

ANTHONY G. BROWN
Attorney General

CANDACE MCLAREN LANHAM
Chief of Staff

CAROLYN A. QUATTROCKI
Deputy Attorney General



D'ARCY BYRNES TALLEY
Division Chief

KORY H. LEMMERT
Assistant Attorney General

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

September 20, 2023

W. Warren Hamel, Esquire
Venable, LLP
750 E. Pratt Street, Suite 900
Baltimore, Maryland 21202
WHamel@venable.com
Via Electronic Mail

Re: Maryland v. Kenneth T. Jackson
Circuit Court for Baltimore City, Case Number 623160002

Dear Mr. Hamel:

This letter confirms the plea agreement between your client, Kenneth T. Jackson (the "Defendant") and the Maryland Office of the Attorney General (this "Office"). Please sign in the appropriate spaces below. An executed copy of this agreement and incorporated documents will be submitted as Joint Exhibit 1 at the time of the plea.

Offenses of Conviction

1. The Defendant agrees to plead guilty to a Criminal Information to be filed in the Circuit Court for Baltimore City charging them with five counts of violations related to the improper handling of solid waste as well as the illegal installation and operation of a discharge outlet at or near 3200 Hawkins Point Road, Baltimore City, Maryland, on and between March 2019 and March 2020. Specifically, Mr. Jackson will be charged with three counts of operating an unpermitted outlet (violations of Annotated Code of Maryland, Environment Article §9-323), and two counts of engaging in solid waste handling in a manner likely to create a nuisance and pollute the air and create other hazards to the public health, safety, and comfort (violations of Code of Maryland



Regulations (COMAR) 26.04.07.03). All offenses are punishable through Environment Article § 9-343 and each day on which a violation occurs is a separate violation.

2. The elements of operating an unpermitted outlet are as follows:

- The Defendant
- operated
- an outlet and establishment
- that could cause and increase the discharge
 - “Discharge” means: (1) The addition, introduction, leaking, spilling, or emitting of a pollutant into the waters of this State; or (2) The placing of a pollutant in a location where the pollutant is likely to pollute. Environment Article § 9-101 (b)
- of a pollutant
 - “Pollutant” means: (1) Any waste or wastewater that is discharged from: (i) A publicly owned treatment works; or (ii) An industrial source; or (2) Any other liquid, gaseous, solid, or other substance that will pollute any waters of this State. Environment Article § 9-101 (g)
 - “Pollution” means any contamination or other alteration of the physical, chemical, or biological properties of any waters of this State, including a change in temperature, taste, color, turbidity, or odor of the waters or the discharge or deposit of any organic matter, harmful organism, or liquid, gaseous, solid, radioactive, or other substance into any waters of this State, that will render the waters harmful or detrimental to: (1) Public health, safety, or welfare; (2) Domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses; (3) Livestock, wild animals, or birds; or (4) Fish or other aquatic life. Environment Article § 9-101 (h)
- into waters of the State
 - “Waters of this State” includes: (1) Both surface and underground waters within the boundaries of this State subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of this State, the Chesapeake Bay and its tributaries, and all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage. Environment Article § 9-101 (l)

- without a permit issued by the Maryland Department of the Environment.
 - “Discharge permit” means a permit issued by the Department for the discharge of any pollutant or combination of pollutants into the waters of this State. Environment Article § 9-301(d)
3. The elements of handling solid waste in a manner likely to create a nuisance and pollute the air and create other hazards to the public health, safety, and comfort are as follows:
- The Defendant
 - did engage
 - in solid waste handling
 - “Solid waste” means any garbage, refuse, sludge, or liquid from industrial, commercial, mining, or agricultural operations or from community activities. Environment Article § 9-101(j)(1)
 - in a manner likely to create a nuisance and pollute the air and create other hazards to the public health, safety, and comfort.
4. The dates on which Mr. Jackson will be charged with operating an unpermitted outlet at or near 3200 Hawkins Point Road, Baltimore City are as follows:
- November 8, 2019
 - December 4, 2019
 - January 8, 2020.
5. The dates on which Mr. Jackson will be charged with handling solid waste in a manner likely to create a nuisance and pollute the air and create other hazards to the public health, safety, and comfort at or near 3200 Hawkins Point Road, Baltimore City, are as follows:
- February 24, 2020
 - March 9, 2020
6. A Statement of Facts in Support of the Plea with supporting exhibits is included and incorporated with this written plea and will be submitted at the hearing as part of Joint Exhibit 1.

Penalties and Sentence

7. These crimes are punishable as misdemeanor violations with a maximum penalty each of up to one year incarceration and a fine of up to \$25,000. Environment Article § 9-343.
8. The Defendant’s anticipated guidelines are Probation to Probation.
9. The Office and Defendant will recommend the following sentence:

- **Count One.** A sentence of one year incarceration, suspended, a fine of \$10,000 to be paid to the Maryland Clean Water Fund and three years of probation.

- **Count Two.** A sentence of one year incarceration, consecutive, suspended, a fine of \$10,000 to be paid to the Maryland Clean Water Fund and three years of probation.

- **Count Three.** A sentence of one year incarceration, concurrent, all suspended, a fine of \$10,000 to be paid to the Maryland Clean Water Fund and three years of probation.

- **Counts Four and Five.** A sentence of one year incarceration, concurrent, all suspended, a fine of \$10,000, all suspended, to be paid to the Maryland Clean Water Fund and three years of probation.

- **Total Contemplated Sentence.** Two years of incarceration, suspended. A fine of \$50,000, suspending all but \$30,000 to be paid to the Maryland Clean Water Fund and three years of supervised probation.

- **Fines:**

- i. Fines are to be paid within 34 months of sentencing. Pursuant to 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 Maryland Department of the Environment will invoice the Defendant. Failure to receive an invoice does not relieve the Defendant of any obligation to pay the Court imposed fine. Payment information is attached this written plea and incorporated.

- **Probation.** The State will not oppose a modification to unsupervised probation upon payment of the full fine amount and completion of the community service.

10. The Defendant understands that the Court is not a party to this 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 they will receive. The Defendant agrees that no one has made such a binding prediction, promise or representation.

Waiver of Rights

12. The Defendant understands that by pleading guilty they are 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, they would have the right to a speedy jury trial. The Defendant also would have the option of waiving their right to a jury trial and having their trial conducted before the Court.
- c. If the Defendant pled not guilty, they 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 their 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, they 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 their defense, however, they 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, they would have the right to refuse to testify, and no adverse inference could be drawn from their decision not to testify. The Defendant, however, also would have the right to testify if they so elect.

13. If the Court accepts the Defendant's plea of guilty, the Defendant understands that there will be no trial, and the Court will find them guilty.

Collateral Consequences

14. The Defendant understands that the offenses to which they are pleading guilty are misdemeanor offenses, and that their guilty plea will result in misdemeanor convictions. The Defendant further understands that their conviction(s) may have certain significant collateral consequences, including, but not limited to, the following:

a. If they are not a citizen of the United States, the Defendant's guilty plea may result in their deportation, detention, removal, ineligibility for citizenship and other adverse immigration consequences;

b. The Defendant's conviction may lead to the loss of certain civil rights, including the right to vote, hold public office, serve on a jury or possess a firearm; and

c. The Defendant's conviction may cause them difficulty finding a job, obtaining certain licenses, qualifying for loans or other forms of credit and obtaining public benefits.

d. The Defendant understands that the above list is not all inclusive. The Defendant agrees that they want to plead guilty even though their guilty plea may have significant adverse collateral consequences. The Defendant further agrees that, before pleading guilty, they have consulted with their attorney about the potential collateral consequences of a guilty plea and received all requested information about the potential collateral consequences of their guilty plea.

No Threats, Force, or Undocumented Promises

15. The Defendant agrees that they have 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

16. The Defendant agrees and understands that this Office will be relieved of its obligations under this plea agreement if between the date of this 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, they will not be allowed to withdraw his guilty plea solely because this Office has been relieved of its obligations under this agreement.

Limitations of Agreement

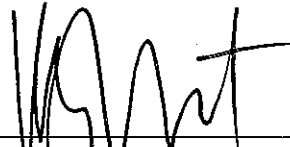
17. **Further prosecution.** The Defendant's guilty plea relates to illegal solid waste handling and installation and the operation of unpermitted outlets at 3200 Hawkins Point Road, Baltimore City, Maryland during the period from March 2019 through March 2020. The State agrees that, except for the offenses 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 Defendant's scheme as described in the charging document related to the illegal handling of solid waste and environmental violations at that location during those dates.

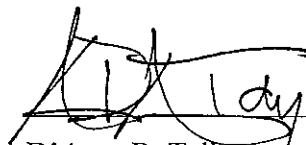
18. **Other proceedings.** It is expressly agreed and understood that nothing in this agreement is intended to preclude any civil or administrative action arising from the Defendant's involvement in the matters that were the subject of the criminal investigation and nothing in this agreement shall be construed as a bar to any such action.

19. **Other agreements.** Except as expressly set forth in this plea offer, 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

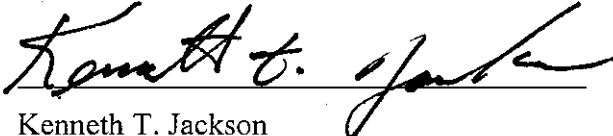


D'Arcy B. Talley
Assistant Attorney General

ACKNOWLEDGEMENT


I, Kenneth T. Jackson, 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: OCT-2-2023


Kenneth T. Jackson
Defendant

I am the attorney for Kenneth T. Jackson. I have carefully reviewed the contents of this plea agreement, with Mr. Jackson. They have advised me that they understand the contents of this agreement and wish to plead guilty. To my knowledge, this decision is informed and voluntary.

Date : Oct. 2, 2023


W. Warren Hamel, Esquire
Attorney for Kenneth T. Jackson

STATEMENT OF FACTS
STATE V. KENNETH JACKSON

OVERVIEW

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 involving the illegal installation, use and concealment of an unpermitted discharge outlet and the improper and unsafe handling and disposal of insufficiently incinerated special medical waste. The violations occurred with the knowledge and at times at the direction of the Director of Operations, Kenneth **Jackson** (“Jackson”) and other supervisory staff.

REGULATORY OVERVIEW

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 hospitals 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) or laboratory waste that contains human pathogens, cultures, stocks or related materials). Once properly treated, through autoclaving or incineration, the special medical waste may be disposed of at any permitted solid waste landfill. The process of treating the waste will often also generate other pollution streams that are regulated at the federal, state and local levels.

FACTS IN SUPPORT

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. The company receives medical waste from various private and

government sources at various facilities along the East Coast, including its medical waste incinerator located in Baltimore City, Maryland. The incineration plant is located primarily on a 4-acre parcel at 3200 Hawkins Point Road (the "Facility"). The plant is connected to municipal water service, but 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.

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. Generally, the waste spends 8 hours in the incinerator, moved throughout the combustion chamber by a series of push rams. Operators can 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. 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, 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.

WATER VIOLATIONS

In November of 2019, ECU received a complaint that Curtis Bay Energy employees at the Facility disconnected and concealed an illegal pump and hose to avoid detection by an MDE inspector during an unannounced inspection on November 8, 2019. ECU Chief Investigator

Thomas Waugh contacted the complainant, who stated there was a large leak from the building that housed the condenser units (“condensate building”). The complainant stated the condenser units were leaking since at least July of 2019. This was confirmed later in the investigation through additional interviews with current and former employees and documents obtained from Curtis Bay Energy.

The complainant stated the leaking discharge previously flowed down the road into the stormwater system; he said that in July of 2019, **Jackson** became concerned about potential stormwater violations and maintenance workers installed a sump pump at the base of the condensate building with a hose that ran into the woods, up a hill, into a PVC pipe and through the fence-line to discharge onto the adjacent property. It was confirmed by other witnesses that the pump and hose were installed in the summer of 2019. Such an outlet required a permit issued by MDE. The complainant stated that **Jackson** was aware of the problem and the illegal pump and outlet and it was well known by employees at the Facility that they could not discharge any fluid but stormwater. As early as August 9, 2019, Kenneth **Jackson** began soliciting bids to replace the leaking steam condensers. On August 15, 2019, **Jackson** learned that it would take at least seven months to manufacture a new condenser. Curtis Bay Energy ordered the new condenser unit, at a cost of \$96,630, on October 17, 2019; the new unit was scheduled to ship on May 5, 2020. Throughout that time, the illegal pump and hose continued to operate.

The complainant provided a photograph of two Curtis Bay Energy employees removing the sump during an MDE inspection on November 8, 2019. (State’s Exhibit 1). The complainant stated a call went out on the employee radios that MDE inspectors were at the Facility and then the two employees went to the condensate building while MDE inspectors were intentionally delayed at the main office. The complainant stated the hose was discharging fluid on that date and provided photographs depicting the hose extending through the woods and terminating on the adjacent property, owned by the State of Maryland. (State’s Exhibits 2 - 4).

Agency inspection reports confirmed that MDE inspectors conducted an unannounced inspection on November 8, 2019. During that inspection, Kenneth **Jackson** told the inspectors that no unpermitted discharges were occurring at the Facility. The inspectors did not see the illegal pump and hose during their inspection. The MDE report from that date, provided to Curtis Bay Energy, specifically addressed the illegality of “intentional discharges from the

cooling tower,” as prohibited conduct. Records obtained during the subsequent ECU investigation, included a text message exchange between Kenneth **Jackson** and the Facility’s Compliance Manager just after the MDE inspection; the Compliance manager asked, “Are we approaching the condenser leaks wrong? We had a permit ... at the other plant. Should be no problem getting one for the condenser water.” **Jackson** responded, “But this plant doesn’t go to a sanitary drain.” Additional interviews, records and photographs show Curtis Bay Energy reinstalled the pump and hose after the MDE inspection and continued discharging.

Records reviewed as part of the investigation detailed an employee’s reporting of concerns regarding illegal discharges to Curtis Bay Energy’s human resources department on November 27, 2019. Those concerns were recorded as: “Disposal of water is illegally running in the lot, should be in a tank... “I am not going to jail.” Said he has brought this to [the Plant Manger] and **Ken [Jackson]**.” Later that same day, an email from the condenser unit manufacturer, seeking to try and speed up production, stated: “**Ken Jackson** ... has a four alarm issue with a leaking condenser,” noting that “[Curtis Bay Energy] are well outside of their permit with the copious leak, as stated by **Ken Jackson**.”

On December 4, 2019, ECU Investigator Waugh and MDE Inspector Brenden Hogan (“Hogan”) entered 3206-3304 Hawkins Point Road, the adjacent property at the rear of the Facility. They located the hose and pipe extending through the fence and discharging an unknown fluid directly on the ground. (State’s Exhibit 5-7). Through the wire fence, they observed the hose originating from the condensate building of Curtis Bay Energy. The discharge from the unpermitted outlet occurred at a heavy rate and the ground was saturated and muddy with standing water, even though it had not rained in several days and the area tapered downgrade to a storm drain in the middle of the property. A prior review of permits issued to Curtis Bay Energy showed no permit for the outlet or discharge. The discharge was documented, and a sample tested. On that date, the discharge was primarily free of contaminants, however, MDE Inspector Hogan knew through his training, knowledge and experience that the both the installation and operation of any outlet that could cause an increase of pollution to ground or surface waters of the State of Maryland must be permitted by MDE.

On January 8, 2020, Investigator Waugh and MDE inspectors returned to 3206-3304 Hawkins Point Road. They again observed the hose from the condensate building discharging fluid at a heavy rate. (State’s Exhibit 8). They observed and documented that most of the area

was blanketed in snow, except for the areas under the outlet and the path of drainage from that discharge, down into the storm drain. After documenting the discharge, MDE inspectors left to conduct an unannounced inspection of the Facility. ECU Investigator Waugh remained at 3206-3304 Hawkins Point Road. MDE entered the facility at 9:28AM. At 9:37AM, Investigator Waugh documented a Curtis Bay Energy employee removing a sump pump from under the condensate building (State's Exhibit 9). That employee then disconnected the hose and hid it in the woods. Prior to beginning the inspection of the plant, both **Jackson** and the Plant Manager told the MDE inspectors that all wastewater was captured and pumped back into the plant. At 10:56AM, Waugh documented the Plant Manger showing the area to the MDE inspectors. MDE inspector Hogan located the hidden hose in the woods and confronted the Plant Manager, who denied any knowledge of the illegal pump and hose. At the conclusion of the inspection MDE inspector Hogan confronted **Jackson** about the unpermitted pump and hose. **Jackson** denied any knowledge. He then claimed the discharge only occurred due to recent work on the condensate building's foundation. MDE inspector Hogan told **Jackson** of the earlier documented discharges at which time **Jackson** admitted to the conduct and agreed to cease the discharge.

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 overload the incinerators to process waste faster, resulting in insufficiently incinerated special medical waste. This practice contradicted the company's Standard Operating Procedure which stated: "[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 interviewed stated that they voiced concerns about the practice to Facility management, but nothing changed.

Properly processed combustible special medical waste is converted to a fine, black ash. Curtis Bay Energy's Standard Operating Procedures required that "solid residues from the incineration process must be... unrecognizable as medical waste." Curtis Bay Energy's Refuse Disposal Permit required the Facility comply with Code of Maryland Regulations 10.06.06 which requires special medical waste be incinerated 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.

The employees interviewed by ECU described regularly seeing partially combusted special medical waste, such as red bags, surgical gloves, medical supplies, bedding, and other forms of special medical waste, comingled with ash on the ash pad, where the materials were staged for transportation to a disposal site, multiple times each week. Witnesses provided photographs they captured of insufficiently incinerated, combustible special medical waste on the ash pad taken on numerous dates throughout 2019.

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 material and reburn it. Instead, witnesses and subsequent investigation revealed that the partially burned waste was comingled 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 management was aware of the treatment problems and the Facility’s Plant Manager directed employees to send the partially burned waste for disposal.

Records obtained by ECU from Curtis Bay Energy during the period from October 2018 through March of 2020 confirmed that the incinerator was often overcharged with special medical waste and that partially combusted special medical waste routinely passed through the process. Operator log books, log sheets, and mechanic logs document unburned or partially burned waste (e.g. “raw,” “bad,” “not good,” “uncooked”) on, at least, 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. Operator log sheets, detailed checklists completed by operators during plant rounds every 4

hours, indicated that on 108 inspections between just October 2019 and March 31, 2020, the operators observed and recorded “Recognizable Medical Waste Present in Ash” on the ash pad.

During the period investigated, records show that Kenneth **Jackson** 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. 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. 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.

In response to the allegations, 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 waste from the ash pad into a container using a front-end loader. That container was then transported by a transport company to the King George Landfill in Virginia. Investigator Waugh and Agent Michael maintained observation of the transport truck from the time it left the Facility 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. 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 recognized that the untreated waste was likely to create a nuisance and pollute the air and cause a discharge of pollutants to waters of the State of Maryland and impair the quality of the environment and create other hazards to the public health, safety and comfort. Representative photographs from that date are attached as State’s Exhibits 10-13.

Following the discovery of the untreated waste, King George Landfill notified Kenneth **Jackson** of the issue with the load of waste and he notified the Curtis Bay Energy President. The company president 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.” He confirmed **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.

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 waste into a container from the ash pad. The investigators maintained observation as the container was transported to the King George Landfill in Virginia. 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 recognized that the untreated waste was likely to create a nuisance and pollute the air and cause a discharge of pollutants to waters of the State of Maryland and impair the quality of the environment and create other hazards to the public health, safety and comfort. A review of the operator log books and operator logs for the preceding period from February 29, 2020 through March 9, 2020 show repeated reference to recognizable medical waste in the ash on the ash pad.

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 waste 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 the Plant Manager showed recognizable combustible medical waste in the ash.

Additional loads of waste from Curtis Bay Energy were rejected and returned by the landfill on March 11, 2020, March 13, 2020, March 16, 2020 and March 23, 2020 due to the presence of unburned, combustible medical waste in the ash.

CONCLUSION

Were witnesses called, they would identify Director of Operations, Kenneth **Jackson** as one of the persons responsible the illegal operation of the unpermitted outlet that could cause and increase the discharge of pollutants into the waters of the State of Maryland without a permit issued by the Maryland Department of the Environment , specifically on, at least, November 8, 2019, December 4, 2019 and January 8, 2020, at or near 3200 Hawkins Point Road, Baltimore City, Maryland. The unpermitted outlet was operated with **Jackson**'s knowledge and consent. Further, **Jackson** failed to disclose its existence to MDE inspectors on November 8, 2019 and January 8, 2020, aiding and abetting other Curtis Bay Energy employees in the removal and concealment of the hose.

Were witnesses called, they would testify that Kenneth **Jackson**, due to his position as Director of Plant Operations at Curtis Bay Energy, had responsibility and authority to prevent and to promptly correct, the systemic, documented and ongoing issues with improper loading of the incinerators, the improper treatment of the special medical waste and the improper handling of the resulting waste, and that he failed to do so. As such, Director of Plant Operations, Kenneth **Jackson**, was a responsible corporate officer and thus, responsible for the improper handling of solid waste in a manner likely to create a nuisance and pollute the air and cause a discharge of pollutants to waters of the State of Maryland and impair the quality of the environment and create other hazards to the public health, safety and comfort on or about, at least, February 24, 2020 and March 9, 2020 at or near 3200 Hawkins Point Road, Baltimore City, Maryland.



EXHIBIT 1



EXHIBIT 2



EXHIBIT 3



EXHIBIT 4



EXHIBIT 5



EXHIBIT 6



12/04/2019 09:47

EXHIBIT 7



EXHIBIT 8



EXHIBIT 9



EXHIBIT 10



EXHIBIT 11



EXHIBIT 12



EXHIBIT 13