



208602

July 31, 2003



VIA U.P.S. OVERNIGHT

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D. C. 20423-0001

Re: Proposed Abandonment of the Ankeny Subdivision from M. P. 341.1 near Slater to the end of the line at M. P. 353.5 near Woodward (Equation 346.4=346.6), a distance of 12.2 miles in Boone and Dallas Counties, Iowa; STB Docket No. AB-33 (Sub-No. 187X)

Dear Mr. Williams:

The Union Pacific Railroad Company ("UP") has received the attached request from the Iowa Natural Heritage Foundation dated August 1, 2003 for a 180-day extension in which to complete negotiations for the acquisition under the provisions pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the UP's right-of-way known as the Ankeny Subdivision from Milepost 341.1 near Slater to the end of the line at Milepost 353.5 near Woodward (Equation 346.3 = 346.6)), a distance of 12.2 miles in Boone and Dallas Counties, Iowa. The UP is willing to continue to negotiate with the Iowa Natural Heritage Foundation concerning the acquisition of the subject property for trail use and supports the Iowa Natural Heritage Foundation's request for an extension of the negotiation period for 180 days commencing as of August 11, 2003. A copy of the Iowa Natural Heritage Foundation's request is attached hereto as Exhibit A and hereby made a part hereof.

Enclosed with this original are ten (10) copies of this filing for use by the Board.

Sincerely yours,

Attachment

cc: Iowa Natural Heritage Foundation

ENTERED
Office of Proceedings

AUG 04 2003

Part of
Public Record

Mack H. Shumate, Jr.
Senior General Attorney, Law Department

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August 1, 2003

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, Boone and Dallas Counties in Iowa;
Docket # AB-33 (Sub-No. 187X) from Mile post 341.1 near Slater to
milepost 353.5 near Woodward

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

On behalf of the Boone and Dallas County Conservation Boards (county government agencies) the Iowa Natural Heritage Foundation (INHF) 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 February 10, 2004.

The Iowa Natural Heritage Foundation has been negotiating with the Union Pacific Railroad (UPRR) and we are in the process of requesting funding assistance for acquisition of the line from state grant programs that are only available once a year. Consequently INHF, Boone and Dallas County Conservation Boards and UPRR will need more time in which to finalize the trail use agreement. 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 February 10, 2004. 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, UPRR 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 (Mile post 341.1 near Slater and milepost 353.5 near Woodward). 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 Boone and Dallas County Conservation Boards requests that an extension of the NITU negotiation period be granted through February 10, 2004.

Respectfully Submitted,

Mark C. Ackelson
President, Iowa Natural Heritage Foundation

CERTIFICATE OF SERVICE

I hereby certify that on this 1st Day of August 2003. I have served a true and accurate copy of the foregoing motion on the following party via first-class mail, postage pre-paid and via FAX to 312-777-2065.

Mack H. Shumate, Jr.
Union Pacific Railroad
101 N. Wacker Dr. Rm 1920
Chicago, Il 60606-1718

Mark C. Ackelson, President
Iowa Natural Heritage Foundation