



Iowa  
Natural Heritage  
Foundation

Insurance Exchange Building Suite 444  
505 Fifth Ave.  
Des Moines, Iowa 50309

Phone: 515-288-1846  
Fax: 515-288-0137  
e-mail: [aboulton@inhf.org](mailto:aboulton@inhf.org)  
[www.inhf.org](http://www.inhf.org)

237182

December 9, 2014

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

 <b>GRANTED</b> Office of Proceedings	DECISION ID NO.: <u>44173</u>
	DECIDED DATE: <u>12/19/14</u>
	SERVICE DATE: <u>12-22-14</u>
	APPROVED: <u>Rachel D Campbell</u> Director
	<input checked="" type="checkbox"/> <u>extended to 6/3/15</u>

ENTERED  
Office of Proceedings  
December 9, 2014  
Part of  
Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad, Bristow Subdivision, near Hampton, Franklin County Iowa;  
Docket # AB 33 (Sub No 316X)

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Amendment of 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 Franklin County Conservation Board 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 **June 3, 2015**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Union Pacific Railroad (UP), 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 **June 3, 2015**. See Policy Statement on Rails to Trails

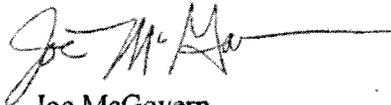
Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UP 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 318.10 and Milepost 318.66**). 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 Franklin County Conservation Board requests that an extension of the NITU negotiation period be granted through **June 3, 2015**.

Respectfully Submitted,



Joe McGovern  
President, Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board

**CERTIFICATE OF SERVICE**

I hereby certify that on December 9, 2014 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 (877)-213-4433.

Mack H. Shumate  
101 North Wacker Drive, Room 1920  
Chicago, Illinois 60606-1718

  
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Joe McGovern, President  
Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board