



IOWA
NATURAL HERITAGE
FOUNDATION

"for those who follow"

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September 15, 2010

Anna K. Quinlan, Secretary
Surface Transportation Board
1925 "K" Street, NW
Washington, D.C. 20423-0001

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, POLK County in Iowa;
Docket # AB-33 (Sub-No.248X) from Milepost 225.56 near Berwick to
Milepost 232.80 near Bondurant.

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

In partnership and on behalf of the Polk County Conservation Board, the City of Bondurant (public agencies), the Iowa Trails Council and the Iowa Natural Heritage Foundation (non-profit corporations) 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 15, 2011**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies 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 **March 15, 2011**. 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 (Milepost 225.56 near Berwick to Milepost 232.80 near Bondurant). 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 County Conservation Board, the City of Bondurant and the Iowa Trails Council requests that an extension of the NITU negotiation period be granted through **March 15, 2011**.

Respectfully Submitted,



Mark C. Ackelson
President, Iowa Natural Heritage Foundation

cc: Polk County Conservation Board, City of Bondurant, Iowa Trails Council

CERTIFICATE OF SERVICE

I hereby certify that on September 15, 2010, 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.

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