

# City of Eldora



1442 Washington Street  
Eldora, Iowa 50627 (641) 939-2393

October 2, 2006

217735

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

ENTERED  
Office of Proceedings

OCT 03 2006

Public Record

VIA FAX: 202-565-9002

**FILED FEE WAIVED**



## 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 April 8, 2007.

The parties involved need more time to finalize the acquisition of the corridor. 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, 2007. 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



Home of Pine Lake State Park

# City of Eldora



1442 Washington Street  
Eldora, Iowa 50627 (641) 939-2393

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 and 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 April 8, 2007.

Respectfully Submitted,

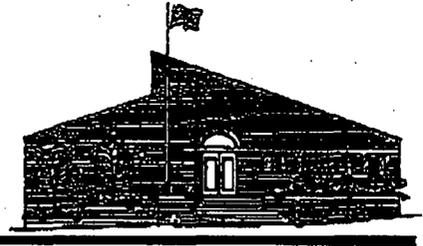
A handwritten signature in black ink, appearing to be 'J. H.' or similar, written in a cursive style.

, Manager  
City of Eldora



Home of Pine Lake State Park

# City of Eldora



1442 Washington Street  
Eldora, Iowa 50627 (641) 939-2393

## CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2006 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

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.".

, Manager  
City of Eldora

Copy to:

Denny Brown  
Union Pacific Railroad  
1800 Farnam St.  
Omaha, NE 68102

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



Home of Pine Lake State Park