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February 27, 2004

Vernon A. Williams, Secretary
Surface Transportation Board
1925 "K" Street, NW
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 Abandonment, POLK and STORY Counties in Iowa;

Docket # AB-33 (Sub-No.206X) from Mile post 10.7 near Ankeny to milepost 341.1 near Slater.

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

On behalf of the Polk and Story County Conservation Boards (county government agencies) the Iowa Natural Heritage Foundation (INHF) 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 September 2, 2004.

The Iowa Natural Heritage Foundation has been negotiating with the Union Pacific Railroad (UPRR) and we have submitted grant requests to three grant programs for funding assistance to acquire the line. The recommendation for funding will not be known until mid March. Consequently INHF, Polk and Story County Conservation Boards and UPRR will need more time in which to finalize the trail use agreement.

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 September 2, 2004. 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 (Mile post 10.7 near Ankeny to milepost 341.1 near Slater). 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 and Story County Conservation Boards requests that an extension of the NITU negotiation period be granted through September 2, 2004.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Mark C. Ackelson". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

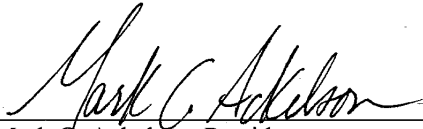
Mark C. Ackelson
President, Iowa Natural Heritage Foundation

cc: Polk and Story County Conservation Boards

CERTIFICATE OF SERVICE

I hereby certify that on this 27th Day of February 2004. I have served a true and accurate copy of the foregoing motion on 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

A handwritten signature in black ink, appearing to read "Mark C. Ackelson", written over a horizontal line.

Mark C. Ackelson, President
Iowa Natural Heritage Foundation