

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:08-CV-460-FL

DUKE ENERGY PROGRESS, INC., )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALCAN ALUMINUM CORPORATION, et al., )  
 )  
 Defendants. )

**ORDER**

No. 5:08-CV-463-FL

CONSOLIDATION COAL COMPANY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 ALCAN ALUMINUM CORPORATION, et al., )  
 )  
 Defendants. )

This matter is before the court on motion for protective order (460 DE 1553, 463 DE 1544), filed by plaintiff Consolidation Coal Company and crossclaim/third-party plaintiff PCS Phosphate Company, Inc. (collectively “plaintiffs”). Third-party defendant Truland Corporation (“Truland”) filed a response in opposition. In this posture the issues raised are ripe for ruling. For the reasons that follow, plaintiffs’ motion is granted in part as set forth herein.

**BACKGROUND**

As pertinent to the present motion, on August 5, 2010, this court entered a consent protective order and stipulation of confidentiality providing for designation of materials produced in discovery in this action as “CONFIDENTIAL – ATTORNEY’S EYES ONLY,” where the materials are

“determined by the Producing Party, acting in good faith, to be non-public and to be confidential business or technical information.” (DE 349, ¶1).<sup>1</sup> The protective order provides a mechanism by which a party “may challenge such designation by notifying the Designating Party in writing at any time prior to thirty (30) days before the first deadline for exhibit lists to be submitted by any party.” (Id., ¶9). “The Designating Party must then seek a protective order from the Court for such documents, information or tangible items.” (Id.).

The protective order further states that “[n]othing in this Protective Order shall restrict or prohibit a party from seeking protections in addition to those set forth in this Protective Order for a particular document(s) or for particular testimony given in this action.” (Id., ¶22). On September 30, 2013, the court extended the August 5, 2010, protective order to apply to all third-party defendants. (DE 1326).

On July 3, 2014, in discovery in this matter, plaintiffs disclosed Mr. David Mauro, a chemist, as their expert on PCBs in mineral oil transformers. (DE 1558-1). In his expert report, Mauro relied upon and referenced two publications at issue in the present motion, which were published by the Electric Power Research Institute, Inc. (“EPRI”): (1) a 2009 report titled “Changes to PCB Congeners in Dielectric Fluids in Use” (the “2009 EPRI Report”) and (2) a 2012 report titled “Predicting the Potential Polychlorinated Biphenyl (PCB) Concentration in Electrical Equipment” (the “2012 EPRI Report”) (collectively, the “EPRI Reports”). (See, e.g., DE 1558-1, pp. 30-31).

On November 10, 2014, prior to deposition of Mr. Mauro, plaintiffs produced in discovery in this matter, under the designation “CONFIDENTIAL – ATTORNEY’S EYES ONLY,” copies of the EPRI Reports, by making them available for download or on disc. (DE 1554-6, pp. 3-4). On

---

<sup>1</sup> Henceforth in this order, unless otherwise noted, all citations to the record are to documents filed in Case 5:08-CV-460-FL, although the same documents were filed also in Case No. 5:08-CV-463-FL.

November 14, 2014, at the deposition of Mauro, Truland's counsel discussed the EPRI Reports during deposition questioning. (DE 1558-3). On December 5, 2014, Truland's counsel sent a letter to counsel for Consolidation Coal Company challenging the designation of the EPRI Reports as "CONFIDENTIAL – ATTORNEY'S EYES ONLY," and requesting that the designation be removed. (DE 1554-7, pp. 2-3).

On January 2, 2015, plaintiffs filed their motion for protective order, pursuant to paragraph 9 of the court's August 5, 2010, protective order, seeking a protective order designating all copies of the EPRI Reports produced by plaintiffs as "CONFIDENTIAL – ATTORNEY'S EYES ONLY." (DE 1553, p. 2). Truland filed its opposition on January 16, 2015.

### **COURT'S DISCUSSION**

Pursuant to Federal Rule of Civil Procedure 26(c), "[t]he court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way." Fed. R. Civ. P. 26(c)(1). "To establish good cause for a protective order under Federal Rule of Civil Procedure 26(c), . . . courts have insisted on a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements." Gulf Oil Co. v. Bernard, 452 U.S. 89, 102, n.16 (1981) (internal quotations omitted).

In this case, plaintiffs have established good cause for a protective order requiring that the EPRI reports be produced under certain restrictions, although not exactly as designated up to this point. The current designation, "CONFIDENTIAL – ATTORNEY'S EYES ONLY" applies only to materials which are determined by the Producing Party "to be non-public and to be confidential

business or technical information.” (460 DE 349, ¶1). Based on the facts presented in support of the motion, however, the EPRI Reports are neither non-public nor confidential. Rather, EPRI sells copies of the reports to the public for a fee, where the cost to purchase a copy of the 2009 EPRI Report is \$950, and the cost to purchase a copy of the 2012 EPRI Report is \$2,500. (See, e.g., 460 DE 1554-8, p. 2; 460 DE 1558-3, pp. 3& 7). The EPRI Reports, therefore, do not fall squarely within the description of the designation “CONFIDENTIAL – ATTORNEY’S EYES ONLY.”

Nevertheless, based on these same facts, the EPRI Reports are materials of the type properly to be “revealed only in a specified way” to the parties during discovery in this case. Fed. R. Civ. P. 26(c)(1)(G). Given that the EPRI Reports are proprietary and commercially valuable documents available only from EPRI for a fee, allowing unrestricted access to copies of the EPRI Reports by all parties to this case undermines EPRI’s intellectual property rights to charge a fee for its own publications. The Federal Rules, in this respect, provide a mechanism for protecting EPRI, as a “person” specified in the rule, “from . . . undue burden or expense.” Fed. R. Civ. P. 26.

Although designating the EPRI Reports “CONFIDENTIAL – ATTORNEY’S EYES ONLY” is not appropriate, the same protections applicable to materials designated “CONFIDENTIAL – ATTORNEY’S EYES ONLY” will serve the interest of maintaining the integrity and value of EPRI’s commercial proprietary information. Restricting access to attorneys only for purposes of litigation in this case ensures that such proprietary information is used only for purposes of this litigation, and not for purposes of circumventing the cost of purchasing a report from EPRI.

The court, therefore, directs that the EPRI Reports be designated under a new category of protective designation, “PROPRIETARY REPORT,” but in all other respects be subjected to the same requirements as materials otherwise designated “CONFIDENTIAL – ATTORNEY’S EYES

ONLY” as set forth in the court’s August 5, 2010, protective order. For example, such requirements include but are not limited to the following requirements in Paragraph 4 of the August 5, 2010, protective order, modified here to incorporate the new category of designation:

4. [Information] designated as “[PROPRIETARY REPORT]” shall not be disclosed other than as expressly authorized in this Order and may be disclosed only to the following “Qualified Persons”:

a. This Court and its personnel.

b. Counsel of record in this litigation and attorneys and staff persons employed by or acting on behalf of any such counsel.

c. Any consultant, investigator or expert (collectively, “Expert”) who is assisting in the preparation or trial of this litigation.

d. A court reporter.

e. Third-party fact witnesses or potential fact witnesses, if disclosure to such potential fact witness of particular [Information] is in counsel’s good faith judgment, necessary to that party’s prosecution or defense of the case.

(DE 349, ¶4).

Such requirements also include those provisions in the protective order specifying procedures in the event a party seeks to file such EPRI Reports under seal with the court. In particular, “[e]ach time a party seeks to file under seal [PROPRIETARY REPORTS], said party shall accompany the request with a motion to seal and a supporting memorandum of law,” (DE 349, ¶7), which motion and memorandum must make the requisite showing based upon applicable law governing sealing of court filings, particularly pursuant to Stone v. University of Maryland, 855 F.2d 178, 180-181 (4th Cir.1988).

The court rejects Truland’s arguments in favor of lifting all restrictions on the designation of the EPRI Reports, at this juncture in the litigation. For example, Truland contends that a

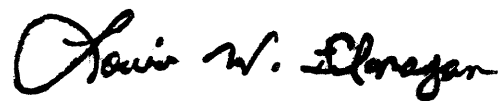
restrictive designation would run afoul of Fourth Circuit case law, such as Stone, regarding requirements for sealing materials filed on the docket. No party, however, has yet sought to file the EPRI Reports in connection with any motion before the court, and no motion to seal such documents is before the court. In the event a motion to seal is filed, Truland may renew its arguments at that time. The court expresses no opinion at this time, without benefit of further briefing on the issues raised in Truland's opposition regarding sealed materials, regarding the propriety of filing the EPRI Reports under seal in this case.

It suffices for present purposes, pursuant to Fed. R. Civ. P. 26(c), that plaintiffs have demonstrated through specific showing that a protective order restricting disclosure of the EPRI Reports in discovery in this case is warranted.

#### CONCLUSION

Based on the foregoing, plaintiffs' motion for protective order (460 DE 1553; 463 DE 1544) is GRANTED IN PART. As set forth herein, the EPRI Reports shall be marked "PROPRIETARY REPORT," and in all other respects be subjected to the same requirements as materials designated "CONFIDENTIAL – ATTORNEY'S EYES ONLY" as set forth in the court's August 5, 2010, protective order, attached hereto as Exhibit A, and the court's September 30, 2013, order, attached hereto as Exhibit B.

SO ORDERED, this the 11th day of March, 2015.



LOUISE W. FLANAGAN  
United States District Judge

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CAROLINA POWER & LIGHT COMPANY	)	
d/b/a PROGRESS ENERGY CAROLINAS, INC.,	)	
	)	
Plaintiff,	)	
v.	)	5:08-CV-00460-FL
	)	
3 M COMPANY, et al.,	)	
	)	
Defendants.	)	
CONSOLIDATION COAL COMPANY,	)	
	)	
Plaintiff,	)	
v.	)	5:08-CV-00463-FL
	)	
3 M COMPANY, et al.,	)	
	)	
Defendants.	)	

---

**CONSENT PROTECTIVE ORDER AND STIPULATION OF CONFIDENTIALITY**

THIS CAUSE came to be heard on the joint application of Plaintiffs and Defendants, and it appearing to the Court that the discovery and trial in this action may involve the production, disclosure, and filing with the Court of confidential, sensitive or proprietary business information, or trade secrets (collectively referred to as “Confidential Information”) requiring protection against unrestricted disclosure or use, including, but not limited to, confidential financial data, marketing or sales planning information, information on pricing and profitability, customer or client lists, trade secrets, product design information, engineering or business plans or strategies, proprietary technical or scientific information, and other proprietary and nonpublic

commercial information or commercially and/or competitively sensitive information of the type normally protected from disclosure to the public. This Protective Order governs the production or disclosure of all Confidential Information produced by the parties or their agents during the course of discovery, hearings or trial in this action. In addition, the parties contemplate that Confidential Information may be produced by a non-party, and the use of such information in this case is similarly governed by this Order.

THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED that pursuant to Rule 26(c) of the Federal Rules of Civil Procedure, the following confidentiality provisions shall govern the disclosure, use, dissemination, and filing with the Court of all information, documents or materials designated as “Confidential” or “Confidential—Attorney’s Eyes Only” and produced in this action.

1. Designation. Any party to this action or other person who produces, supplies, or provides access to information, documents, testimony, data, or other tangible items (hereinafter “Discovery Materials”) for use in this action in the course of discovery (hereinafter the “Designating Party” or the “Producing Party”) may designate all or part of such Discovery Materials as “Confidential” or “Confidential—Attorney’s Eyes Only.” The Producing Party shall be obligated to designate only such Discovery Materials which it believes in good faith to be information within the scope of Rule 26(c) of the Federal Rules of Civil Procedure. Moreover, the Producing Party shall be obligated to make specific designations to the extent reasonably possible and to avoid overbroad designations.

“Confidential” applies to Discovery Materials which are determined by the Producing Party, acting in good faith, to be non-public and to be confidential business or technical information.



“Confidential—Attorney’s Eyes Only” applies to Discovery Materials which are determined by the Producing Party, acting in good faith, to be non-public and to be confidential business or technical information, and which is reasonably and in good faith considered by the Producing Party to be highly sensitive because at the time such Discovery Materials are produced contain competitive business information such as customer lists, trade secrets, product design information, marketing or sales planning information or cost, price, profitability or other similar financial information. It is the intention of the parties to designate only a limited number of documents and information for this more restricted level of confidentiality.

Discovery Materials shall be designated as “Confidential Information” by marking words on the document or item that in substance states: “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEY’S EYES ONLY.” Deposition testimony may be designated as Confidential at the time the testimony is given. Portions of deposition transcripts (including exhibits) containing Confidential Information shall be separately bound and treated as Confidential under this Order, and that portion of the transcript shall be designated “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEY’S EYES ONLY” before the final transcript is distributed. Within thirty (30) days after receipt of the deposition transcript, a Designating Party may designate deposition testimony as Confidential Information by advising all parties in writing of the pages and lines in which the Confidential Information appears.

2. Electronic or digital files containing Confidential Information shall be marked as follows:

- a. Any media produced containing Confidential Information in electronic or digital form shall be visibly marked on the outside or surface of the media with a legend substantially as follows: “CONTAINS INFORMATION

DESIGNATED AS CONFIDENTIAL” and/or “CONTAINS INFORMATION DESIGNATED AS CONFIDENTIAL-ATTORNEY’S EYES ONLY”

- b. Individual electronic or digital files shall be conspicuously marked or designated as containing Confidential Information by including the word "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEY’S EYES ONLY" in the file name or file designation in all capital letters. As an alternative to marking individual files in this manner, all digital files containing Confidential Information on a given media item can be segregated within a folder or directory on that media, which folder or directory name shall include the words "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEY’S EYES ONLY" in all capitals.
- c. Any electronic or digital files containing confidential information shall, to the maximum extent practicable, contain a visible legend that is displayed along with the data or file contents, when the data or contents are viewed in the normal course of use, containing the words "CONFIDENTIAL" or "CONFIDENTIAL-ATTORNEY’S EYES ONLY" in all capitals.

3. Confidential Information designated as “CONFIDENTIAL” shall not be disclosed other than as expressly authorized in this Order and may be disclosed only to the following “Qualified Persons”:

- a. This Court and its personnel.

- b. Counsel of record in this litigation, counsel of a deponent, in-house counsel for the parties, and attorneys and staff persons employed by or acting on behalf of any such counsel.
- c. Any consultant, investigator or expert (collectively, "Expert") who is assisting in the preparation or trial of this litigation.
- d. A court reporter.
- e. Plaintiff's current officers and employees.
- f. Current officers and employees of any Defendant.
- g. Third-party fact witnesses or potential fact witnesses, if disclosure to such potential fact witness of particular Confidential Information is, in counsel's good faith judgment, necessary to that party's prosecution or defense of the case.

4. Confidential Information designated as "CONFIDENTIAL—ATTORNEY'S EYES ONLY" shall not be disclosed other than as expressly authorized in this Order and may be disclosed only to the following "Qualified Persons":

- a. This Court and its personnel.
- b. Counsel of record in this litigation and attorneys and staff persons employed by or acting on behalf of any such counsel.
- c. Any consultant, investigator or expert (collectively, "Expert") who is assisting in the preparation or trial of this litigation.
- d. A court reporter.
- e. Third-party fact witnesses or potential fact witnesses, if disclosure to such potential fact witness of particular Confidential Information is, in

counsel's good faith judgment, necessary to that party's prosecution or defense of the case.

5. If a party wishes to disclose any Confidential Information to any person not described in Paragraphs 3 and 4 of this Order, permission to so disclose must be requested from the Designating Party in writing. If the Designating Party agrees, the person shall be considered a Qualified Person for the purposes of this Order. If the Designating Party objects to the proposed disclosure, no such disclosure shall be made unless this Court, upon application by the party requesting such permission, orders otherwise.

6. Confidential Information may be disclosed to a Qualified Person pursuant to Paragraph 3.c or 3.g, Paragraph 4.c or 4.e, or Paragraph 5, only if such person is first shown a copy of this Protective Order and agrees in writing to be bound by its terms by signing a copy of the Confidentiality Agreement attached hereto as Exhibit A. Counsel for the party obtaining the person's signature on the Confidentiality Agreement will retain a copy of the signed agreement. At the conclusion of the case, counsel will provide Designating Party with a copy of the signed agreements.

7. Where any Confidential Information is to be included in any materials filed with the Court, the filing Party must comply with the procedures in section T (1) of the Court's Electronic Case Filing Administrative Policies and Procedures Manual (Rev. Jan. 25, 2010). ("ECF Manual") Each time a party seeks to file under seal confidential documents, things, and/or information, said party shall accompany the request with a motion to seal and a supporting memorandum of law specifying:

- a. The exact documents, things, and/or information, or portions thereof, for which filing under seal is requested;

- b. Where it is necessary for the court to determine the source of the public's right to access before a request to seal may be evaluated, whether any such request to seal seeks to overcome the common law or the First Amendment presumption to access;
- c. The specific qualities of the material at issue which justify sealing such material, taking into account the balance of competing interests in access;
- d. The reasons why alternatives to sealing are inadequate; and
- e. Whether there is consent to the motion.

Finally, in addition to the motion and supporting memorandum, said party must set out such findings in a proposed order to seal for the Court. However, in the event that a party seeking to file Confidential Information is not the party who designated that material as Confidential Information, then the Filing Party and the Designating Party shall follow the procedures set forth in section T (1)(a)(6) of the Court's ECF Manual. Further proceedings with respect to a motion to seal will be governed by the Court's Case Management Order.

8. Inadvertent failure to designate as Confidential any information pursuant to this Protective Order shall not constitute a waiver of any otherwise valid claim for protection, so long as such claim is asserted within thirty (30) days of the discovery of the inadvertent failure. At such time, arrangements shall be made for return of all copies of the inadvertently misdesignated documents to the Designating Party and for the submission, where appropriate, of properly labeled copies.

9. If upon review any party reasonably and in good faith believes that any documents, information or tangible items designated by a Designating Party are not properly designated "Confidential" or "Confidential—Attorney's Eyes Only" as defined hereinabove,

then the party may challenge such designation by notifying the Designating Party in writing at any time prior to thirty (30) days before the first deadline for exhibit lists to be submitted by any party. The written notice must specifically identify the challenged documents, information or tangible items, by Bates number page where available. The Designating Party must then seek a protective order from the Court for such documents, information or tangible items. If such a motion is filed the documents will continue to be treated as "Confidential" pending resolution by the Court. Failure to file a motion for a protective order within thirty (30) days from receiving notification of a party's challenge to the designation shall cause such documents, information or tangible items to be excluded from the provisions of this Order.

10. No one may attend or review the Confidential portions of a deposition, or a transcript of such portion of the deposition, other than persons listed in Paragraphs 3 and 4, subject to the provisions of Paragraph 6.

11. Any presentation of Confidential Information to the Court at a hearing prior to the trial shall be made following advance notice to the Court prior to presentation of the material.

12. Except to the extent expressly authorized in this Protective Order, Confidential Information shall not be disclosed to any third party, or used or disclosed for any purpose other than the preparation and/or trial of this case and/or appeal therefrom.

13. Nothing contained herein shall prevent any party from disclosing its own Confidential Information or other Discovery Materials as it deems appropriate.

14. Each party or person bound by this Protective Order will use reasonable care to avoid designating any document or information as Confidential Information which is not entitled to such designation or which is generally available to the public. The restrictions and obligations relating to Confidential Information set forth in this Protective Order shall not apply to:

- a. Any document that is or becomes publicly known or available other than through a violation of this Protective Order; or
- b. Any document that the receiving party receives from a third party without violation of this Protective Order or breach of any other agreement between the producing party and such third party, provided the receiving party is not obligated to hold such document in confidence; or
- c. Any information that is independently developed by employees of the receiving party who have not had access to or received any Confidential Information under this Protective Order, as evidenced by written documentation of such independent development; or
- d. Any document that the Designating Party authorizes (in writing) to be released from the obligations of this Protective Order.

If any document marked as “Confidential” or “Confidential—Attorney’s Eyes Only” is believed by any party to fall within the description set forth in this paragraph, before disclosing such document to any person not authorized to receive same by this Order, the party seeking to disclose said document shall follow the procedure as set forth in paragraph 9 above.

15. Any notes, summaries, compilations or copies containing Confidential Information or electronic images or databases containing Confidential Information shall be subject to the terms of this Protective Order to the same extent as the material or information from which such notes, summaries, compilations, copies, electronic images or databases are made or derived.

16. In the case of inadvertently produced privileged and/or work product documents, upon request of the Producing Party, the documents together with all copies thereof shall be

returned to the party claiming privilege and/or work product immunity within seven (7) days of receipt of notice of the inadvertent production, and any notes made therefrom shall be destroyed. A party returning inadvertently produced documents pursuant to this paragraph does not waive its right to challenge the privileged and/or work product status of those documents. In support of such a challenge, a party returning inadvertently produced documents may, at that time, submit a copy of the returned documents to the Court under seal, to be opened *in camera* only if the party elects to challenge the privileged and/or work product status of those documents, which challenge must be made within fourteen (14) days of submission to the Court. If the party returning inadvertently produced privileged documents fails to file a motion to compel production of these documents within said fourteen (14) day period, the documents will be returned to the Designating Party.

17. This Protective Order does not affect any party's rights to object to discovery on any grounds other than an objection based solely on the ground that the information sought contains Confidential Information.

18. A Party or entity's compliance with the terms of this Protective Order shall not operate as an admission that any particular document is or is not (a) confidential, (b) proprietary, (c) privileged or subject to attorney work product protection, or (d) admissible in evidence at trial.

19. Any person in possession of materials designated as "Confidential" or "Confidential—Attorney's Eyes Only" pursuant to this Protective Order who receives a subpoena or other process from any court or person (including natural persons, corporations, partnerships, firms, governmental agencies, departments, or bodies, boards, or associations) who is not a party to this Protective Order, seeking production or other disclosure of such



Confidential material, shall promptly give telephonic notice and written notice by overnight delivery, electronic mail, and/or facsimile to counsel for the Designating Party or entity, identifying the materials sought and enclosing a copy of the subpoena or other process where possible at least ten (10) business days before production or other disclosure shall be given. Without limiting the remainder of this paragraph, in no event shall production or other disclosure be made before the latest of (1) the day following the date on which notice is given, or (2) the return date of the subpoena or process.

20. This Protective Order may be modified or amended by Order of the Court for good cause shown.

21. This Protective Order shall apply to discovery directed to non-parties to this case, if said non-party requests protection as to its Confidential material as defined above.

22. This Protective Order is without prejudice to the right of any party to seek modification thereof from the Court, and shall remain in effect until such time as it is modified, amended or set aside by the Court. Nothing in this Protective Order shall restrict or prohibit a party from seeking protections in addition to those set forth in this Protective Order for a particular document(s) or for particular testimony given in this Action.

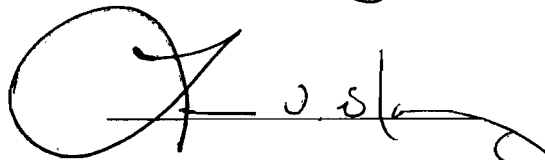
23. This Protective Order is not intended to prohibit the use or admissibility of Confidential Information upon trial of this action. Issues involving the protection of Confidential Information during trial will be presented to the Court prior to or during trial as each party deems appropriate, with direction from the Court.

24. Within sixty (60) days after the final disposition of this action, all documents and materials containing Confidential Information (other than exhibits to the official court record) shall, if requested, be returned to the Designating Party or, at the sole option of the Designating

Party, destroyed at the Designating Party's expense. The attorneys for each party to the litigation may keep one (1) archival copy of all pleadings and all transcripts (including deposition transcripts and exhibits thereto) containing Confidential Information. The attorneys returning documents containing Confidential Information may retain their attorney 'work product' and privileged attorney-client correspondence as may be necessary in their reasonable good judgment to comply with ethical requirements and/or insurer requirements; provided, however, that this exception shall not apply to any copies of Confidential documents that are incorporated into or attached to attorney-client communications or attorney work product. Counsel for any party or third party receiving Confidential Information shall make written certification of compliance with this provision and shall deliver the same to counsel for each Designating Party.

25. The obligations of this Protective Order shall survive the termination of this Action and shall continue to restrict the disclosure and use of discovery material designated as Confidential Information by the parties, their counsel, and all who signed a Confidentiality Agreement. Following termination of this Action, the Court will retain jurisdiction to enforce the terms of this Protective Order.

SO ORDERED, THIS 5<sup>th</sup> DAY OF August, 2010.

A handwritten signature in black ink, appearing to read "A. J. S.", written over a horizontal line. The signature is stylized and includes a large circular flourish on the left side.

UNITED STATES DISTRICT COURT JUDGE

CONSENTED TO:

**Counsel for Plaintiffs:**

/s/ Christopher G. Smith  
CHRISTOPHER G. SMITH  
N.C. Bar No. 22767  
CAROLINE N. BELK  
N.C. Bar No. 32574  
SMITH, ANDERSON, BLOUNT,  
DORSETT, MITCHELL & JERNIGAN,  
LLP  
Post Office Box 2611  
Raleigh, NC 27602-2611  
Telephone: (919) 821-1220  
Facsimile: (919) 821-6800  
Email: csmith@smithlaw.com  
cbelk@smithlaw.com

**COUNSEL FOR PLAINTIFF  
CAROLINA POWER & LIGHT  
COMPANY d/b/a PROGRESS ENERGY  
CAROLINAS, INC.**

/s/ William W. Pollock  
WILLIAM W. POLLOCK  
N.C. Bar No. 19381  
CRANFILL SUMNER & HARTZOG LLP  
Post Office Box 27808  
Raleigh, NC 27611-7808  
Telephone: (919) 828-5100  
Facsimile: (919) 828-2277  
Email: wpollock@cshlaw.com

/s/ Daniel M. Darragh  
DANIEL M. DARRAGH  
Pa. Bar No. 34076  
Attorneys for Plaintiff  
COHEN & GRIGSBY, P.C.  
625 Liberty Avenue  
Pittsburgh, PA 15222-3125  
Telephone: (412) 297-4718  
Facsimile: (412) 209-1940  
Email: ddarragh@cohenlaw.com

**COUNSEL FOR PLAINTIFF  
CONSOLIDATION COAL COMPANY**

/s/ J. Donald Cowan, Jr.  
J. DONALD COWAN, JR.  
N.C. Bar No. 0968  
ELLIS & WINTERS LLP  
1100 Crescent Green Drive, Suite 200  
Cary, NC 27518  
Telephone: (919) 865-7000  
Facsimile: (919) 865-7010  
Email: don.cowan@elliswinters.com

/s/ Jane Borthwick Story  
MICHAEL H. GINSBERG  
Pa. Bar No. 43582  
MARY BETH DEEMER  
Pa. Bar No. 41887  
JANE BORTHWICK STORY  
Pa. Bar No. 205641  
JONES DAY  
500 Grant Street, Suite 4500  
Pittsburg, PA 15219-2514  
Telephone: (412) 391-3939  
Facsimile: (412) 394-7959  
Email: mhginsberg@jonesday.com  
mbdeemer@jonesday.com  
jbstory@jonesday.com

**COUNSEL FOR CROSSCLAIM  
PLAINTIFF PCS PHOSPHATE  
COMPANY, INC.**

**Counsel for Defendants:**

/s/ Donald J. Camerson, II

Donald J. Camerson, II  
NJ State Bar No. 012921990  
Kirstin K. O'Callaghan  
NJ State Bar No. 028612005  
Bressler, Amery & Ross, P.C.  
325 Columbia Turnpike  
Florham Park, NJ 07932  
Phone: (973) 514-1200  
Fax: (973) 514-1660  
[djcamerson@bressler.com](mailto:djcamerson@bressler.com)  
[kocallaghan@bressler.com](mailto:kocallaghan@bressler.com)

***Attorneys by Special Appearance for  
Defendants 3M Company & Kraft Foods  
Global, Inc.***

and

/s/ John W. Bowers

John W. Bowers  
NC State Bar No. 24133  
D. Christopher Osborn  
NC State Bar No. 22237  
Horack Talley  
2600 One Wachovia Center  
301 South College Street  
Charlotte, NC 28202  
[jbowers@horacktalley.com](mailto:jbowers@horacktalley.com)  
[cosborn@horacktalley.com](mailto:cosborn@horacktalley.com)  
Phone: (704) 377-2500  
Fax: (704) 372-2619

***LR 83.1 Counsel for Defendants 3M  
Company & Kraft Foods, Global, Inc.***

/s/ Patrick A. Genzler

Patrick A. Genzler  
NC State Bar No. 23737  
Vandeventer Black LLP  
101 West Main St.  
500 World Trade Center  
Norfolk, VA 23510  
Phone: (757) 446-8600  
[pgenzler@vanblk.com](mailto:pgenzler@vanblk.com)

and

Norman W. Shearin  
NC State Bar No. 3956  
Vandeventer Black LLP  
P.O. Box 2599  
Raleigh, NC 27602-2599  
Phone: (919) 754-1171  
[nshearin@vanblk.com](mailto:nshearin@vanblk.com)

***Attorneys for Defendant Cape Hatteras Electric  
Membership Corporation***

Troutman Sanders LLP

/s/ Gavin B. Parsons

Gavin B. Parsons  
NC State Bar No. 28013  
Post Office Drawer 1389  
Raleigh, NC 27602  
Phone: (919) 835-4107  
Fax: (919) 829-8715  
[Gavin.parsons@troutmansanders.com](mailto:Gavin.parsons@troutmansanders.com)

and

Daniel S. Reinhardt  
GA State Bar No. 600350  
Hollister A. Hill  
GA State Bar No. 003910  
Jeffrey J. Hayward  
GA State Bar No. 159051  
5200 Bank of America Plaza  
600 Peachtree Street, N.E.  
Atlanta, GA 30308-2216  
Phone: (404) 885-3084  
Fax: (404) 962-6679  
[Daniel.reinhardt@troutmansanders.com](mailto:Daniel.reinhardt@troutmansanders.com)  
[Hollister.hill@troutmansanders.com](mailto:Hollister.hill@troutmansanders.com)  
[Jeff.hayward@troutmansanders.com](mailto:Jeff.hayward@troutmansanders.com)  
**Attorneys for Georgia Power Company,  
individually and as successor-in-interest  
to Savannah Electric and Power  
Company**

/s/ Andrea L. Rimer

Andrea L. Rimer  
GA State Bar No. 605735  
600 Peachtree St., NE, Suite 5200  
Atlanta, GA 30308-2216  
Phone: (404) 885-3265  
Fax: (404) 962-6669  
[andrea.rimer@troutmansanders.com](mailto:andrea.rimer@troutmansanders.com)  
**Attorneys for Virginia Electric and Power  
Company**

and

/s/ D. Kyle Deak

Patricia P. Kerner  
NC State Bar No. 13005  
D. Kyle Deak  
NC State Bar No. 35799  
434 Fayetteville Street  
Two Hannover Square, Suite 1900  
Raleigh, NC 27601  
Phone: (919) 835-4100  
Fax: (919) 835-4101  
[tricia.kerner@troutmansanders.com](mailto:tricia.kerner@troutmansanders.com)  
[kyle.deak@troutmansanders.com](mailto:kyle.deak@troutmansanders.com)  
**LR 83.1 Counsel for Virginia Electric and Power  
Company**

/s/ Jacob H. Wellman

Henry W. Gorham  
NC State Bar No: 6174  
Jacob H. Wellman  
N.C. State Bar No.: 28853  
Teague Campbell Dennis & Gorham LLP  
P.O. Box 19207  
Raleigh, NC 27619-9207  
Phone: (919) 873-0166  
[hgorham@tcdg.com](mailto:hgorham@tcdg.com)  
[jwellman@tcdg.com](mailto:jwellman@tcdg.com)  
**Attorneys for Defendant Royal Street Junk  
Company, Inc.**

/s/ Joseph P. Williams

Joseph P. Williams  
Shipman & Goodwin LLP  
One Constitution Plaza  
Hartford, CT 06103-1919  
Phone: (860) 251-5000  
Fax: (860) 251-5318  
[jwilliams@goodwin.com](mailto:jwilliams@goodwin.com)  
Connecticut Juris No. 57385  
**Attorney for Defendant Bonner Electric,  
Inc.**

and

/s/ H. Clay Hodges

H. Clay Hodges, NCSB #29270  
Harris, Winfield, Sarratt & Hodges, LLP  
1620 Hillsborough Street  
Suite 200  
Raleigh, NC 27605  
Phone: (919) 546-8788  
[chodges@harriswinfield.com](mailto:chodges@harriswinfield.com)  
**LR 83.1 Counsel for Bonner Electric, Inc.**

/s/ R. Steven DeGeorge

R. Steven DeGeorge  
Robinson, Bradshaw & Hinson, PA  
101 North Tryon Street  
Suite 1900  
Charlotte, NC 28246-1900  
[sdegeorge@rbh.com](mailto:sdegeorge@rbh.com)  
**Attorneys for Bruce-Merrilees Electric  
Co., Conoco Phillips Company,  
Monongahela Power Co., CBS  
Corporation, West Penn Power Co.**

/s/ Carson Carmichael

Carson Carmichael  
NC State Bar #9734  
David S. Coats  
NC State Bar #16162  
Bailey & Dixon, LLP  
P.O. Box 1351  
Raleigh, NC 27602  
Phone: (919) 828-0731  
Fax: (919) 828-6592

and

Dennis J. Conniff  
Kentucky State Bar #14150  
Amy D. Cubbage  
Kentucky Bar #86902  
Frost Brown Todd LLC  
400 West Market St., 32<sup>nd</sup> Floor  
Louisville, Kentucky 40202  
Phone: (502) 589-5400  
Fax: (502) 581-1087  
[dconniff@fbtlaw.com](mailto:dconniff@fbtlaw.com)  
[acubbage@fbtlaw.com](mailto:acubbage@fbtlaw.com)  
**Attorneys for East Kentucky Power Cooperative,  
Inc.**

/s/ Nicholas J. Voelker

Nicholas J. Voelker, NC Bar No. 35841  
Bradley Arant Boulton Cummings, LLP  
Bank of America Corporate Center  
100 N. Tryon Street, Suite 2690  
Charlotte, NC 28202  
Phone: (704) 332.8842  
Fax: (704) 332.8858  
[nvoelker@babco.com](mailto:nvoelker@babco.com)

***LR 83.1 Counsel City of Huntsville d/b/a  
Huntsville Utilities***

and

/s/ Benjamin L. McArthur

Benjamin L. McArthur  
AL State Bar No. ASB-1049-B61M

/s/ E. Cutter Hughes

E. Cutter Hughes  
AL State Bar No. ASB-2272-E67E  
Bradley Arant Boulton Cummings LLP  
200 Clinton Avenue West, Suite 900  
Huntsville, AL 35801-4900  
Phone: 256.517.5100  
Fax: 256.517.5200  
[bmcarthur@babco.com](mailto:bmcarthur@babco.com)  
[chughes@babco.com](mailto:chughes@babco.com)

***LR 83.1 Special Counsel for City of  
Huntsville d/b/a Huntsville Utilities***

/s/ Joel Herz

Joel L. Herz  
AZ State Bar No. 015105  
Law Offices of Joel L. Herz  
3573 East Sunrise Drive, Suite 215  
Tucson, AZ 85718  
Phone: (520) 529-8080  
Fax: (520) 529-8077  
[joel@joelherz.com](mailto:joel@joelherz.com)

***Attorney by Special Appearance for Defendant  
NL Industries, Inc.***

and

/s/ Paul Klein

Paul Klein  
NC State Bar No. 18636  
Klein &  
Freeman, PLLC  
4521 Sharon Road, Suite 150  
P.O. Box 221648  
Charlotte, NC 28222-1648  
Phone: (704) 442-0660  
Fax: (704) 364-2295  
[paulklein@kleinfreeman.com](mailto:paulklein@kleinfreeman.com)

***LR 83.1 Counsel  
Attorney for Defendant NL Industries, Inc.***



/s/ Susan H. Briggs

Susan H. Briggs  
NC State Bar No.  
Dickie, McCamey & Chilcote, P.C.  
2115 Rexford Road, Suite 210  
Charlotte, NC 28211  
Phone: 704.998.5184  
[sbriggs@dmclaw.com](mailto:sbriggs@dmclaw.com)

and

/s/ Peter T. Stinson

Peter T. Stinson, Esquire  
P.A.I.D. No.: 39044  
Dickie McCamey & Chilcote, PC  
Two PPG Place, Suite 400  
Pittsburg, PA 15222-5402  
Phone: 412.392.5432  
[pstinson@dmclaw.com](mailto:pstinson@dmclaw.com)  
*Attorneys for Carlisle Syntec  
Incorporated and PPG Industries, Inc.*

/s/ Kurt J. Olson

Kurt J. Olson  
Law Office of Kurt J. Olson, PLLC  
3737 Glenwood Avenue, Suite 100  
Raleigh, NC 27612  
Phone: 919-573-6172  
Fax: 919-573-6173  
[kurt.j.olson@gmail.com](mailto:kurt.j.olson@gmail.com)  
*Attorney for Arkema, Inc., BASF Corp., Stauffer  
management Co. on behalf of Bayer  
CropScience, Inc., CSX Residual Co., Duquense  
Light Co., Sara Lee Corp., Chemical Products,  
Corp., Sumter Electric Cooperative, Inc., Mid  
American Energy Co., Norfolk Southern Railway  
Co., Haines & Kibblehouse, Inc., South Central  
Power Co., General Extrusions, Inc., Cooper Tire  
and Rubber Co., American Skiing Co.,  
Appalachian Power Co., Kingsport Power Co.,  
International Paper Co., Kobe Copper Products,  
Inc., Environmental Protection Services, Inc.,  
Jessop Steel, LLC, Foremost Electric and  
Transmission, Inc., Holladay Property Services,  
Midwest, Inc. (aka Holladay Corp.), Erachem  
Comilog*

/s/ Eric H. Cottrell

**Eric H. Cottrell**

Mayer Brown LLP  
214 North Tryon St.  
Suite 3800

Charlotte, NC 28202

704-444-3500

Fax: 704-377-2033

Email: [ecottrell@mayerbrown.com](mailto:ecottrell@mayerbrown.com)

Email: [jhahn@mayerbrown.com](mailto:jhahn@mayerbrown.com)

***Attorney for Defendant Frontier  
Communications Corp., f/k/a Citizens  
Communications Company***

/s/ Ronald E. Cardwell

Ronald E. Cardwell

NC State Bar No. 17027

McNair Law Firm, P.A.

104 South Main St., Suite 700

P.O. Box 447

Greenville, SC 29602

Phone: (864) 271-4940

Fax: (864) 271-4015

[rcardwell@mcnair.net](mailto:rcardwell@mcnair.net)

and

Lee W. Zimmerman

Ethan R. Ware

McNair Law Firm, P.A.

1301 Gervais St., 17<sup>th</sup> Floor

P.O. Box 11390

Columbia, SC 29211

Phone: (803) 799-9800

Fax: (803) 753-3219

[lzimmerman@mcnair.net](mailto:lzimmerman@mcnair.net)

[eware@mcnair.net](mailto:eware@mcnair.net)

***Attorneys for Furman University, Intertape  
Polymer Group, Lafarge Mid-Atlantic***

/s/ Gregory J. Lucht  
Kevin D. Margolis, OHSB #0042043  
Gregory J. Lucht, OHSB #0075045  
Benesch, Friedlander, Coplan & Aronoff,  
LLP  
200 Public Square, Ste. 2300  
Cleveland, OH 44114-2378  
Phone: (216) 363-4511  
Fax: (216) 363-4588  
kmargolis@beneschlaw.com  
glucht@beneschlaw.com  
**Attorneys for Defendant Green Circle  
Growers, Inc.**

and

/s/ Steven K. McCallister  
Kieran J. Shanahan, NCSB #13329  
Steven K. McCallister, NCSB #25532  
Shanahan Law Group, PLLC  
128 E. Hargett Street, Third Floor  
Raleigh, NC 27601  
Phone: (919) 856-9494  
Fax: (919) 856-9499  
kieran@shanahanlawgroup.com  
smccallister@shanahanlawgroup.com  
**LR 83.1 Counsel for Defendant Green  
Circle Growers, Inc.**

/s/ Herman L. Fussell  
Herman L. Fussell, Georgia SB #281100  
Shapiro Fussell Wedge & Martin, LLP  
One Midtown Plaza, Suite 1200  
1360 Peachtree St.  
Atlanta, GA 30309  
Phone: (404) 870-2201  
Fax: (404) 870-2213  
**Attorney for Defendant Cleveland Electric Co.**

and

/s/ Brian J. Schoolman  
Brian J. Schoolman, NCSB #26266  
Safran Law Offices  
120 South Boylan Avenue (27603)  
Post Office Box 587  
Raleigh, North Carolina 27602-0587  
Phone: (919) 828-1396  
Fax: (919) 828-7993  
**LR 83.1 Counsel for Defendant Cleveland  
Electric Company**

/s/ Timothy J. Bergere  
Timothy J. Bergere  
Pennsylvania Attorney I.D. No. 39110  
Montgomery McCracken  
123 South Broad Street  
Avenue of the Arts  
Philadelphia, PA 19109-1030  
Phone: (215) 772-1500  
Fax: (215) 772-7620  
[tbergere@mmwr.com](mailto:tbergere@mmwr.com)  
**Attorneys by Special Appearance for  
Defendant Carr & Duff, Inc.**

and

/s/ Mason Avrigian, Jr.  
Mason Avrigian, Jr.  
Pennsylvania Attorney I.D. No. 51647  
Jeffrey P. Wallack  
Pennsylvania Attorney I.D. No. 69112  
Wisler Pearlstine, LLP  
484 Norristown Road, Suite 100  
Blue Bell, PA 19422-2326  
Phone: (610) 825-8400  
Fax: (610) 828-4887  
[mavrigian@wispearl.com](mailto:mavrigian@wispearl.com)  
[jwallack@wispearl.com](mailto:jwallack@wispearl.com)  
**Attorneys by Special Appearance for  
Defendant Carr & Duff, Inc.**

and

/s/ E. Hardy Lewis  
E. Hardy Lewis  
NC Bar No. 18282  
Blanchard, Miller, Lewis & Styers, P.A.  
1117 Hillsborough Street  
Raleigh, NC 27603  
Phone: (919) 747-8107  
Fax: (919) 755-3994  
[hlewis@bmlslaw.com](mailto:hlewis@bmlslaw.com)  
**Local Rule 83.1 Counsel for Defendant  
Carr & Duff, Inc.**

/s/ Donald H. Beskind  
Donald H. Beskind  
NC State Bar No. 8138  
[beskind@nctrial.com](mailto:beskind@nctrial.com)

/s/ Jesse H. Rigsby, IV  
Jesse H. Rigsby, IV  
NC State Bar No. 35538  
[rigsby@nctrial.com](mailto:rigsby@nctrial.com)  
Twiggs Beskind Strickland & Rabenau, PA  
Wachovia Capital Center  
150 Fayetteville Street, Suite 1100  
Raleigh, NC 27601  
Phone: (919) 828-4357  
Fax: (919) 833-7924  
**LR 83.1 Counsel Defendant Union Electric  
Company**

and  
/s/ Joseph F. Madonia  
Joseph F. Madonia  
IL State Bar No. 6190852  
[madonia@wildman.com](mailto:madonia@wildman.com)

/s/ Meghan M. Hubbard  
Meghan M. Hubbard  
IL State Bar No. 6275155  
[hubbard@wildman.com](mailto:hubbard@wildman.com)  
Wildman, Harrold, Allen & Dixon, LLP  
225 W. Wacker Drive, Suite 2800  
Chicago, IL 60606  
Phone: (312) 201-2810  
Fax: (312) 201-2555  
**Attorneys for Union Electric Company**

/s/ Joel A. Kramer

Joel A. Kramer  
District of Maryland Bar No.: 04224  
14501 Sweitzer Lane, 12<sup>th</sup> Floor  
Laurel, MD 20707  
Phone: (301) 206-8159  
Fax: (301) 206-8157  
[jkramer@wsscwater.com](mailto:jkramer@wsscwater.com)

***Attorney for Defendant Washington  
Suburban Sanitary Commission***

/s/ John A. Sheehan

John A. Sheehan  
Hunton & Williams, LLP  
1900 K Street, N.W.  
Washington, D.C. 20006  
Phone: (202) 955-1939  
[jsheehan@hunton.com](mailto:jsheehan@hunton.com)

***Attorney for Defendants Alcoa, Inc. &  
Tredegar Film Products Corporation***

/s/ William H. Harkins, Jr.

William H. Harkins, Jr.  
Millberg Gordon Stewart PLLC  
1101 Haynes Street, Suite 104  
Raleigh, NC 27604  
[wharkins@mgsattomeys.com](mailto:wharkins@mgsattomeys.com)

***Attorney for Defendant Caterpillar Inc.***

/s/ Marc J. Wojciechowski

Marc J. Wojciechowski  
TX State Bar No. 21844600  
Wojciechowski & Associates, P.C.  
17447 Kuykendahl Road, Suite 200  
Spring, Texas 77379  
Phone: (281) 999-7774  
Fax: (281) 999-1955  
[marc@wojlaw.com](mailto:marc@wojlaw.com)

***Attorneys for Defendant Ventech Equipment, Inc.***

/s/ Scott Brown

Scott Brown  
Brown, Crump, Vanore & Tierney, LLP  
421 Fayetteville Street, Suite 1601  
Raleigh, North Carolina 27601  
Phone: (919) 835-0909  
Fax: (919) 835-0915  
[SBrown@bcvtlaw.com](mailto:SBrown@bcvtlaw.com)  
***L.R. 83.1 Counsel for Defendant Ventech  
Equipment, Inc.***

/s/ William A. White

William A. White  
NC State Bar No. 21484  
Moore & Van Allen, PLLC  
100 North Tryon St., Suite 4700  
Charlotte, NC 28282-4003  
Phone: (704) 331-1098  
Fax: (704) 378-2098  
[billwhite@mvalaw.com](mailto:billwhite@mvalaw.com)

/s/ David E. Fox

David E. Fox (N.C. Bar No. 10332)  
Michael J. Byrne (N.C. Bar No. 23577)  
Moore & Van Allen, PLLC  
P.O. Box 13706  
Research Triangle Park, NC 27709  
Phone: (919) 286-8000  
Fax: (919) 286-8199  
[davidfox@mvalaw.com](mailto:davidfox@mvalaw.com)  
[michaelbyrne@mvalaw.com](mailto:michaelbyrne@mvalaw.com)

***Attorneys for Defendants Martin Marietta  
Materials, Inc.; Nucor Corp.; Town of  
Blackstone, Virginia; City of Dover,  
Delaware; Warthburg College***

/s/ Zackary D. Knaub

Stephen L. Gordon  
Zackary D. Knaub  
Beveridge & Diamond, PC  
477 Madison Ave., 15<sup>th</sup> Floor  
New York, NY 10022-5802  
Phone: (212) 702-5400  
[zknaub@bdlaw.com](mailto:zknaub@bdlaw.com)

/s/ David E. Fox

David E. Fox  
430 Davis Drive  
Suite 500  
Morrisville, NC 27560-6832  
[davidfox@mvalaw.com](mailto:davidfox@mvalaw.com)

***Attorneys for Defendant Cogentrix Energy, LLC***

/s/ Robert O. Renbarger

Robert O. Renbarger  
TX State Bar No. 16768100  
Fritz, Byrne, Head & Harrison, PLLC  
98 San Jacinto Blvd., Suite 2000  
Austin, TX 78701  
Phone: (512) 476-2020  
Fax: (512) 477-5267  
[bob@fbhh.com](mailto:bob@fbhh.com)  
**Attorney by Special Appearance for  
Defendant CHRISTUS Health Northern  
Louisiana**

/s/ Curtis L. Bentz

Curtis L. Bentz  
NC State Bar No. 19733  
Battle, Winslow, Scott & Wiley, PA  
2343 Professional Drive  
P.O. Box 7100  
Rocky Mount, NC 27804-0100  
Phone: (252) 937-2200  
Fax: (252) 937-8100  
[cbentz@bwsww.com](mailto:cbentz@bwsww.com)  
**LR 83.1 Counsel for Defendant  
CHRISTUS Health Northern Louisiana**

/s/ Bret W. Jedele

Bret W. Jedele  
RI State Bar No. 6053  
Chace, Ruttenger & Freeman, LLP  
One Park Row, Suite 300  
Providence, RI 02903  
Phone: (401) 503-6411  
Fax: (401) 503-6411  
[bjedele@crflp.com](mailto:bjedele@crflp.com)  
**Attorneys for Defendant Jet Electric Motor  
Company, Inc.**

/s/ James F. Hopf

James F. Hopf  
NC State Bar No. 13551  
Hopf & Highley, P.A.  
1694 E. Arlington Blvd., Suite E  
Greenville, NC 27858  
Phone: (252) 756-1883  
Fax: (252) 756-1797  
[jim@hopfhighley.com](mailto:jim@hopfhighley.com)  
**LR 83.1 Counsel for Defendant Jet Electric  
Company, Inc.**

Wyrick Robbins Yates & Ponton, LLP

/s/ Grady L. Shields

Grady L. Shields  
NC State Bar No. 13101  
4101 Lake Boone Trail, Suite 300  
Raleigh, NC 27607-7506  
Phone: (919) 781-4000  
Fax: (919) 781-4865  
[gshields@wyrick.com](mailto:gshields@wyrick.com)

***LR 83.1 Special Counsel for Defendant  
Koch Industries***

Lathrop & Gage, LLP

/s/ Jessica E. Merrigan

Jessica E. Merrigan  
MO State Bar No. 54982  
Thomas A. Ryan  
MO State Bar No. 32437  
2345 Grand Blvd., Suite 2800  
Kansas City, MO 64108  
Phone: (816) 460-5706  
Fax: (816) 292-2001  
[jmerrigan@lathropgage.com](mailto:jmerrigan@lathropgage.com)  
[tryan@lathropgage.com](mailto:tryan@lathropgage.com)

***Attorneys by Special Appearance for  
Defendant Koch Industries***

/s/ David J. Mazza

David J. Mazza  
NC State Bar No. 26082  
Womble Carlyle Sandridge & Rice, PLLC  
One West Fourth Street  
Winston-Salem, NC 27101  
Phone: (336) 728-7031  
[dmazza@wcsr.com](mailto:dmazza@wcsr.com)

***Attorney for Defendant Veolia  
Environmental Services Waste-to-Energy  
f/k/a Montenay Power Corporation***

Troutman Sanders LLP

/s/ Gavin B. Parsons

Gavin B. Parsons  
NC State Bar No. 28013  
Post Office Drawer 1389  
Raleigh, NC 27602  
Phone: (919) 835-4107  
Fax: (919) 829-8715  
[Gavin.parsons@troutmansanders.com](mailto:Gavin.parsons@troutmansanders.com)

Daniel S. Reinhardt

GA State Bar No. 600350  
Hollister A. Hill

GA State Bar No. 003910

Jeffrey J. Hayward

GA State Bar No. 159051

5200 Bank of America Plaza

600 Peachtree Street, N.E.

Atlanta, GA 30308-2216

Phone: (404) 885-3084

Fax: (404) 962-6679

[Daniel.reinhardt@troutmansanders.com](mailto:Daniel.reinhardt@troutmansanders.com)

[Hollister.hill@troutmansanders.com](mailto:Hollister.hill@troutmansanders.com)

[Jeff.hayward@troutmansanders.com](mailto:Jeff.hayward@troutmansanders.com)

***Attorneys for Georgia Power Company,  
individually and as successor-in-interest to  
Savannah Electric and Power Company***

/s/ Scott Lewis

Scott Lewis

NC State Bar No. 22167

Hedrick, Gardner, Kincheloe & Garofalo, L.L.P.

1838 Sir Tyler Drive, Suite 200

Wilmington, NC 28405

Phone: (910) 509-9664

Fax: (910) 509-9630

[slewis@hedrickgardner.com](mailto:slewis@hedrickgardner.com)

***Attorney for Defendant Dean's Light Box, Inc.***



Poyner Spruill, LLP

/s/ Keith H. Johnson

Andrew H. Erteschik

Keith H. Johnson

NC State Bar No. 177885

Andrew H. Erteschik

NC State Bar No. 35269

Poyner Spruill, LLP

301 Fayetteville Street, Suite 1900

Raleigh, NC 27601

Phone: (919) 783-1013

Fax: (919) 783-1075

[aerteschik@poynerspruill.com](mailto:aerteschik@poynerspruill.com)

[kjohnson@poynerspruill.com](mailto:kjohnson@poynerspruill.com)

***Attorneys for Defendants Town of  
Louisburg and Peace College of Raleigh,  
Inc.***

/s/ Charles K. Douthwaite

Charles K. Douthwaite

WA State Bar No. 9246

P.O. Box 9777

Federal Way, WA 98063-9777

Phone: (253) 924-2803

Fax: (253) 928-2184

[Charlie.douthwaite@weyerhaeuser.com](mailto:Charlie.douthwaite@weyerhaeuser.com)

***Attorneys for Defendant Weyerhaeuser Company***

/s/ Scott C. Hart

Scott C. Hart

NC State Bar No. 1906

Sumrell, Sugg, Carmichael, Hicks & Hart, P.A.

Post Office Drawer 889

New Bern, NC 28563

Phone: (252) 633-3131

Fax: (252) 633-3507

[shart@nclawyers.com](mailto:shart@nclawyers.com)

***LR 83.1 Counsel for Defendant Weyerhaeuser  
Company***

/s/ Joan W. Hartley  
Marcus A. Manos  
NC State Bar No. 21783  
Joan Walsh Hartley  
NC State Bar No. 36361  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700  
P.O. Box 2426  
Columbia, SC 29201  
Phone: (803) 771-8900  
[mmanos@nexsenpruet.com](mailto:mmanos@nexsenpruet.com)  
[jhartley@nexsenpruet.com](mailto:jhartley@nexsenpruet.com)  
[tlavender@nexsenpruet.com](mailto:tlavender@nexsenpruet.com)

Russell S. Warner  
Marissa A. Savastana  
MacDonald, Illig, Jones & Britton, LLP  
100 State Street, Suite 700  
Erie, PA 16507-1459  
[msavastana@mijb.com](mailto:msavastana@mijb.com)  
[rwarner@mijb.com](mailto:rwarner@mijb.com)  
Phone: (814) 870-7600  
***Attorneys for Defendant Warren Electric  
Cooperative***

/s/ Joan W. Hartley  
Marcus A. Manos  
NC State Bar No. 21783  
Joan Walsh Hartley  
NC State Bar No. 36361  
T. Lavender, Jr.  
S.C. State Bar No. 3143  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700  
P.O. Box 2426  
Columbia, SC 29201  
Phone: (803) 771-8900  
[mmanos@nexsenpruet.com](mailto:mmanos@nexsenpruet.com)  
[jhartley@nexsenpruet.com](mailto:jhartley@nexsenpruet.com)  
[tlavender@nexsenpruet.com](mailto:tlavender@nexsenpruet.com)

Cynthia M. Currin  
NC State Bar No. 9184  
Crisp, Page & Currin, LLP  
4010 Barrett Drive, Suite 205  
Raleigh, NC 27609  
Phone: (919) 791-0009  
[ccurrin@cpclaw.com](mailto:ccurrin@cpclaw.com)  
***Attorneys for Defendant Bedford Rural Electric  
Cooperative, Inc.***

/s/ Joan Wash Hartley

Marcus A. Manos  
NC State Bar No. 21783  
Joan Walsh Hartley  
NC State Bar No. 36361  
William T. Lavender, Jr.  
S.C. State Bar No. 3143  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700  
P.O. Box 2426  
Columbia, SC 29201  
Phone: (803) 771-8900  
[mmanos@nexsenpruet.com](mailto:mmanos@nexsenpruet.com)  
[jhartley@nexsenpruet.com](mailto:jhartley@nexsenpruet.com)  
[tlavender@nexsenpruet.com](mailto:tlavender@nexsenpruet.com)

***Attorneys for Defendants Greenwood Mills, Inc., Palmetto Electric Cooperative, Inc., and Santee Electric Cooperative, Inc.***

/s/ Joan W. Hartley

Marcus A. Manos  
NC State Bar No. 21783  
Joan Walsh Hartley  
NC State Bar No. 36361  
William T. Lavender, Jr.  
S.C. State Bar No. 3143  
Nexsen Pruet, LLC  
1230 Main Street, Suite 700  
P.O. Box 2426  
Columbia, SC 29201  
Phone: (803) 771-8900  
[mmanos@nexsenpruet.com](mailto:mmanos@nexsenpruet.com)  
[jhartley@nexsenpruet.com](mailto:jhartley@nexsenpruet.com)  
[tlavender@nexsenpruet.com](mailto:tlavender@nexsenpruet.com)

David Bates  
Gardere Wynne Sewell, LLP  
1000 Louisiana, Suite 3400  
Houston, TX 77002  
Phone: (713) 276-5355  
[dbates@gardere.com](mailto:dbates@gardere.com)  
***Attorneys for Defendants IES Commercial, Inc., and Integrated Electrical Services, Inc.***

/s/ Bonnie Allyn Barnett  
Bonnie Allyn Barnett  
Joshua Kaplowitz  
Drinker Biddle & Reath, LLP  
One Logan Square  
18<sup>th</sup> & Cherry Streets  
Philadelphia, PA 19103  
Phone: (215) 988-2700  
Fax: (215) 988-2757  
[Bonnie.barnett@dbr.com](mailto:Bonnie.barnett@dbr.com)  
[Joshua.kaplowitz@dbr.com](mailto:Joshua.kaplowitz@dbr.com)

/s/ Sara W. Higgins  
Sara W. Higgins  
Higgins Law Firm, PLLC  
6525 Morrison Blvd., Suite 402  
Charlotte, NJ 28211  
Phone: (704) 366-4607  
Fax: (704) 749-9451  
[sally@thehigginslawfirm.com](mailto:sally@thehigginslawfirm.com)  
**Attorneys for Defendants PPL Electric  
Utilities Corp, Niagara Mohawk Power  
Corp. and Trap Rock Industries, Inc.**

/s/ F. Bryan Brice, Jr.  
F. Bryan Brice, Jr.  
NC State Bar No. 17840  
Catherine W. Cralle Jones  
NC State Bar No. 23733  
Law Offices of F. Bryan Brice, Jr.  
19 W. Hargett Street, Suite 600  
Raleigh, NC 27601  
Phone: (919) 754-1600  
Fax: (919) 832-0301  
[bryan@attybryanbrice.com](mailto:bryan@attybryanbrice.com)  
[cathy@attybryanbrice.com](mailto:cathy@attybryanbrice.com)

/s/ Ron Byrd  
Ron Byrd  
Federal Bar NO. 06654  
Constellation Energy Group, Inc.  
100 Constellation Way, 17<sup>th</sup> Floor  
Baltimore, MD 21202  
Phone: (410) 470-5692  
Fax: (443) 213-3682  
**Attorneys for Defendant Baltimore Gas &  
Electric**

/s/ William E. Hvidsten  
William E. Hvidsten  
CA Bar No. 113030  
P.O. Box 13222  
Sacramento, CA 95813-6000  
Phone: (916) 351-8524  
Fax: (916) 355-3603  
[William.hvidsten@gencorp.com](mailto:William.hvidsten@gencorp.com)  
Attorney for Defendant Buist Electric, Inc.  
Gencorp, Inc.

/s/ Curtis L. Bentz  
Curtis L. Bentz  
NC State Bar No. 19733  
Battle, Winslow, Scott & Wiley, P.A.  
P.O. Box 7100  
Rocky Mount, NC 27804  
Phone: (252) 937-2200  
Fax: (252) 937-8100  
[cbentz@bws.com](mailto:cbentz@bws.com)  
**LR 83.1 Counsel for Defendant Buist Electric,  
Inc.**

/s/ F. Bryan Brice, Jr.  
F. Bryan Brice, Jr.  
NC State Bar No. 17840  
Catherine W. Cralle Jones  
NC State Bar No. 23733  
Law Offices of F. Bryan Brice, Jr.  
19 W. Hargett Street, Suite 600  
Raleigh, NC 27601  
Phone: (919) 754-1600  
Fax: (919) 832-0301  
[bryan@attybryanbrice.com](mailto:bryan@attybryanbrice.com)  
[cathy@attybryanbrice.com](mailto:cathy@attybryanbrice.com)

**Attorneys for Defendant Hudson Light & Power**

/s/ Ben L. Pfefferle III

Ben L. Pfefferle III  
OH State Bar No. 0024297  
Gregory R. Flax  
OH State Bar No. 0081206  
Baker & Hostetler LLP  
65 East State Street, Suite 2100  
Columbus, OH 43215  
Phone: (614) 462-2601  
Fax: (614) 462-2616  
[bpfefferle@bakerlaw.com](mailto:bpfefferle@bakerlaw.com)  
[gflax@bakerlaw.com](mailto:gflax@bakerlaw.com)

**Special Appearance Counsel for Defendant  
Guernsey-Muskingum Electric  
Cooperative, Inc.**

/s/ Julia Mimms

Julia G. Mimms  
NC State Bar No. 27978  
1001 Elizabeth Avenue, Suite 1A  
Charlotte, NC 28204  
Phone: (704) 333-1301  
Fax: (704) 333-1290  
[jgmasistant@bellsouth.net](mailto:jgmasistant@bellsouth.net)

/s/ Jeffrey H. Weir II

Jeffrey H. Weir III, Esquire  
OH State Bar No. 0067470  
Colella & Weir, P.L.L.  
6055 Park Square Drive  
Lorain, OH 44053  
Phone: (440) 988-9013  
Fax: (440) 988-9002  
[jhweir@cnwlaw.com](mailto:jhweir@cnwlaw.com)  
**Attorney for Defendant P.C. Campana,  
Inc.**

/s/ Robert S. Adden, Jr.

Robert S. Adden, Jr.  
NC State Bar No. 10223  
Ruff, Bond, Cobb, Wade & Bethune, LLP  
831 East Morehead Street, Suite 860  
Charlotte, NC 28202  
Phone: (704) 377-1634  
Fax: (704) 342-3308  
[radden@rbcwb.com](mailto:radden@rbcwb.com)  
**LR 83.1 Counsel for Defendant Pactiv  
Corporation**

Reott Law Offices, LLC

/s/ Raymond T. Reott

Raymond T. Reott  
IL State Bar No. 3128141

/s/ Becky J. Schanz

Becky J. Schanz  
35 E. Wacker Drive, Suite 650  
Chicago, IL 60601  
Phone: (312) 332-7544  
Fax: (312) 782-4519  
[rreott@reottlaw.com](mailto:rreott@reottlaw.com)  
**Attorneys for Defendant Pactiv Corporation**

/s/ Stanley B. Green

N.C. Bar # 25539  
Strauch Fitzgerald & Green, P.C.  
118 South Cherry Street  
Winston-Salem, NC 27101  
Phone: (336)-837-1064  
Fax: (336)-725-8867  
Email: [sgreen@sfandglaw.com](mailto:sgreen@sfandglaw.com)  
**Attorneys for Duke Energy Carolinas LLC**

RIKER DANZIG SCHERER HYLAND  
PERRETTI LLP

/s/ Stephen W. Smithson

Stephen W. Smithson  
New Jersey Bar No. 66224  
Jeffrey B. Wagenbach  
New Jersey Bar No. 34540  
One Speedwell Avenue  
Morristown, NJ 07962-1981  
Phone: (973) 538-0800  
Fax: (973) 538-1984  
[ssmithson@riker.com](mailto:ssmithson@riker.com)

MARTIN & GIFFORD, PLLC

/s/ William H. Gifford, Jr.

William H. Gifford, Jr.  
N.C. State Bar No. 25175  
301 North Main Street, Suite 2200  
Winston-Salem, NC 27101  
Phone: 336-714-0333  
Fax: 336-714-0334  
[bill@martingiffordlaw.com](mailto:bill@martingiffordlaw.com)  
LR 83.1 Counsel

***Attorneys for Defendant,  
G&S Motor Equipment Company, Inc***

/s/ Benjamin F. Sidbury

Benjamin F. Sidbury  
NC State Bar No. 28071  
Anthony B. Taylor  
NC State Bar No. 37220  
Alston & Bird LLP  
Bank of America Plaza, Suite 4000  
101 South Tryon Street  
Charlotte, NC 28280  
Phone: (704) 444-1000  
Fax: (704) 444-1111  
[ben.sidbury@alston.com](mailto:ben.sidbury@alston.com)  
[tony.taylor@alston.com](mailto:tony.taylor@alston.com)

***LR 83.1(d) Counsel***

/s/ Benjamin F. Sidbury

Benjamin F. Sidbury  
NC State Bar No. 28071  
Anthony B. Taylor  
NC State Bar No. 37220  
Alston & Bird LLP  
Bank of America Plaza, Suite 4000  
101 South Tryon Street  
Charlotte, NC 28280  
Phone: (704) 444-1000  
Fax: (704) 444-1111  
[ben.sidbury@alston.com](mailto:ben.sidbury@alston.com)  
[tony.taylor@alston.com](mailto:tony.taylor@alston.com)

***LR 83.1(d) Counsel***

Douglas S. Arnold  
GA State Bar No. 023208  
Kristin Holloway Jones  
GA Bar No. 041154  
Alston & Bird LLP  
One Atlantic Center  
2302 West Peachtree Street  
Atlanta, GA 30309-3424  
Phone: (404) 881-7000  
Fax: (404) 881-7777  
[Doug.arnold@alston.com](mailto:Doug.arnold@alston.com)  
[Kristin.jones@alston.com](mailto:Kristin.jones@alston.com)

***LR 83.1(e) Counsel***

***Attorneys for Defendants ECC International,  
Inc.; Tennessee Electro Minerals, Inc.; Union  
Carbide Corp.; and Vulcan Construction  
Materials, L.P.***

/s/ Benjamin F. Sidbury

Benjamin F. Sidbury  
NC State Bar No. 28071  
Anthony B. Taylor  
NC State Bar No. 37220  
Alston & Bird LLP  
Bank of America Plaza, Suite 4000  
101 South Tryon Street  
Charlotte, NC 28280  
Phone: (704) 444-1000  
Fax: (704) 444-1111  
[ben.sidbury@alston.com](mailto:ben.sidbury@alston.com)  
[tony.taylor@alston.com](mailto:tony.taylor@alston.com)

***LR 83.1(d) Counsel***

Robert D. Mowrey  
GA State Bar No. 527510  
Kristin Holloway Jones  
GA Bar No. 041154  
Alston & Bird LLP  
One Atlantic Center  
2302 West Peachtree Street  
Atlanta, GA 30309-3424  
Phone: (404) 881-7000  
Fax: (404) 881-7777  
[Bob.mowrey@alston.com](mailto:Bob.mowrey@alston.com)  
[Kristin.jones@alston.com](mailto:Kristin.jones@alston.com)  
*LR 83.1(e) Counsel*

Robert D. Mowrey  
GA State Bar No. 527510  
Kristin Holloway Jones  
GA Bar No. 041154  
Alston & Bird LLP  
One Atlantic Center  
2302 West Peachtree Street  
Atlanta, GA 30309-3424  
Phone: (404) 881-7000  
Fax: (404) 881-7777  
[Bob.mowrey@alston.com](mailto:Bob.mowrey@alston.com)  
[Kristin.jones@alston.com](mailto:Kristin.jones@alston.com)  
*LR 83.1(e) Counsel*

Chalres S. Conerly  
GA State Bar No. 180720  
Smith Diment Conerly, LLP  
402 Newnan Street  
Carrollton, GA 30117  
Phone: (770) 834-1160  
Fax: (770) 834-1190  
[cconerly@smithdiment.com](mailto:cconerly@smithdiment.com)  
*LR 83.1(e) Counsel*

*Attorneys for Defendant Northrop Grumman  
Shipbuilding, Inc.*

Henry C. Tharpe, Jr.  
GA State Bar No. 703250  
Sponcler & Tharpe, LLC  
P.O. Box 398  
225 W. King St.  
Dalton, GA 30722-0398  
Phone: (706) 278-5211  
Fax: (706) 270-9438  
[hctharpe@sponclerandtharpe.com](mailto:hctharpe@sponclerandtharpe.com)  
*LR 83.1(e) Counsel*

*Attorneys for Defendant for North  
Georgia Electric Membership  
Corporation*

/s/ John W. Kalich

A. Bruce White  
IL Bar No. 2999102  
John W. Kalich  
IL Bar No. 6193109  
Karaganis, White & Magel, Ltd  
414 N. Orleans Street, Suite 810  
Chicago, IL 60054-4459  
Phone: (312) 836-1177  
Fax: (312) 836-9083  
[bwhite@k-w.com](mailto:bwhite@k-w.com)  
[jkalich@k-w.com](mailto:jkalich@k-w.com)

***Attorneys by Special Appearance for  
Defendant Alcan Primary Products  
Corporation***

/s/ Joshua H. Bennett

Richard V. Bennett  
NC State Bar No. 6028  
Joshua H. Bennett  
NC State Bar No. 32576  
Bennett & Guthrie, PLLC  
1560 Westbrook Plaza Drive  
Winston-Salem, NC 27103  
Phone: (336) 765-3121  
Fax: (336) 765-8622  
[rbennett@bennett-guthrie.com](mailto:rbennett@bennett-guthrie.com)  
[jbennett@bennett-guthrie.com](mailto:jbennett@bennett-guthrie.com)  
***Attorneys for Defendant Alcan Primary  
Products Corporation***

/s/ Debora S. Lasch

Debora S. Lasch  
State Bar No. 0040441  
Singerman, Mills, Desberg & Kauntz cO., L.P.A.  
3401 Enterprise Parkway, Suite 200  
Beachwood, Ohio 44122  
Phone: (216) 292-5807  
Fax: (216) 292-5867  
[dlasch@smdklaw.com](mailto:dlasch@smdklaw.com)  
***Attorney for Defendant International Power  
Machinery Company***

/s/ Sean M. Sullivan

Sean M. Sullivan  
State Bar No. 38957  
Williams Mullen  
3200 Beechleaf Court, Suite 500  
Raleigh, North Carolina 27604  
Phone: (919) 981-4312  
Fax: (919) 981-4300  
Email: [ssullivan@williamsmullen.com](mailto:ssullivan@williamsmullen.com)  
***L.R. 83.1 Counsel Defendant International Power  
Machinery Company***



/s/Bradley M. Risinger

Bradley M. Risinger  
NC State Bar No. 23629  
Smith Moore Leatherwood, LLP  
434  
Fayetteville Street, Suite 2800 (27601)  
P.O. Box 27525  
Raleigh, NC 27611  
Phone: (919) 755-8700  
Fax: (919) 755-8800  
[brad.risinger@smithmoorelaw.com](mailto:brad.risinger@smithmoorelaw.com)  
**Attorney for Defendants Apogee Coal  
Company, LLC and Lockwood's Electric  
Motor Service, Inc.**

/s/ John J. Butler

John J. Butler  
N.C. Bar No. 10820  
Parker Poe Adams & Bernstein, LLP  
150 Fayetteville Street, Suite 1400  
Post Office Box 389  
Raleigh, North Carolina 27602  
Phone: (919) 828-0564  
Fax: (919) 834-4564  
[jaybutler@parkerpoe.com](mailto:jaybutler@parkerpoe.com)  
**Attorney for New Southern Rocky Mount,  
Inc.**

/s/ Dennis Reis

Dennis Reis  
WI Bar No. 1005696  
Briggs and Morgan, P.A.  
2200 IDS Center  
80 South 8th Street  
Minneapolis, MN 55402  
Phone: (612) 977-8877  
Fax: (612) 977-8650  
[dreis@briggs.com](mailto:dreis@briggs.com)

Mary Maclean D. Asbill  
N.C. Bar No. 38936  
2818 Exeter Circle  
Raleigh, N.C. 27609  
Phone: (919) 389-2636  
Fax: (919) 510-6178  
[mmasbill@gmail.com](mailto:mmasbill@gmail.com)

L.R. 83.1 Counsel

**Attorneys for Domtar Paper Company, LLC**

**EXHIBIT A**  
**CONFIDENTIALITY AGREEMENT**

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

CAROLINA POWER & LIGHT COMPANY	)	
d/b/a PROGRESS ENERGY CAROLINAS, INC.,	)	
Plaintiff,	)	
v.	)	5:08-CV-00460-FL
	)	
3 M COMPANY, et al.,	)	
Defendants.	)	
CONSOLIDATION COAL COMPANY,	)	
	)	
Plaintiff,	)	
v.	)	5:08-CV-00463-FL
	)	
3 M COMPANY, et al.,	)	
	)	
Defendants.	)	

**CONFIDENTIALITY AGREEMENT**

I, \_\_\_\_\_, under penalty of perjury, do declare, depose and state as follows:

1. I have read and understand the CONSENT PROTECTIVE ORDER AND STIPULATION OF CONFIDENTIALITY ("Protective Order") entered by the Court in this case.
2. I understand that access to information designated "Confidential" or "Confidential – Attorney’s Eyes Only” subject to the Protective Order may be provided to me subject to the terms of said Protective Order.
3. I agree to be bound by the terms and conditions of said Protective Order.
4. I hereby submit to the jurisdiction of the U.S. District Court for the Eastern District of North Carolina for the purpose of enforcement of the Protective Order.

5. I shall not use or disclose to others, except in accordance with the Protective Order, any Confidential information designated in accordance with the Protective Order. I understand that the Designating Parties retain all rights to enforce the Protective Order and all remedies regarding violations of the same.

**Pursuant to 28 U.S.C. Section 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on \_\_\_\_\_, 201\_\_.**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Party or Entity  
Represented: \_\_\_\_\_

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

Civil Action No.: 5:08-CV-00460-FL

\_\_\_\_\_  
DUKE ENERGY PROGRESS, INC., )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
3M COMPANY, et al., )  
 )  
Defendants. )  
\_\_\_\_\_

Civil Action No.: 5:08-CV-00463-FL

\_\_\_\_\_  
CONSOLIDATION COAL COMPANY, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
3M COMPANY, et al., )  
 )  
Defendants. )  
\_\_\_\_\_

**ORDER**

Pursuant to the parties' September 30, 2013 Joint Motion for Entry of Protective Order, IT IS HEREBY ORDERED that the Consent Protective Order and Stipulation of Confidentiality entered August 5, 2010 (460 DE 349; 463 DE 352) (attached hereto as Exhibit A) and the Consent Protective Order Governing Access to Documents entered September 14, 2010 (460 DE 465; 463 DE 463) (attached hereto as Exhibit B) are hereby extended to apply to all Third-Party Defendants, in addition to all original parties. In addition, the contact information for the Ward Transformer Site Trust in the Consent Protective Order Governing Access to Documents is amended as follows:

Ward Transformer Site Trust  
c/o Cheryl Bona  
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan, L.L.P.  
P.O. Box 2611  
Raleigh, NC 27602-2611  
cbona@smithlaw.com

SO ORDERED, this the 30<sup>th</sup> day of September, 2013.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

---

Honorable Louise W. Flanagan  
U.S. District Court Judge