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November 13, 2018

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

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Office of Proceedings
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Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad, Bristow Subdivision, near Hampton, Franklin County Iowa;
Docket # AB 33 (Sub No 316X)

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

In partnership and on behalf of the Franklin County Conservation Board 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 **May 13, 2019**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have completed negotiations with the Union Pacific Railroad (UP) and have a Purchase and Sale Agreement, but the parties need additional time to close. A closing date has been set for February 28, 2019. The main hold-up has been UP securing the salvage company for such a small segment (0.4 mile). More time is needed for UP to finalize such an contract before the sale can be closed.

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

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negotiation period under the NITU to be extended up to and including **May 13, 2019**. 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, UP 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 318.10 and Milepost 318.66**). 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 Franklin County Conservation Board requests that an extension of the NITU negotiation period be granted through **May 13, 2019**.

Respectfully Submitted,



Andrea Boulton

Trails and Greenways Director, Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2018 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 email to

Jeremy M. Berman, General Attorney
Union Pacific Railroad Company
1400 Douglas Street, MS 1580
Omaha, NE 68179-1580



Andrea Boulton, Trails and Greenways Director
Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board