Voluntary Alternative Housing Agreement, Haystack Mines Site Response Action

This is an agreement ("Agreement") between BNSF Railway Company ("BNSF") and the undersigned individuals, age 18 and older, that the U.S. Environmental Protection Agency (EPA) has determined are residents ("Residents") of the "Household" located at Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) ("Existing Residence") and that are eligible for voluntary alternative housing.

1. EPA has determined that a time-critical removal action ("TCRA") is necessary to address contamination at the Haystack Mines Site (the "Haystack Mines Site" or "Site"). EPA estimates that the TCRA at the Haystack Mines Site will be carried out in 2020; however, this estimated time-frame is subject to change. Additionally, EPA may require further remedial work at the Site following completion of the TCRA and such work may take multiple years to complete. The TCRA cleanup and construction work and any further remedial work (together, the "Cleanup") may be performed in close proximity to Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) McKinley County, New Mexico. EPA has determined that the presence of onsite workers and the noise and dust that may be generated by the heavy equipment during the Haystack Mines Site Cleanup will create a significant disruption for the Residents and, as a result, justifies offering temporary voluntary alternative housing to Residents of the Household.

2. Further, BNSF is required to make an offer for "temporary alternative housing" for the Residents affected by the TCRA pursuant to the Administrative Settlement Agreement and Order on Consent for Removal Action (AOC; Comprehensive Environmental Response, Compensation, and Liability Act [CERCLA] Docket No. 09-2017-02 and Docket No. 06-02-17) executed between the U.S. Environmental Protection Agency and BNSF. The cost of the Ex. 6 Personal Privacy (PP) Package being provided to Ex. 6 Personal Privacy (PP) is a necessary cost of response for carrying out that AOC.

3. One factor in determining eligibility is residing in the Existing Residence as of May 10, 2017. Residents have represented to EPA that they resided in the Existing Residence on May 10, 2017. EPA has determined, consistent with federal law and guidance, that the Residents are eligible for voluntary alternative housing benefits.

4. Based on the above determinations, there are two alternatives that BNSF considered: 1) a voluntary temporary housing alternative, or 2) a long-term relocation into a permanent dwelling.

5. In the interest of minimizing disruption to the Household during the TCRA and any future required work, BNSF is presenting this long-term relocation housing alternative to the Residents.

6. Residents, by signing this agreement, have elected, in lieu of a temporary relocation, the option for BNSF to provide a long-term relocation to the Residents consisting of a Manufactured Home for the Household ("the New Home") at a homesite location selected by the Residents in consultation with EPA and the Navajo Nation, following an EPA and Navajo Nation EPA (NNEPA) gamma scan of the location for radioactive contamination. The new homesite location is shown on the attached Exhibit ____ [Survey]. BNSF will prepare the new homesite to locate the New Home. BNSF has already paid for the completion of a biological resources survey and a cultural resources survey. BNSF has also engaged the Navajo Tribal Utility Authority (NTUA) to begin the process of obtaining approvals for connecting utilities to the New Home. Residents may use these surveys for their application for residential lease. After Residents obtain a residential lease from the U.S. Bureau of Indian Affairs (BIA), BNSF will pay for the delivery of the New Home to the new homesite, provide for the cost and construction of utility connections, and extend an access roadway to the homesite. BNSF will also pay for non-construction related costs, such as moving costs, consistent with EPA Relocation Guidance. The provision of housing and moving costs are provided as the Residents' long-term voluntary alternative housing benefit through the duration of the Haystack Mine Site Cleanup. Residents will not be obligated to pay for or reimburse BNSF for any of the items identified in this paragraph 6.

7. Residents agree that they will vacate the Existing Residence and move to the new homesite as soon as practicable after site preparation work is complete and the keys to the New Home are provided to the Residents. Residents further agree to remove any and all household hazardous waste (e.g., paint, household chemicals, electronic equipment, etc.) from the Existing Homesite. Residents agree to complete vacating the Existing Residence within 60 days after site preparation work is complete and the keys to the New Home are provided to the Residents.

8. Upon receiving written confirmation from Residents or, at the election of Residents, from Vivian Craig, that the Existing Residence has been completely vacated per paragraph 7, BNSF will remove, destroy, demolish and dispose of any remaining trailers, structures, and improvements at the Existing Residence. BNSF will have no responsibility for any payments for the Existing Residence.

9. Residents agree that the Existing Residence will not be reoccupied nor will they seek to establish a new residence on that same property, or in any other location that is in close proximity to the Haystack Mines Site and significantly impacted by the Cleanup until completion of the TCRA, and any final Haystack Mines Site Cleanup, as determined by EPA, and until such time that EPA and NNEPA provide written confirmation to BNSF and BIA that such area is suitable for residential

occupation.

10. Residents understand that if any one of them lives in or returns to the Existing Residence or to a different structure on that same property or in Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) prior to completion of the Cleanup, any Resident who does so will be in violation of this Agreement and will not be eligible for any additional voluntary alternative housing benefits or reimbursements.

11. Residents agree to not take any action to interfere with the Cleanup, such as relocating to the Existing Residence or to a different structure on that same property, impeding access to the Cleanup site, or otherwise taking action to prevent required Cleanup work from being completed. Such actions may interfere with the Cleanup or other investigation and remedial activities, and result in delay in completing required Cleanup actions. Residents agree to assist BNSF and the Community Liaison in coordinating an expeditious move to the new residence and timely notification to BNSF that they have completed the move and the existing residence has been vacated as noted in paragraphs 7 and 8. Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) Ex. 6 Personal Privacy (PP) Failure to carry out these obligations constitutes a material breach of this agreement.

12. Upon completion by BNSF of moving and situating the Manufactured Home at the New Home site, EPA and BNSF will conduct a final inspection of the Manufactured Home and encourage a Household representative to also be present at the time of the inspection. Following the final inspection and correction of any deficiencies identified by EPA or the Residents' representative that would cause the Manufactured Home not to be decent, safe and sanitary, BNSF will provide the Household with a "Notice of Completion" and a key to the Manufactured Home at the New Home site.

13. After BNSF provides the New Home, the Residents will be the owners of the New Home and may permanently keep the New Home. Residents will be solely responsible for all costs associated with owning the New Home. The costs that the Residents will be responsible for include, but are not limited to:

- Maintenance
- Utilities
- Property Taxes
- Homeowner's Insurance
- Flood Insurance
- BIA Realty Office Lease Payments
- Septic Tank Maintenance

Annual rental payments for the lease of Navajo allotment lands is reported to be Ex. 6 Personal Privacy (PP) year. The cost of utilities for electric, water, sewer, and waste is estimated to be approximately $240 per month. Homeowners insurance, which is recommended with

home ownership is estimated at approximately $100 per month. These regular monthly homeowner's costs are estimated at approximately $340 per month] or more and do not include additional costs listed in paragraph 13, such as house maintenance. The result of not paying these routine monthly and annual expenses could include loss of the home and expenses associated with unpaid debts. The undersigned Residents have read and understand these costs of home ownership in Ex. 6 Personal Privacy (PP) and have determined that they have the financial ability to pay for taxes, utilities, and other homeowner expenses on an ongoing basis.

14. BNSF will not be responsible for the maintenance, upkeep, utilities, property taxes, insurance or any other costs associated with ownership of the New Home, and any associated Warranty for the home shall be for the benefit of the receiving Residents. BNSF will not be responsible for the maintenance or upkeep of the Manufactured Home once the Notice of Completion and keys have been provided to Residents. After BNSF provides the New Home, Residents agree to look to the Warranty for correction or restitution of any and all claims relating to the Manufactured Home.

15. Consistent with federal guidance and law, and after consultation with the Residents, the EPA has determined that the proposed replacement dwelling for Residents' Household meets decent, safe, and sanitary requirements and consists of the following:

- The mobile home choices are summarized in Table 1; and available photographs, brochures, and floor plans are included as Attachment 1. Both mobile home choices consist of **Ex. 6 Personal Privacy (PP)** **Ex. 6 Personal Privacy (PP)**

EPA has determined that the size and, in particular, the number of bedrooms in these homes will provide decent, safe and sanitary housing to Residents. By signing this Agreement, each Resident agrees to accept the above-listed New Home from BNSF as his or her final and sole selection of the long-term housing options available to this Household. Those Residents over the age of 18 accept these benefits on behalf of those Residents under the age of 18. Upon signature of this agreement, Residents shall not be entitled to elect other forms of temporary housing being offered by BNSF.

16. BNSF and Residents agree that the New Home will consist of the above-described Manufactured Home moved to the location shown on the survey attached as Exhibit _____.

17. BNSF will provide for assistance with moving personal property, consistent with federal and EPA guidance and regulations. Such assistance may include paying for a moving company to load and transport furniture and other personal belongings from the Existing Residence to the New Home. If Residents choose to move themselves, BNSF can also reimburse the Residents for reasonable moving expenses as

agreed upon prior to the move. In either case, BNSF will provide each household an upfront payment of [redacted] for the aforementioned moving expenses within 30 days of executing this agreement. BNSF may pay for additional expenses associated with Residents' move to the New Home beyond those specified above, only if (a) the Residents document the reasons for the additional expenses, (b) BNSF approves such additional expenses in advance of the expenses being incurred, and (c) receipts and/or other evidence of the approved moving expenditures are presented to BNSF.

18. Residents understand that all housing assistance under this Agreement consists entirely of the New Home and expenses associated with the one-time closing and moving costs of Residents to the New Home, as specified in this Agreement. BNSF will not pay to return Residents to the Existing Residence nor to another location of their choosing upon completion of the Cleanup or at any other time.

19. Residents agree that if, for any reason, BNSF is unable to provide Residents with a Manufactured Home at the New Home location referenced in paragraph 15, then Residents will have the opportunity to select another voluntary alternative housing option.

20. Representatives of EPA, NNEPA, BIA, and BNSF will assist Residents with arrangements for the voluntary alternative housing option described in this Agreement. Residents may contact Mike Makerov, BNSF's Project Manager for the Cleanup, Priscilla Tom, EPA Community Involvement Coordinator, or Steve Calanog, EPA On-Scene Coordinator, with any questions or concerns about either the provision of voluntary alternative housing or the Haystack Mines Site Cleanup. In addition, Residents may contact BIA Superintendent Lester Tsosie with any questions or concerns regarding the provisions of voluntary alternative housing. The contact information for these representatives is provided below.

EPA

Priscilla Tom
Community Involvement Coordinator
[HYPERLINK "mailto:Tom.priscilla@epa.gov"]
415-972-3377 Office
505-240-0093 Cell

Steve Calanog
Haystack On-Scene Coordinator
[HYPERLINK "mailto:Steve.calanog@epa.gov"]
415-972-3075 Office
415-595-8350 Cell

Bureau of Indian Affairs

Lester Tsosie
Superintendent
[HYPERLINK "mailto:Lester.tsosie@bia.gov"]
505-786-6032 Office

BNSF Railway Company

Mike Makerov
Haystack Project Manager
Mike.makerov@bnsf.com
909-386-4081 Office

909-289-1893 Cell

21. The EPA representatives are located at EPA's Region 9 office at 75 Hawthorne Street, San Francisco, California, 94105. The toll free message line for public inquiries is (800) 231-3075, and the facsimile number is (415) 947-3518.

22. NNEPA will also coordinate work on the response actions and the voluntary alternative housing. Residents may contact the below-referenced NNEPA representative with questions about the response actions or their moves, although Residents are encouraged to contact the EPA, BIA, and BNSF representatives first.

Vivian Craig
Senior Environmental Specialist
Navajo Nation EPA Superfund Program
P.O. Box 2946
Window Rock, AZ 86515
Tel: 928-871-6859
Email: viviancraig@navajo-nsn.gov

23. Residents understand that it is EPA's policy to provide them an opportunity to raise issues that they have not been able to informally resolve with the staff members identified above. To seek additional review of such issues, Residents may file with the EPA official named below a written statement explaining any dispute regarding this Agreement and the voluntary alternative housing assistance. Any such written statement of the dispute will be reviewed by an EPA official not involved in the disputed issue. EPA will provide a written acknowledgement of receiving the written statement of dispute within two weeks and will issue a written decision regarding the dispute within 60 days of receiving the Residents' statement, or as soon as possible thereafter. All written statements of dispute should be submitted to:

U.S. EPA Region IX
Attn: Community Involvement Section Chief
(SFD-6-3)
Superfund Division
75 Hawthorne St.
San Francisco, CA 94105

23. The undersigned Residents represent and warrant that they are eligible residents as defined in Paragraph 3 of this Agreement, and specifically that they were residents of the Ex. 6 Personal Privacy (PP) Existing Residence as of May 10, 2017, as previously represented to EPA. Residents understand that if any information they have provided to EPA for determining their eligibility for assistance is found to be false, housing assistance may be terminated and Residents could be subject to legal action including, but not limited to, criminal sanctions.

Signature Page –

Long-term Housing Agreement for Ex. 6 Personal Privacy (PP)

I/we have read this Agreement and understand and accept the terms and conditions of this Agreement on behalf of myself/ourselves and my/our Household members.

Signature(s) of agreement:

Resident(s) **18 years of age or older:**

Print Names of Eligible Residents under 18 years of age and the Resident over 18 who is signing on behalf of those under 18:

BNSF Railway Company:

Print Name: _____

Signature: _____ Date: _____