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November 15, 2013

Cynthia Brown, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

235085  
ENTERED  
Office of Proceedings  
November 18, 2013  
Part of  
Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Burlington Northern Santa Fe Company, Page and Fremont Counties in  
Iowa; Docket # AB 6 (Sub No 479X)

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Motion to Extend the Time Period for Negotiation of an  
Interim Trail Use/Railbanking Agreement

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In partnership and on behalf of the Fremont County Conservation Board, the City of Farragut (public agencies), Southwest Iowa Nature Trails, Inc. (SWINT) and the Iowa Natural Heritage Foundation (non-profit corporations) hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **May 29, 2014**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Burlington Northern Santa Fe Railroad (BNSF), but the parties need additional time to complete the negotiations.

To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **May 29, 2014**. See Policy Statement on Rails to Trails

**FILING FEE WAIVED**



Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990)  
(extensions of time promote the establishment of trails and railbanking  
consistent with the National Trails System Act).

Since the issuance of the NITU, BNSF at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and railbanking of the portion of the corridor that is covered by the NITU (Milepost 21.90 and Milepost 26.0). The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in Birt v. STB, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek an extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated, INHF on behalf of the Fremont County Conservation Board, the City of Farragut and SWINT requests that an extension of the NITU negotiation period be granted through **May 29, 2014**.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Joe McGovern", with a long horizontal line extending to the right.

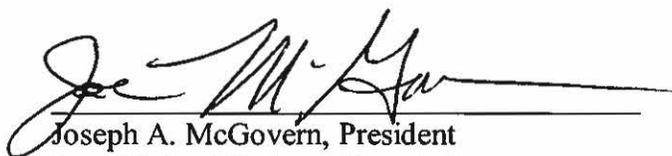
Joseph A. McGovern  
President, Iowa Natural Heritage Foundation

cc: Fremont County Conservation Board, City of Farragut, SWINT

## CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2013 a true and accurate copy of the foregoing motion has been served to the following party via first-class mail, postage pre-paid and VIA FAX to (202) 783-6947.

Karl Morell  
BNSF Railway  
655 Fifteenth Street NW, Suite 225  
Washington, DC 20005

A handwritten signature in black ink, appearing to read "Joe McGovern", is written over a horizontal line. The signature is fluid and cursive.

Joseph A. McGovern, President  
Iowa Natural Heritage Foundation

cc: Fremont CCB, City of Farragut, SWINT

**CITY OF FARRAGUT**

518 Hartford Ave. PO Box 241 \* Farragut, IA 51639

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June 24, 2013

Cynthia T. Brown  
Surface Transportation Board  
1925 "K" Street NW  
Washington, D.C. 20423-001

Dear Ms. Brown,

The City of Farragut has authorized Iowa Natural Heritage Foundation to file for the Public Use Condition as well as a Certificate or Notice of Interim Trail Use on our behalf. In addition the City of Farragut would request that the filing fee be waived, also requested on the city's behalf by the Iowa Natural Heritage Foundation.

Thank you for your consideration of our request.

Sincerely,

City of Farragut

*Becki Sickman*

Becki Sickman  
City Clerk/ Treasurer

*#AB 6 (Sub-No. 479x)*