Tolling Agreement

The United States Environmental Protection Agency ("EPA") has obtained information concerning potential liability under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) for releases of hazardous substances within an area known as the Wallace Yard and Spur Lines in Shoshone County, Idaho. Hazardous substances released within the area of the Wallace Yard and Spur Lines (the "Site") include arsenic, cadmium, lead, and zinc. At various times, the Site or areas within the Site have been owned or operated by the Union Pacific Railroad Company (UPRR), the BNSF Railway Company (BNSF), or corporate predecessors of each. Collectively, UPRR and BNSF will be referred to as "Potential Defendants."

The Site is situated within a broader area of northern Idaho designated as Operable Unit 3 ("OU 3") of the Bunker Hill Mining and Metallurgical Complex. Areas within OU 3 are subject to remedies or interim remedies selected in a CERCLA Record of Decision ("ROD") signed in September 2002. The Site is also subject to response actions selected in an Action Memorandum signed on March 6, 2008. Based on existing information, EPA believes that Potential Defendants may be liable under CERCLA for implementation of response actions within the Site, and/or liable for costs or damages under CERCLA in response to releases of hazardous substances within or from the Site.

The United States and Potential Defendants are engaged in discussions in an attempt to resolve the alleged violations without litigation at this time.

The Parties believe that their interests will best be served by attempting to settle the above claims without the disruption that might result should the United States initiate an administrative proceeding and/or file a complaint.

The United States and Potential Defendants (collectively, the "Parties"), in consideration of the covenants set out herein, agree as follows:

1. The period commencing on September 1, 2008, and ending on August 14, 2009, inclusive (the "Tolling Period"), shall not be included in computing the running of any statute of limitations potentially applicable to any civil or administrative action regarding the Bunker Hill Mining and Metallurgical Complex brought against Potential Defendants by the United States under CERCLA Section 107(a), 42 U.S.C. 9607(a), including but not limited to claims for recovery of costs incurred or to be incurred in connection with that site (hereafter the "Tolled Claims"). Any defenses of laches, estoppel, waiver or other similar equitable defenses based upon the running or expiration of any time period shall not include the Tolling Period for the Tolled Claims.

2. In any administrative or judicial action that the United States may commence on the Tolled Claims, Potential Defendants shall not assert, plead or raise in any fashion on behalf of any party, whether by answer, motion or otherwise, any defense or avoidance based on the running of any statute of limitations, laches or other principle concerning the timeliness of the action based on the passage of time during the Tolling Period.

3. Nothing in this Tolling Agreement shall restrict or otherwise prevent the United States from initiating administrative proceedings or filing a complaint regarding the Tolled Claims at any time.

4. This Tolling Agreement does not constitute any admission of liability or admission of any fact, including the facts and allegations asserted in this Tolling Agreement, on the part of Potential Defendants. Furthermore, this Tolling Agreement does not constitute any admission or acknowledgement on the part of the United States that any statute of limitations has run or that any statute of limitations is applicable to the Tolled Claims.

5. This Tolling Agreement does not limit or affect in any way any rights or protections from liability afforded to Potential Defendants under the Consent Decree entered in *United States et al. v. Union Pacific Railroad, Co., et al.*, Case No. CV 95-0152-N-HLR, United States District Court for the District of Idaho, entered on September 12, 1995, the Consent Decree entered in *United States et al., v. Union Pacific Railroad Co.*, Case No. 99-606-N-EJL, and *Coeur d'Alene Tribe v. Union Pacific Railroad Co., et al.*, Case No. 91-0342-N-EJL, United States District Court for the District of Idaho, entered on August 25, 2000, or any other decree, judgment, order or agreement regarding the Bunker Hill Mining and Metallurgical Complex.

6. This Tolling Agreement contains the entire agreement between the Parties on the matters addressed herein, and no statement, promise or inducement not set forth in this agreement shall be valid or binding. This Tolling Agreement may not be enlarged, modified or altered except in writing signed by the Parties. The Parties acknowledge that this Tolling Agreement shall be binding upon and inure to the benefit of and be enforceable by the Parties hereto and to the Parties' respective predecessors, successors and assigns.

7. The undersigned representatives of the Parties certify that they are fully authorized to enter into the terms and conditions of this Tolling Agreement and to execute and bind such Parties to this Tolling Agreement.

8. Potential Defendants certify that this Tolling Agreement applies to and is binding on them and their successors and assigns.

9. This Tolling Agreement will be deemed to be executed and shall become effective when it has been signed by the representatives of the Parties set forth below.

FOR THE UNITED STATES OF AMERICA

_____ _____

ROBERT E. MAHER DATE
Assistant Section Chief
Environmental Enforcement Section
US Department of Justice
PO Box 7611
Washington, DC 20044-7611

FOR UNION PACIFIC RAILROAD COMPANY

_____ _____

ROBERT LAWRENCE DATE
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FOR BNSF RAILWAY COMPANY

Denise M. [illegible] 7/29/09

for CRAIG TRUEBLOOD DATE
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Seattle, WA 98104