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7 Attorneys for Complainant

8 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
9 **REGION IX**

75 Hawthorne Street  
10 San Francisco, California 94105

11 IN THE MATTER OF: ) DOCKET NO. UIC-09-2017-0002  
12 )

13 Matheson Tri-Gas, Inc. )  
91-163 Hanua St., Kapolei, HI 96707 )

14 Respondent. )

15 Proceedings under Sections 1423(c) of the )  
16 Safe Drinking Water Act, )  
17 42 U.S.C. §§ 300h-2(c). )

**CONSENT AGREEMENT**  
**AND**  
**[PROPOSED] FINAL ORDER**

18 **CONSENT AGREEMENT**

19 **I. AUTHORITIES AND PARTIES**

20 1. The United States Environmental Protection Agency (“EPA”), Region IX and  
21 Matheson Tri-Gas, Inc., (“Respondent”) (collectively the “Parties”) agree to settle this matter  
22 and consent to the entry of this Consent Agreement and Final Order (“CA/FO”), which  
23 commences this proceeding in accordance with 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and 22.45(b).  
24 Pursuant to 40 C.F.R. § 22.18(b)(3), this proceeding will conclude upon the issuance of a final  
25 order by the Regional Judicial Officer.

*In re Matheson Tri-Gas, Inc.*

1           2.       This is a civil administrative action instituted by EPA Region IX against  
2 Respondent pursuant to Sections 1423(c) of the Safe Drinking Water Act (“SDWA” or “the  
3 Act”), 42 U.S.C. §§ 300h-2(c), for violations of the SDWA and the Underground Injection  
4 Control (“UIC”) requirements set forth at 40 C.F.R. Part 144.

5           3.       Complainant is the Director of the Enforcement Division, EPA Region IX. The  
6 Administrator of EPA delegated to the Regional Administrator of EPA Region IX the authority  
7 to bring and settle this action under SDWA. In turn, the Regional Administrator of EPA Region  
8 IX further delegated the authority to bring and sign a consent agreement settling this action under  
9 SDWA to the Director of the Enforcement Division.

10          4.       Respondent is a Delaware corporation headquartered at 150 Allen Rd. Ste 302,  
11 Basking Ridge, New Jersey.

## 12                                   II. APPLICABLE STATUTES AND REGULATIONS

13          5.       Pursuant to Part C of the Act, 42 U.S.C. §§ 300h to 300h-8, Sections 1421 to  
14 1429 of the SDWA, EPA has promulgated regulations at 40 C.F.R. Part 144 establishing  
15 minimum requirements for UIC programs to prevent underground injection that endangers  
16 drinking water sources.

17          6.       “Underground injection” means the subsurface emplacement of fluids by well  
18 injection. 42 U.S.C. § 300h(d)(1); 40 C.F.R. § 144.3.

19          7.       “Well injection” means the subsurface emplacement of fluids through a well. 40  
20 C.F.R. § 144.3.

21          8.       “Well” means, in relevant part, a dug hole whose depth is greater than the largest  
22 surface dimension. 40 C.F.R. § 144.3.

23          9.       A “cesspool” is a “drywell,” which in turn is a “well,” as those terms are defined  
24 in 40 C.F.R. § 144.3.

25 //

1           10.     “Large capacity cesspools” (“LCCs”) include “multiple dwelling, community or  
2 regional cesspools, or other devices that receive sanitary wastes, containing human excreta,  
3 which have an open bottom and sometimes perforated sides.” 40 C.F.R. § 144.81(2). LCCs do  
4 not include single-family residential cesspools or non-residential cesspools which receive solely  
5 sanitary waste and have the capacity to serve fewer than 20 persons per day. *Id.*

6           11.     UIC program regulations classify LCCs as Class V UIC injection wells. 40 C.F.R.  
7 § 144.80(e).

8           12.     Class V UIC injection wells are considered a “facility or activity” subject to  
9 regulation under the UIC program. 40 C.F.R. § 144.3.

10          13.     “Owner or operator” means the owner or operator of any “facility or activity”  
11 subject to regulation under the UIC program. 40 C.F.R. § 144.3.

12          14.     The “owner or operator” of a Class V UIC well “must comply with Federal UIC  
13 requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other  
14 measures required by States or an EPA Regional Office UIC Program to protect [underground  
15 sources of drinking water].” 40 C.F.R. § 144.82.

16          15.     Owners or operators of existing LCCs were required to have closed those LCCs  
17 no later than April 5, 2005. 40 C.F.R. §§ 144.84(b)(2) and 144.88.

18          16.     Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R.  
19 § 147.601, EPA administers the UIC program in the State of Hawaii. This UIC program consists  
20 of the program requirements of 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.

21          17.     Pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40  
22 C.F.R. § 19.4, EPA may issue an administrative order either assessing a civil penalty of not more  
23 than \$21,916 per day per violation up to a maximum of \$273,945, or requiring compliance, or  
24 both, against any person who violates the SDWA or any requirement of an applicable UIC  
25 program.

1 III. ALLEGATIONS

2 18. Respondent is a corporation and thus qualifies as a “person” within the meaning  
3 of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

4 19. Respondent acquired its Kapolei facility located at 91-163 Hanua Street, Kapolei,  
5 Hawaii 96707 on February 18, 2015 (the “Kapolei Facility”).

6 20. Since at least February 18, 2015, the Kapolei Facility has contained three  
7 cesspools, as that term is defined at 40 C.F.R. § 144.3.

8 21. As a result, since February 18, 2015, Respondent has “owned and/or operated”  
9 the three cesspools referenced in Paragraph 20.

10 22. Two of the cesspools referred to in Paragraph 20, known as cesspool number 1  
11 and cesspool number 3, at all times relevant to this CA/FO, have had the capacity to serve 20 or  
12 more persons per day, and thus are considered LCCs, as defined by 40 C.F.R. § 144.81(2).

13 23. To the present date, Respondent has not closed the two LCCs referred to in  
14 Paragraph 22 in accordance with 40 C.F.R. §§ 144.84(b)(2) and 144.88.

15 24. Since February 18, 2015, when Respondent purchased the facility, Respondent  
16 has owned and operated the two LCCs referenced in Paragraph 22 and therefore was in violation  
17 of the requirement to close all LCCs set forth at 40 C.F.R. §§ 144.84(b)(2) and 144.88.

18 IV. SETTLEMENT TERMS

19 A. General Provisions

20 25. For the purposes of this proceeding, Respondent (1) admits the jurisdictional  
21 allegations contained in this CA/FO, (2) neither admits nor denies the specific factual allegations  
22 contained in this CA/FO; (3) consents to the assessment of the penalty and to the specified  
23 compliance obligations contained in this CA/FO, and (4) and waives any right to contest the  
24 allegations or to appeal the Final Order accompanying this CA/FO. 40 C.F.R. § 22.18(b)(2).

25 //

1           26.     Respondent also expressly waives any right to contest the allegations contained in  
2 the Consent Agreement and to appeal the Final Order under the SDWA or the Administrative  
3 Procedures Act, 5 U.S.C. §§ 701-706, including any right to confer with the EPA Administrator  
4 under SDWA § 1447(b)(3), 42 U.S.C. § 300j-6(b)(3).

5           27.     This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire  
6 agreement between the Parties to resolve EPA’s civil claims against Respondent for the alleged  
7 violations of the SDWA identified in Section III of this CA/FO. Full compliance with this  
8 CA/FO, which includes (1) bringing the two LCCs at the Kapolei Facility into compliance with  
9 the UIC requirements in accordance with 40 C.F.R. §§ 144.84(b)(2), 144.88(a), and 144.89(a)  
10 and in accordance with Section IV.B of this CA/FO; (2) payment of an administrative civil  
11 penalty of \$88,374 in accordance with Section IV.C of this CA/FO; and (3) performance of a  
12 supplemental environmental project in accordance with Section IV.D of this CA/FO, shall  
13 constitute full settlement of Respondent’s liability for federal civil claims for the alleged SDWA  
14 violations specifically identified in Section III of this CA/FO.

15           28.     The provisions of this CA/FO shall apply to and be binding upon Respondent, its  
16 officers, directors, agents, servants, authorized representatives, employees, and successors or  
17 assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations  
18 acting under, through, or for Respondent shall not excuse any failure of Respondent to fully  
19 perform its obligations under this CA/FO.

20           29.     Issuance of this CA/FO does not in any manner affect the right of EPA to pursue  
21 appropriate injunctive or other equitable relief or criminal sanctions for any violations of law,  
22 except with respect to those claims described in Paragraph 24 that have been specifically  
23 resolved by this CA/FO.

24           30.     This CA/FO is not a permit or modification of a permit, and does not affect  
25 Respondent’s obligation to comply with all federal, state, local laws, ordinances, regulations,

1 permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish,  
2 satisfy, or otherwise affect Respondent's obligation to comply with all applicable requirements  
3 of the SDWA, regulations promulgated thereunder, and any order or permit issued thereunder,  
4 except as specifically set forth herein.

5 31. EPA reserves any and all legal and equitable remedies available to enforce this  
6 CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in  
7 any actions against Respondent for noncompliance with this CA/FO. Violation of this CA/FO  
8 shall be deemed a violation of the SDWA.

9 32. Unless otherwise specified, the Parties shall each bear their own costs and  
10 attorneys' fees incurred in this proceeding.

11 33. This CA/FO may be executed and transmitted by facsimile, email or other  
12 electronic means, and in multiple counterparts, each of which shall be deemed an original, but all  
13 of which shall constitute an instrument. If any portion of this CA/FO is determined to be  
14 unenforceable by a competent court or tribunal, the Parties agree that the remaining portions  
15 shall remain in full force and effect.

16 34. The undersigned representative of each party certifies that he or she is duly and  
17 fully authorized to enter into and ratify this CA/FO.

18 B. Compliance Requirements

19 35. As required by Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and  
20 consistent with the timeframes set forth below, Respondent shall:

- 21 a. close the two LCCs located at the Kapolei Facility in accordance with 40  
22 C.F.R. §§ 144.84(b)(2), 144.88(a), and 144.89(a), and all other applicable  
23 requirements, including all Hawaii Department of Health ("HDOH") closure,  
24 conversion, and/or replacement requirements, by November 30, 2017. If  
25 Respondent installs one or more new Individual Wastewater Systems

1 (“IWSs”), then installation and operation of the IWSs shall comply with  
2 HDOH requirements; and

3 b. within ten (10) days of receipt from HDOH, submit to EPA copies of: (i)  
4 HDOH approval of the closure of each of the the LCCs, and (ii) HDOH  
5 approval to operate any IWS.

6 C. Penalty

7 36. Respondent agrees to the assessment of a civil penalty in the amount of Eighty-  
8 eight thousand three hundred and seventy-four dollars (\$88,374).

9 37. Respondent shall pay the assessed penalty no later than thirty (30) days from the  
10 Effective Date of this CA/FO.

11 38. Respondent may pay the penalty by check (mail or overnight delivery), wire  
12 transfer, automated clearing house, or online payment. Payment instructions are available at:  
13 <http://www2.epa.gov/financial/makepayment>. Payments made by a cashier’s check or certified  
14 check must be payable to the order of “Treasurer, United States of America” and delivered to the  
15 following address:

16 U.S. Environmental Protection Agency  
17 Fines and Penalties  
18 Cincinnati Finance Center  
19 P.O. Box 979077  
20 St. Louis, Missouri 63197-9000

21 39. Concurrent with making the payment, Respondent must provide a letter with  
22 evidence of the payment made pursuant to Paragraphs 36 and 37, accompanied by the title and  
23 docket number of this action, to the EPA Region IX Regional Hearing Clerk, the EPA Region IX  
24 Enforcement Division Compliance Officer, and the EPA Region IX Office of Regional Counsel  
25 attorney, via United States mail, at the following addresses:

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1 Regional Hearing Clerk  
2 U.S. Environmental Protection Agency  
3 Region IX - Office of Regional Counsel  
4 75 Hawthorne Street (ORC-1)  
5 San Francisco, CA 94105

6 Aaron Setran, Compliance Officer  
7 U.S. Environmental Protection Agency  
8 Region IX - Enforcement Division  
9 75 Hawthorne Street (ENF-3-3)  
10 San Francisco, CA 94105

11 Kimberly Wells, Attorney Advisor  
12 U.S. Environmental Protection Agency  
13 Region IX – Office of Regional Counsel  
14 75 Hawthorne Street (ORC-2-3)  
15 San Francisco, CA 94105

16 40. In accordance with the Debt Collection Act of 1982 and 40 C.F.R. Part 13  
17 interest, penalty charges, and administrative costs will be assessed against the outstanding  
18 amount that Respondent owes to EPA for Respondent's failure to pay the civil administrative  
19 penalty by the deadline specified in Paragraph 37.

20 41. Interest on delinquent penalties will be assessed at an annual rate that is equal to  
21 the rate of current value of funds to the United States Treasury (i.e., the Treasury tax and loan  
22 account rate) as prescribed and published by the Secretary of the Treasury in the Federal Register  
23 and the Treasury Fiscal Requirements Manual Bulletins. 40 C.F.R. § 13.11(a)(1).

24 42. A penalty charge will be assessed on all debts more than 90 days delinquent. The  
25 penalty charge will be at a rate of 6% per annum and will be assessed monthly. 40 C.F.R. §  
13.11(c).

43. In addition, administrative costs for handling and collecting Respondent's  
overdue debt will be based on either actual or average cost incurred, and will include both direct  
and indirect costs. 40 C.F.R. § 13.11(b).

44. Failure to pay any civil administrative penalty by the deadline may also lead to  
any or all of the following actions:

*In re Matheson Tri-Gas, Inc.*

- 1 a. The debt being referred to a credit reporting agency, a collection agency, or to  
2 the Department of Justice for filing of a collection action in the appropriate  
3 United States District Court. 40 C.F.R. §§ 13.13, 13.14, and 13.33. In any  
4 such collection action, the validity, amount, and appropriateness of the  
5 assessed penalty and of this CA/FO shall not be subject to review.
- 6 b. The department or agency to which this matter is referred (e.g., the  
7 Department of Justice, the Internal Revenue Service) may assess  
8 administrative costs for handling and collecting Respondent's overdue debt in  
9 addition to EPA's administrative costs.
- 10 c. EPA may (i) suspend or revoke Respondent's licenses or other privileges; or  
11 (ii) suspend or disqualify Respondent from doing business with EPA or  
12 engaging in programs EPA sponsors or funds. 40 C.F.R. § 13.17.

13 45. Respondent shall tender any interest, handling charges, late penalty payments, and  
14 stipulated penalties in the same manner as described in Paragraphs 38 and 39.

15 D. Supplemental Environmental Project ("SEP")

16 46. As a Supplemental Environmental Project ("SEP"), Respondent shall close the  
17 small capacity cesspool, known as cesspool number 2, located near the Air Separation Unit at its  
18 Kapolei Facility in accordance with all applicable State of Hawaii closure requirements, and  
19 replace it with a septic system approved by HDOH. The septic system shall have an adjoining  
20 leachfield.

21 47. Respondent shall complete closure and replacement of the small capacity cesspool  
22 identified in Paragraph 46 by no later than November 30, 2017.

23 48. In performing this SEP, Respondents shall spend a minimum of FIFTY  
24 THOUSAND DOLLARS (\$50,000).

25 //

1           49.    As part of the SEP, Respondent shall submit the following information and/or  
2 reports to EPA:

- 3           a.    Within thirty (30) days of the closure of the small capacity cesspool, a SEP  
4           Completion Report certified by a responsible corporate official. The SEP  
5           Completion Report must include, at a minimum, evidence of SEP completion  
6           (which may include, but is not limited to, a description of the closure  
7           activities, photos, vendor invoices or receipts, etc.), and documentation of all  
8           SEP expenditures.
- 9           b.    Within ten (10) days of receipt from HDOH, copies of (1) HDOH approval of  
10           the closure of the small capacity cesspool, and (2) HDOH approval to operate  
11           the septic system and leachfield.

12           50.    The SEP shall be deemed to be “satisfactorily performed” when Respondent has  
13 closed the cesspool as described in Paragraph 46 and the SEP Completion Report has been  
14 submitted to EPA. The determination of whether the SEP has been satisfactorily completed (i.e.  
15 pursuant to the terms of the agreement) and whether the Respondent has made a good faith,  
16 timely effort to implement the SEP shall be reserved to the sole discretion of EPA.

17           51.    Respondent shall maintain legible copies of all documentation relevant to the SEP  
18 and reports submitted to EPA pursuant to this CA/FO and shall provide such documentation or  
19 reports to EPA not more than seven (7) days after a request for such information.

20           52.    Regarding the performance of this SEP, Defendant certifies the truth and accuracy  
21 of each of the following:

- 22           a.    That all cost information provided to the EPA in connection with the EPA’s  
23           approval of the SEP is complete and accurate and that the Respondent in good  
24           faith estimates that the cost to implement the SEP, exclusive of engineering  
25

1 design and permit approval costs, is a minimum of fifty thousand dollars  
2 (\$50,000);

- 3 b. That, as of the date of executing this CA/FO, Respondent is not required to  
4 perform or develop the SEP by any federal, state, or local law or regulation  
5 and is not required to perform or develop the SEP by agreement, grant, or as  
6 injunctive relief awarded in any other action in any forum;
- 7 c. That the SEP is not a project that Respondent was planning or intending to  
8 construct, perform, or implement other than in settlement of the claims  
9 resolved in this CA/FO;
- 10 d. That Respondent has not received and will not have received credit for the  
11 SEP in any other enforcement action;
- 12 e. That Respondent will not receive reimbursement for any portion of the SEP  
13 from another person or entity, including any tax credits from the State of  
14 Hawaii;
- 15 f. That for federal income tax purposes, Respondent agrees that it will neither  
16 capitalize into inventory or basis nor deduct any costs or expenditures  
17 incurred in performing the SEP;
- 18 g. That Respondent is not a party to any open federal financial assistance  
19 transaction that is funding or could fund the same activity as the SEP.

20 53. Any public statement, oral or written, in print, film, or other media, made by  
21 Respondent or a representative of Respondent making reference to the SEP Respondent is  
22 implementing pursuant to this CA/FO, must include the following language: "This project was  
23 undertaken in connection with the settlement of an enforcement action taken by the U.S.  
24 Environmental Protection Agency to enforce the Safe Drinking Water Act."

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1 E. Stipulated Penalties

2 54. Respondent shall pay stipulated penalties in accordance with this Section for any  
3 violations of this CA/FO.

4 55. If Respondent fails to meet the LCC closure requirements set forth in Paragraph  
5 35 or the small capacity cesspool SEP closure requirements set forth in Paragraphs 46 and 47,  
6 Respondent agrees to pay the following amounts for each cesspool that it fails to properly close  
7 on time:

8 a. \$50 for each and every day for the first 90 days that Respondent fails to  
9 properly close the cesspool;

10 b. \$100 for each and every day from days 91 through 365 that Respondent fails  
11 to properly close the cesspool; and

12 c. \$200 for each and every day from day 366 and afterwards that Respondent  
13 fails to properly close the cesspool.

14 56. If Respondent has satisfactorily performed the SEP according to Paragraph 46 of  
15 this CA/FO, but spent less than the amount described in Paragraph 48, Respondent agrees to pay  
16 a stipulated penalty of the difference between \$50,000 and the amount actually spent on  
17 performing the SEP.

18 57. If Respondent fails to pay the assessed civil administrative penalty specified in  
19 Paragraph 36 by the deadline specified in Paragraph 37, Respondent agrees to pay a stipulated  
20 penalty of \$250 per day for each day the assessed penalty is late, in addition to the assessed  
21 penalty.

22 58. If Respondent fails to timely submit any reports in accordance with the timelines  
23 set forth in this CA/FO, Respondent agrees to pay a stipulated penalty of \$50 for each day after  
24 the report was due until it submits the report in its entirety.

25 59. Respondent agrees to pay any stipulated penalties within thirty (30) days of  
receipt of EPA's written demand for such penalties. All penalties shall begin to accrue on the

1 first date of noncompliance, and shall continue to accrue through the date of completion of the  
2 delinquent CA/FO requirement. Respondent will use the method of payment specified in  
3 Paragraphs 38 and 39, and agrees to pay interest, handling charges and penalties that accrue for  
4 late payment of the stipulated penalty in the same manner as set forth in Paragraphs 40 through  
5 44.

6 60. Neither the demand for, nor payment of, a stipulated penalty relieves Respondent  
7 of its obligation to comply with any requirement of this CA/FO or modifies or waives any  
8 deadlines set forth in this CA/FO.

9 61. EPA may, in the unreviewable exercise of its discretion, elect to pursue any other  
10 administrative or judicial remedies in addition to or in lieu of assessing stipulated penalties  
11 and/or reduce or waive stipulated penalties due under this CA/FO.

12 F. Force Majeure

13 62. Respondent shall exercise its best efforts to avoid or minimize any delay and any  
14 effects of a delay. If any event occurs which causes or may cause delays meeting the deadlines  
15 set forth in this CA/FO, Respondent or its attorney shall, within forty-eight (48) hours of the  
16 delay or within forty-eight (48) hours of Respondent's knowledge of the anticipated delay,  
17 whichever is earlier, notify EPA in writing, by email or overnight mail. Within fifteen (15) days  
18 thereafter, Respondent shall provide in writing the reasons for the delay, the anticipated duration  
19 of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable  
20 by which those measures will be implemented. Failure to comply with the notice requirement of  
21 this paragraph shall preclude Respondent from asserting any claim of *force majeure*.

22 63. If EPA agrees in writing that the delay or anticipated delay in compliance with  
23 this CA/FO has been or will be caused by circumstances entirely beyond the control of  
24 Respondent, the time for performance may be extended for a period of no longer than the delay  
25 resulting from the circumstances causing the delay. In such event, EPA will grant, in writing an

1 extension of time. An extension of the time for performing an obligation granted by EPA  
2 pursuant to this paragraph shall not, of itself, extend the time for performing a subsequent  
3 obligation.

4 64. EPA will not impose stipulated penalties for performance of a task during any  
5 time period covered by an extension of time for that task granted pursuant to Paragraph 63.

6 G. Notices

7 65. Respondent must send any written communications and/or submittals, including  
8 any requests for extensions of time to meet the compliance deadlines, to the following:

9 Aaron Setran, Compliance Officer  
10 U.S. Environmental Protection Agency  
11 Region IX - Enforcement Division  
12 75 Hawthorne Street (ENF-3-3)  
13 San Francisco, CA 94105  
14 [setran.aaron@epa.gov](mailto:setran.aaron@epa.gov)

15 Kimberly Wells, Attorney Advisor  
16 U.S. Environmental Protection Agency  
17 Region IX – Office of Regional Counsel  
18 75 Hawthorne Street (ORC-2-3)  
19 San Francisco, CA 94105  
20 [wells.kimberly@epa.gov](mailto:wells.kimberly@epa.gov)

21 For each written communication and/or submittal, Respondent shall identify the case name, the  
22 case Docket Number, and the paragraph and/or requirement of this CA/FO under which the  
23 submission is being made.

24 66. Respondent shall include the following signed certification made in accordance  
25 with 40 C.F.R. § 144.32(b) and (d) with all written communications required by this CA/FO:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for*

1                    *submitting false information, including the possibility of fine and*  
2                    *imprisonment for knowing violations.*

3                    67.     EPA must send any written communications to the following addresses:

4                                    James Murphree, Corporate Director Environmental Compliance  
5                                    Matheson Tri-Gas, Inc.  
6                                    1700 Scepter Road  
7                                    Waverly, TN 37185

8                                    V. EFFECTIVE DATE

9                    68.     Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and  
10                    comment at least 40 days prior to it becoming effective through the issuance of the final order by  
11                    the Regional Judicial Officer.

12                    69.     In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be  
13                    effective on the date that the final order contained in this CA/FO, having been approved and  
14                    issued by either the Regional Judicial Officer or Regional Administrator, is filed with the  
15                    Regional Hearing Clerk. This CA/FO shall terminate only after Respondent has complied with  
16                    all requirements of the CA/FO, including payment of any interest and late fees, and after EPA  
17                    has issued a written notice of termination.

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1 FOR THE CONSENTING PARTIES:

2 MATHESON TRI-GAS, INC.:

3

4 \_\_\_\_\_/s/\_\_\_\_\_

Date: 6/27/17

5 James Murphree, Corporate Director Environmental Compliance  
6 Matheson Tri-Gas, Inc.  
7 1700 Scepter Road  
8 Waverly, TN 37185

8 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

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10 \_\_\_\_\_/s/\_\_\_\_\_

Date: 7/12/17

11 Kathleen H. Johnson  
12 Director, Enforcement Division, Region IX  
13 U.S. Environmental Protection Agency  
14 75 Hawthorne Street  
15 San Francisco, CA 94105

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1 **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
2 **REGION IX**

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San Francisco, California 94105

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6 Matheson Tri-Gas, Inc. )  
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7 Respondent. )  
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9 Proceedings under Sections 1423(c) of the )  
10 Safe Drinking Water Act, )  
42 U.S.C. §§ 300h-2(c). )  
11 )  
12 )

**CONSENT AGREEMENT  
AND  
[PROPOSED] FINAL ORDER**

13 **FINAL ORDER**

14 The United States Environmental Protection Agency Region IX (“EPA”), and the  
15 Respondent Matheson Tri-Gas, Inc., (“Respondent”), having entered into the foregoing Consent  
16 Agreement, and EPA having duly publicly noticed the Stipulations and Findings and Final Order  
17 regarding the matters alleged therein,

18 **IT IS HEREBY ORDERED THAT:**

- 19 1. The foregoing Consent Agreement and this Final Order (Docket No. UIC-09-  
20 2017-\_\_\_\_\_) be entered;
- 21 2. Respondent pay an administrative civil penalty of **\$88,374** dollars to the Treasurer  
22 of the United States of America in accordance with the terms set forth in the Consent Agreement;
- 23 3. Respondent close two LCCs in accordance with the terms set forth in Paragraph  
24 35 of the Consent Agreement;
- 25 4. Respondent close the small capacity cesspool in accordance with Paragraph 46 by  
November 30, 2017; and

*In re Matheson Tri-Gas, Inc.*

1           5.       Respondent comply with all other requirements of the Consent Agreement.

2           This Final Order is effective on the date that it is filed. This Final Order constitutes full  
3 adjudication of the allegations in the Consent Agreement entered into by the Parties in this  
4 proceeding.

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6 \_\_\_\_\_ Date: \_\_\_\_\_

7 Regional Judicial Officer, Region IX  
8 U.S. Environmental Protection Agency  
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