

STATE OF INDIANA)	IN THE WARRICK SUPERIOR COURT
) SS:	
COUNTY OF WARRICK)	CAUSE NO. 87D02-1801-PL-000116
ALCOA FUELS, INC.,)	
ALCOA WARRICK LLC, and)	
LIBERTY MINE, LLC,)	
)	
Plaintiffs)	
)	
H & L FARMS, LLC,)	
)	
Intervening Plaintiff)	
)	
v.)	Hon. Carl A. Heldt, Special Judge
)	
CITY OF BOONVILLE, INDIANA,)	
)	
Defendant)	
)	
RON NELSON, CHARLES JONES, and)	
SAVE OUR HOMES, LLC,)	
)	
Intervenors)	

CONSENT DECREE

This Consent Decree is entered by the Court upon the agreement of Plaintiffs, Alcoa Fuels, Inc., Alcoa Warrick LLC (collectively “Alcoa”), and Liberty Mine, LLC (“Liberty”), Defendant/Counterclaimant the City of Boonville, Indiana (“Boonville”), and Intervenors H & L Farms, LLC (“H & L Farms”), Ron Nelson, Charles Jones, and Save Our Homes, LLC, collectively the “Parties” hereto, with reference to the following facts, which the Court, upon careful review, adopts as findings:

1. Alcoa owns the rights to coal deposits within Warrick County but outside of Boonville and has also contracted with other property owners in Warrick County (but outside Boonville) to remove coal from their property for a royalty.

2. Since 2012, Liberty has operated the Liberty Mine in Warrick County under the authority of surface mining Permit S-366 issued by the Indiana Department of Natural Resources (“DNR”), and Liberty continues mining coal today under the Permit and pursuant to contracts with Alcoa Fuels.

3. The DNR approved Permit S-366-2 (“DNR Permit S-366-2”) on January 4, 2018, and issued said permit on February 22, 2018, which expands Liberty’s permit area to include an area northwest of Boonville but still outside its corporate limits and referred to as the “Liberty Mine South Field”.

4. Under the conditions set out in DNR Permit S-366-2, which require Liberty to conduct its mining operation in accordance with its mining plan as set forth in the application for the permit, Liberty may not engage in blasting or removal of overburden at any point within the Liberty Mine South Field that is not identified for such activity.

5. On November 29, 2017, Boonville enacted Ordinance Number 2017-23 (the “Boonville Ordinance”) which restricted mining and other activities both inside and outside Boonville’s corporate limits.

6. Prior to the entry of this Consent Decree, Alcoa and Liberty filed a complaint (the “Complaint”) in this civil action against Boonville, seeking declaratory judgment, preliminary and permanent injunctive relief against the enforcement of the Ordinance, and alternatively damages for an alleged inverse condemnation and unconstitutional impairment of contract.

7. Boonville denied the allegations in the Complaint, denied that the Boonville Ordinance was unlawful, and asserted a Counterclaim against Alcoa and Liberty seeking enforcement of an alleged settlement agreement as well as sanctions and attorneys' fees for alleged bad faith conduct.

8. Ron Nelson ("Nelson"), Charles Jones ("Jones") and Save Our Homes, LLC ("SOH"), intervened in this action to assert claims against Alcoa and Liberty relating to Boonville's counterclaim.

9. Intervenor, H & L Farms, LLC ("H & L Farms") intervened in this cause and asserted claims against Boonville for declaratory judgment, injunctive relief, and alternatively, alleged damages for inverse condemnation (the "H & L Complaint").

10. Alcoa and Liberty denied the allegations in the Counterclaim, denied that there was a settlement agreement prior to this Consent Decree, and denied any bad faith conduct.

11. Boonville filed with the Indiana Natural Resources Commission (the "NRC") an administrative appeal of the approval of DNR Permit S-366-2 on February 1, 2018 (NRC Appeal No. 18-17R), and Nelson, Jones, and SOH, likewise filed an appeal of the same permit on the same date (NRC Appeal No. 18-20R), the two appeals having now been consolidated by the NRC under NRC Appeal No. 18-17R (both appeals collectively and as consolidated being the "NRC Appeal").

12. On July 9, 2018, this Court entered its "Findings of Fact, Conclusions of Law, and Preliminary Injunction" ("Preliminary Injunction Order") which preliminarily enjoined Boonville from enforcing, outside its corporate limits, sections 1 and 2(A) of the Boonville Ordinance, both of which banned mining within certain areas, but not enjoining sections 2(B) or 3 thereof, which allowed Boonville to continue to regulate blasting and the diversion of or discharge into watercourses, respectively, and which made a number of findings and conclusions related to the

merits of the various claims, defenses, and arguments presented by the parties as to the Plaintiffs' request for preliminary injunction.

13. On August 8, 2018, Alcoa filed its Notice of Appeal of the Preliminary Injunction Order, which was joined by Liberty, and which appeal is currently pending under appellate cause number 18A-PL-01849 ("Interlocutory Appeal").

14. Alcoa Fuels, Inc., Alcoa Warrick LLC, Liberty Mine, LLC, the City of Boonville, Ron Nelson, Charles Jones, Save Our Homes, LLC, and H & L Farms, LLC, recognize, and the Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid prolonged and complicated litigation among the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

NOW, THEREFORE, before the taking of any testimony, without the adjudication or admission of any issue of fact or law except as provided below, and with the consent of the Parties, IT IS HEREBY ADJUDGED, ORDERED, AND DECREED as follows:

A. OBJECTIVES AND LIMITATIONS

1. The overall objectives of this Consent Decree are for Boonville to repeal the Boonville Ordinance and refrain from enacting any similar ordinance that restricts Alcoa and Liberty, or other entities conducting mining operations pursuant to DNR Permit S-366-2 and bound by the terms and conditions imposed on Alcoa and Liberty herein, from conducting mining operations in the manner and location authorized under Permit S-366-2 in the current Liberty Mine South Field and consistent with this Consent Decree, and from conducting mining operations in the Millersburg Field more particularly described on Exhibit E attached hereto and incorporated

herein by reference (“Millersburg Field”), and also to provide enforceable protections for and minimize the risk of harm to Boonville’s utility infrastructure and to the property and lives of owners of property near the Liberty Mine South Field.

2. While this Consent Decree provides remedies for the violation of its own terms, it is not intended and shall not be interpreted to:

- a. supplant in any way the regulatory authority of the Indiana Department of Natural Resources, the Indiana Department of Environmental Management, the United States Army Corps of Engineers or any other regulatory agency or body;
- b. provide or preclude any remedies to any party for violation of the Indiana Surface Mining Control and Reclamation Act (Ind. Code §§14-34-1-1 *et seq.*), the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) or the National Pollutant Discharge Elimination System (“NPDES”), beyond the remedies under Indiana or federal law and administered by the Courts and/or the applicable regulatory agency or agencies; or
- c. preclude other statutory or common law remedies for damages incurred by any party by the acts or omissions of another party, such as claims for negligence.

3. This Consent Decree does not create, and shall not be interpreted as creating, any cloud upon or impairment of the title to any estate in real property inside or surrounding the Liberty Mine South Field that is currently held by any person or entity other than Alcoa and H & L Farms, nor shall the existence or performance or non-performance of the Alcoa/Liberty Obligations or the occurrence or non-occurrence of Conditions as set forth herein create any such cloud or

impairment. Similarly, this Consent Decree does not create, and shall not be interpreted as creating, any restriction on or obligation of Boonville, Nelson, Jones, or SOH as to any property outside the current Liberty Mine South Field or the Millersburg Field, except to the extent the action of Boonville, Nelson, Jones, or SOH restricts the use of the Liberty Mine South Field as described in the Conclusions of Law below.

4. Except and only to the extent necessary to enforce the specific terms of this Consent Decree, the parties' agreement to the entry of the Consent Decree shall not constitute an admission of any wrongdoing or liability by any party as to the others claims under the Complaint, Counterclaim, or the H & L Complaint.

B. CONCLUSIONS OF LAW & JUDGMENT

5. For purposes of this Consent Decree, the Parties agree and the Court hereby concludes as a matter of law that:

- a. This Court has jurisdiction over the subject matter of this action and over the Parties to this action.
- b. Venue is proper in this Court.
- c. H & L Farms has joined as a party to this cause and is bound by and entitled to enforce this Consent Decree.
- d. The "Findings of Fact, Conclusions of Law, and Preliminary Injunction" issued by this Court on July 9, 2018, are hereby incorporated by reference into this Consent Decree. Notwithstanding the foregoing, the express terms of this Consent Decree supersede any inconsistent provisions in such "Findings of Fact, Conclusions of Law, and Preliminary Injunction."

- e. Alcoa, Liberty, and H & L Farms are entitled to a final judgment and injunction partially in their favor on the Complaint, but solely to the extent necessary to enforce the terms of this Consent Decree.
- f. Boonville, Ron Nelson, Charles Jones, and Save Our Homes, LLC are entitled to a final judgment and injunction partially in their favor on the Counterclaim, but solely to the extent necessary to enforce the terms of this Consent Decree

6. Boonville is enjoined from enacting any ordinance in the future that would constitute an attempt to control land use or prevent the conduct of mining operations of Alcoa or Liberty in the current Liberty Mine South Field in the manner and location authorized under Permit S-366-2, or in the Millersburg Field, in a manner that violates Ind. Code ch. 36-7, specifically but without limitation in a manner that violates

- a. Ind. Code § 36-7-4-1103 as to the unauthorized prevention of “the complete use and alienation of any mineral resources or forests by the owner or alienee of them” outside of “urban areas” as set forth therein.
- b. Ind. Code §§ 36-7-4-600 et seq. (the “600 Series”) as to the procedure for enactment of land use and zoning regulation; or
- c. Ind. Code § 36-7-4-205 as to the territorial zoning jurisdiction of a municipality.

7. Boonville is enjoined from enacting any ordinance in the future that restricts coal mining operations of Alcoa or Liberty that are expressly allowed in the Liberty Mine South Field under DNR Permit S-366-2 or in the Millersburg Field, including by a regulation of watercourses inside the Liberty Mine South Field or the Millersburg Field.

8. Boonville is enjoined from enacting any ordinance in the future that restricts surface coal mining activities within the Millersburg Field or pursuant to DNR Permit S-366-2 within the Liberty Mine South Field that are expressly permitted and regulated by the Indiana Department of Natural Resources, the Indiana Department of Environmental Management, or the United States Army Corps of Engineers, in such a way as to use restriction of such specific activities as a proxy for restricting mining itself.

9. Nothing herein shall be interpreted as restricting Boonville's authority, where permitted by applicable law, to enact any ordinance with respect to (i) areas outside of the Liberty Mine South Field or the Millersburg Field, or (ii) areas within the Boonville municipal limits, where such ordinance would have a de minimis impact on Alcoa or Liberty's surface coal mining activities in the Liberty Mine South Field or the Millersburg Field.

10. Boonville has no intention to annex any portion of the Liberty Mine South Field or the Millersburg Field into the municipal limits of Boonville. Alcoa has no desire that any portion of the Liberty Mine South Field or the Millersburg Field be annexed by Boonville and would intend to object to or remonstrate against any attempted annexation. Notwithstanding the foregoing, in the event that Boonville were able to annex any portion of the Liberty Mine South Field or the Millersburg Field in the future, Boonville agrees that (i) any such annexation shall not, in any way, restrict Alcoa's ability to conduct coal mining operations or activities, and (ii) the commitments made by Boonville in this Consent Decree shall not be deemed to be modified or reduced in any manner as a result of such annexation.

C. OBLIGATIONS OF ALCOA AND LIBERTY

11. Subject to the Conditions set forth in Part E of this Consent Decree, Liberty, Alcoa, and all successors in interest or other entities conducting mining operations pursuant to DNR Permit S-366-2 is enjoined from violating and shall perform the following obligations (the “Alcoa/Liberty Obligations”) when conducting mining operations under DNR Permit S-366-2:

- a. Maintain a no-blasting buffer of one thousand feet (1,000 feet) (the “Blasting Buffer”), measured from the respective homeowner’s property line, around (i) all existing occupied residences, and (ii) the four residences currently under construction along the western edge of the permit boundary (two in Spring Lake Subdivision along Millersburg Road and two to the south of the subdivision), all of which are identified on the map attached hereto as Exhibit A (the “Affected Residences”). The buffer can be waived with the consent of all homeowners within 1,000 feet of the area proposed to be disturbed.
- b. Limit any blasting to the “surface mining” footprint, the approximate location of which is shown on the operations map attached hereto as Exhibit B (with modifications for the buffers described herein).
- c. Maintain a main vegetation buffer of three hundred (300) feet (the “Main Vegetation Buffer”), measured from the property lines of the Affected Residences, the approximate location of which is shown on the map attached hereto as Exhibit A. In the Main Vegetation Buffer, there shall be no surface disturbance for mining activities other than fence maintenance and for ingress and egress in connection with such fence maintenance.

- d. Maintain a secondary vegetation buffer of three hundred (300) feet (the “Secondary Vegetation Buffer”), measured from the Main Vegetation Buffer, the approximate location of which is shown on the map attached hereto as Exhibit A. In the Secondary Vegetation Buffer, surface disturbance for mining activities shall be limited to installation and maintenance of sediment ponds, drainage ditches, power lines, pump hoses and pump ponds (the “Surface Mining Facilities”), and those roads necessary for the construction, installation and maintenance of the Surface Mining Facilities, plus ingress and egress to the Main Vegetation Buffer, the Secondary Vegetation Buffer, and the Surface Mining Facilities.
- e. Limit any surface disturbance for mining activities in the area between the Secondary Vegetation Buffer and the Blasting Buffer (such area described as the “Tertiary Buffer”) to use as shelf and slope from the shelf up to grade level, along with hauling and shovel operations on shelves below grade level. The Tertiary Buffer shall not be used as a surface haul road.
- f. Provide, to all persons having standing as set forth herein and who have opted to obtain a pre-blast survey as provided herein, a modified insurance claims process as follows:
 - i. The process applies only to claims below \$40,000 duly initiated by a claimant and after Liberty’s insurer’s third-party claims administrator (currently Vericclaim) issues a report determining that the claim involves property damages that were caused by mining activities.
 - ii. Alcoa and Liberty agree not to appeal such claims below \$40,000.

- iii. Alcoa will pay such claims within 90 days of the date of the third-party report in the event that the claim has not already been paid.
- iv. This modified process only applies if a homeowner opts to get a pre-blast survey. The claims process will be clearly communicated to affected homeowners as part of the pre-blast survey by written correspondence within 30 days of the date this decree is approved by the Court. For clarity, homeowners may elect to pursue remedies available at law or in equity rather than to utilize this claims process, and are not bound by the determination of Liberty's insurer's third-party claims administrator.
- g. Install and maintain three additional seismographs, one in Spring Lake Subdivision, one in Center Ridge Subdivision, and one near the southeast corner of the permit area located in the vicinity of the nearest occupied dwelling between the blasting area the Boonville corporate limits, generally in the vicinity of the existing Walmart store. Per DNR Permit requirements, all blasts will be monitored.
- h. Create an online and easily accessible method to access reports that are filed with state agencies in connection with the operation of the mine.
- i. Compile educational materials relating to blasting and make those materials available to Save Our Homes, LLC and to Boonville.
- j. Provide notice by mail to all residents within the corporate limits of Boonville within one mile of the boundary of DNR Permit S-366-2 and notice to the public by a display ad to be run in the Warrick Standard, of the ability to obtain pre-blast surveys.

- k. Conduct water testing as required in DNR Permit 366-2, and further pursue diligently and in good faith whether a local university would analyze split water samples and maintain records regarding the analyses.
- l. Install and maintain one additional blast siren at the point along the boundary of DNR Permit 366-2 that is closest to the Boonville corporate limits and that is closest to the blast location.

12. The foregoing Alcoa/Liberty Obligations apply only to mining operations under DNR Permit S-366-2 and not to any other DNR permit not relating to the Liberty Mine South Field, including without limitation Permit Nos. S-366 and S-366-1. No party shall unreasonably or materially interfere with satisfaction of the Alcoa/Liberty Obligations.

13. Within seven (7) days following execution of this Consent Decree, all parties to the Interlocutory Appeal shall file the necessary documents with the Court of Appeals to seek a stay of the Interlocutory Appeal.

14. Within seven (7) days of entry of this Consent Decree, Alcoa, Liberty, and/or H & L Farms shall file the necessary pleadings to dismiss the Interlocutory Appeal in full as moot.

15. Alcoa and/or Liberty shall pay Boonville, Nelson, Jones, and SOH a total amount of \$415,000 toward such Parties' attorneys' fees related to this matter, of which \$290,000 shall be paid to Boonville, and of which \$125,000 shall be paid to SOH. Alcoa and/or Liberty shall pay the fees under this section as follows: seventy percent (70%) shall be paid within seven (7) days after Boonville, Nelson, Jones, SOH and its members meet their respective obligations stated in Paragraphs 17 and 18 of Part D of this Consent Decree, and the remaining thirty percent (30%) shall be paid within seven (7) days after Boonville, Nelson, Jones, SOH and its members meet their respective remaining obligations stated in Part D of this Consent Decree. Boonville, Nelson,

Jones, SOH, and its members shall not be entitled to any other monetary relief for their counterclaims.

D. OBLIGATIONS OF BOONVILLE, NELSON, JONES, AND SOH

16. Within seven (7) days following execution of this Consent Decree, all parties to the Interlocutory Appeal shall file the necessary documents with the Court of Appeals to seek a stay of the Interlocutory Appeal.

17. Within seven (7) days of the entry of this Consent Decree, Boonville, Nelson, Jones, and SOH, shall each file the necessary pleadings to dismiss the NRC Appeal in full, with prejudice.

18. Within fourteen (14) days of the entry of this Consent Decree, Boonville will repeal the Ordinance in full.

19. Boonville, Nelson, Jones, SOH, and all members of SOH as identified in discovery in the NRC Appeal, shall not object to the approval of Special Use 13 (“SU-13”) and the issuance of a permit for such use by the Warrick County Board of Zoning Appeals (“BZA”) for the activities approved in DNR Permit S-366-2, and shall not request or support the imposition of conditions upon such approval or permit, including anything contained in this Consent Decree, except as may be agreed upon by the Parties otherwise. Notwithstanding the foregoing, Boonville, Nelson, Jones, SOH, and members of SOH may advise the BZA that its basis for not objecting to the approval and issuance of an SU-13 permit for the Liberty Mine South Field is based upon the agreements of the Parties set forth in this Consent Decree.

20. Alcoa, Liberty, and H & L Farms shall not be entitled to any monetary relief for their claims under the Complaint or the H & L Complaint.

E. CONDITIONS OF ALCOA/LIBERTY OBLIGATIONS

21. The following conditions (the “Conditions”) must be satisfied, and must continue to be satisfied where they require future forbearance or the lack of an event or action, in order for any entity to be bound by the Alcoa/Liberty Obligations set forth herein, such that the Alcoa/Liberty Obligations continue if and only if:

- a. Boonville repeals the Boonville Ordinance in full consistent with Paragraph 18, and thereafter Boonville does not enact any ordinance in contravention of this Consent Decree to restrict the surface mining activities of Alcoa or Liberty in the Millersburg Field or as permitted under DNR Permit S-366-2 in the Liberty Mine South Field or Liberty or Alcoa’s related permits for the Liberty Mine South Field, including the NPDES permit issued by the Indiana Department of Environmental Management and the Section 404 Permit issued by the United States Army Corps of Engineers pursuant to the Clean Water Act, regardless of whether such ordinance is ever deemed unlawful by a court of competent jurisdiction;
- b. The NRC Appeal is dismissed in full, with prejudice, by Boonville, Nelson, Jones, and SOH; and
- c. No actions are taken by Boonville, Ron Nelson, Charles Jones, or any member of Save Our Homes, LLC, that hinders or delays Liberty in its efforts to obtain any remaining necessary permits and authorizations to conduct mining operations in the Liberty Mine South Field pursuant to DNR Permit S-366-2 or in the Millersburg Field; provided, however, that this condition does not preclude any person from making legitimate complaints or seeking

enforcement regarding violation of the regulations and requirements imposed on or pursuant to such permits.

22. The foregoing obligations and Conditions apply only to mining operations of Alcoa or Liberty under DNR Permit S-366-2 or in the Millersburg Field and not to any other DNR permit not relating to Alcoa or Liberty in the Liberty Mine South Field or the Millersburg Field. No party shall unreasonably or materially interfere with satisfaction of the Boonville, Nelson, Jones, and SOH Obligations, or the Conditions.

F. PARTIES BOUND AND BENEFITTED

23. This Consent Decree applies to and is binding upon:

- a. the Parties, namely Alcoa Fuels, Inc., Alcoa Warrick LLC, Liberty Mine, LLC, H & L Farms, LLC, the City of Boonville, Save Our Homes, LLC, Ron Nelson, Charles Jones;
- b. the officers, directors, employees, members and agents of the Parties;
- c. the successors and assigns of the Parties as to:
 - i. the real estate encompassed by Permit S-366-2 (the “Permit Area” or the “Liberty Mine South Field”) and the Millersburg Field;
 - ii. all real estate listed herein as to individuals or entities given standing to enforce this agreement, including successors or assigns to mineral, surface, or any other estate thereof;
 - iii. mining operations under Permit S-366-2;
- d. To the extent allowed by Ind.T.R. 65(D), the injunctive relief provisions of this Consent Decree are binding upon officers, members, agents, servants and

employees, and are binding upon those parties in active concert or participation with them and their officers, agents, or employees who receive actual notice of this Consent Decree with respect to all matters related to the performance of this Consent Decree.

24. Transfer of Ownership or Operation. The obligations, protections and remedies contained in this Consent Decree shall inure to the benefit of the Parties from the date of entry of this Consent Decree until its termination by a court of competent jurisdiction, shall run with the land, and Alcoa Fuels, Inc., Alcoa Warrick LLC, Liberty Mine, LLC, and H & L Farms, LLC, shall give written notice and provide a copy of this Consent Decree to any person or entity to whom they have or may transfer ownership of real property within the Permit Area or operation of the Liberty Mine or any successor thereof in the Permit Area.

25. Recorded Affidavit. An Affidavit in Aid of Title referencing and incorporating the terms of this Consent Decree by reference shall be prepared, executed by Alcoa Fuels, Inc., Alcoa Warrick LLC, and Liberty Mine, LLC, and recorded with respect to (including by cross-referencing pursuant to Ind. Code § 36-2-7-10(1)) each parcel identified in Exhibit C hereto and is deemed to touch and concern each such parcel and run with title thereto until this Consent Decree is terminated. Said Affidavit shall be in a form suitable for recordation under Indiana law, shall be approved by the Court, and shall contain, without limitation, the following language:

All rights and obligations in the Consent Decree shall run with the land and be binding on, and the remedies shall inure to the benefit of, the Parties and the Parties' heirs, legal representative, successors and assigns, and all the owners of the real estate described on Exhibit A¹ hereto and may be

¹ This means Exhibit A to the required Affidavit, not to this Consent Decree, and thus does not follow the alphabetical order in this Consent Decree. It is the same list as contained in Exhibit D to this Consent Decree. This

enforced by invoking remedies including but not limited to specific performance or injunction. A Party successfully prosecuting or defending a claim for enforcement of the Consent Decree shall be entitled to reimbursement of all reasonable attorney fees and costs associated with such successful prosecution or defense.

26. Standing to Enforce the Consent Decree. Standing to enforce this decree, subject to the conditions set forth herein, is deemed to exist in the Parties and their successors and assigns, and in the owners of the parcels identified in Exhibit D hereto, including the present owners thereof and their successors in title; however, individuals who would otherwise have standing but who did not elect to obtain pre-blast surveys as described in Paragraph 11.f. hereof shall not have standing as to the claim provisions contained in that paragraph.

27. Any Party or its successors, or any individual or entity bound by this Consent Decree, may seek termination of this Consent Decree due to the material failure of one or more Conditions, or a material breach of an obligation by an opposing Party (or its successors).

G. RELEASE OF CLAIMS

28. Except as to those obligations expressly created by this Consent Decree, and subject to the Conditions thereon, upon entry of this Consent Decree by the Court the Parties irrevocably and unconditionally release each and every Party against whom it has asserted a claim or sought leave to assert a claim, and any and all of their employees, agents, members, trustees, directors, subsidiaries, affiliates, predecessors, successors, heirs, and assigns, from any and all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages,

footnote is not part of the required language.

liquidated damages, actions, causes of action, suits, rights, demands, liens, costs, losses, warranties, and debts of any nature whatsoever, known or unknown, suspected or unsuspected and the like in connection with the subject matter of this litigation from the beginning of time until the date of this Consent Decree.

H. REMEDIES FOR NONCOMPLIANCE

29. The Parties reserve all legal and equitable remedies available to enforce the provisions of this Consent Decree, which remedies shall likewise be available to those deemed to have standing to enforce this Consent Decree as set forth herein.

30. A Party successfully prosecuting or defending a claim for enforcement of this Consent Decree shall be entitled to reimbursement of all reasonable attorney fees and costs associated with such successful prosecution or defense.

31. Nothing contained in this Consent Decree shall relieve any individual or entity seeking enforcement from any obligation to first exhaust administrative remedies that would be available to redress the challenged conduct in the absence of this Consent Decree.

I. COURT COSTS AND ATTORNEY FEES

32. Except for the payment of fees as specifically set forth herein, each Party is responsible for its own attorney fees and court costs associated with the prosecution and defense of this cause, including those fees and costs incurred prior to initiation of this cause but concerning the controversy that is the basis hereof, and up to and including the date of entry of this Consent Decree.

J. GENERAL PROVISIONS

33. Force Majeure. For purposes of this Consent Decree, “Force Majeure” is defined as any event arising from causes beyond the control of any Party, their agents, consultants and contractors, or any entity controlled by a Party, that delays or prevents the performance of any obligation under this Consent Decree despite best efforts to fulfill the obligation. “Force Majeure” does not include financial inability to perform an obligation under this Consent Decree. A failure to perform an obligation due to a Force Majeure shall not constitute violation of or noncompliance with this Consent Decree for as long as the obligation cannot be fulfilled due to the Force Majeure.

34. Notice. Unless otherwise specified herein or agreed by the Parties in writing, whenever notice is given to a Party in relation to this Consent Decree, such notice shall be given in writing and deemed submitted upon mailing addressed as follows:

To Alcoa Fuels, Inc.:

Alcoa Fuels, Inc.
PO Box 10
Newburgh, IN 47629-0010

Attn: Adam Tieman, Vice President

To Alcoa Warrick LLC:

Alcoa Warrick LLC
PO Box 10
Newburgh, IN 47629-0010

Attn: Ed Hemmersbach, Vice President

To Liberty Mine, LLC:

Steven E. Chancellor
Liberty Mine, LLC
250 Cross Pointe Blvd.
Evansville, IN 47715

To H & L Farms, LLC:

H & L Farms, LLC
415 East Main Street
Boonville, IN 47601

To the City of Boonville, Indiana:

City of Boonville, Indiana
135 Sought Second Street
Boonville, IN 47601

Attn: Charlie Wyatt, Mayor

To Save Our Homes, LLC:

Save Our Homes LLC
5700 Lake Shore Drive
Boonville, IN 47601

To Ron Nelson:

Ron Nelson
5700 Lake Shore Drive
Boonville, IN 47601

To Charles Jones:

Charles Jones
2245 Spring Lake Drive
Boonville, IN 47601

35. Retention of Jurisdiction. This Court shall retain jurisdiction of this case for the purpose of resolving disputes arising under this Consent Decree or effectuating or enforcing compliance with the terms of this Consent Decree.

36. Authority. Each undersigned representative of a Party certifies that he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to execute and legally bind the Party he or she represents to this document.

37. Counterparts. This Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis.

38. Integration. This Consent Decree and its Exhibits constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in the Consent Decree and supersede all prior agreements and understandings, whether oral or written. No other document, nor any representation, inducement, agreement, understanding, or promise, constitutes any part of this Consent Decree or the settlement it represents, nor shall it be used in construing the terms of this Consent Decree.

39. Modification. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all Parties. Where the modification constitutes a material change to this Consent Decree, it shall be effective only upon approval by the Court.

K. FINAL ORDER

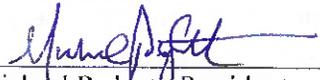
40. The Court finds that there is no just reason for delay and, therefore, enters this Consent Decree as a final judgment of the Court.

SO ORDERED this ____ day of _____, 2019.

Hon. Carl A. Heldt, Special Judge
Warrick Superior Court No. 2

APPROVED:

Alcoa Fuels, Inc.

By 
Michael Padgett, President

Liberty Mine, LLC

By _____
Steven E. Chancellor

City of Boonville, Indiana

By _____
Charlie Wyatt, Mayor

Ron Nelson

Dirck H. Stahl
Ziemer, Stayman, Weitzel
& Shoulders, LLP
Attorney for Liberty Mine, LLC

John H. Henderson
Stoll Keenon Ogden PLLC
Attorney for Alcoa Warrick LLC

Mark K. Phillips
Phillips Law, P.C.
*Attorney for Ron Nelson, Charles Jones
and Save Our Homes, LLC*

Alcoa Warrick LLC

By _____
Ed Hemmersbach, Vice President

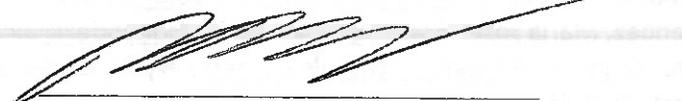
H & L Farms, LLC

By _____
E. Anne Stuart, President

Save Our Homes, LLC

By _____
Ron Nelson, Manager

Charles Jones



E. Sean Griggs
Mark J. Crandley
Barnes & Thornburg, LLP
Attorneys for Alcoa Fuels, Inc.

Stephen C. Unger
Bose, McKinney & Evans, LLP
Attorney for City of Boonville, Indiana

S. Anthony Long
Long Law Office, P.C.
Attorneys for H & L Farms, LLC

APPROVED:

Alcoa Fuels, Inc.

By _____
Michael Padgett, President

Liberty Mine, LLC

By _____
Steven E. Chancellor

City of Boonville, Indiana

By _____
Charlie Wyatt, Mayor

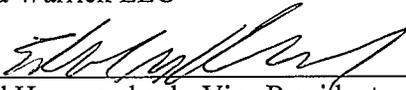
Ron Nelson

Dirck H. Stahl
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John H. Henderson
Stoll Keenon Ogden PLLC
Attorney for Alcoa Warrick LLC

Mark K. Phillips
Phillips Law, P.C.
*Attorney for Ron Nelson, Charles Jones
and Save Our Homes, LLC*

Alcoa Warrick LLC

By 
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H & L Farms, LLC

By _____
E. Anne Stuart, President

Save Our Homes, LLC

By _____
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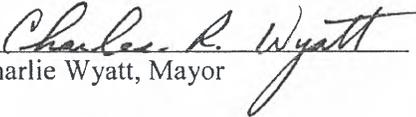
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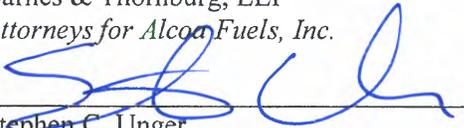
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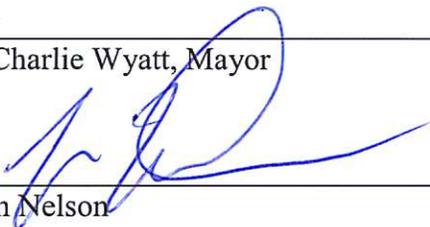
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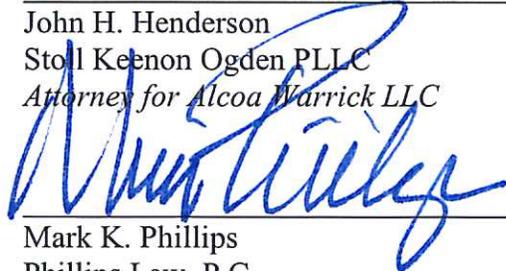
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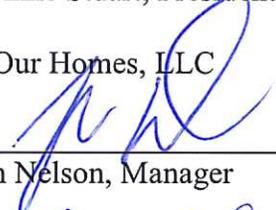
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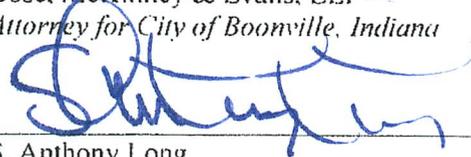
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EXHIBIT C
PARCELS WITHIN THE PERMIT AREA OWNED OR CONTROLLED BY ALCOA,
LIBERTY, AND/OR H & L FARMS

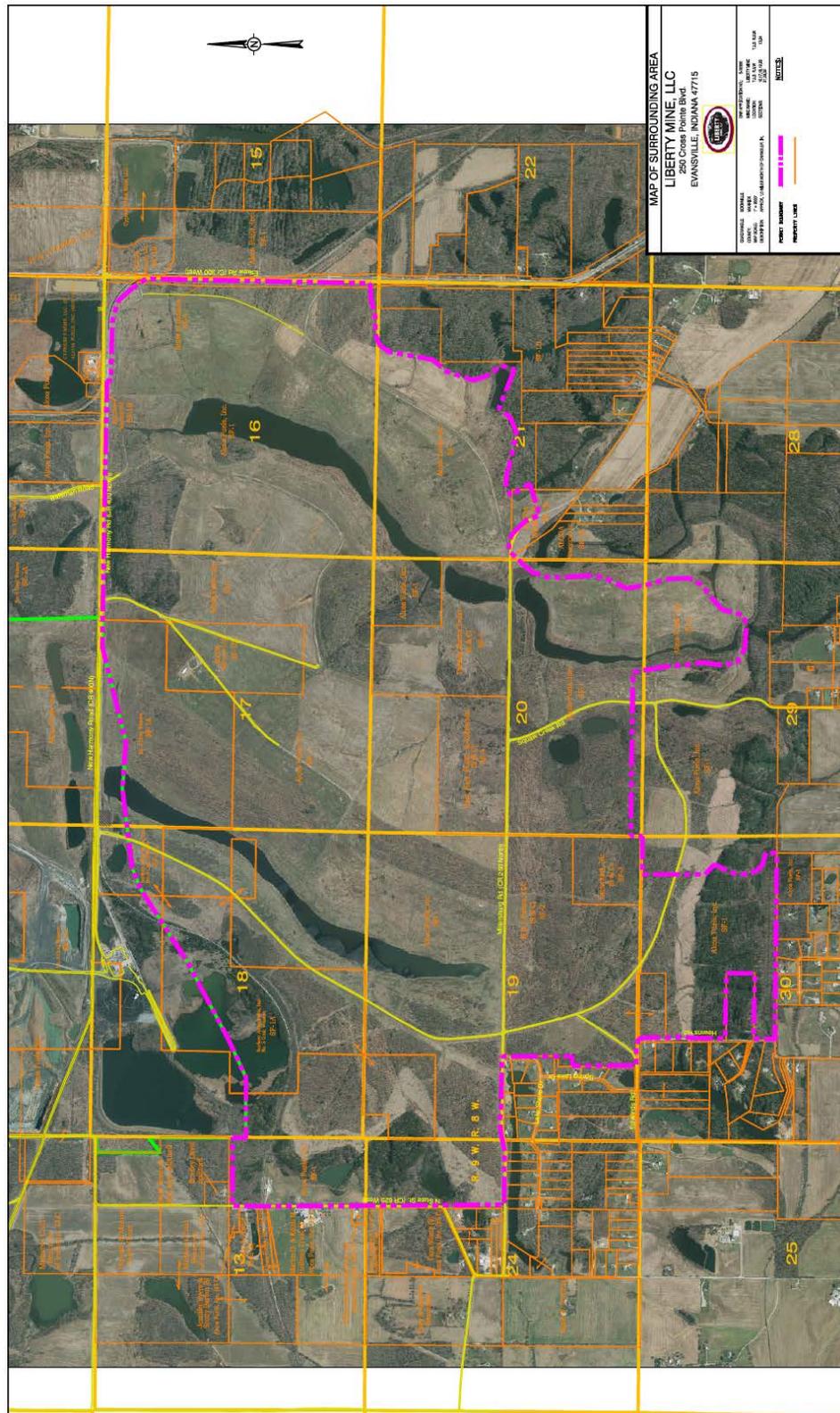


EXHIBIT D
PARCELS WITHIN 1,000 FEET OF
THE PERMIT AREA

Property Owner	Mailing Address		Property ID
Splittorff, Bradley David	3522 N State St	Chandler, IN 47610	87-08-13-200-015.000-006
Reed, George C & Phyllis M	3399 N State St	Chandler, IN 47610	87-08-13-400-019.000-006
Heilman, Martin O & Edith M Trust	3211 N State St	Chandler, IN 47610	87-08-13-400-010.000-006
Heilman, Edith M & Harold	3211 N State St	Chandler, IN 47610	87-08-13-400-014.000-006
Handley Ronald W & Linda Sue Rush Myrtle Trust	PO Box 671	Chandler, IN 47610	87-08-24-200-003.000-019
Moats, Cara	2677 N State St	Chandler, IN 47610	87-08-24-200-032.000-019
Moats, Cara	2677 N State St	Chandler, IN 47610	87-08-24-200-021.000-019
Kolley, Brent W	2622 N State St	Chandler, IN 47610	87-08-24-201-001.000-019
Kolley, Timothy	2500 N State St	Chandler, IN 47610	87-08-24-203-008.000-019
Kolley, H. J. Krystopher & Miranda	6266 Millersburg Rd	Chandler, IN 47610	87-08-24-203-003.000-019
Kolley, Charles W. & Sayra Ann	2566 N State St	Chandler, IN 476010	87-08-24-201-002.000-019
Kolley, Vicki K	2522 N State St	Chandler, IN 47610	87-08-24-201-004.000-019
Kolley, Timothy C. & Kolley, Jennifer, Life Estate	2500 N State St	Chandler, IN 47610	87-08-24-201-005.000-019
Wahl, Jeremy M & Sarah E	2300 N State St	Chandler, IN 47610	87-08-24-407-004.000-019
Mottley, Daryl & Beth	6266 Lake Shore Dr	Boonville, IN 47601	87-08-24-407-008.000-019
Hirsch, Corey M. & Sara E.	6255 Lake Shore Dr	Boonville, IN 47601	87-08-24-405-006.000-019

Francis, Christopher Scott & Carrie L.	6244 Lake Shore Dr	Boonville, IN 47601	87-08-24-405-007.000-019
Silke, Kyle A. & Courtney	6211 Lake Shore Dr	Boonville, IN 47601	87-08-24-404-031.000-019
Butler, Charles A. & Leslie A.	6200 Lake Shore Dr	Boonville, IN 47601	87-08-24-406-028.000-019
Staggs, Michael H. & Angela M.	6177 Lake Shore Dr	Boonville, IN 47601	87-08-24-404-032.000-019
Topper, Stephen & Barbara	6122 Lake Shore Dr	Boonville, IN 47601	87-08-24-406-026.000-019
Baumgart, Christopher M. & Sheena N.	6077 Lake Shore Dr	Boonville, IN 47601	87-08-24-404-035.000-019
Carter, Adrian L. & Ciecica K.	6066 Lake Shore Dr	Boonville, IN 47601	87-08-24-404-024.000-019
Rice, Jason R. & Lesley D.	6022 Lake Shore Dr	Boonville, IN 47601	87-08-24-404-023.000-019
WinSAT, Nicklas & Claudia	5985 Lake Shore Dr	Boonville, IN 47601	87-09-19-302-020.000-002
Denk, Todd & Misty	5970 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-013.000-002
Fields, Douglas & Heather	5929 Millersburg Rd	Boonville, IN 47601	87-09-19-301-012.000-002
Forbes, Todd & Peggy	5900 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-014.000-002
Temme, Ondrea	5925 Lake Shore Dr	Boonville, IN 47601	87-09-19-302-019.000-002
Sloan, Joseph & Stacy	5879 Lake Shore Dr	Boonville, IN 47601	87-09-19-302-018.000-002
Elaman, Jon & Debra	5860 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-015.000-002
Nelson, Ronald N. & Lisa Gail	5700 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-010.000-002
Grubb, Jon & Sara Nelson	522 N Lemcke Ave	Evansville, IN 47712	87-09-19-301-016.000-002
Hofmann, Jerry & Rebecca	5710 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-009.000-002
Konneker, Jesse & Rebecca	5760 Lake Shore Dr	Boonville, IN 47601	87-09-19-301-008.000-002
Smith, Jonathan	5809 Lake Shore Dr	Boonville, IN 47601	87-09-19-302-017.000-002
Zen, Derek & Alison	2330 Spring Lake Dr	Boonville, IN 47601	87-09-19-301-007.000-002

Jones, Charles & Angela	2245 Spring Lake Dr	Boonville ,IN 47601	87-09-19-302-005.000-002
Jeffrey & Susan Noah	2150 Spring Lake DR.	Boonville, IN 47601	87-09-19-301-003.000-002
West, Joel A & Linda L	5673 Edwards Rd	Boonville,IN 47601	87-09-30-101-003.000-002
Susott, Jason A	2932 Galleon Dr	Evansville, IN 47601	87-09-30-101-007.000-002
Walls, Waylon L & Kelly	1699 HewINs Rd	Boonville,IN 47601	87-09-30-102-001.000-002
Payne, KeavIN C & Marcia L	1733 HewINs Rd	Boonville,IN 47601	87-09-30-100-058.000-002
Foley, Timothy P & Kathy L	1711 HewINs Rd	Boonville,IN 47601	87-09-30-102-002.000-002
Urey, Jeffrey R & Kristy L	1721 HewINs Rd	Boonville,IN 47601	87-09-30-102-004.000-002
Goff, Jerry W	PO BOX 712	Chandler,IN 47610	87-09-30-200-007.000-002
Foley, Kelly J & Karen	1555 HewINs Rd	Boonville ,IN 47601	87-09-30-102-003.000-002
King, Chad & Stephanie	1533 HewINs Rd	Boonville,IN 47601	87-09-30-105-006.000-002
King, Steven A & Evelyn	1455 HewINs Rd	Boonville,IN 47601	87-09-30-105-003.000-002
Whyte, Carolyn & Nathaniel	1465 HewINs Rd	Boonville,IN 47601	87-09-30-304-002.000-002
Treutler, Brian J	1433 HewINs Rd	Boonville,IN 47601	87-09-30-300-003.000-002
Schnell, Michael A & Theresa	1300 HewINs Rd	Boonville,IN 47601	87-09-30-302-001.000-002
Mattingly, Paul D & Jill E	5498 Fox Chase Ct	Boonville,IN 47601	87-09-30-301-020.000-002
Flesburg, John M & Lori J	5482 Fox Chase Ct	Boonville,IN 47601	87-09-30-301-019.000-002
Wilmes, Stanley & Candace	5450 Fox Chase Ct	Boonville,IN 47601	87-09-30-401-017.000-002
Orth, RogerD & Kathleen K	5405 York Dr	Boonville,IN 47601	87-09-30-401-016.000-002
Adair, Anthony G & Jennifer L	5463 York ST	Boonville,IN 47601	87-09-30-301-015.000-002
Hughes, Carl D & T Gayle	5485 York Dr	Boonville,IN 47601	87-09-30-301-014.000-002

Adkisson, Dwayne & Misty	5490 York Dr	Boonville,IN 47601	87-09-30-301-013.000-002
Merrill, Gabriel J & Nicole	5470 York Dr	Boonville,IN 47601	87-09-30-301-012.000-002
Barnes, Curtiss W & Gillian P	5430 York Dr	Boonville,IN 47601	87-09-30-401-010.000-002
Woolsey, Scott & Nancy	1411 N Center Rd	Boonville,IN 47601	87-09-30-400-017.000-002
Mundy, Margie et al	1344 N Center RD	Boonville,IN 47601	87-09-30-400-088.000-002
Harpenau, James & Margaret Trust	1300 N Center Rd	Boonville,IN 47601	87-09-30-400-021.000-002
Dieckmann, Milton & Pammy J	1377 N Center Rd	Boonville,IN 47601	87-09-30-400-018.000-002
Best, John & Azalea Trust	5410 York Dr	Boonville,IN 47601	87-09-30-401-009.000-002
Harker, Michael & Greta	PO BOX 4	Chandler,IN 47610	87-09-30-401-008.000-002
Zachary & Crystal Hudson	1188 N Center Rd	Boonville, IN 47601	87-09-30-400-062.000.002
Harris, Andrew M & Traci, et al	1299 John Bull Rd	Boonville,IN 47601	87-09-29-402-104.000-002
Jerry & Judy Bratcher	3855 Wilzbacher Rd	Boonville, IN 47601	87-09-21-300-022.000-002
Larry & Rayma McNeely	3833 Wilzbacher Rd	Boonville,IN 47601	87-09-21-300-021.000-002
Virgin, Jesse M & Mallory A	3811 Millersburg Rd	Boonville,IN 47601	87-09-21-300-023.000-002
ChINg Outdoor Club INc	10677 Cricklewood Dr	Newburgh, IN 47630	87-09-21-300-048.000-002
Jeff McGuire &INve Egenolf	3899 Wilzbacher Rd	Boonville,IN 47601	87-09-09-400-023.000-002
Jason C. & Christina A. States	4333 Bell Rd. Apt. 1513	Newburgh, IN 47630	87-08-24-405-005.000-019
Mark & Stacy Williams	1811 Hewins Rd	Boonville,IN 47601	87-09-30-101-006.000-002
Jaycee & Juli Warren	5450 York Dr	Boonville,IN 47601	87-09-30-401-011.000-002
Joan Flesburg	5466 Fox Chase Ct	Boonville,IN 47601	87-09-30-301-018.000-002

EXHIBIT E

The following described real estate in Warrick County, Indiana:

All of Section 34, Township Four (4) South, Range Nine (9) West.

The west half (W ½) and the southeast quarter (SE ¼) of Section 35, Township Four (4) South, Range Nine (9) West.

All of Section 1, Township Five (5) South, Range Nine (9) West.

All of Section 2, Township Five (5) South, Range Nine (9) West.

All of Section 3, Township Five (5) South, Range Nine (9) West.

All of Section 11, Township Five (5) South, Range Nine (9) West.

All of Section 12, Township Five (5) South, Range Nine (9) West.

All of Section 13, Township Five (5) South, Range Nine (9) West.

All of Section 14, Township Five (5) South, Range Nine (9) West.

The northeast quarter (NE ¼) of Section 24, Township Five (5) South, Range Nine (9) West.