



**IOWA  
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223/31

May 1, 2008

**FILING FEE WAIVED**

Anne K. Quinlan, Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

**BEFORE THE SURFACE TRANSPORTATION BOARD**

**RE: Proposed Abandonment of a Western Portion of the Bristow Subdivision from M.P. 318.66 near Hampton to M.P. 326.50 near Coulter, a distance of 7.84 miles in Franklin County, Iowa**

**STB Docket No. AB-33 (Sub-no. 201X)**

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

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On behalf of Franklin County, Butler County (public agencies) and the Iowa Trails Council, 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 **August 30, 2008**.

The Iowa Natural Heritage Foundation on behalf of Butler County, Franklin County and the Iowa Trails Council has negotiated a donation/purchase agreement with the Union Pacific Railroad (UPRR) in June 2008, but the closing date is not scheduled until August 11, 2008.

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 30 days up to and including **August 30, 2008**, which would allow for the transaction closing and filing of the deeds to occur within this timeframe. 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. 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 Iowa Natural Heritage Foundation requests that an extension of the NITU negotiation period be granted through August 30, 2008.**

**Respectfully Submitted,**



**Mark C. Ackelson, President**

**cc: Butler County Conservation Board  
Franklin County Conservation Board  
Iowa Trails Council**



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*"for those who follow"*

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 7, 2008, 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



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Mark C. Ackelson, President