

210245



March 5, 2004

ENTERED  
Office of Proceedings

MAR 05 2004

Part of  
Public Record

**VIA FACSIMILE 202/565-2004 and U.P.S. OVERNIGHT DELIVERY**

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. 10.7 near Ankeny to M. P. 341.1 (Equation: 23.20 = 339.60) near Slater, a distance of 14.0 miles in Polk and Story Counties, Iowa; STB Docket No. AB-33 (Sub-No. 206X)**

Dear Mr. Williams:

The Union Pacific Railroad Company ("UP") has received the attached request from the Iowa Natural Heritage Foundation dated February 27, 2004 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 10.7 near Ankeny to Milepost 341.1 (Equation: 23.20 = 339.60) near Slater, a distance of 14.0 miles in Polk and Story 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 up to and including September 2, 2004. 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

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

UNION PACIFIC RAILROAD  
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718



IOWA  
NATURAL HERITAGE  
FOUNDATION  
"for those who follow"

Insurance Exchange Bldg. Phone: 515-288-1846  
Suite 444 Fax: 515-288-0137  
505 Fifth Avenue www.inhf.org  
Des Moines, IA 50309-2321 e-mail: info@inhf.org

**RECEIVED**

MAR 5 2004  
LAW DEPARTMENT  
UNION PACIFIC RR CO.

February 27, 2004

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, POLK and STORY Counties in Iowa;

Docket # AB-33 (Sub-No.206X) from Mile post 10.7 near Ankeny to milepost 341.1 near Slater.

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

On behalf of the Polk and Story 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 September 2, 2004.

The Iowa Natural Heritage Foundation has been negotiating with the Union Pacific Railroad (UPRR) and we have submitted grant requests to three grant programs for funding assistance to acquire the line. The recommendation for funding will not be known until mid March. Consequently INHF, Polk and Story County Conservation Boards and UPRR will need more time in which to finalize the trail use agreement.

EXHIBIT

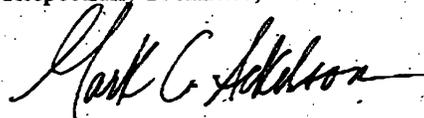
To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including September 2, 2004. See Policy Statement on Rails to Trails 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 10.7 near Ankeny to milepost 341.1 near Slater). 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 Polk and Story County Conservation Boards requests that an extension of the NITU negotiation period be granted through September 2, 2004.

Respectfully Submitted,



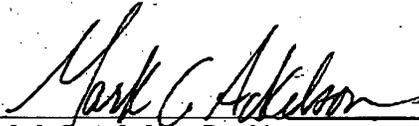
Mark C. Ackelson  
President, Iowa Natural Heritage Foundation

cc: Polk and Story County Conservation Boards

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> Day of February 2004, 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

**UNION PACIFIC RAILROAD COMPANY  
FACSIMILE TRANSMISSION**



ENTERED  
Office of Proceedings



Law Department  
Chicago

**MAR 05 2004**

101 N. Wacker Dr.  
Room 1920  
Chicago, IL 60606

Part of  
Public Record

**Deliver to: Vernon A. Williams**

**Co/Dept: Surface Transportation Board**

**Fax: 202/565-9004**

**From: Mack H. Shumate, Jr.**

**Phone: 312/777-2055**

**Date: March 5, 2004**

**Fax: 312/777-2065**

No. of Pages Transmitted - 4 - Including Cover

**RE: Proposed Abandonment of the Ankeny Subdivision from M. P. 10.7 near Ankeny to M. P. 341.1 (Equation: 23.20 = 339.60) near Slater, a distance of 14.0 miles in Polk and Story Counties, Iowa; STB Docket No. AB-33 (Sub-No. 206X)**

**Comments: Iowa Natural Heritage Foundation's 180 extension request for trail use**

Transmitting From

Fax No. 312/777-2065

**IF YOU DO NOT RECEIVE ALL PAGES  
CALL US AS SOON AS POSSIBLE  
312/777-2043**

This facsimile message may be a privileged and confidential communication and is intended for the use of the person to whom it was sent. If you have received this message in error, please notify us immediately at 312/777-2043. This message should not be disseminated or copied if you are not the intended recipient, but should be returned to the above address by mail or destroyed. THANK YOU.