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Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Ex Parte No. 749, National Association of Reversionary Property Owners—Petition for Rulemaking
STB Ex Parte No. 749

Reply of the Iowa Natural Heritage Foundation

Dear Ms. Brown:

It has recently come to our attention that the National Association of Reversionary Property Owners (NARPO) has filed a petition for rulemaking citing a trail use negotiation involving Iowa Natural Heritage Foundation (INHF). INHF would like to ask for leave to comment in opposition to these rule changes and provide context for the current negotiations regarding *STB Docket No. AB-33 (Sub-No. 316X)*. The use of this example misrepresents the facts of the case.

NARPO's Proposed Rule 1

"The Board shall not grant more than six extensions of a trail use negotiating period, of no more than 180 days for each such extension."

NARPO's use of *Union Pacific Railroad Company—Abandonment Exemption—in Franklin County, IA (STB Docket No. AB-33 [Sub-No. 316X])* is misleading. The corridor in question is roughly a half mile segment. The local county conservation board has been working towards a purchase of this corridor with the caveat that Union Pacific Railroad completes the salvage on the property before they take ownership. The delay in the purchase and thus reaching a railbanking agreement has been for railroad purposes. Union Pacific has asked to delay salvaging the corridor until they could combine the salvaging contract with another nearby segment. This would allow them to complete both in the most cost efficient manner. The additional corridor to be salvaged has been delayed due to complicated negotiations with the city on an active portion of rail line and a local railroad's interest in purchasing the corridor to be abandoned. The need for Franklin County's ongoing extensions was in the overall best interest of railroad economics.



NARPO's Proposed Rule 2

"When the Board issues a Notice of Interim Trail Use or Abandonment (NITU), the rail carrier or trail use proponent who are parties to the NITU shall promptly send notice of issuance of the NITU to each landowner who owns land adjacent to the rail line right-of-way covered by the NITU."

The Board has already considered and rejected similar requests to require notices be sent to persons holding a reversionary interest in the rights-of-way (*Rail Abandonments- Use of Rights-of-Way as Trails-Supplemental Trails Act Procedures, EP 274 [Sub-No. 13]*). This new request has a broader impact which would further emphasize the previous conclusion that such a requirement to identify, locate, and notify all reversionary interest holders would be a time-consuming, expensive and burdensome task, would be inconsistent with the Board's limited role in administering the Trails Act and would be contrary to the purpose of the Trails Act to encourage and facilitate the interim use as recreational trails of railroad rights-of-way that would otherwise be abandoned. In addition, publication notifying the public of potential abandonments is already required and fulfilled by the railroad.

NARPO's latest request for this rule change argues that "practically every County in the United States now has their property records on computer." As an example, that is not the case of *Union Pacific Railroad Company—Abandonment Exemption—in Franklin County, IA (STB Docket No. AB-33 [Sub-No. 316X])*. Those records can only be obtained through a third party fee system reaffirming the expensive and burdensome task.

NARPO's Proposed Rule 3

"Filing fees for filing and extensions of NITU's are payable by public entities and nonpublic entities alike."

NARPO's argument for requiring public entities to pay a filing fee is that 90 percent of all NITU requests come from these classified bodies and there is an undue cost burden on the Board. However, no other filing with the Board charges a payment for federal, state or local entities. There is no justification provided for why interim trail use filings should be different.

In sum, it is the opinion of the Iowa Natural Heritage Foundation that the Board should deny the petition for rulemaking filed by NARPO.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe McGovern", with a long horizontal flourish extending to the right.

Joe McGovern
President