

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
13-CVS-\_\_\_\_\_

THE STATE OF NORTH CAROLINA, by and )  
through its agency, the NORTH CAROLINA )  
DEPARTMENT OF ADMINISTRATION, )  
 )  
Plaintiff, )  
 )  
– against – )  
 )  
ALCOA POWER GENERATING, INC., )  
 )  
Defendant. )

**THE STATE OF NORTH  
CAROLINA’S FIRST SET  
OF REQUESTS FOR  
PRODUCTION OF  
DOCUMENTS AND THINGS**

Pursuant to Rules 26 and 34 of the North Carolina Rules of Civil Procedure, the plaintiff, the State of North Carolina, by and through its agency, the North Carolina Department of Administration (hereinafter referred to as the “State”), hereby requests that the defendant, Alcoa Power Generating, Inc. (hereinafter referred to as “Alcoa”), produce copies of the following described documents and things to counsel for the plaintiff no later than forty-five (45) days after the date of service hereof upon Alcoa:

**REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

**REQUEST 1:** All documents and things of any description in your possession, custody or control which you (Alcoa) contend demonstrate that all or any portion or segment of that part of the Yadkin River which is referred to in the Complaint in this action as the “Relevant Segment of the Yadkin River” was not “navigable in fact,” as that term is defined in, among other cases, *PPL Montana, LLC v. Montana*, \_\_ U.S. \_\_, 132 S.Ct. 1215 (2012), as of the time: (i) the State of North Carolina declared its independence from Great Britain; (ii) the end of the War for American Independence; and (iii) North Carolina became a state of the United States of America.

**RESPONSE:**

**REQUEST 2:** All documents and things of any description in your possession, custody or control which you (Alcoa) contend demonstrate that the State of North Carolina has ever conveyed any portion of its ownership, title or other interest in that portion or segment of the bed


of the Yadkin River which is referred to in the Complaint in this action as the “Relevant Segment of the Yadkin River” to any person or entity.

**RESPONSE:**

**REQUEST 3:** All documents and things of any description in your possession, custody or control which you (Alcoa) contend demonstrate that Alcoa or any other person or entity was ever given or conveyed any permit, license, easement, possessory right or other interest in or to any portion or segment of the bed of that portion or segment of the Yadkin River that is referred to in the Complaint in this action as the “Relevant Segment of the Yadkin River” and all documents relating to any such gift or conveyance and the terms and/or conditions on which any such gift or conveyance was made or granted.

**RESPONSE:**

This 2<sup>nd</sup> day of August 2013.



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