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September 19, 2013

Cynthia Brown, Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

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ENTERED
Office of Proceedings
September 19, 2013
Part of
Public Record

 GRANTED Office of Proceedings	DECISION ID NO.: <u>43362</u>
	DECIDED DATE: <u>9/24/13</u>
	SERVICE DATE: <u>9/25/13</u>
	APPROVED: <u>Rachel Campbell</u> Director
☒ <u>extended to 3/17/14</u>	

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Company- Abandonment in Pocahontas County, Iowa; Docket #
AB-33-304X

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

In partnership and on behalf of the Pocahontas County Conservation Board, the City of Laurens (public agencies) and the Iowa Natural Heritage Foundation (non-profit corporation) 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 17, 2013**.

The Iowa Natural Heritage Foundation (INHF) has been negotiating with the Union Pacific Railroad Company (UPRR) on behalf of the local public agencies, 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 17, 2013**. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990)

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(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 475.15 and Milepost 477.10). 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 Pocahontas County Conservation Board, the City of Laurens requests that an extension of the NITU negotiation period be granted through **March 17, 2013**.

Respectfully Submitted,



Anita O'Gara
Vice President, Iowa Natural Heritage Foundation

cc: Pocahontas County Conservation Board, City of Laurens

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2013 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 (877) 213-4433 and electronic communications.

Mack H. Shumate
Union Pacific Railroad
101 North Wacker Drive, Room 1920
Chicago, IL 60606-1718

A handwritten signature in cursive script, appearing to read "Anita O'Gara", is written over a horizontal line.

Anita O'Gara, Vice President
Iowa Natural Heritage Foundation

cc: Pocahontas CCB, City of Laurens