

Resolution Number _____

A resolution of the Missoula City Council which finds the Montana Department of Environmental Quality (DEQ) conclusion regarding the anticipated future land uses for the Burlington Northern Missoula Facility in Missoula's Northside neighborhood unacceptable and requests recognition of residential use as a future anticipated land use and to appropriately accommodate that use in DEQ's final remedy decision and cleanup plan.

Whereas, the Burlington Northern (BN) Missoula Comprehensive Environmental Cleanup and Responsibility Act (CECRA; also known as State Superfund) Facility has soil and groundwater contaminated with free product diesel fuel, petroleum hydrocarbons, polycyclic aromatic hydrocarbons (PAH), volatile organic compounds (VOCs) and metals; and

Whereas, over the past several years DEQ has studied the contamination at the site in anticipation of developing a remediation plan to clean up the Facility; and

Whereas, in developing a remediation plan for the Facility, DEQ evaluates four statutory factors found in Section 75-10-701(18), MCA, to determine the future anticipated land use of the facility, which are: 1) local land and resource use regulations, ordinances, restrictions, or covenants; 2) historical and anticipated uses of the facility; 3) patterns of development in the immediate area; and 4) relevant indications of anticipated land use from the owner of the facility and local planning officials; and

Whereas, the DEQ has developed a Proposed Plan as of February 2021 to identify its preferred final remedy for the Burlington Northern Missoula Superfund Facility that has determined the reasonably anticipated future use of the entire Facility will be commercial/industrial but not residential; and

Whereas, the DEQ's commercial/industrial conclusion regarding anticipated future land uses dictates cleanup to a lower standard than would be required with a conclusion recognizing potential future residential use and may in fact prohibit future residential use should BNSF ever decide to divest itself of any portion of the Facility; and

Whereas the DEQ may revise or select a different remedy based on public comment or new information; and

Whereas zoning for onsite Facility properties is M1R-2 Limited Industrial-Residential which allows by right light industrial and residential use; and

Whereas 320 residential units have been constructed in areas zoned M1R-2 since 2016 and 27 residential units were permitted for construction within 100 feet of the Facility between 2016 and 2020; and

Whereas offsite areas of the Facility are zoned as C1-4, C2-4 or CBD-4 which allow

mixed commercial and residential use and the immediately adjacent areas are primarily residential; and

Whereas, the Our Missoula Growth Policy Land use map designates this area as Community Mixed Use which is described as having “a broad range of functions including retail, education, financial institutions, professional and personal services, offices, residences, and general service activities typify this designation” and that “high density residential development is also encouraged in this area”; and

Whereas, Missoula’s Downtown Master Plan labels this area the Railyard District and envisions that:

“In order to serve the needs of a wide range of households, the new neighborhood fabric should include a robust range of uses and housing types. As the surrounding neighborhoods already provide a large proportion of single family homes, this new neighborhood fabric presents an opportunity to enhance options by including types such as rowhouses, live-work units, small apartment buildings and compact mixed-use buildings”; and

Whereas, in the Joint Northside/Westside Neighborhood Plan the neighbors’ vision statement reads, “The neighbors’ vision for the integration of commercial, industrial, and residential uses attempts to balance the need for jobs, services, and neighborhood economic stability with the equally pressing need for healthy residential neighborhoods,” and whereas the Neighborhood plan “encourage[s] an appropriate mix of residential and commercial activities that protects the residential character of the neighborhoods and honors the traditional co-existence of residential, small business, and light industrial uses”; and

Whereas, the Joint Northside/Westside Neighborhood Plan specifically calls for redevelopment of the Facility east of the turntable, should the opportunity arise, for potential uses that include housing, recreation, and commercial uses; and

Now therefore be it resolved that the Missoula City Council finds DEQ’s Proposed Plan and preferred remedy for the Burlington Northern Missoula Facility unacceptable; and

Be it further resolved by the Missoula City Council that residential use is a valuable, viable, and anticipated land use of the Burlington Northern Missoula Facility;

Be it finally resolved that the Missoula City Council requests that the DEQ recognize residential use – among a mix of residential and commercial/industrial activities – as an anticipated future land use at the Facility in its cleanup plan and final remedy decision and apply exposure levels appropriate for such use to ensure a healthy environment and neighborhood.

Passed and adopted this ____ day of ____

ATTEST:

Martha L. Rehbein
City Clerk

(SEAL)

APPROVED:

John Engen
Mayor