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** In cooperation with
Trench, Rossi e Watanabe
Advogados

October 17, 2014

Richard Corey
Chief Executive Officer
California Air Resources Board
1001 "I" Street, Sacramento, California 95814

Via email

**A-Gas U.S. Holdings, Inc.'s Comments on the California Air Resources Board's
October 8, 2014 Preliminary Determination Relating to Clean Harbors' Compliance
Offset Investigation**

Dear Mr. Corey,

On behalf of our client A-Gas U.S. Holdings, Inc. and its subsidiaries Coolgas and Reclamation Technologies, Inc. (Remtec), we appreciate this opportunity to comment on the California Air Resources Board (ARB) Preliminary Determination relating to its investigation of ARB Offset Credits (ARBOCs) issued for certain Ozone Depleting Substances (ODS) projects emanating from Clean Harbors' Resource Conservation and Recovery Act (RCRA) incineration facility in Arkansas. Remtec has been involved in the refrigerant reclamation business since 1986. Remtec has participated in multiple destruction projects consistent with the ARB Compliance Protocol for Ozone Depleting Substances (ODS Protocol) for the purpose of creating ARBOCs. Remtec destroys non-hazardous refrigerants consistent with the Technology & Economic Assessment Panel (TEAP) requirements as required by the ODS Protocol and the ARB regulations.

We are submitting comments to request that ARB clarify the type of refrigerants at issue in its Preliminary Determination. On page 4 of its Preliminary Determination, ARB notes that R11 (U121) and R12 (U075) are RCRA listed hazardous wastes when disposed. The U codes denote that the R11 and R12 are "commercial chemical products" under RCRA. A "commercial chemical product" is a substance that consists of the commercially pure grade of the listed chemical, any technical grades of the chemical, and all formulations in which the chemical is the sole active ingredient. See 40 C.F.R. §261.33(d). The U.S. Environmental Protection Agency has clarified that U-listed substances must be unused. See 54 FR 31335 (stating that "The U-list does not include chemical mixtures where the listed chemical is not the sole active ingredient, and does not apply to chemicals that have been used for their intended purpose).

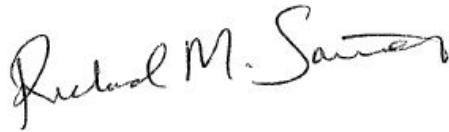
As such, used refrigerants like used R11 and R12 are not listed hazardous wastes because they are not commercial chemical products. The only means by which used R11 or R12 refrigerant could be hazardous waste is if it exhibited a hazardous characteristic (i.e.,

toxicity characteristic). Even if exhibiting the toxicity characteristic, used R11 and R12 refrigerants are not deemed hazardous wastes if reclaimed for further use in accordance with the "spent CFC refrigerant" exemption under RCRA. 40 C.F.R. §261.4(b)(12).

We ask that, in its Final Determination, ARB clarify that the R11 and R12 refrigerants at issue were "commercial chemical products" and were in unused or virgin form. We are concerned that ARB's lack of clarity on this issue could cause a misunderstanding that used R11 and R12 refrigerants that either do not exhibit the toxicity characteristic or qualify for the regulatory exemption are not able to be destroyed by non-RCRA destruction facilities like Remtec's Bowling Green, Ohio TEAP-certified facility.

If you have any questions or further desire to discuss our comments, please do not hesitate to contact me at my phone number or email set forth below.

Regards,

A handwritten signature in black ink that reads "Richard M. Saines". The signature is written in a cursive style with a long, sweeping underline.

Richard Saines
Partner

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cc: Rajinder Sahota (Chief, Cap-and-Trade Program, ARB)