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SERVICE DATE – AUGUST 21, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 175X)

UNION PACIFIC RAILROAD COMPANY–ABANDONMENT EXEMPTION–
IN HAMILTON COUNTY, IA

Decided: August 20, 2009

On May 8, 2006, a decision and notice of interim trail use or abandonment (NITU) was served (May 8 decision), authorizing a 180-day period for the Iowa Trails Council (Council), on behalf of itself and the Hamilton County Conservation Board, to negotiate an interim trail use/rail banking agreement with Union Pacific Railroad Company (UP), for its Ellsworth Industrial Lead, a 3.2-mile line of railroad, between milepost 0.0, near Jewell, and milepost 3.2, at Ellsworth, in Hamilton County, IA. The negotiating period under the NITU was extended by several decisions, with the latest extension expiring on August 23, 2009.

On July 6, 2009, the Iowa Natural Heritage Foundation (INHF) filed a letter requesting permission to become a participant in the proceedings. INHF states that it has been asked to assist with the final negotiations with UP on behalf of the Council and Webster County, IA.¹ INHF's letter included a statement of willingness to assume full responsibility for the management of, for any legal liability arising out of the transfer or use of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way. INHF further acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service. UP filed a letter on July 21, 2009, stating that it has no objection to INHF being added as a participant to the NITU for the purposes of completion of negotiations and closing of a sale of the Ellsworth Industrial Lead.

INHF's statement meets the requirements of 49 CFR 1152.29(a)(2) and (3). Accordingly, the NITU will be modified to include INHF as a party.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

¹ INHF indicates that it is negotiating on behalf of Webster County and refers to the Webster County Conservation Board (WCCB). However, neither Webster County nor WCCB is a party to the proceeding at this time because neither has provided a statement of willingness to assume full responsibility for the right-of-way, as required under 49 CFR 1152.29(a)(2), and only WCCB has acknowledged that the use of the right-of-way for trail purposes is subject to future reactivation for rail service, as required under 49 CFR 1152.29(a)(3).

It is ordered:

1. The NITU is modified to include INHF as a party to the trail use negotiations under the NITU. Otherwise, the NITU remains unchanged.

2. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary