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August 3, 2006



VIA HAND DELIVERY

Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street N.W.
Washington, DC 20423-0001

RECEIVED
AUG 3 - 2006
U.S. DEPT. OF
TRANSPORTATION

ATTENTION: Messrs. David Konschnik and Troy Brady
217217

Re: Docket No. AB-290 (Sub-No. 254X) Norfolk Southern Railway Company –
Petition for Exemption – Discontinuance of Service – Between Halls Ferry
Junction, NC and Badin, NC in Stanly County, NC; Docket No. AB-290
(Sub-No. 274X) Yadkin Railroad Company – Petition for Exemption –
Discontinuance of Service and Operating Rights Under Lease – Between Halls
Ferry, NC and Badin, NC in Stanly County, NC [Re-styled]; Docket No. AB-149
(Sub-No.2) Winston-Salem Southbound Railroad Company – Petition for
Exemption – Discontinuance of Service and Operating Rights Under Lease –
Between Whitney, NC and Badin, NC in Stanly County, NC [Re-styled]

Dear Secretary Williams:

We hereby lodge, on behalf of Alcoa Inc. ("Alcoa"), the only shipper on the Lines at issue in the above-referenced dockets, ten copies of this letter and of the enclosed Complaint filed on August 1, 2006 by Alcoa against Defendants Norfolk Southern Railway Company ("NS"), Yadkin Railroad Company, and Winston-Salem Southbound Railroad Company (Petitioners in the above-referenced proceedings), in the Business Court of the State of North Carolina. Because of the pending proceedings at this Board, we believe we have an obligation to inform the Board of the filing of this Complaint, and accordingly have not sought leave to lodge a copy of the Complaint with the Board.

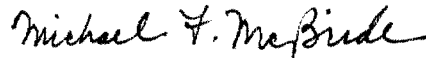
The Complaint involves in part the leases that are discussed in various pleadings filed herein, and which are attached to the amended Petition filed herein on April 25, 2006. The Complaint also involves in part some of the environmental issues that are the subject of comments filed by the parties in the above-referenced proceedings. For those reasons, we are bringing this matter to the attention of both Messrs. Konschnik and Brady.

Honorable Vernon A. Williams, Secretary
August 3, 2006
Page 2

Also enclosed is a diskette containing the Complaint and three additional copies for date-stamping and return via courier.

We have made formal service of the Complaint separately on the Defendants (Petitioners herein). The provision of a copy of the Complaint to Mr. Paschall with this letter is simply a courtesy, and is not intended to constitute formal service on NS or the other Petitioners.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael F. McBride". The signature is written in a cursive style with a large, stylized "M" and "B".

Michael F. McBride
Ahren S. Tryon

Attorneys for Alcoa Inc.

Enclosure

(cc w/encl.): James R. Paschall, Esq.

ROBINSON BRADSHAW & HINSON

EDWARD F. HENNESSEY, IV
CHARLOTTE OFFICE

DIRECT DIAL: 704.377.8375
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THENNESSEY@RBH.COM

August 2, 2006

Via Electronic Mail

Chief Justice Sarah Parker
Supreme Court of North Carolina
P.O. Box 2170
Raleigh, North Carolina 27602-2170
Attn: David Hoke (David.F.Hoke@nccourts.org)

The Honorable Ben. F. Tennille
Special Superior Court Judge for Complex Business Cases
North Carolina Business Court
211 N. Greene Street
Greensboro, North Carolina 27401
Attn: Julie Holmes (JHolmes@ncbusinesscourt.net)



Re: *Alcoa, Inc. v. Norfolk Southern Railway Company, Inc., Yadkin Railroad Company, and Winston-Salem Southbound Railway Company*
Civil Action No. 06-CVS-1187, Stanly County Superior Court

Dear Mr. Hoke and Ms. Holmes:

This firm represents Plaintiff Alcoa, Inc. in this action filed in Stanly County Superior Court. Pursuant to N.C. Gen. Stat. § 7A-45.4 and Rule 3 of the General Rules of Practice and Procedure for the North Carolina Business Court (effective July 31, 2006), I am serving you with a copy of the Notice of Designation of Action as Mandatory Complex Business Case, which we filed yesterday and are serving on all defendants today.

Please call me at your convenience if you need anything further. Thank you for your assistance with this matter.

Best regards.

Very truly yours,

ROBINSON, BRADSHAW & HINSON, P.A.

Edward F. Hennessey, IV

C-996215v1 12703.01035

Attorneys at Law

101 North Tryon Street, Suite 1900, Charlotte, NC 28246
Charlotte, NC Chapel Hill, NC Rock Hill, SC
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August 2, 2006
Page 2

EFH,IV/
Enclosures

cc: Alcoa Inc. (w/out encls.)

STATE OF NORTH CAROLINA
COUNTY OF STANLY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CIVIL ACTION NO: 06-CVS- 1187

2006 AUG -1 P 3:23

ALCOA INC.,

STANLY COUNTY, C.S.C.

Plaintiff,
BY

v.

NORFOLK SOUTHERN RAILWAY
COMPANY, INC., a Virginia corporation;
YADKIN RAILROAD COMPANY, a North
Carolina corporation; and WINSTON-
SALEM SOUTHBOUND RAILWAY
COMPANY, a North Carolina corporation,

Defendants.

NOTICE OF DESIGNATION OF ACTION
AS MANDATORY COMPLEX BUSINESS
CASE UNDER N.C. GEN. STAT. § 7A-45.4

Pursuant to N.C. Gen. Stat. § 7A-45.4, Plaintiff Alcoa Inc. hereby designates the above-captioned action as a mandatory complex business case. In good faith and based on information reasonably available, Alcoa Inc., through counsel, hereby certifies that this action meets the following criteria for designation as a mandatory complex business case pursuant N.C. Gen. Stat. § 7A-45.4(a), and should be adjudicated in the Business Court:

- X (1) The law governing corporations, partnerships, limited liability companies, and limited liability partnerships.
- (2) Securities law.
- (3) Antitrust law, except claims based solely on unfair competition under N.C. Gen. Stat. § 75-1.1.
- (4) State trademark or unfair competition law, except claims based solely on unfair competition under N.C. Gen. Stat. § 75-1.1.
- (5) Intellectual property law.
- (6) The Internet, electronic commerce, and biotechnology.

Briefly explain (attach additional sheets if necessary) why the action falls within the specific categories of N.C. Gen. Stat. 7A-45.4(a) checked above, as well as any additional information you believe may be helpful to the Court in determining whether the Business Court should retain jurisdiction of this matter: **(SEE ADDITIONAL SHEETS ATTACHED.)**

A copy of all pleadings listed in N.C. R. Civ. P. 7(a) that have been filed to date in this action are attached hereto as Appendix A for the convenience of the Court.

This 1st day of August, 2006.



Louis A. Bledsoe, III
N.C. Bar No. 12730
Edward F. Hennessey, IV
N.C. Bar No. 15899

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**PLAINTIFF'S ATTACHMENT TO NOTICE OF DESIGNATION OF ACTION AS
MANDATORY COMPLEX BUSINESS CASE UNDER N.C. GEN. STAT. § 7A-45.4**

Plaintiff Alcoa Inc. submits that this action qualifies as a "Mandatory Complex Business Case" and should be retained by the Business Court. Pursuant to BCR 3.2, Alcoa Inc. explains as follows the material issues likely to be presented in this action as well as other factors that Alcoa Inc. believes will assist the Business Court in deciding whether to retain the case:

1. The matter is likely to present complex issues regarding the obligations of substantial business operations whose relevant dealings began nearly one hundred (100) years ago, in March 1916;

2. Similarly, the case is likely to feature issues regarding the obligations of the named parties to one another based on transactions and courses of dealing between predecessor entities and require the Court to resolve the obligations implicated by parent-subsidary corporate relationships (specifically between the North Carolina corporation defendants and their Virginia corporation parent or controlling shareholder);

3. The value, in monetary terms, of the obligations at issue in this action are likely to be very substantial, considering the issues Alcoa raises of defendants' responsibility for maintenance of many miles of railroad track as well as related issues of environmental contamination;

4. Alcoa Inc. is a significant employer and economic actor in Stanly County, and upon information and belief, the Defendants are significant providers of transportation services in this county and elsewhere in North Carolina, and the resolution of the issues raised by this case may have significant implications for the business operations of all of these parties in North Carolina;

5. In addition to the preceding considerations, Alcoa Inc. submits that the interest of justice will be advanced by adjudication of this action before a designated Business Court Judge familiar with the administration of a complex business matter implicating substantial interests of major business entities, with issues arising under North Carolina and out-of-state corporations law and an ongoing need for active discovery and other case management and for the resolution of substantive issues through motions practice or trial.

APPENDIX A

STATE OF NORTH CAROLINA

COUNTY OF STANLY

ALCOA INC.,

Plaintiff,

v.

NORFOLK SOUTHERN RAILWAY
COMPANY, INC., a Virginia corporation;
YADKIN RAILROAD COMPANY, a North
Carolina corporation; and WINSTON-
SALEM SOUTHBOUND RAILWAY
COMPANY, a North Carolina corporation,

Defendants.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
CIVIL ACTION NO: 06-CVS-_____

COMPLAINT
(Jury Trial Requested)

COMES NOW Plaintiff Alcoa Inc. ("Alcoa"), by its undersigned attorneys, and for its Complaint against Defendants Norfolk Southern Railway Company, Inc. ("NS"), Yadkin Railroad Company ("YRC"), and Winston-Salem Southbound Railway Company ("WSSB") (collectively, the "Defendants") respectfully states and alleges as follows:

Nature of the Action

1. This is an action for (1) breach of contract, (2) trespass, (3) nuisance, (4) negligence, and (5) strict liability pursuant to North Carolina's Oil Pollution and Hazardous Substances Control Act ("OPHSCA"), N.C. GEN. STAT. § 143-215.93 (2006), arising from the Defendants' failure to perform ordinary maintenance and other duties as required by contract with a predecessor of Alcoa, and from the Defendants' intentional or negligent discharge of diesel fuel, oil, lubricants, and other pollutants onto Alcoa's property located in or near Badin, North Carolina in Stanly County.

Parties

2. Alcoa is a Pennsylvania corporation whose principal place of business is located at 201 Isabella Street, Pittsburgh, Pennsylvania, 15212.

3. Collectively, the Defendants are NS, YRC, and WSSB.

4. Defendant NS is a Virginia corporation whose principal place of business is located at Three Commercial Place, Norfolk, Virginia, 23510.

5. Defendant YRC is a North Carolina corporation whose principal place of business is located at 230 N. Elm Street, Suite 2000, Greensboro, North Carolina. YRC is a wholly-owned subsidiary of NS.

6. Defendant WSSB is a North Carolina corporation whose principal place of business is located at 500 West Fourth Street, Suite 200, Winston-Salem, North Carolina. NS owns fifty percent of WSSB; the remaining fifty percent is owned by CSX Transportation Inc.

Jurisdiction and Venue

7. This Court has personal jurisdiction over the Defendants pursuant to N.C. GEN. STAT. § 1-75.4 (2006).

8. This Court has original jurisdiction over this matter pursuant to N.C. GEN. STAT. §§ 7A-240 and 7A-243 (2006) in that this is a civil action in which the amount in controversy exceeds TEN THOUSAND DOLLARS (\$10,000.00).

9. Venue properly lies in Stanly County pursuant to N.C. GEN. STAT. §§ 1-76 through 1-87 (2006).

Background

10. On March 28, 1916, Tallassee Power Company ("Tallassee") entered into an agreement with YRC to lease Tallassee's 5.90 miles of railroad starting at Halls Ferry Junction,

North Carolina (Milepost WF-0.00) and ending at Whitney, North Carolina, in Stanly County (Milepost WF-5.90) (the "Halls Ferry-Whitney Segment"). A copy of the executed lease is attached hereto as Exhibit A and incorporated herein by reference.

11. On March 28, 1916, Tallassee entered into an agreement with both YRC and WSSB to lease Tallassee's 5.21 miles of railroad starting at Whitney, North Carolina (Milepost WF-5.90) and ending at Badin, North Carolina, in Stanly County (Milepost WF-11.11) (the "Whitney-Badin Segment"). A copy of the executed lease is attached hereto as Exhibit B and incorporated herein by reference.

12. The two agreements referred to in ¶¶ 10-11 above will hereinafter be referred to as the "Leases." The Leases remain in effect, and are the bases for the Defendants to have access for rail service to Alcoa's Badin Works.

13. On July 1, 1951, NS's predecessor (Carolina and Northwestern Railway Company) entered into an agreement with YRC to lease all of YRC's railroad and physical properties, including properties YRC leased from Tallassee. The agreement expired on December 31, 2000. In 2000 or 2001, YRC and NS renewed this lease. For the purposes of this Complaint, these agreements are hereinafter referred to as the "Subleases." Copies of the Subleases are attached hereto as Exhibits C and D and incorporated herein.

14. The Halls Ferry-Whitney Segment and the Whitney-Badin Segment combined comprise the entire 11.11 miles of railroad line (the "Line") that is the subject of this action.

15. YRC is a wholly-owned subsidiary of NS, and WSSB is fifty percent owned by NS. NS currently operates over the Line pursuant to the terms of the Subleases. Thus, NS, YRC, and WSSB are the Defendants in this action.

16. Tallassee is the predecessor to Alcoa. In addition, Tallassee, now known as Alcoa Power Generating Inc., is a hydroelectric power generation subsidiary of Alcoa.

17. The Line, including the right-of-way and track, material and fixtures, is owned by Alcoa.

18. Portions of the Line are located over and adjacent to navigable waters, including on causeways and the shoreline of Badin Lake. Specifically, the Whitney-Badin Segment is surrounded almost entirely by water, preserved woodlands, or shoreline housing and recreational facilities.

19. The Line was built prior to March 28, 1916, by Tallassee.

20. The Line services Alcoa's Badin Works facilities ("Badin Works" or the "Plant"), which are located on 123 acres of land in Badin, North Carolina. Alcoa is the only shipper (i.e., customer) on the Line.

21. Badin is located on the Yadkin River in northeastern Stanly County, in the south central section of North Carolina. Badin is an incorporated community with a population of approximately 1800 and Badin Works presently employs approximately 70 employees. Badin Works has the potential to employ over 400 employees when smelter operations are at full capacity.

22. The Line is integral to the Badin Works smelter operations, from which primary aluminum is produced. During normal production, approximately 70% of the metal produced at the Plant is shipped on the Line directly to customers or other business units for further processing. The remainder of the metal is shipped in ingot form to the metal market. During more than eight decades, the Plant imported by rail annually thousands of tons of alumina and

aluminum fluoride weekly, and also exported by rail cast molten aluminum. The smelter operations continued until the current curtailment began in August of 2002.

23. Integral to the smelter process was the Plant's anode operations, which continued beyond the curtailment of the smelter process to late 2004. The Plant imported tons of coal tar pitch, coke, and fluid coke on a weekly basis by rail in order to make the anodes needed for other smelter operations.

24. In addition to the smelter and anode operations, the Plant continues to produce high-purity 99.99% pure aluminum. The Plant imports aluminum by rail from smelters in Canada and Northern New York to support the high-purity process. Rail service over the Line is also used to transport some of the high-purity aluminum out of the Plant.

25. The Defendants have derived considerable economic benefit from Alcoa's business associated with Badin Works for many years. Despite recent reductions in traffic levels due to the curtailed smelting operations, Alcoa relies on safe, reliable, and efficient rail service to and from the Plant in order to ensure that high-purity metal operations continue and that it can resume smelter operations when it needs to in the future.

26. The Leases and Subleases require the Defendants to perform ordinary maintenance on the Line, including tracks, roadbed, and associated improvements.

27. The Lease for the YRC's maintenance and operation of the Halls Ferry-Whitney Segment provides:

That the maintenance of said line of railroad by the Yadkin Company, so to be undertaken, shall contemplate only such ordinary maintenance thereof as may be necessary to keep the track, roadbed and superstructure thereof, as originally built, in such conditions as will permit the safe and convenient operation thereof by the Yadkin Company[]

Exhibit A at 2.

28. The Lease for YRC's maintenance and operation of the Halls Ferry-Whitney segment provides further that, upon termination of the agreement, YRC must surrender the Line, "in as good condition as the same may have been in when received by the Yadkin Company, damages by fire or other casualty and ordinary wear and tear excepted." Exhibit A at 3.

29. The Lease for WSSB's and YRC's maintenance and operation of the Whitney-Badin Segment provides:

That the maintenance of said line of railroad by the Lessees, so to be undertaken, shall contemplate only such ordinary maintenance thereof as may be necessary, to keep the track, roadbed and superstructure thereof, as originally built, or as rehabilitated by the Lessor as hereinafter provided, in such condition as will permit the safe and convenient operation thereof by the Lessees[]

Exhibit B at 8-9.

30. The Lease for WSSB's and YRC's maintenance and operation of the Whitney-Badin segment provides further that, upon termination of the agreement, WSSB and YRC must surrender the Lines, "in as good condition as the same may have been in when received by the Lessees, except ordinary wear and tear" Exhibit B at 10.

31. Ordinary maintenance is maintenance that is not considered extraordinary maintenance. Under the terms of both Leases, extraordinary maintenance is:

damage to roadway, embankments, tracks, culverts, buildings or other structures, caused by or resulting from ponding of water, landslides, fire, Acts of Providence or other similar causes . . .

Exhibit A at 2-3; Exhibit B at 9.

32. Alcoa is responsible under the Leases for performing any extraordinary maintenance resulting from ponding of water, landslides, fire, Acts of Providence or other similar causes.

33. The Defendants have failed and continue to fail to perform ordinary maintenance on the Halls Ferry-Whitney Segment and Whitney-Badin Segment of the Line.

34. As a result of the Defendants' failure to perform ordinary maintenance, most or all of the Line is worn, dilapidated, or contaminated and must be replaced, repaired, or decontaminated. In its current state the Line is not in as good condition as when Defendants received it, even taking account of the exception for ordinary wear and tear.

35. The current state of the Line is a result of the Defendants' long-term and continual neglect of their duty of ordinary maintenance under the Leases.

36. The Defendants' failure to perform necessary ordinary maintenance on the Line has impeded efficient operation of the Line and has resulted in the Defendants operating the Line at speeds below 10 miles per hour.

37. The failure of the Defendants to carry out ordinary maintenance is a breach of the Leases.

38. Upon information and belief, the Defendants' operations on the Line have resulted in the discharge of diesel fuel, oil, lubricants, and other pollutants to the track, right-of-way, land and waters owned by Alcoa.

39. Extensive contamination is visually observable in the locations where the Defendants store their locomotive.

40. Plaintiff has suffered injuries and economic loss as a result of Defendants' tortious acts and statutory violations, including Defendants' failure to perform ordinary maintenance and contamination of Alcoa's land and adjacent navigable waters.

FIRST CLAIM FOR RELIEF

(Breach of Contract)

41. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 40 as if fully set forth herein.

42. The Leases are valid and enforceable contracts, which require the Defendants to perform ordinary maintenance on the Line covered by the Leases, as well as to surrender the Line to Alcoa in as good condition as Defendants received it.

43. Defendants' obligation to perform ordinary maintenance on the Line includes, but is not limited to, the maintenance and periodic replacement of the rails, joint bars, crossties, and any other fixtures necessary to permit safe and convenient operation of the Line.

44. Defendants' obligation to perform ordinary maintenance on the Line includes, but is not limited to, investigating and remediating any contamination along the Line caused by Defendants in the course of their operations and maintenance activities under the Leases.

45. Alcoa has duly performed all the conditions and obligations imposed on it by the Leases.

46. Defendants have breached the Leases by failing to perform ordinary maintenance.

47. Defendants have breached the Leases by failing to investigate and remediate contamination along the Line.

48. Defendants' failure to perform ordinary maintenance on the Line and their failure to investigate and remediate contamination along the Line such that the Line is not in as good condition as when Defendants received it breaches the Defendants' duties under the Leases.

49. Defendants' breaches of the Leases have caused and will continue to cause Alcoa damages in excess of \$10,000.

SECOND CLAIM FOR RELIEF

(Trespass)

50. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 49 as if fully set forth herein.

51. The Defendants have caused locomotive diesel fuel, oil, lubricants, and other harmful pollutants associated with its operation of the Line to enter onto Alcoa's property so as to constitute a recurring trespass. The Defendants knew or should have known that such pollutants have been and continue to be discharged from its locomotives along the entire 11.11 mile Line.

52. By the Leases, the Defendants have a license to come onto Alcoa's property for the limited purpose of providing railway service only, and not for the purpose of discharging pollutants. Such unauthorized invasion by the intentional or negligent discharge of pollutants has resulted in contamination along the 11.11 mile Line. The Defendants continue to consciously, deliberately, or negligently allow the spilling and leaking of diesel fuel, oil, lubricants, and other pollutants onto Alcoa's property and continue to fail to remove the pollutants from Alcoa's property.

53. The aforementioned conduct constitutes a recurring trespass onto Plaintiff's land.

THIRD CLAIM FOR RELIEF

(Nuisance)

54. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 53 as if fully set forth herein.

55. The Defendants have unreasonably and substantially interfered with Alcoa's use and enjoyment of its property in such a way as to cause a recurring nuisance.

56. By failing to prevent the discharge of diesel fuel, oil, lubricants, and other pollutants to the Line, the Defendants have substantially interfered with Alcoa's use and enjoyment of its property as the diesel fuel, oil, lubricants, and other pollutants cause significant annoyance to Alcoa and pollution to the property. The Defendants' release of diesel fuel, oil, lubricants, and other pollutants continue to cause extensive contamination to Alcoa's tracks and land, and continue to interfere with Alcoa's use and enjoyment of its property.

FOURTH CLAIM FOR RELIEF

(Negligence)

57. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 56 as if fully set forth herein.

58. The Defendants owe a duty of care to Alcoa as lessees with authorization to provide railway service to and from the Alcoa Badin Works. The Defendants owe a duty to Alcoa to not intentionally, negligently, or unlawfully provide railway service in a manner that causes or allows diesel fuel, oil, lubricants, and other pollutants to leak or spill onto Alcoa's property. In other words, the Defendants have an obligation to exercise ordinary care so as not to pollute Alcoa's property. Further, the Defendants have an obligation under the Leases to perform ordinary maintenance, including preventing the discharge of contaminants from its railcars or remediating any contaminants that have been discharged.

59. The Defendants have breached their duty to Alcoa by discharging locomotive diesel fuel, oil, lubricants, and other pollutants onto Alcoa's property.

60. The Defendants' breach of duty to Alcoa has caused and will continue to cause damage, in excess of \$10,000, to Alcoa's property and other economic losses from the resulting pollution.

FIFTH CLAIM FOR RELIEF

(Strict Liability under the Oil Pollution and Hazardous Substances Control Act)

61. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 60 as if fully set forth herein.

62. The OPHSCA is a strict liability statute. *See* N.C. GEN. STAT. § 143-215.93 (2006).

63. N.C. GEN. STAT. § 143-215.77(5) defines “having control over oil” as “any person, using, transferring, storing, or transporting oil or other hazardous substances immediately prior to a discharge of such oil or hazardous substances onto the land or into the waters of the State, and specifically shall include carriers and bailees of such oil or other hazardous substances.”

64. N.C. GEN. STAT. § 143-215.77(4) defines “discharge” as including any discharge “upon land in such proximity to waters that oil or other hazardous substances is reasonably likely to reach the waters[.]”

65. N.C. GEN. STAT. § 143-215.77(18) defines “waters” to mean “any stream, river, creek, brook, run, canal, swamp, lake, sound, tidal estuary, bay, reservoir, waterway, wetlands, or any other body or accumulation of water, surface or underground, public or private, natural or artificial, which is contained within, flows through, or borders upon this State, or any portion thereof, including those portions of the Atlantic Ocean over which this State has jurisdiction.”

66. The Defendants have control over the oil and other hazardous substances contained within their locomotives. Discharge of oil or hazardous substances from the Defendants’ locomotives has occurred on and along the 11.11 mile Line and, given the Line’s

close proximity to Badin Lake, is reasonably likely to reach waters as defined by OPHSCA. Specifically, the Whitney-Badin Segment is surrounded almost entirely by water.

67. The oil or hazardous substances from the Defendants' locomotives and other activities associated with the Defendants' use of the Line have been discharged onto Alcoa's property causing damage, including significant environmental pollution.

68. The Defendants are strictly liable, pursuant to the N.C. GEN. STAT. § 143-215.93, for all "damages to persons or property, public or private[.]"

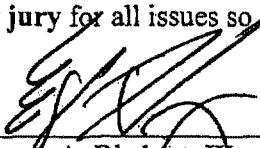
WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor and against the Defendants as follows:

1. Awarding Alcoa damages in an amount to compensate Alcoa for the Defendants' breach of the Leases for not performing ordinary maintenance;
2. Awarding Alcoa damages in an amount to compensate Alcoa for the damages caused by the Defendants' discharge of diesel fuel, oil, lubricants, and other pollutants onto Alcoa's property;
3. Requiring the Defendants to perform ordinary maintenance on the Line and to remediate any contaminants released onto Alcoa's property; and
4. Awarding Alcoa all other and further relief as the Court may deem just and proper under the circumstances.

Jury Demand

5. Alcoa hereby demands trial by jury for all issues so triable.

Dated: August 1, 2006.



Louis A. Bledsoe, III
N.C. Bar No. 12730
Edward F. Hennessey, IV
N.C. Bar No. 15899

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Exhibit A

An Agreement, made and entered into this 28th day of March, 1916, by and between

TALLASSEE POWER COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter for convenience styled the Lessor, party of the first part; and

YADKIN RAILROAD COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter for convenience styled the Yadkin Company, party of the second part:

Witnesseth:

THAT the Lessor, for and in consideration of the sum of one dollar to it in hand paid by the Yadkin Company, the receipt whereof is hereby acknowledged, and of the covenants of the Yadkin Company upon its part to be kept and performed as hereinafter expressed, has leased and demised, and by these presents does now lease and demise unto the Yadkin Company

ALL that certain line of railroad of the Lessor extending from a point of connection with the railroad of the Yadkin Company running between Salisbury and Norwood, at Halls Ferry Junction, near New London, in the County of Stanly and State of North Carolina, thence in a northeasterly direction, for a distance of seven (7) miles, more or less, to Whitney on the Yadkin River, in said Stanly County;

TOGETHER with all and singular the rails, roadbed, right of way, side tracks, switches, turnouts, bridges, trestles, depots, structures and appurtenances of whatsoever nature, to the same belonging or in any wise appertaining.

To Have and to hold the same unto the Yadkin Company, its successors and assigns, until this agreement

shall be terminated by either party hereto upon notice, in writing, to the other party hereto, as hereinafter provided.

AND the LESSOR further covenants and agrees unto and with the Yadkin Company, that it, the Yadkin Company, and its successors and assigns, shall, during the term of this lease, have quiet, peaceable and uninterrupted possession of said demised line of railroad and property, and the sole and exclusive use and enjoyment thereof.

AND the YADKIN COMPANY hereby covenants and agrees:

That it will, during said term, at its own cost and expense, except as hereinafter provided, maintain and operate, or cause to be maintained and operated, the said line of railroad as a common carrier, in connection with the said railroad of the Yadkin Company.

AND it is MUTUALLY Covenanted and Agreed:

1. That the operation of the said line of railroad by the Yadkin Company, so to be undertaken, shall contemplate only the furnishing and handling and the operation thereon of such motive power and equipment, as the volume of business to be created by the Lessor and the local traffic along the said line of railroad shall warrant and the facilities of the Yadkin Company and its successors and assigns shall permit; and shall not be interpreted as imposing upon the Yadkin Company, its successors or assigns, any obligation to do terminal switching on said line unless the Yadkin Company, its successors or assigns, shall elect to do such switching, and shall be paid reasonable compensation therefor.

2. That the maintenance of said line of railroad by the Yadkin Company, so to be undertaken, shall contemplate only such ordinary maintenance thereof as may be necessary to keep the track, roadbed and superstructure thereof, as originally built, in such condition as will permit the safe and convenient operation thereof by the Yadkin Company; and that all betterments of the said line of railroad, as well as all extraordi-

nary maintenance thereof, such as damage to roadway, embankments, tracks, culverts, buildings or other structures, caused by or resulting from ponding of water, landslides, fire, Acts of Providence or other similar causes, shall be made; and all taxes and assessments levied thereon shall be paid, by and at the sole cost and expense of the Lessor, without further obligation on the part of the Yadkin Company; but such renewals and betterments shall be made under the supervision of and subject to the approval of the Yadkin Company.

3. That upon the termination of this agreement, as hereinafter provided, the Yadkin Company will quietly and peaceably surrender the said line of railroad and appurtenances hereby demised unto the Lessor, its successors and assigns, in as good condition as the same may have been in when received by the Yadkin Company, damages by fire or other casualty and ordinary wear and tear excepted.

4. That the Yadkin Company may discontinue operation of said line of railroad and surrender same unto the Lessor sixty (60) days after it shall have served upon the Lessor notice, in writing, of its election so to do, and terminate this agreement; and the Lessor may re-enter upon said line of railroad and oust and exclude the Yadkin Company therefrom, one (1) year after it shall have served upon the Yadkin Company notice, in writing, of its election so to do and terminate this agreement.

In Witness Whereof, the parties hereto have caused these presents to be executed and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, the day and year first above written.

TALLASSEE POWER COMPANY,

By

ARTHUR V. DAVIS,

President.

[SEAL]

Attest:

G. R. GIBBONS,

Secretary.

YADKIN RAILROAD COMPANY,

By

FAIRFAX HARRISON,

President.

[SEAL]

Attest:

GEO. R. ANDERSON,

Assistant Secretary.

E. H. C.

Exhibit B

7

An Agreement, made and entered into this 28th day of March, 1916, by and between

TALLASSEE POWER COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter for convenience styled the Lessor, party of the first part; and

YADKIN RAILROAD COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, and WINSTON-SALEM SOUTH-BOUND RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of North Carolina, hereinafter together for convenience styled the Lessees, parties of the second part;

Witnesseth:

THAT the Lessor, for and in consideration of the sum of One Dollar to it in hand paid by the Lessees, and of other good and valuable considerations it thereunto moving, the receipt whereof is hereby acknowledged, and of the covenants of the Lessees upon their part to be kept and performed as hereinafter expressed, has leased and demised, and by these presents does lease and demise unto the Lessees, to be used and enjoyed in common by the said Lessees, which shall have equal rights, each with the other, in said use and enjoyment thereof.

ALL that certain line of railroad of the Lessor extending from a point of connection with the so-called Whitney Branch of the Lessor, (now under lease to said Yadkin Railroad Company) at Whitney, in the County of Stanly and State of North Carolina, thence in a southeasterly direction, for a distance of five (5) miles, more or less, to Badin in said Stanly County;

TOGETHER with all and singular the rails, roadbed, right of way, side track, switches, turnouts, bridges, trestles, depots, structures and appurtenances of whatsoever nature, (now existing or which as hereinafter provided may be hereafter constructed by the Lessor) to the same belonging or in any wise appertaining.

ALL being substantially as shown in red upon the blue-print hereunto annexed and made a part of this agreement.

To Have and to Hold the same unto the Lessees, their successors and assigns, respectively, until this agreement shall be terminated by either party hereto upon notice, in writing, to the other party or parties hereto, as hereinafter provided.

AND the LESSOR further covenants and agrees unto and with the Lessees, that they, the said Lessees, and their successors and assigns, shall, during the term of this lease, have quiet, peaceable and uninterrupted possession of said demised line of railroad and property, and the sole and exclusive common use and enjoyment thereof.

AND the LESSEES hereby covenant and agree:

That they will, during said term, at their own cost and expense, except as hereinafter provided, maintain and operate, or cause to be maintained and operated, the said line of railroad as a common carrier, in connection with the respective railroads of the Lessees.

AND it is MUTUALLY covenanted and agreed:

1. That the operation of the said line of railroad by the Lessees, so to be undertaken, shall contemplate only the furnishing and handling and the operation of such motive power and equipment thereon, as the volume of business to be created by the Lessor and the local traffic along the said line of railroad shall warrant and the facilities of the Lessees shall permit; and shall not be interpreted as imposing upon the Lessees any obligation to do terminal switching on said line unless the Lessees shall elect to do such switching, and shall be paid reasonable compensation therefor; the intention being that inbound carload shipments shall be delivered by the Lessees to the Lessor, and outbound carload shipments shall be delivered by the Lessor to the Lessees, on designated interchange tracks at said Badin, and that passengers, mail, express, baggage and less than carload shipments of freight shall be delivered and received at the station to be provided by the Lessor.

2. That the maintenance of said line of railroad by the Lessees, so to be undertaken, shall contemplate only such ordinary maintenance thereof as may be necessary, to keep the

track, roadbed and superstructure thereof, as originally built, or as rehabilitated by the Lessor as hereinafter provided, in such condition as will permit the safe and convenient operation thereof by the Lessees; and that all betterments of the said line of railroad, including telegraph and telephone lines, as well as all extraordinary maintenance thereof, such as damage to roadway, embankments, track, culverts, buildings and other structures which may be caused by or result from ponding of water, fire, landslides, Acts of Providence, or other similar causes, shall be made, by and at the sole cost and expense of the Lessor, without further obligation on the part of the Lessees.

3. That as a condition precedent to any obligation on the part of the Lessees to begin the operation of the said line of railroad, the Lessor shall, at its own cost and expense, rehabilitate the said railroad and its physical appurtenances, and put the same in good serviceable condition and repair, so as to admit of the safe and convenient operation thereof by the Lessees; it being understood and agreed that the work of rehabilitating said railroad and appurtenances shall, at all times during its progress, be subject to the supervision and inspection, and upon its completion, to the approval of the respective Chief Engineers of the Lessees, or their duly authorized representatives.

4. That the Lessor shall forthwith, and within a reasonable time, construct at its own cost and expense, such necessary passenger and freight terminal facilities, including platforms, sidings, interchange tracks and other necessary appurtenant facilities at both Whitney and Badin, as may be reasonably required by the Lessees, for the convenient handling of freight and passenger business at said Whitney and Badin; and shall, moreover, from time to time hereafter, at its own cost and expense, make such additions to, betterments, or improvements of the said line of railroad and terminal facilities, including extraordinary maintenance thereof, as may be necessary and reasonable for the safe and convenient operation of said line of railroad; it being understood that all of such work shall, at all times during its progress, be subject to the supervision and inspection, and upon its completion, to the approval, of the

respective Chief Engineers of the Lessees, or their duly authorized representatives.

5. That the Lessor shall, during the life of this agreement, supply and furnish unto the Lessees, at convenient points on said line of railroad to be agreed upon by the parties hereto, such quantity or quantities of pure clean water, as may be required by the Lessees, for use in locomotive engines and trains operated on said line of railroad, and for other railroad purposes of the Lessees; and to that end, the Lessor shall provide and furnish, at its own exclusive cost and expense, the necessary facilities for supplying such water to the Lessees; it being understood that the Lessees shall pay the Lessor, in quarterly settlements, upon bills rendered therefor by the Lessor, in the usual course of business, the actual cost to the Lessor of furnishing such water to the Lessees, but not including any part of the expense to the Lessor of providing and furnishing the water facilities.

6. That the Lessor will pay all taxes and assessments which may be levied upon the said demised line of railroad and the appurtenances thereof, as well as upon any and all additions to or betterments or improvements of the same, and will, moreover, keep the depot buildings, water tanks, bridges, trestles and other structures appurtenant to said railroad fully insured, during the life of this agreement.

7. That upon the termination of this agreement, as hereinafter provided, the Lessees will quietly and peaceably surrender the said line of railroad and appurtenances hereby demised unto the Lessor, its successors and assigns, in as good condition as the same may have been in when received by the Lessees, except ordinary wear and tear and such damage to roadbed, embankments, tracks, culverts, buildings and other structures as may be caused by or result from ponding of water, fire, landslides, Acts of Providence or other similar causes.

8. That the Lessees may discontinue operation of said line of railroad and surrender same unto the Lessor sixty (60)

days after they shall have served upon the Lessor notice, in writing, of their election to do so, and terminate this agreement, and the Lessor may re-enter upon said line of railroad and oust and exclude the Lessees therefrom, one (1) year after it shall have served upon the Lessees notice, in writing, of its election so to do, and terminate this agreement.

9. That if at any time hereafter a difference of opinion or dispute shall arise between the parties hereto, or between any two or more of them, in respect of any of the provisions of this agreement, or as to their respective rights, liabilities or duties hereunder, the matter in dispute, if it cannot be settled by the parties themselves, shall be submitted to arbitration, as hereinafter provided.

Any party hereto desiring the submission of a disputed question to arbitration shall state in writing to the other party or parties to the dispute the matter on which arbitration is desired and shall request in writing such other party or parties to join in the selection of a single disinterested arbitrator, skilled in railroad operation, to determine the same, and if the said parties shall be able to agree upon such arbitrator, such matter shall be submitted to him for decision.

In the event that the parties to the dispute or controversy are unable to agree upon a single arbitrator, as aforesaid, then a board of arbitrators shall be selected in the following manner: If there are only two parties to the controversy, one arbitrator shall be selected by each party, and if there are two or more parties to one side they shall agree in selecting an arbitrator for their side, the two arbitrators thus chosen by the two sides shall select a third arbitrator who shall also act as umpire. If there shall be more than two sides to a controversy, one arbitrator shall be selected by each side, and if the arbitrators thus selected shall be even in number, such arbitrators shall select another arbitrator to act with them, as umpire; or, if the arbitrators selected by the disputing sides to the controversy shall be odd in number, they shall select one of their own number to act as umpire. The party or parties desiring such arbitration shall give written notice of the same to the other party or parties, stating therein definitely the question or questions in dispute, and naming the person selected

as arbitrator or arbitrators, by the party or parties giving the notice; and thereupon it shall become and be the duty of the other party or parties to whom such notice is given, within thirty (30) days after the receipt of such notice, to name an arbitrator or arbitrators, to act for it or them, and in the event that the party or parties receiving such notice shall fail or neglect so to do, then an arbitrator or arbitrators for the party or parties so in default may be appointed by the Federal Judge of the Fifth North Carolina District, upon the written application of the moving party or parties, and upon five (5) days' written notice of such application to the other party or parties to the controversy.

The single arbitrator, if one shall be chosen, or the board of arbitrators selected, as hereinbefore provided, shall give to the parties to the dispute or difference written notice of the time and place of hearing, which hearing shall not be less than twenty (20) nor more than thirty (30) days after service of such notice; and at the time and place appointed the single arbitrator or the board of arbitrators, as the case may be, shall proceed to the final hearing of the question or questions in dispute, unless for good cause shown, of which the arbitrator or the board of arbitrators, by a majority, shall be the judge, such hearing shall be postponed until some later date. The determination of the arbitrator chosen or the board of arbitrators, as the case may be, by a majority of the members composing the board, shall be made in writing, and a report thereof delivered to each of the parties to the dispute or difference, within sixty (60) days from the date of the selection of the single arbitrator, or if a board is selected, the last acting member thereof, as above provided; unless the parties to the dispute or difference shall agree to extend the time within which such report may be so rendered; and such determination, when so made, shall be final and conclusive upon the parties to such dispute or difference, upon the question or questions so submitted to arbitration.

No person shall be qualified to act as arbitrator except a disinterested person skilled in railroad operation.

All expenses attending each and every arbitration shall be borne equally by the parties to the difference or dispute arbitrated.

In Witness Whereof, the parties hereto have caused these presents to be executed and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, the day and year first above written.

TALLASSEE POWER COMPANY,

By

ARTHUR V. DAVIS,

President.

[SEAL]

Attest:

G. R. GIBBONS,

Secretary.

YADKIN RAILROAD COMPANY,

By

FAIRFAX HARRISON,

President.

[SEAL]

Attest:

GEO. R. ANDERSON,

Assistant Secretary.

WINSTON-SALEM SOUTHBOUND
RAILWAY COMPANY,

By

HENRY E. FRIES,

President.

[SEAL]

Attest:

H. F. WILKINSON,

Secretary.

E. H. C.

Exhibit C

THIS AGREEMENT OF LEASE, dated as of the 1st day of July, 1951, by and between

YADKIN RAILROAD COMPANY, a corporation of the State of North Carolina, hereinafter styled Lessor, party of the first part; and

CAROLINA AND NORTHWESTERN RAILWAY COMPANY, a corporation of the States of Virginia, North Carolina and South Carolina, hereinafter styled Lessee, party of the second part;

WITNESSETH:

THAT the LESSOR, for and in consideration of the rents or sums of money herein reserved to be paid to it by Lessee, and of the covenants of Lessee hereinafter expressed, does hereby lease unto LESSEE:

ALL of the railroads and physical properties of Lessor, including leased properties, equipment, material and supplies, and all contracts, rights, powers, franchises and privileges in connection therewith, as well as the income therefrom, EXCEPT cash and United States Government Bonds in the Treasury of Lessor on July 1, 1951, or due as of that date; SUBJECT, however, to the First Mortgage of Lessor to Central Trust Company of New York (now The Hanover Bank), Trustee, dated November 7, 1890.

To HAVE AND To HOLD the said leased premises unto LESSEE for a term beginning as of the 1st day of July, 1951, and ending on the 31st day of December in the year 2000; SUBJECT, however, to termination by either party by six (6) months' written notice to the other, and SUBJECT ALSO to termination at the election of the Trustee of the Development and General Mortgage of Southern Railway Company in the event of default under that Mortgage as provided in Section 6 of Article Three of said Mortgage; upon the Lessee's

YIELDING AND PAYING, however, to Lessor the following rents or sums of money:

(a) An annual rental of Thirty Thousand Five Hundred Dollars (\$30,500);

(b) An amount equal to the charges for depreciation or amortization allowed to Lessor for each calendar year in respect of the leased premises under the provisions of the United States Internal Revenue Code;

(c) In the event of retirement or abandonment of depreciable property of Lessor, solely on account of casualty, obsolescence or other cause not adequately provided for in determining the rates of depreciation or amortization, respectively, an amount equal to the deduction allowed to Lessor for each calendar year for such causes with respect to the leased premises under the provisions of the United States Internal Revenue Code; and

(d) In the event of retirement or abandonment of nondepreciable property of Lessor, an amount equal to the deduction allowed to Lessor for each calendar year for such causes with respect to the leased premises under the provisions of the United States Internal Revenue Code;

said rentals (a), (b), (c) and (d) to be payable semi-annually on the 30th day of June and the 31st day of December in each year; it being understood that rentals (b), (c) and (d) may be estimated in the first instance, but shall be adjusted when actual allowances are ascertained; and also the following contingent rental:

(e) A contingent rental in any calendar year in which Lessee has net profits equal to such proportion of said net profits as the railway operating revenues derived by Lessee in that year from the movement of traffic over the leased property shall bear to the total railway operating revenues of Lessee; said contingent

rental to be payable annually on December 31 of each year.

As used in paragraph (e), the term "net profits" shall be interpreted to mean the net railway operating income of Lessee in any calendar year less its fixed charges (excluding contingent rental) and less miscellaneous income charges in that year. "Railway operating revenues", "net railway operating income", "fixed charges (excluding contingent rental)" and "miscellaneous income charges" used in computing the contingent rental shall be ascertained pursuant to the Accounting Classifications prescribed by the Interstate Commerce Commission. Lessee shall keep such records as will reflect with reasonable accuracy the railway operating revenues which Lessee derives from the movement of traffic over the leased property.

Rentals payable December 31, 1951, shall be for the period July 1, 1951, to December 31, 1951.

For the purposes of this lease, depreciable property refers to the classes of property for which deductions for depreciation or amortization are now or may hereafter be allowed to Lessor under the United States Internal Revenue Code, and nondepreciable property refers to all other classes of property.

AND it is hereby covenanted and agreed between Lessor and Lessee, in consideration of said lease:

1. That Lessee will pay the rents and sums of money herein reserved in the manner and on the basis herein specified.

2. That Lessee will assume, carry out and perform all of the public duties of Lessor; and that it will pay and discharge all taxes (other than income taxes), licenses or other charges which may be assessed or levied upon the property of Lessor leased hereunder.

3. That Lessee will maintain the properties leased hereunder in such good condition and repair that upon the ter-

mination of this lease said properties shall be in good operating condition, with normal maintenance having been performed; and shall return said properties to Lessor at the termination of this lease in good condition and repair, ordinary and reasonable wear and tear excepted, together with materials and supplies equivalent to those turned over to the Lessee at the beginning of the term of this lease.

4. Lessee shall have the right to retire, abandon or otherwise dispose of any portions of the leased properties, including equipment, no longer necessary in connection with the operation and maintenance of the railroads and properties leased hereunder. Upon the retirement or abandonment of any of the leased premises, such property so retired or abandoned (other than land) shall belong to the Lessee; provided, however, that Lessee shall pay to Lessor an amount equal to the value of the net salvage therefrom, that is to say, the gross salvage less labor and other costs of salvaging.

5. Lessor shall bear the costs of depreciation, amortization and losses on retirements.

6. Lessee shall have full occupancy, control and management of the leased properties and their appurtenances with the right to change or alter the same from time to time as may be requisite in connection with the operation thereof, and the further right to exercise or have exercised in its behalf every right, power and privilege possessed by Lessor in respect thereof, either in its own name or in the name of Lessor, subject to the terms and provisions of this lease.

7. Lessor will preserve and continue its corporate existence in so far as the same may be required for the proper protection and preservation of the rights of Lessee hereunder and will take all such corporate or other actions as may be necessary to assure Lessee full use and enjoyment of the premises leased hereunder and for the purposes of exercising the power of eminent domain or other powers,

privileges and franchises in connection with the use, operation and enjoyment of the leased premises.

8. That this lease agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto as well as upon the parties themselves.

9. This instrument is executed in several counterparts, each part so executed being an original, and such counterparts together constituting but one and the same instrument which shall be sufficiently evidenced by any such original counterpart. This instrument is dated as of July 1, 1951, for convenience only, and the actual dates of execution are the dates of acknowledgment hereof by the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed and their respective corporate seals to be hereunto affixed and attested by their respective officers thereunto duly authorized, as of the day and year first above written.

YADKIN RAILROAD COMPANY,

By E. R. OLIVER,
Vice President.

(SEAL)

ATTEST:

M. N. ROWZIE,
Assistant Secretary.

CAROLINA AND NORTHWESTERN
RAILWAY COMPANY,

By JOHN B. HYDE,
Vice President.

(SEAL)

ATTEST:

R. L. EDDINGTON,
Secretary.
F.H.T.

DISTRICT OF COLUMBIA, }
CITY OF WASHINGTON. }

This 29th day of June, A.D. 1951, personally came before me, P. K. Howard, a Notary Public in and for the District of Columbia, E. R. Oliver, who, being by me duly sworn, says that he is Vice President of the Yadkin Railroad Company, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said corporation.

WITNESS my hand and notarial seal this the 29th day of June, 1951.

(SEAL)

P. K. HOWARD,
*Notary Public in and for the
District of Columbia.*

My commission expires May 1, 1955.

DISTRICT OF COLUMBIA, }
CITY OF WASHINGTON. }

This 27th day of June, A. D. 1951, personally came before me, Hobart R. House, a Notary Public in and for the District of Columbia, John B. Hyde, who, being by me duly sworn, says that he is Vice President of the Carolina and Northwestern Railway Company, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said company, and that said writing was signed and sealed by him in behalf of said corporation by its authority duly given. And the said Vice President acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and notarial seal this the 27th day of June, 1951.

(SEAL)

HOBART R. HOUSE,
*Notary Public in and for the
District of Columbia.*

My commission expires November 15, 1951.

Exhibit D

LEASE AGREEMENT

THIS INDENTURE OF LEASE AGREEMENT is made this ____ day of _____, 2000, by and between YADKIN RAILROAD COMPANY, a North Carolina corporation (hereinafter referred to as "Yadkin") and NORFOLK SOUTHERN RAILWAY COMPANY, a Virginia corporation (hereinafter referred to as "NSR").

WITNESSETH:

WHEREAS, Yadkin is the owner of a line of railroad including real property, railroad right-of-way, railroad facilities, and appurtenances located thereon and affixed thereto between Yadkin Junction, North Carolina, and Albermarle, North Carolina; and

WHEREAS, the railroad, physical properties, equipment, materials and supplies, contracts, rights, powers, franchises and privileges of Yadkin were leased to Carolina and Northwestern Railway Company, a predecessor of NSR, by a lease dated July 1, 1951, and expiring December 31, 2000; and

WHEREAS, Yadkin desires to continue to lease said line of railroad to NSR, and NSR desires to continue to lease and operate said line of railroad upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises, the mutual covenants, and the other good and valuable considerations set forth herein, Yadkin and NSR agree as follows:

1. **PROPERTY COVERED.** Yadkin hereby leases to NSR, effective on the Commencement Date hereinafter stated, on an exclusive basis, the line of railroad owned by Yadkin, which is located between Yadkin Junction, North Carolina, and Albemarle, North Carolina (hereinafter referred to as the "Yadkin Line"), all in (except to the extent provided otherwise in this Lease) "AS IS, WHERE IS" CONDITION AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, HABITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. This Lease includes without limitation the real property, railroad right of way, road bed, main track, sidings, industrial tracks, depots, yards, storage and parking areas, culverts, bridges, buildings, structures, communication and signal facilities, equipment, materials, supplies, fixtures, and all other appurtenances and all contracts, rights, powers, franchises and privileges of Yadkin. This Lease does not include the cash, securities and other financial investments, intercompany advances or liabilities of Yadkin.

2. **RIGHT TO POSSESSION.** On the Commencement Date provided for in Article 6 of this Lease, Yadkin will deliver to NSR possession of the Yadkin Line for NSR's lease and operation.

3. **TERM.** The term of the lease of the Yadkin Line to NSR will be twenty-five (25) years from the Commencement Date provided for in Article 6 of this Lease, and shall be automatically extended for an additional twenty-five (25) year term unless either party provides the other with twelve (12) months' written notice of termination before the end of the initial term.

4. **POSSESSION OF PREMISES AFTER END OF TERM.** If, subject to the right of Yadkin to seek removal of NSR from the Yadkin Line by all applicable legal means, NSR

holds over or remains in possession of the Yadkin Line after the expiration of the Lease, such holding over or continued possession will create a tenancy from month to month only, and monthly rental for such period will be equal to one-twelfth (1/12) of the Annual Rental provided for in Article 5(b) of this Lease and will be payable as set forth in Article 5(c) of this Lease.

5. RENTAL. (a) Unless modified by mutual agreement, as rental for NSR's lease of the Yadkin Line, NSR will pay to Yadkin the Annual Rental as hereinafter defined, provided that the rental for any lease year that is less than 365 days shall be prorated. If any segment of the Yadkin Line is abandoned or disposed of by NSR pursuant to Articles 7(b) or 7(c) herein, the Annual Rental shall be reduced as of the effective date of the abandonment order, certificate of exemption or disposition by the percentage reduction in the miles of the Yadkin Line included in this lease.

(b) NSR shall pay Yadkin one hundred thirty six thousand dollars (\$136,000) as rental for the first year of this Lease (the "Base Rental"). The Base Rental shall be adjusted annually during the term of this Lease by the same percentage of increase or decrease as reflected in the "Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (1982-84 = 100) specified for All Items - United States" compiled by the Bureau of Labor Statistics of the United States Department of Labor (the "Price Index"). The following method shall be used to make adjustments hereunder:

- (i) Adjustments shall be made annually effective on the anniversary of the Commencement Date.
- (ii) Each annual adjustment shall be made with reference to the Price Index for the fourth month immediately preceding the month in which the adjustment is made

(the "Current Price Index").

- (iii) Each adjustment shall be made by determining the percentage increase of the then Current Price Index divided by the price index for the calendar month of the Commencement Date (the "Base Price Index").
- (iv) The percentage thus determined shall be multiplied by the Base Rental, and the product thus determined shall represent the rent payable until another adjustment is made (the "Annual Rental").

$$\frac{\text{Current Price Index}}{\text{Base Price Index}} \times \text{Base Rental} = \text{Annual Rental}$$

In the event the Price Index is converted to a different standard reference base or otherwise revised, changed or eliminated the determination of the percentage increase shall be made with the use of such conversion factor, formula or table for converting the Price Index as may then be substituted.

(c) Annual Rental for each year will be due and payable by NSR no later than December 31 of each year.

(d) Acceptance by Yadkin (or whomever has the right to collect rent as owner, designee, or assignee of Yadkin's rights under this Lease) of Annual Rental paid by NSR pursuant to this Article will not be taken or construed to be a waiver of any provision of this Lease.

6. COMMENCEMENT DATE. The term of this Lease shall commence on January 1, 2001. Insofar as this Lease is concerned, that day shall be known as the "Commencement Date."

7. USE OF LEASED PROPERTY. (a) During the term of this Lease, NSR will use

the Yadkin Line to provide service as a rail carrier and for any other lawful purpose. NSR shall comply with all applicable federal, state and local laws, ordinances and regulations in its use of the Yadkin Line. NSR hereby agrees to indemnify and hold harmless Yadkin from and against any and all liability, claims, costs (including attorney's fees), damages and expenses arising in any manner out of its failure to comply with such laws, ordinances or regulations.

(b) During the term of this Lease, NSR will not discontinue its operation as a rail carrier over all or any part of the Yadkin Line without first applying for and obtaining from the Surface Transportation Board ("STB"), and any other regulatory agency with jurisdiction, any necessary order or certificate of exemption from regulation for such discontinuance of operations over the Yadkin Line. NSR will not seek such regulatory authority, or if no regulatory authority is needed, take any action to discontinue its operations on the Yadkin Line, without first giving Yadkin notice of NSR's intent to do so. Upon receipt of such notice, Yadkin will cooperate with and assist NSR in its applications for and efforts to obtain any necessary regulatory approvals or exemptions. If rail operations are abandoned over any segment of the Yadkin Line, this Lease shall terminate as to the abandoned segment with a corresponding adjustment in the Annual Rental as stated in Article 5 herein. As soon as practicable following such termination, NSR shall surrender the abandoned segment in good order to Yadkin, and restore the segment to its condition as of the Commencement Date of this Lease, normal wear and tear excepted. NSR shall not be required to replace or restore any of the leased property sold or disposed of pursuant to Article 7(c) of this Lease.

(c) During the term of this Lease, NSR shall have the right to sell or otherwise dispose of any portion of the leased assets no longer necessary in connection with the operation and

maintenance of the Yadkin Line. Upon the sale or disposition of the leased property, such property and any proceeds shall belong to NSR; provided, however, that NSR shall pay to Yadkin an amount equal to the net salvage value of such property. The net salvage value equals the fair market value of the property less the costs, including but not limited to labor, salvage costs, legal fees, and selling expenses, which would be incurred in removing and selling the property. If the property is sold by NSR, the sale price, less any costs incurred by NSR in the sale of the property, shall conclusively equal the net salvage value.

8. **ALLOCATION OF INCOME AND EXPENSES.** Any income accrued on or subsequent to the Commencement Date during the term of this Lease and any claims, expenses, and liabilities which arise or are accrued on or subsequent to the Commencement Date during the term of this Lease in respect of the Yadkin Line will belong to, be paid to, and be the responsibility of NSR, and it will be the obligation of NSR to collect such income and to pay or otherwise to resolve such claims, expenses, and liabilities.

9. **TAXES.** (a) After the Commencement Date provided for in Article 6 herein and during the term of this Lease, NSR will pay when due, and prior to the imposition of any penalty, all licenses, taxes, levies, or assessments of whatever kind or nature which may become a lien against the Yadkin Line, other than as a result of an act or omission of Yadkin, and will indemnify Yadkin against any liability for payment of such licenses, taxes, levies, and assessments; provided, however, that nothing in this paragraph will be construed to diminish any right of NSR to contest any such license, tax, levy, or assessment in appropriate judicial or administrative proceedings. Upon request, NSR will present to Yadkin for inspection the official receipts (or photocopies thereof) showing the payment of any of such licenses, taxes, levies, and

assessments.

(b) Promptly upon receipt of an itemized statement, NSR will reimburse Yadkin for any such licenses, taxes, levies, or assessments paid by Yadkin, and upon request by NSR, Yadkin will present to NSR for inspection the official receipts (or photocopies thereof) showing the payment of any of such licenses, taxes, levies, and assessments.

10. **UTILITIES.** Beginning on the Commencement Date provided for in Article 6 herein and during the term of this Lease, NSR will pay all bills for water, sewer, gas, and electric service to the Yadkin Line.

11. **EMINENT DOMAIN.** If during the term of this Lease, the Yadkin Line or any part thereof is appropriated or otherwise acquired by a governmental body or agency thereof or by a quasi-public body, all awards or compensation for such appropriation or acquisition will be paid solely to Yadkin, and the Lease will terminate as to such property. In the case of a partial taking that materially interferes with NSR's operations over the property, the Lease will continue with an appropriate proportional abatement of rental.

12. **MAINTENANCE AND IMPROVEMENTS.** During the term of the Lease, at its sole cost and expense, NSR properly will maintain the Yadkin Line in a condition appropriate to its usage. NSR's maintenance obligations hereunder will include any function which Yadkin, but for this Lease, would be required to perform pursuant to applicable federal, state, and municipal laws, ordinances, and regulations. NSR shall have the right to relocate switches and industrial tracks and to upgrade the existing line, all at NSR's sole expense.

13. **LIENS.** NSR will pay, satisfy, and discharge all claims or liens for material and labor or either of them used, contracted for, or employed by NSR during the term of the Lease in

the construction, repair, maintenance, or removal of the Yadkin Line and any improvements located thereon, whether said improvements are the property of Yadkin or of NSR. NSR will indemnify and save harmless Yadkin from all such claims, liens, or demands whatsoever.

14. ENVIRONMENTAL. (a) NSR will not create or permit to be created or to exist upon the Yadkin Line any use, storage or disposal, excluding any use, storage or handling incidental to transportation or maintenance of track and/or right of way, of hazardous substances, hazardous wastes, or toxic materials during the continuance of this Lease, and NSR shall indemnify and hold harmless Yadkin and all of its directors, officers, agents, or employees, from and against any suit or claim growing out of any such use, storage or disposal thereon. NSR shall install and bear the expense of any and all pollution control structures, devices or equipment that are required during the term of this Lease under applicable federal, state or local laws, ordinances or governmental regulations and which relate directly to railroad operations conducted by NSR over the Yadkin Line. During the term of this Lease, NSR will comply with all applicable federal, state and local laws, rules, governmental regulations or ordinances controlling air, water, noise, hazardous wastes, solid wastes and other pollution or relating to the storage, transport, release or disposal of hazardous materials, substances, wastes or other pollutants, including any pertaining to any repair, rehabilitation, maintenance, reconstruction or construction conducted by NSR on the Yadkin Line.

(b) Yadkin shall be responsible to NSR and shall defend, indemnify, and hold harmless NSR, its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents or employees, from and against any and all liabilities, damages, penalties, fines, claims, demands, causes of actions, liens, suits, costs, judgments and expenses, including costs of

defense and reasonable attorneys' fees and reasonable consultants' fees, arising out of any conditions existing on the Yadkin Line as of the Commencement Date of this Lease (the "Preexisting Conditions"), unless Yadkin proves that NSR caused or created such conditions, or unless Yadkin proves that NSR exacerbated such conditions, in which case Yadkin's responsibility shall not extend to the exacerbation of such conditions. This indemnification shall survive the term of this Lease.

(c) NSR shall be responsible to Yadkin and shall defend, indemnify and hold harmless Yadkin, its parent corporation, subsidiaries and affiliates, and all of its directors, officers, agents or employees, from and against any and all liabilities, damages, penalties, fines, claims, demands, causes of actions, liens, suits, costs, judgments and expenses, including costs of defense and reasonable attorneys' fees and reasonable consultants' fees, arising (i) out of contamination of the Yadkin Line after the Commencement Date of this Lease caused by NSR's operations on the Yadkin Line, unless NSR proves that Yadkin caused or created such condition after the Commencement Date of this Lease, or (ii) out of NSR's exacerbation of any Preexisting Conditions. This indemnification shall survive the term of this Lease.

(d) NSR will furnish Yadkin written notice of any and all releases of hazardous substances and/or regulated substances on the Yadkin Line which occur during the term of the Lease whenever such releases are required to be reported to any federal, state or local authority. Such written notice will identify the substance released, the amount released and the measures undertaken, if any, to clean up and remove the released material and any contaminated soil or water. NSR will also provide Yadkin with copies of any reports made to any governmental agency which relate to such releases during the term of the Lease.

(e) During the term of the Lease, Yadkin shall have the right to enter the Yadkin Line for

the purpose of inspecting to ensure compliance with the requirements of this paragraph. In order to exercise this right to enter the property for inspection, Yadkin must first give NSR seventy two (72) hours advance notice of its plan to inspect the property and must thereafter comply with any instructions of NSR designed to insure the safety of the personnel and property of Yadkin and NSR. To provide the required advance notice of inspection to NSR, Yadkin shall contact the Division Engineer at (803) 255-4251. If Yadkin detects any violation of this paragraph, including any contamination of the Yadkin Line occurring during the term of this Lease, Yadkin will notify NSR. Upon receipt of such notice, NSR will take immediate steps to eliminate the violation to the reasonable satisfaction of Yadkin. Should NSR inadequately remedy or fail to eliminate the violation, Yadkin shall have the right to enter the Yadkin Line to take whatever corrective action Yadkin reasonably deems necessary to eliminate the violation, at the sole expense of NSR.

(f) As to the provisions of this article only, as to each other, Yadkin and NSR hereby waive any statute of limitations defense, provided, however, that if one party gives the other party written notice of contamination of the Yadkin Line, the waiver of the statute of limitations shall cease, but only as to the contamination which is the subject of the written notice, and as to such contamination, the parties shall then be subject from the date of receipt of such written notice to the times then provided in the then applicable statute of limitations. The waiver of statute of limitations for any matter not covered in said written notice shall continue.

15. INDEMNIFICATION. The liability of the parties hereto, as between themselves, for death, personal injury, or property damage will be determined as follows:

Except where the sole proximate cause of such injury, death, loss, or damage is the negligence or intentional tortuous act of Yadkin, NSR will indemnify and save harmless Yadkin

and its officers, agents, employees, lessors, subsidiaries, affiliates, successors, and assigns from and against any and all loss, damage, claims, judgments, expense including attorneys' fees and disbursements, or liability for: (i) injury to or death of any person occurring on or about the Yadkin Line during the term of or in connection with this Lease; and (ii) loss of or damage to any property whatsoever, including but not limited to the property covered by this Lease, where such injury, death, loss, or damage is caused by, arises out of, results from, or is incident to (A) the condition or existence of the property covered by this Lease or (B) NSR's lease, use, or operation of such property or any portion thereof.

16. NO COVENANT OF QUIET ENJOYMENT. Nothing in this Lease implies or imports a covenant by Yadkin for quiet enjoyment by NSR of the Yadkin Line during the term of this Lease, and nothing in this Lease implies or imports any representation by Yadkin that the fee title to the Yadkin Line is owned by Yadkin, provided, however, that Yadkin does represent that the Yadkin Line currently is operated by NSR as a continuous line of railroad and that Yadkin is granting NSR sufficient rights hereunder to conduct continued rail common carrier operations on the Yadkin Line.

17. COMMON CARRIER RESPONSIBILITY. On the Commencement Date provided for in Article 6 of this Lease, NSR will assume and relieve Yadkin of all common carrier responsibility and obligation for the Yadkin Line (other than the residual common carrier obligation of Yadkin arising from Yadkin's ownership of a line used in interstate commerce), including performance of rail carrier service along the Yadkin Line.

18. CORPORATE APPROVALS. On or prior to the effective date of this Lease, NSR and Yadkin will obtain appropriate corporate approvals for NSR's lease of the Yadkin Line.

19. **LABOR.** Each party agrees to indemnify and hold harmless the other party against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees or their collective bargaining representatives, either pursuant to employee protective conditions imposed by a governmental agency upon that agency's approval or exemption of this Lease and operations hereunder, or pursuant to a collective bargaining agreement. It is the intention of the parties that each party shall bear the full costs of protection of its own employees under employee protective conditions imposed, and of grievances filed by its own employees arising under its collective bargaining agreements with its employees.

20. **REGULATORY APPROVAL.** NSR will apply for and obtain from the STB, or any other regulatory agency with jurisdiction, any necessary approvals or exemptions from regulation for its lease and operation of the Yadkin Line, and Yadkin will cooperate with and assist NSR in its applications for and efforts to obtain such regulatory approvals or exemptions.

21. **NO THIRD PARTY BENEFICIARY.** This Lease is intended for the sole benefit of the parties hereto, nothing in this Lease is intended or may be construed to give any person, firm, corporation, or other entity, other than the parties hereto and their respective officers, agents, employees, lessors, parent corporation, subsidiaries, affiliates, successors, and assigns, any right pursuant to any provision or term of this Lease, and all provisions and terms of this Lease are and will be for the sole and exclusive benefit of the parties to this Lease.

22. **WAIVERS.** Any waiver at any time of a breach of any provision, condition, obligation, or requirement of this Lease will extend only to the particular breach so waived and

will not impair or affect the existence of any provision, condition, obligation, or requirement of this Lease or the right of Yadkin thereafter to avail itself of any breach, subject to such waiver.

23. TERMINATION. This Lease may be terminated if for a period of thirty (30) days either Yadkin or NSR fails to keep or perform any one or more of the covenants or obligations under this Lease and if such failure continues for a period of sixty (60) days from the date of receipt of written notice of such failure. This Lease may also be terminated at any time by the mutual consent of NSR and Yadkin.

24. EFFECT OF TERMINATION. (a) Upon expiration of NSR's lease of the Yadkin Line or if NSR's lease of the Yadkin Line is terminated, NSR will forthwith vacate and surrender the Yadkin Line (upon obtaining necessary regulatory authority or exemption, which NSR shall promptly seek). NSR shall surrender any segments of the Yadkin Line over which NSR was actually conducting rail operations at the time of the termination in a condition at least equal to the Federal Railroad Administration Class I standards. NSR shall surrender all other leased property in good order to Yadkin, and restore the property to its condition as of the Commencement Date of this Lease, normal wear and tear excepted. NSR shall not be required to replace or restore any of the leased property sold or disposed of pursuant to Article 7(c) of this lease.

(b) Provided that all sums due Yadkin under this Lease have been paid and all NSR's obligations and covenants under this Lease have been performed, NSR may remove from the Yadkin Line any and all structures or other property belonging to NSR or which NSR caused or permitted to be placed or erected on the Yadkin Line and which are the property of NSR. Such removal will be effected without damage to the property of Yadkin. If NSR fails to make such

removal within sixty (60) days from the date of termination of the Lease, Yadkin may take title thereto without consideration of any kind therefor or claim by NSR or anyone claiming an interest by or through NSR, or Yadkin may remove all or any part of such structures and/or property and restore the Yadkin Line to its former condition at the sole expense of NSR, and NSR will reimburse Yadkin for such expense within thirty (30) days of receipt of a bill or bills therefor.

25. CHOICE OF LAW. This Lease will be construed in accordance with the laws of the United States of America and the State of North Carolina.

26. COUNTERPARTS. This Lease may be executed in any number of counterparts, each of which may be deemed an original for any purpose.

IN WITNESS WHEREOF the parties hereto duly executed this Lease as of the day and
year first above written.

In the presence of:

YADKIN RAILROAD COMPANY

As to Yadkin

By _____
President

Attest:

Secretary

In the presence of:

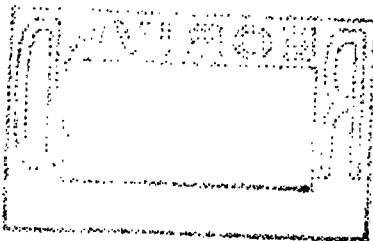
NORFOLK SOUTHERN RAILWAY COMPANY

As to NSR

By _____
Vice President

Attest:

Secretary



STATE OF NORTH CAROLINAFile No: 

STANLY County

In the General Court of Justice

☐ District Court Division ☒ Superior Court Division

Name of Plaintiff(s)

ALCOA, INC.

Address

201 Isabella Street

City, State, Zip

Pittsburgh, Pennsylvania 15212

VERSUS

Name of Defendant(s)

NORFOLK SOUTHERN RAILWAY COMPANY, INC.,
YADKIN RAILROAD COMPANY, and WINSTON-
SALEM SOUTHBOUND RAILWAY COMPANY**CIVIL SUMMONS**☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) issued

To Each Of The Defendant(s) Named Below

Name And Address Of Defendant 1

Winston-Salem Southbound Railway Company
c/o Registered Agent William W. Walker
110 Oakwood Drive, Suite 300
Winston Salem, NC 27103

Name And Address Of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name and Address of Plaintiff's Attorney (If None, Address Of Plaintiff)

Louis A. Bledsoe, III and Edward F. Hennessey, IV
Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246-1900

Date Issued

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court☐ **ENDORSEMENT**

This summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

STATE OF NORTH CAROLINA

File No. _____

STANLY County

In the General Court of Justice

☐ District Court Division ☒ Superior Court Division

Name of Plaintiff(s)

ALCOA, INC.

Address

201 Isabella Street

City, State, Zip

Pittsburgh, Pennsylvania 15212

VERSUS

Name of Defendant(s)

NORFOLK SOUTHERN RAILWAY COMPANY, INC.,
YADKIN RAILROAD COMPANY, and WINSTON-
SALEM SOUTHBOUND RAILWAY COMPANY

CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS

G.S. 1A-1, Rules 3, 4

Date Original Summons Issued

Date(s) Subsequent Summons(es) issued

To Each Of The Defendant(s) Named Below

Name And Address Of Defendant 1

Norfolk Southern Railway Company
c/o Registered Agent Lennox P. McLendon, Jr.
230 N. Elm Street, Suite 2000
Greensboro, NC 27401

Name And Address Of Defendant 2

Yadkin Railroad Company
c/o Registered Agent Lennox P. McLendon, Jr.
230 N. Elm Street, Suite 2000
Greensboro, NC 27401

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name and Address of Plaintiff's Attorney (If None, Address Of Plaintiff)

Louis A. Bledsoe, III and Edward F. Hennessey, IV
Robinson, Bradshaw & Hinson, P.A.
101 North Tryon Street, Suite 1900
Charlotte, North Carolina 28246-1900

Date Issued

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court

☐ ENDORSEMENT

This summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM ☐ PM

Signature

☐ Deputy CSC ☐ Assistant CSC ☐ Clerk of Superior Court

NOTE TO PARTIES: Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.