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January 30, 2013

233755

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

ENTERED  
Office of Proceedings  
January 30, 2013  
Part of Public  
Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Iowa River Railroad, Inc. Abandonment, Marshall and Hardin Counties in Iowa; Docket # AB-1072X

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

In partnership and on behalf of the Marshall and Hardin County Conservation Boards, the Cities of Marshalltown, Union, Steamboat Rock, Liscomb, Eldora, Albion (public agencies) and the Iowa Natural Heritage Foundation (non-profit corporation) 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 **July 29, 2013**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Iowa River Railroad (IRR), 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 **July 29, 2013**. 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, IRR 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 209.00 and milepost 243.35 at or near Marshalltown). 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 Marshall and Hardin County Conservation Boards, the Cities of Marshalltown, Union, Steamboat Rock, Liscomb, Eldora, Albion (public agencies) and the Iowa Natural Heritage Foundation (non-profit corporation) requests that an extension of the NITU negotiation period be granted through **July 29, 2013**.

Respectfully Submitted,



Mark C. Ackelson  
President, Iowa Natural Heritage Foundation

cc: Hardin and Marshall County Conservation Boards, Cities of Marshalltown, Union, Steamboat Rock, Liscomb, Eldora, Albion

## CERTIFICATE OF SERVICE

I hereby certify that on January 30, 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 (641) 868-2677.

James Broghammer  
Iowa River Railroad, Inc  
33371 170th Street  
Steamboat Rock, IA 50672



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Mark C. Ackelson, President  
Iowa Natural Heritage Foundation

cc: Marshall and Hardin County Conservation Boards, the Cities of  
Marshalltown, Union, Steamboat Rock, Liscomb, Eldora, Albion