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September 18, 2013

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

|                                                                                                                                 |                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------|
| <br><b>GRANTED</b><br>Office of<br>Proceedings | DECISION ID NO.: <u>43360</u>                                                                           |
|                                                                                                                                 | DECIDED DATE: <u>9/23/13</u>                                                                            |
|                                                                                                                                 | SERVICE DATE: <u>9/23/13</u>                                                                            |
|                                                                                                                                 | APPROVED: <u>Rachel D Campbell</u><br>Director                                                          |
|                                                                                                                                 | <input checked="" type="checkbox"/> <u>NITU between mp 4.8<br/>and mp 10.5 extended<br/>to 3/15/14.</u> |

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Company- Abandonment in Polk County, Iowa;  
Docket # AB-33-310-X

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

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In partnership and on behalf of the Polk County Conservation Board, the City of Ankeny (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 15, 2014**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Union Pacific Railroad Company (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, 2014**. 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 4.7 and Milepost 10.5). 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 Ankeny requests that an extension of the NITU negotiation period be granted through **March 15, 2014**.

Respectfully Submitted,



Anita O'Gara  
Vice President, Iowa Natural Heritage Foundation

cc: Polk County Conservation Board, City of Ankeny

### CERTIFICATE OF SERVICE

I hereby certify that on September 18, 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.

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: Polk CCB, City of Ankeny