

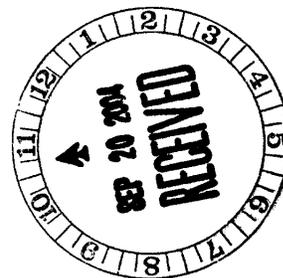
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September 17, 2004



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

2/2033

**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") received on September 13, 2004, the attached request from the Iowa Natural Heritage Foundation dated September 7, 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. Even though this request for extension of the negotiation period is late and the prior negotiation period ended September 2, 2004, 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 March 2, 2005. 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: Terry Guy - STB <202/565-9002>  
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  
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**RECEIVED**

SEP 13 2004

**LAW DEPARTMENT  
UNION PACIFIC RR CO.**

September 7, 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**

In partnership and 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 **March 2, 2005**.

The Iowa Natural Heritage Foundation and the Counties have been negotiating with the Union Pacific Railroad (UPRR), 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 September 2, 2004. See Policy Statement on Rails to Trails



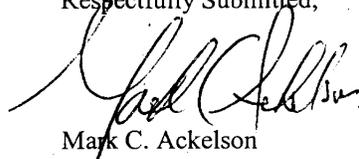
Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

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 **March 2, 2005**.

Respectfully Submitted,



Mark C. Ackelson  
President, Iowa Natural Heritage Foundation

cc: Polk and Story County Conservation Boards



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### CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2004, 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 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

cc:

Donna Phipps  
Polk County Conservation Board  
11407 NW Jester Park Drive  
Granger, Iowa 50109

Steve Lekwa  
Story County Conservation Board  
56461 180<sup>th</sup> St.  
Ames, Iowa 50010

John Peterson  
Community Planning  
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Ankeny, Iowa 50021

Gwen Ihle  
City Clerk  
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Slater, Iowa 50244