the imposed 2-year probationary period.

d) Probation Before Judgment.

- i) Because of the Defendant's willingness to acknowledge responsibility for its behavior, its initial and continued cooperation with this Office and other agencies, the significant corrective actions already taken, the additional commitments to be completed by the Defendant as part of this plea and the demonstrated improvements to facility operations and compliance with its permit and related laws and regulations, the State will join the Defendant to request that the Court bind itself to a disposition under Annotated Code of Maryland, Criminal Procedure Article § 6-220.

- 4) The Defendant understands that the Court is not a party to this plea agreement and is not required to follow any sentencing recommendations from the parties. Consequently, the Defendant understands that the Court may impose any lawful sentence up to and including the statutory maximum sentence set forth above. The Defendant further understands that no one, including the prosecutor and their counsel, can make a binding prediction, promise, or representation as to what sentence it will receive unless otherwise noted in this plea agreement.

Corporate Guilty Plea

- 5) The Defendant understands that:

- a) By signing this plea agreement, Curtis Bay Energy, LP, certifies that it has read it and discussed its terms with undersigned defense counsel and fully understands its meaning and effect. Defendant acknowledges that the general partner of the company, among others, are authorized to approve the Company's agreement and entry into this plea agreement and have authorized the corporate officer identified below, and in the attached affidavit (Attachment 2), to enter this plea agreement and execute all other documents necessary to carry out the provisions of this plea agreement on behalf of the Company. Defendant agrees that a duly authorized corporate officer, or legally recognized representative, for the Defendant shall appear on behalf of the Defendant, enter the guilty plea and appear for sentencing. This plea agreement shall bind Curtis Bay Energy, LP, its assignees, and any successor that may own or operate the facility at or near 3200 Hawkins

Point Road, Baltimore City and any other person, permittee or entity that assumes the obligations contained herein. No change in name, change in corporate or individual control, business reorganization, change in ownership, merger, change of legal status, sale or purchase of assets, divestiture of assets or similar action shall alter the Defendant's obligations under this plea agreement.

Waiver of Rights

- 6) The Defendant understands that by pleading guilty it is giving up certain rights, including the following:
 - a) The Defendant has the right to plead not guilty and to persist in that plea.
 - b) If the Defendant pled not guilty, it would have the right to a speedy jury trial. The Defendant also would have the option of waiving its right to a jury trial and having its trial conducted before the Court.
 - c) If the Defendant pled not guilty, it also would have the right to be represented by an attorney—and if necessary have the Court appoint an attorney—at trial and at every other stage of the proceeding.
 - d) If the Defendant elected a jury trial, the jury would be composed of twelve individuals selected from the community. The Defendant and its attorney would have the opportunity to challenge prospective jurors who demonstrated bias or who were otherwise unqualified and would have the opportunity to strike a certain number of jurors peremptorily.
 - e) If the Defendant went to trial, it would be presumed innocent, and the State would have the burden of proving the Defendant guilty beyond a reasonable doubt.
 - f) At trial, the Defendant would have the right to confront and cross-examine the State's witnesses. The Defendant would not have to present any defense witnesses or evidence. If the Defendant wanted to call witnesses or obtain evidence for its defense, however, it would have the subpoena power of the Court to both compel the attendance of witnesses and obtain evidence.
 - g) If the Defendant went to trial, it would have the right to refuse to testify, and no adverse inference could be drawn from its decision not to testify. The Defendant, however, also would have the right to testify if it so chose.
- 7) If the Court accepts the Defendant's plea of guilty, the Defendant understands that there will be no trial, and the Court will find it guilty.

Collateral Consequences

- 8) The Defendant agrees that it wants to plead guilty even though its guilty plea may have adverse collateral consequences. The Defendant further agrees that, before pleading guilty, it has consulted with its attorney about the potential collateral consequences of a guilty plea and received all requested information about the potential collateral consequences of its guilty plea.

No Threats, Force, or Undocumented Promises

- 9) The Defendant agrees that it has not been threatened or forced, in any way, to enter into this plea agreement or to plead guilty. The Defendant further agrees that no promises other than those set forth in this plea agreement have been made to induce the Defendant to enter into this plea agreement.

False Statements, Obstruction, or Other Violation of Laws

- 10) The Defendant agrees and understands that this Office will be relieved of its obligations under this plea agreement if between the date of this plea agreement and sentencing: (a) this Office learns that the Defendant has made material misstatements or failed to disclose material facts to this Office, the probation office, or the Court; or (b) the Defendant violates any State, local, or federal law. The Defendant further agrees and understands that, should this Office be relieved of its obligations under this plea agreement for either of these reasons, it will not be allowed to withdraw its guilty plea solely because this Office has been relieved of its obligations under this agreement.

Limitations of Agreement

- 11) **Further prosecution.** The Defendant's guilty plea and related conduct encompasses violations of solid waste and special medical waste management activities, as well the illegal operation of an unpermitted outlet and related water pollution violations at or near 3200 Hawkins Point Road, Baltimore City, during the period from August 1, 2018 through March 31, 2020. The State agrees that, except for the offenses to which the Defendant agrees to plead guilty, the Defendant will not be prosecuted criminally for any other violations of State law arising from the matters described in the charging document and this agreement related to the illegal handling of solid waste and environmental violations at that location during those dates.
- 12) **Other proceedings.** It is expressly agreed and understood that nothing in this plea agreement is intended to preclude any civil or administrative action arising from the Defendant's

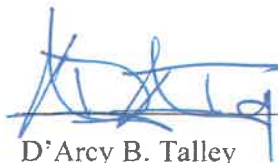
involvement in the matters that were the subject of the criminal investigation and nothing in this agreement shall be construed as a bar to any such action.

- 13) **Other agreements.** Except as expressly set forth in this plea agreement, there are no other agreements, promises, understandings, representations or undertakings between the State and the Defendant and none shall be made except in writing and executed by all parties.

Sincerely,



Kory H. Lemmert
Assistant Attorney General



D'Arcy B. Talley
Assistant Attorney General

ACKNOWLEDGEMENT

I, Charles Veniez, President & CEO of Curtis Bay Energy, LP, have read the contents of this plea agreement, and carefully reviewed every part of it with my attorney. I understand it and do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

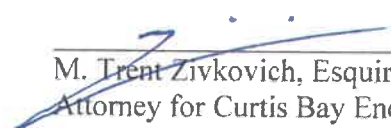
Date: AUG. 18, 2023



Charles Veniez, President & CEO
Curtis Bay Energy, LP

I am the attorney for Curtis Bay Energy, LP, I have carefully reviewed the contents of this plea agreement, with my client. They have advised me that in their role as President & CEO of Curtis Bay Energy, LP and acting on behalf of the partnership, they understand the contents of this agreement and the company wishes to plead guilty. To my knowledge, this decision is informed and voluntary.

Date : AUGUST 18, 2023



M. Trent Zivkovich, Esquire
Attorney for Curtis Bay Energy, LP

STATEMENT OF FACTS
STATE v. CURTIS BAY ENERGY, LP

SYNOPSIS

On or about November 8, 2019, the Maryland Office of the Attorney General, Environmental Crimes Unit (“ECU”) received information regarding Curtis Bay Energy, LP (“Curtis Bay Energy”), a large medical waste incinerator located in Baltimore City, alleging ongoing environmental violations and efforts by certain employees to conceal those violations from Maryland Department of the Environment (“MDE”) inspectors. Subsequent investigations confirmed multiple violations occurring until March 2020 involving the concealment of an unpermitted discharge outlet from MDE inspectors and the improper and unsafe handling, illegal transport, and disposal of insufficiently incinerated special medical waste. The violations occurred with the knowledge and at times the direction of the facility's Director of Plant Operations, the Plant Manager and other supervisory staff.

SPECIAL MEDICAL WASTE

Special medical waste is a subset of solid waste that occupies a middle tier of regulation between general solid waste (i.e. construction debris, household trash) and hazardous waste (i.e. corrosive, flammable, carcinogenic chemicals or materials). Special medical waste is waste likely to have been contaminated by an organism capable of causing disease in healthy humans. It consists primarily of ‘red bag’ waste from hospital and laboratory settings, those wastes that are removed from the general waste stream and placed into marked biohazard containers because they carry the risk of transmitting disease (i.e., contaminated material that has come in contact with blood, feces, bodily fluids, etc., anatomical material (human or animal), and laboratory waste that contains human pathogens, cultures, stocks or related materials). Because of the nature of special medical waste, the risk of pathological exposure, and risks to public health, special medical waste is regulated by both MDE and the Maryland Department of Health. The waste must be specially packaged and transported until rendered harmless by proper treatment. Special medical waste can be treated pursuant to state regulations by incineration, autoclaving, disinfection, or other alternative methods that sufficiently reduce infectious agents as defined in the regulation. Once properly treated, the special medical waste may be disposed of at any permitted solid waste landfill. The process of treating the waste will often also generate air emissions and wastewater that are regulated at the federal, state and local levels.

FACTS IN SUPPORT

COMPANY AND FACILITY OVERVIEW

Curtis Bay Energy provides special medical waste management services; its services include educating generators and providing disposal supplies directly to hospitals and medical offices, transporting the packaged special medical waste from those sites and ultimately treatment and disposal of the waste. Regulations require special medical waste to be documented, packaged, labelled and transported to allow tracking of the waste so to prevent potential public health risks caused by mishandling. The company receives medical waste from various private and government sources from numerous states and Canada. The company processes waste at various facilities along the East Coast, including its medical waste incinerator located in Baltimore City, Maryland. The 30,000 square foot incineration plant is located primarily on a 4-acre parcel at 3200 Hawkins Point Road (the "Facility"). The plant is intended to operate 24 hours a day, seven days a week. While the plant is connected to municipal water service, municipal sanitary sewer service is unavailable in its area. As such, all wastewater and process water that is not reused in Facility operations is directed to large holding tanks and then hauled to an offsite wastewater treatment plant for disposal. Facility stormwater is discharged to the environment through a permitted outlet. The Facility's own sanitary sewage is discharged via an onsite septic system.

Plant operations involve a complex series of manual and automated processes. After waste is received, material handlers move it into the Facility based on the type of waste and packaging and then into the Facility's incinerators. The waste is a heterogeneous mix of solid and liquid materials that burn at different rates requiring Facility staff to feed the incinerator with a mix of waste types to promote consistent incineration. Generally, the waste spends 8 hours in the incinerator, moved throughout the combustion chamber by a series of push rams. Operators have the ability to override the automated processes to allow for maintenance or in case of emergencies. State regulations require combustible special medical waste treated by incineration to be reduced to carbonized ash using high temperatures and adequate burn times. Because of the high levels of plastics in the waste stream, the byproduct of burning the waste is high in hydrochloric acid as well as other air pollutants. The emissions generated from incineration pass through a series of additional chambers and then through pollution control processes before venting from a continuously monitored emissions stack and into the environment. The ash generated from incineration is transferred from the combustion chamber and into a water quench

tank before it is moved by conveyor onto an ash pad. Once on the ash pad, the waste is loaded into transport trailers for delivery to a solid waste landfill.

During the period of investigation, the Facility was managed by the Director of Plant Operations, Kenneth Jackson (“Jackson”), who reported directly to the President/CEO of Curtis Bay Energy. Jackson oversaw plant-level supervisory staff including 1) Plant Manager, Thomas Keefer (“Keefer”), 2) Safety Manager, 3) Compliance Manager, 4) Production Manager and 5) Maintenance Manager. During that period, the plant operated pursuant to three primary permits issued to Curtis Bay Energy by MDE: 1) Refuse Disposal Permit No. 2017-WMI-0036 (Issued 6/13/17, Expired 6/12/22); 2) Part 70 Operating Permit No.24-510-2975 (Issued 5/1/19, Expires 1/31/24); and 3) General Permit Number 12-SW for Discharges from Stormwater Associated with Industrial Activity. The Plant is also covered by a wastewater discharge permit issued by the City of Baltimore and a medical waste hauler license from MDE.

CONCEALMENT OF ILLEGAL DISCHARGE INVESTIGATION

In November of 2019, ECU received a complaint that Curtis Bay Energy employees at the Facility disconnected and hid an illegal pump and hose from underneath a leaking, closed-loop steam condenser to avoid detection by an MDE inspector during an unannounced compliance inspection on November 8, 2019. The same conduct was observed again during an inspection on January 8, 2020. The ECU investigation identified the individuals responsible for the concealment.

SPECIAL MEDICAL WASTE VIOLATIONS

During the course of its investigation, ECU was able to substantiate additional allegations that plant managers at times directed employees to improperly load the incinerators in order to process waste faster, resulting in insufficiently incinerated special medical waste, which was in contradiction to the company’s Standard Operating Procedure stating, “[u]nder no circumstance will over charging the machine be tolerated.” Overcharging the incinerator could result in the insulation of the special medical waste in the interior of the load and prevent it from being fully reduced to carbonized ash. The resulting unburned or partially burned waste was referred to as “raw.” Employees stated that they voiced concerns about the practice to management employees, but nothing changed.

Properly processed combustible special medical waste is converted to a fine, black ash. Curtis Bay Energy’s Standard Operating Procedures required “solid residues from the

incineration process must be... unrecognizable as medical waste.” Curtis Bay Energy’s Refuse Disposal Permit required the Facility to comply with Code of Maryland Regulations 10.06.06. This regulation requires special medical waste be incinerated, autoclaved, disinfected, or subject to an alternative method of treatment sufficient to reduce infectious agents to certain levels before disposal. Incineration is defined as a process during which an article is burned to carbonized or mineralized ash to prevent transmission of disease to humans. The permit further required Curtis Bay Energy to operate in a manner to prevent pollution, public health hazards and nuisances. Pursuant to MDE regulations, the handling of any solid waste must be conducted in a manner that will not create a nuisance or create hazards to the public health, safety or comfort.

Curtis Bay Energy Standard Operating Procedures required that all “unburned materials must be culled out [of the ash located on the ash pad] using tools... and returned to the incinerator charging system for re-burning,” and that “[r]ed bags or other recognizable medical waste must not be loaded out for transport...[and] [s]uch material should be considered potentially infectious.” However, the witnesses interviewed stated that prior to 2020, raw waste routinely passed through to the ash floor and that there was no system in place, no employees assigned, and no tools available to cull partially combusted materials and reburn it, as required by the operating procedure and permit. Instead, witnesses and subsequent investigation revealed that the partially burned waste was commingled with ash and other non-combustible material and loaded into transport containers and sent for disposal as regular solid waste at commercial landfills. Witnesses stated that Facility management was aware of the treatment problems and the Facility’s Plant Manager directed employees to send the partially burned waste for disposal at the landfills.

The former and current employees interviewed by ECU described regularly seeing partially combusted special medical waste, including red bags, surgical gloves, medical supplies, bedding and other forms of special medical waste mixed with ash and fully-combusted materials on the ash pad, where the materials were staged for loading and transportation to a landfill, multiple times each week. Witnesses provided numerous photographs they captured of that insufficiently incinerated special medical waste. Witnesses provided photographs of unincinerated, combustible special medical waste on the ash pad taken on November 14, 2018, March 11, 2019, March 13, 2019, June 20, 2019, August 26, 2019, August 31, 2019,

September 1, 2019, September 8, 2019, September 11, 2019, September 13, 2019, September 27, 2019 and November 13, 2019. (Representative photographs are attached as State's Exhibit 1 (taken August 26, 2019) and State's Exhibit 2 (taken September 27, 2019)).

Records obtained by ECU from Curtis Bay Energy during the period from October 2018 through March of 2020 confirmed that combustible special medical waste routinely passed through the incinerator without being fully reduced to ash. Operator log books, separate operator log sheets, and mechanic logs -- forms completed by mechanics during each 12 hour shift detailing plant conditions -- reference issues with unburned or partially burned waste (e.g. "raw," "bad," "not good," "uncooked") on 83 separate dates. Fires were noted on the ash pad on 4 separate dates and on November 13, 2019 a load of ash in transit to a Virginia landfill caught fire and burned through the metal transport container during transit. A review of operator log sheets, detailed checklists completed by operators during plant rounds every 4 hours, indicated that on 108 separate occasions between just October 2019 and March 31, 2020, the operators observed and recorded "Recognizable Medical Waste Present in Ash." Those daily operator log sheets, used to record the results of visual inspections of the ash pad and required to be retained by the Refuse Disposal Permit, were not able to be conclusively identified and provided by Curtis Bay Energy for significant spans of the required record keeping period, including, January 15, 2019, February 15, 2019, March 15, 2019, April 15, 2019, May 15, 2019, June 20, 2019, July 15, 2019, August 15, 2019, August 26, 2019, September 15, 2019, September 27, 2019, October 22, 2019, November 13, 2019, November 15, 2019, February 24, 2020, and March 5, 2020.

A review of Annual Tonnage Reports submitted by Curtis Bay Energy to MDE reported the substantial increase in the amount of waste processed from 24,192 tons in calendar year 2018 to 30,062 tons in calendar year 2019. During the period investigated, records show that plant management was in near daily communication with Curtis Bay Energy corporate leadership regarding the amount of waste processed each day and the profit recognized per pound of waste processed, though the investigation uncovered no evidence that Curtis Bay management directed Plant management to process waste beyond what was authorized by its permits. Records from 2019 indicated that the waste into the plant was up 10,000,000 pounds over the prior year, while labor costs declined significantly.

In response to the allegations of Curtis Bay Energy sending insufficiently combusted waste for disposal, on February 24, 2020, ECU Investigator Waugh and Environmental

Protection Agency Criminal Investigation Division Special Agent Christopher Michael conducted surveillance at Curtis Bay Energy. Investigator Waugh watched and documented from an adjacent property as Curtis Bay Energy employees loaded material from the ash pad into a container using a front-end loader. That container was then transported by Payne Trucking to the King George Landfill in Virginia. Investigator Waugh and Agent Michael maintained observation of the transport truck from the time it left Curtis Bay Energy until it dumped the material at the landfill in Virginia. During transport, the trailer containing the medical waste leaked fluid the entire trip and covered the agents' cars and windshields with an unknown substance. Curtis Bay Energy's Refuse Disposal Facility permit required ash be transported "in such a manner as to prevent leakage of liquid on public roads and release of material during transport." Curtis Bay Energy's Standard Operating Procedure for waste transport cautioned "[i]f free liquid in the residue is dripping out of the trailer on the highway, the load may be stopped and the transporter fined." Waugh and Michael previously arranged with King George Landfill to examine the waste once dumped. The investigators reviewed the waste and documented substantial amounts of unburned combustible medical waste such as plastics, paper and biological material. The investigators did not sample or test the material; through their training, knowledge and experience they identified that the combustible special medical waste was not reduced to carbonized ash. Representative photographs from that date are attached as State's Exhibits 3-6).

Following the discovery of the untreated waste by ECU, King George Landfill notified Curtis Bay Energy of the issue with the load of material. The Director of Plant Operations, Kenneth Jackson emailed the Curtis Bay Energy President, who acknowledged the problem and responded he once "had a facility with a permit condition of ZERO unburnt waste in the ash," and that they "use to manually pull out the unburned waste and send it back through the incineration process." Curtis Bay Energy's President agreed with Jackson's plan to "have the folks be diligent when loading out the ash and remove any unburnt material to be reprocessed through the incinerator." This conversation mirrors the permit requirements and the already existing Standard Operating Procedure.

A review of the operator log books and operator logs for the period from February 29, 2020 through March 9, 2020 show repeated reference to recognizable medical waste in the ash on the ash pad. In response to the issues with the landfill, Curtis Bay Energy drafted a new Ash

Quality Assurance Standard Operating Procedure on or about March 2, 2020. On March 9, 2020, ECU Investigator Thomas Waugh and U.S. Department of Transportation, Inspector General's Office, Special Agent Allen Waked conducted surveillance at Curtis Bay Energy. Investigator Waugh again watched and documented from an adjacent property as Curtis Bay Energy employees loaded material into a container from the ash pad. That container was then transported by Payne Trucking to the King George Landfill in Virginia. Investigator Waugh and Agent Waked maintained observation throughout the trip. During transport, the trailer containing waste, again, leaked fluid the entire trip and covered the agents' cars and windshields with an unknown substance. The investigators made advance arrangements with King George Landfill to examine the waste once dumped. The investigators examined the waste and documented unburned, combustible medical waste such as red waste bags, medical gloves, plastic pill bottles and paper. The investigators did not sample or test the material; through their training, knowledge and experience they identified the material to be combustible special medical waste that was not reduced to carbonized ash.

On March 11, 2020, Kenneth Jackson responded to the Virginia Department of Environmental Quality regarding the rejected load of waste from February 24. Jackson wrote, "[o]ur customers depend on us to completely destroy their waste products and render their material unrecognizable." He continued, "[w]e have retrained all our plant operators and ash loading personnel." That same day another load of ash sent by Curtis Bay Energy to King George Landfill was rejected and returned by the landfill. Photographs from King George as well as text messages and photographs from a Curtis Bay Energy employee to Thomas Keefer showed recognizable combustible medical waste in the ash. The presence of recognizable medical waste in the ash was documented in the operator log sheet for March 10, 2020. In an email to corporate management later in the day on March 11, 2020, Jackson wrote: "We have an issue... [t]hey are inspecting every load... [t]hey say they want all ash... In the meantime we are slowing the plant down to get longer burn times... We are having someone out on the ash pad going thru stuff coming out."

Photographs from King George Landfill and the operator log and mechanic log from March 11 and March 12 both documented combustible medical waste in the ash. Loads of waste from Curtis Bay Energy were rejected and returned on March 11, 2020 and on March 13, 2020 because of unburned, combustible medical waste in the ash. The landfill documented and

rejected additional loads of waste on March 16, 2020 and March 23, 2020 due to the presence of unburned, combustible medical waste in the ash.

Finally, during the course of the investigation, ECU Investigator Waugh reviewed aerial photographs of the Facility taken on or about December 11, 2019. He noted that while Curtis Bay Energy's Refuse Disposal Permit is for only 4 acres, the actual operation had increased to approximately 6 acres and expanded to cover adjacent parcels. Investigation determined that the parcel 3106 Hawkins Point Road is used as a parking lot for trucks and containers containing special medical waste before the materials are offloaded at the plant for treatment. The parked trucks and containers extend westward beyond the limits of 3106 Hawkins Point Road onto 3104 Hawkins Point Road and 3100 Hawkins Point Road (both parcels are owned by the City of Baltimore). There is no record of modification of the existing Refuse Disposal Facility permit to include those additional areas. Because special medical waste and process materials are located on those parcels, Curtis Bay Energy materially extended the Facility without prior approval from the MDE.

In January 2020, Curtis Bay Energy, through counsel, contacted ECU when it first learned of the unit's investigation of the Facility. Curtis Bay Energy has fully cooperated with the State throughout the duration of its investigation. The company has no known significant discharge related violations since January of 2020 and no known, unaddressed significant violations of its Refuse Disposal Permit or related special medical waste laws since March of 2020. Curtis Bay Energy was sold to a new owner in early 2021, with new personnel responsible for company and Facility operations and the company has continued its cooperation.

CONCLUSION

First, were witnesses called, they would testify that employees of CURTIS BAY ENERGY, LP, acting in the course of their employment and to the benefit of the company, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June12, 2022) Section III.B.1, by failing to comply with the requirements of COMAR 10.06.06, to wit: treatment by incineration before disposal, with regard to the handling and treatment of special medical waste, incineration being the reduction of material to carbonized ash, at or near 3200 Hawkins Point Road, Baltimore City, on or about June 20, 2019, August 26, 2019, September 27, 2019,

November 13, 2019, February 24, 2020, March 9, 2020, March 11, 2020, March 13, 2020, March 16, 2020 and March 23, 2020.

Second, witnesses would testify that employees of CURTIS BAY ENERGY, LP, acting in the course of their employment and to the benefit of the company, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June12, 2022) Section IV.G by failing to provide adequate personnel and equipment to ensure proper operation of the facility, at or near 3200 Hawkins Point Road, Baltimore City, in compliance with such permit's requirements on or about June 20, 2019, August 26, 2019, September 27, 2019, November 13, 2019, February 24, 2020, March 9, 2020, March 11, 2020, March 13, 2020, March 16, 2020 and March 23, 2020.

Third, witnesses would testify that employees of CURTIS BAY ENERGY, LP, acting in the course of their employment and to the benefit of the company, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June12, 2022) Section III.D.5, by failing to transport ash in such a manner as to prevent leakage of liquid on public roads and release of material during transport, at or near 3200 Hawkins Point Road, Baltimore City, on or about February 24, 2020 and March 9, 2020.

Fourth, witnesses would testify that employees of CURTIS BAY ENERGY, LP, acting in the course of their employment and to the benefit of the company, did fail to perform a duty imposed by a permit issued pursuant to Environment Article Title 9, to wit: Maryland Refuse Disposal Permit No. 2017-WMI-0036 (June 13, 2017- June12, 2022) Section IV.Q by failing to retain written records of periodic ash inspections conducted at, at or near 3200 Hawkins Point Road, Baltimore City, in compliance with such permit's requirements on or about January 15, 2019, February 15, 2019, March 15, 2019, April 15, 2019, May 15, 2019, June 20, 2019, July 15, 2019, August 15, 2019, August 26, 2019, September 15, 2019, September 27, 2019, October 22, 2019, November 13, 2019, November 15, 2019, February 24, 2020, and March 5, 2020.

Finally, witnesses would testify that employees of CURTIS BAY ENERGY, LP, acting in the course of their employment and to the benefit of the company, did materially extend a refuse disposal system without a permit issued by the Maryland Department of the Environment by expanding operations beyond the permitted 4 acres, at or near 3200 Hawkins Point Road, Baltimore City, on or about December 11, 2019.



EXHIBIT 1



EXHIBIT 2





02/24/2020 10:04

EXHIBIT 4

02/24/2020 10:12

EXHIBIT 5





02/24/2020 10:12

EXHIBIT 6

AFFIDAVIT OF AUTHORIZED CORPORATE OFFICER

The undersigned is over 18 years of age and competent to testify to the following facts and matters:

1. I am currently employed as the President & CEO of Curtis Bay Energy, LP.
2. I have been employed in this position and location since [date].
3. My responsibilities in this position include [relevant job duties].
4. I have reviewed the attached plea agreement as well as my authority to act as the Authorized Corporate Officer of Curtis Bay Energy, LP with defense counsel.
5. I am authorized by Curtis Bay Energy, LP to enter into the attached plea agreement and all other documents necessary to carry out the provisions of said plea agreement. [Attach any relevant documentation/resolutions/etc.]

I DECLARE AND AFFIRM, under the **penalties of perjury**, that all of the facts set forth in this Affidavit are true and correct.

AUG. 18, 2023
DATE


Charles Veniz, President & CEO
Curtis Bay Energy, LP

WITNESS:

AUGUST 19, 2023
DATE


M. Trent Zivkovich, Esquire
Attorney for Curtis Bay Energy, LP

Penalty Payment Information
State of Maryland v. Curtis Bay Energy, LP
Baltimore City Circuit Court, Case Number: To Be Filed

Pursuant to Maryland Annotated Code, Environment Article § 9-320(b)(1), any fine imposed by a court under the provisions of Title 9, Subtitle 3, “**shall be made into the Maryland Clean Water Fund.**”

The above referenced case proceeded by way of convictions to violations whose penalties are imposed by Environment Article § 9-343.

As such, payment(s) of the penalty in this case must be mailed to:

P.O. Box 1417
Baltimore Maryland 21203-1417

In the subject line, all of the following information must be printed:

ECU 19-2785CBE, PCA #13767, Object# 7338, Subject# 626

Check(s) should be made payable to the **Maryland Department of the Environment.**

The Maryland Department of the Environment will invoice the Defendant at the following address:

Curtis Bay Energy, LP
c/o M. Trent Zivkovich, Esq.
Whiteford, Taylor, Preston, LLP
7 Saint Paul Street, Suite 1500
Baltimore, Maryland 21202