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April 12, 2004



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Public Record

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

**RE: Docket No. AB-33 (Sub-No. 168X), Union Pacific Railroad Company -
Abandonment Exemption - in Hardin County, Iowa (Marshalltown
Industrial Lead) Between Eldora, IA and Steamboat Rock, IA and the Eldora
Junction Line in Eldora, IA**

Dear Mr. Williams:

The Union Pacific Railroad Company has received a request to extend the time period to negotiate from the City of Eldora, Iowa for its Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Eldora Junction Line from M.P. 6.22 to M.P. 5.10 in the City of Eldora, Hardin County, Iowa.

At this time, the Union Pacific is willing to continue to negotiate with the City of Eldora concerning the acquisition of the subject property for trail use and supports the City of Eldora's request to extend the time period to negotiate for an additional period to and including October 28, 2004. A copy of the City of Eldora's request is attached hereto as Exhibit "A" and hereby made a part hereof. This request does not include that portion of the Line, which is the subject of this abandonment proceeding, referred to as the Marshalltown Industrial Lead.

Ten (10) additional copies of this letter and Exhibit are enclosed for the Board's use and distribution.

Sincerely yours,

Enclosures

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

UNION PACIFIC RAILROAD
101 N. Wacker Dr., Rm. 1920, Chicago, IL 60606-1718
ph. (312) 777-2055 fx. (312) 777-2065

RECEIVED

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**LAW DEPARTMENT
UNION PACIFIC RR CO.**

April 7, 2004

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

VIA FAX: 202-565-9002

BEFORE THE SURFACE TRANSPORTATION BOARD

**RE: Union Pacific Railroad Abandonment, Hardin County Iowa;
Docket # AB-33 (Sub-No. 168X) – Eldora Junction Line in Eldora, Iowa**

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

The City of Eldora and the Iowa Natural Heritage Foundation (INHF) hereby request 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 October 8, 2004.

The Iowa Natural Heritage Foundation (INHF) and the City of Eldora have submitted an Offer to Purchase to the Union Pacific Railroad (UPRR) for the corridor noted above, and the company is currently considering the offer. It is not clear if their acceptance of the offer will be decided before the end of the current NITU time period. Consequently the City of Eldora and INHF are requesting additional time in which to finalize the acquisition and 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 April 8, 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 (Eldora Junction). 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, the City of Eldora and the Iowa Natural Heritage Foundation requests that an extension of the NITU negotiation period be granted through October 8, 2004.

Respectfully Submitted,



Eric Weinkoetz, Manager
City of Eldora

CERTIFICATE OF SERVICE

I hereby certify that on this 7th Day of April, 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



Eric Weinkoetz, Manager
City of Eldora

Copy to:

John Herdzina
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1800 Farnam St.
Omaha, NE 68102

Mark Ackelson
Iowa Natural Heritage Foundation
505 5th Ave. Suite 444
Des Moines, Iowa 50309