

220478



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October 16, 2007

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

ENTERED
Office of Proceedings

OCT 16 2007

Part of
Public Record



VIA FAX 202-565-9002

BEFORE THE SURFACE TRANSPORTATION BOARD

RE Union Pacific Railroad Abandonment, DALLAS County, Iowa,
Docket # AB-33 (Sub-No 213X) 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

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

On behalf of the Dallas County Conservation Board (public agency) the Iowa
Natural Heritage Foundation 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 **April 22, 2008**

The Iowa Natural Heritage Foundation and the Dallas County Conservation
Board have been actively negotiating with the Union Pacific Railroad (UPRR),
but the parties need additional time to finalize 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 **April 22, 2008** See Policy Statement on Rails to Trails

COPIES RECEIVED

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. 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 Iowa Natural Heritage Foundation Dallas County Conservation Board request that an extension of the NITU negotiation period be granted through **April 22, 2008**.

Respectfully Submitted,



Mark C Ackelson, President

cc Mike Wallace, Dallas County Conservation Board



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for those who follow

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2007, 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

A handwritten signature in black ink, appearing to read "Mark C. Ackelson".

Mark C Ackelson, President

cc Mike Wallace, DCCB