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July 19, 2004

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

**FILED**

AUG 05 2004

TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, Dallas County, Iowa;  
Docket # AB-33 (Sub-No. 213X)

Dear Mr. Williams:

This comment should be treated as a petition for reconsideration in the above-captioned proceeding. This comment is filed on behalf of the Dallas County Conservation Board (county government agency), and the Iowa Natural Heritage Foundation (non-profit corporation), which are parties interested in conservation and recreation, and are hereinafter referred to as "Commenter".

While not taking a position on the merits of this abandonment, Commenter requests issuance of a Public Use Condition as well as a Certificate or Notice of Interim Trail Use rather than an outright abandonment authorization for the rail line between milepost 296.8 near Waukee to milepost 275.9 (equation M.P 275.9=361.8) near Perry, and from milepost 361.8 to milepost 369.0 near Dawson, Dallas County, Iowa.

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Public Record

**A. Public Use Condition**

Commenter requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting Union Pacific Railroad (UPRR) from disposing of the corridor, including tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is that

the corridor is located near several state, county and US Highways and would make an excellent transportation and recreation trail. In addition, the conversion of the property to trail use is in accordance with local, state and regional trail plans including the extension of the Raccoon River Valley Trail, which currently ends in Dawson and the Hiawatha Trail in Perry. The corridor also provides important wildlife habitat and its preservation as a trail is consistent with the county conservation efforts. The time period sought is 180 days from the effective date of the abandonment authorization. Commenter needs this much time to complete negotiations with the railroad.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for trail purposes and future reactivation of rail service. The time period requested is 180 days from the effective date of the abandonment authorization in order to complete negotiations with the railroad since UPRR is interested in re-using the Des Moines River Bridge as a supplemental structure to the Kate Shelley bridge near Boone.

#### **B. Interim Trail Use**

The railroad right-of-way in this proceeding is suitable for railbanking and interim trail use. In addition to the public use conditions sought above, Commenter also makes the following statement:

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY:** In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C.1247(d), and 49 C.F.R. 1152.29, Commenter is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by UP Railroad Company after transfer of the corridor to the public agencies.

The Dallas County Conservation Board and the Natural Heritage Foundation acknowledge that the use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

The property extends from milepost near milepost 296.8 near Waukee, Iowa to milepost 275.9 (equation M.P 275.9=361.8) near Perry, Iowa and from milepost 361.8 to 369.0 near Dawson. The right-of-way is part of a line of railroad proposed for abandonment in STB Docket No AB 33 (Sub No 213X). A map depicting the right-of-way is attached.

By my signature below, I certify service upon Union Pacific Railroad Company c/o Mack Schumate, Room 1920, 101 N. Whacker Drive, Chicago, IL 60606, by U.S. Mail, postage prepaid, first class, today, July 19, 2004, and via FAX number 312-777-2065.

On behalf of the Dallas County Conservation Board and the Iowa Natural Heritage Foundation, thank you for your consideration of this petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark C. Ackelson". The signature is fluid and cursive, with a large initial "M" and "A".

Mark C. Ackelson  
President

ATTACHMENT 1

