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THOMAS F. MCFARLAND

March 27, 2019

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Ms. Victoria Rutson, Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: STB Docket No. AB-1269X, *Iowa Traction Railway Company -- Discontinuance of Service Exemption -- in Cerro Gordo County, IA*

Dear Ms. Brown and Ms. Rutson:

Please refer to the Environmental Assessment in the above proceeding, served March 22, 2019, and to an Environmental-Historic Comment filed in the above proceeding on behalf of the SHPO Review & Compliance Coordinator of the Iowa Department of Cultural Affairs, copy attached for ready reference.

That Comment states that the end of the 30-day Historic Review Period was February 16, 2019. The Comment provides that the SHPO will respond to a Draft Historic Report within the Review Period only in the event of stated events not applicable in the present case. The Comment states that in the absence of a response during that period, reference should be made to 36 C.F.R. § 800.4(d)(1) for the next step in the Section 106 process. It is provided in 36 C.F.R. § 800.4(d)(1)(i) in pertinent part:

If the SHPO . . . does not object within 30 days of receipt of an adequately documented finding, the agency's official responsibilities under Section 106 are fulfilled.

Based on the above, Iowa Traction Railway Company respectfully requests that the Board determine that the Section 106 historic review process has been completed in the above

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Ms. Brown & Ms. Rutson
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proceeding, and that based on that review the proposed abandonment will not have an adverse effect on historic properties.

Very truly yours,

A handwritten signature in cursive script that reads "Tom McFarland".

Thomas F. McFarland
*Attorney for Iowa Traction
Railway Company*

TMcF:kl:1811\efSTB3

cc: Mr. Lynn Hawbaker, *betthawbaker@aol.com*
Mr. Dave Fellon, *dfellon@progressiverail.com*
Mr. Michael Johns, *mjohns@progressiverail.com*

Your request for comment by the State Historic Preservation Officer has been received.

Date Received: 1/17/2019

End of Review Period: 2/16/2019

Agency: STB

SHPO R&C #: 190117026

**IOWA TRACTION RAILWAY COMPANY - STB DOCKET #. AB-1269X - PROPOSED RAIL
LINE ABANDONMENT PROJECT - ABANDONMENT EXEMPTION - CERRO GORDO
COUNTY - DRAFT HISTORIC REPORT**

In accord with federal regulations, our office will respond **ONLY** when:

- The SHPO has received incomplete information or inadequate documentation under 36CFR800 11(a), (d), and (e) **OR**
- The SHPO objects to your definition of the Area of Potential Effect (APE) for the undertaking **OR**
- The SHPO objects to your finding of whether a property is or is not eligible for listing on the National Register of Historic Places **OR**
- The SHPO objects to your finding of the project's effect on a historic property **OR**
- The project is proposed to have a "No Adverse Effect," with or without conditions, and where the SHPO disagrees with the finding **OR**
- The project is determined to have an "Adverse Effect" on a historic property and the federal agency is consulting with SHPO on how to resolve such "Adverse Effects"

Otherwise, ~~at the end of the 30-day period, you may either proceed to the next step in the process based on the finding or determination, or consult with the Advisory Council on Historic Preservation in lieu of the SHPO.~~ In order to determine the next step in the process, please review the appropriate section of the federal regulations [36CFR800.4(d)(1) or the Programmatic Agreement under which your project is being reviewed.

Be advised ~~that the successful conclusion of consultation with the SHPO does not fulfill the agency's responsibility to consult with other parties who may have an interest in properties that may be affected by this project.~~ Nor does it override the sovereign status of federally recognized American Indian Tribes in the Section 106 consultation process.

We have made these comments and recommendations according to our responsibility defined by Federal law pertaining to the Section 106 process. The responsible federal agency does not have to follow our comments and recommendations to comply with the Section 106 process. It also remains the responsible federal agency's decision on how you will proceed from this point for this project.

Should you have any questions please contact me at the number or email below, **referencing the R&C # above.**

SHPO Review & Compliance Coordinator
(515) 281-8743

(2) Determine whether a property is eligible. If the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=15&term_src=Title:36:Chapte](#)

official determines any of the National Register criteria are met and the SHPO/THPO agrees, the property shall be considered

eligible for the National Register for section 106 purposes. If the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=16&term_src=Title:36:Chapte](#)

official determines the criteria are not met and the SHPO/THPO agrees, the property shall be considered not eligible. If the

[agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=17&term_src=Title:36:Chapte](#)

official and the SHPO/THPO do not agree, or if the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=1&term_src=Title:36:Chapter:'](#)

or the Secretary so request, the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=18&term_src=Title:36:Chapte](#)

official shall obtain a determination of eligibility from the Secretary pursuant to 36 CFR part 63.

(<https://www.law.cornell.edu/cfr/text/36/part-63>.) If an Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to a property off tribal [lands \(/definitions/index.php?width=840&height=800&iframe=true&def_id=35c9cfb843c5ec9beb656c1a930348c8&term_occur=2&term_src=Title:36:Chapter:'\](#)

does not agree, it may ask the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=2&term_src=Title:36:Chapter:'](#)

to request the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=19&term_src=Title:36:Chapte](#)

official to obtain a determination of eligibility.

(d) Results of identification and evaluation -

(1) No historic properties affected. If the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=20&term_src=Title:36:Chapte](#)

official finds that either there are no historic properties present or there are historic properties present but the undertaking

will have no [effect \(/definitions/index.php?width=840&height=800&iframe=true&def_id=2793160233b7f148d8ee84c6eb66c9c2&term_occur=3&term_src=Title:36:Chapter:](#)

upon them as defined in § 800.16(i) (<https://www.law.cornell.edu/cfr/text/36/800.16#i>), the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=21&term_src=Title:36:Chapte](#)

official shall provide documentation of this finding, as set forth in § 800.11(d).

(<https://www.law.cornell.edu/cfr/text/36/800.11#d>), to the SHPO/THPO. The [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=22&term_src=Title:36:Chapte](#)

official shall notify all consulting parties, including Indian tribes and Native Hawaiian organizations, and make the

documentation available for public inspection prior to approving the undertaking.

(i) If the SHPO/THPO, or the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=3&term_src=Title:36:Chapte](#)

if it has entered the section 106 process, does not object within 30 [days \(/definitions/index.php?width=840&height=800&iframe=true&def_id=c5663c9942fc8a4860d0cd91ae464798&term_occur=1&term_src=Title:36:Chapte](#)

of receipt of an adequately documented finding, the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=23&term_src=Title:36:Chap](#)

official's responsibilities under section 106 are fulfilled.

(ii) If the SHPO/THPO objects within 30 [days \(/definitions/index.php?width=840&height=800&iframe=true&def_id=c5663c9942fc8a4860d0cd91ae464798&term_occur=2&term_src=Title:36:Chapte](#)

of receipt of an adequately documented finding, the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=24&term_src=Title:36:Chap](#)

official shall either consult with the objecting party to resolve the disagreement, or forward the finding and supporting

documentation to the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=4&term_src=Title:36:Chapte](#)

and request that the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=5&term_src=Title:36:Chapte](#)

review the finding pursuant to paragraphs (d)(1)(iv)(A) through (d)(1)(iv)(C) of this section. When an [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=25&term_src=Title:36:Chap](#)

official forwards such requests for review to the [Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=6&term_src=Title:36:Chapte](#)

the [agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=26&term_src=Title:36:Chap](#)

official shall concurrently notify all consulting parties that such a request has been made and make the request

documentation available to the public.

(iii) During the SHPO/THPO 30 day ([/definitions/index.php?width=840&height=800&iframe=true&def_id=c5663c9942fc8a4860d0cd91ae464798&term_occur=3&term_src=Title:36:Chapte](#)

[review period, the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=7&term_src=Title:36:Chapte](#)

[may object to the finding and provide its opinion regarding the finding to the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=27&term_src=Title:36:Chap](#)

[official and, if the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=8&term_src=Title:36:Chapte](#)

[determines the issue warrants it, the head of the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=66d986fa7b5b7a6f715d2b0ce392b58d&term_occur=1&term_src=Title:36:Chapte](#)

[A Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=9&term_src=Title:36:Chapte](#)

[decision to provide its opinion to the head of an agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=28&term_src=Title:36:Chap](#)

[shall be guided by the criteria in appendix A to this part. The agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=29&term_src=Title:36:Chap](#)

[shall then proceed according to paragraphs \(d\)\(1\)\(iv\)\(B\) and \(d\)\(1\)\(iv\)\(C\) of this section.](#)

(iv) (A) Upon receipt of the request under paragraph (d)(1)(ii) of this section, the Council ([/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=10&term_src=Title:36:Chapt](#)

[will have 30 days \(/definitions/index.php?width=840&height=800&iframe=true&def_id=c5663c9942fc8a4860d0cd91ae464798&term_occur=4&term_src=Title:36:Chapte](#)

[in which to review the finding and provide the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=30&term_src=Title:36:Chap](#)

[official and, if the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=11&term_src=Title:36:Chapt](#)

[determines the issue warrants it, the head of the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=66d986fa7b5b7a6f715d2b0ce392b58d&term_occur=2&term_src=Title:36:Chapte](#)

[with the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=13&term_src=Title:36:Chapt](#)

[opinion regarding the finding. A Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=12&term_src=Title:36:Chapt](#)

[decision to provide its opinion to the head of an agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=31&term_src=Title:36:Chap](#)

[shall be guided by the criteria in appendix A to this part. If the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=14&term_src=Title:36:Chapt](#)

[does not respond within 30 days \(/definitions/index.php?width=840&height=800&iframe=true&def_id=c5663c9942fc8a4860d0cd91ae464798&term_occur=5&term_src=Title:36:Chapte](#)

[of receipt of the request, the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=32&term_src=Title:36:Chap](#)

[official's responsibilities under section 106 are fulfilled.](#)

(B) The person to whom the Council ([/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=15&term_src=Title:36:Cha](#)

[addresses \(/definitions/index.php?width=840&height=800&iframe=true&def_id=7da57a511a7a3f98f24576f24655f682&term_occur=2&term_src=Title:36:Chapt](#)

[its opinion \(the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=33&term_src=Title:36:Ch](#)

[official or the head of the agency\) shall take into account the Council \(/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=16&term_src=Title:36:Cha](#)

[opinion before the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=34&term_src=Title:36:Ch](#)

[reaches a final decision on the finding.](#)

(C) The person to whom the Council ([/definitions/index.php?width=840&height=800&iframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=17&term_src=Title:36:Cha](#)

[addresses \(/definitions/index.php?width=840&height=800&iframe=true&def_id=7da57a511a7a3f98f24576f24655f682&term_occur=3&term_src=Title:36:Chapt](#)

[its opinion \(the agency \(/definitions/index.php?width=840&height=800&iframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=35&term_src=Title:36:Ch](#)

[official's responsibilities under section 106 are fulfilled.](#)

[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=19&term_src=Title:36:Cha](#)
official or the head of the agency) shall then prepare a summary of the decision that contains the rationale for the
decision and evidence of consideration of the [Council \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=18&term_src=Title:36:Cha](#)
opinion, and provide it to the [Council \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=66d986fa7b5b7a6f715d2b0ce392b58d&term_occur=3&term_src=Title:36:Chap](#)
the SHPO/THPO, and the consulting parties. The [head of the agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=41&term_src=Title:36:Ch](#)
may delegate his or her duties under this paragraph to the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=36&term_src=Title:36:Ch](#)
official's initial finding will be revised, the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=37&term_src=Title:36:Ch](#)
official shall proceed in accordance with the revised finding. If the final decision of the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=38&term_src=Title:36:Ch](#)
is to affirm the initial [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=39&term_src=Title:36:Ch](#)
finding of no historic properties affected, once the summary of the decision has been sent to the [Council](#)
[\(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=20&term_src=Title:36:Cha](#)
the SHPO/THPO, and the consulting parties, the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=40&term_src=Title:36:Ch](#)
official's responsibilities under section 106 are fulfilled.

(D) The [Council \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=21&term_src=Title:36:Cha](#)
shall retain a record of [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=42&term_src=Title:36:Ch](#)
responses to [Council \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=22&term_src=Title:36:Cha](#)
opinions on their findings of no historic properties affected. The [Council \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=427ac50409d1b548d2c5efe7a3cb4a89&term_occur=23&term_src=Title:36:Cha](#)
shall make this information available to the public.

(2) Historic properties affected. If the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=43&term_src=Title:36:Chapte](#)
official finds that there are historic properties which may be affected by the undertaking, the [agency \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=aa157310acdc9a804e89748ea2b60999&term_occur=44&term_src=Title:36:Chapte](#)
official shall notify all consulting parties, including Indian tribes or Native Hawaiian organizations, invite their views on the
[effects \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=2793160233b7f148d8ee84c6eb66c9c2&term_occur=4&term_src=Title:36:Chapter:](#)
and assess adverse [effects \(/definitions/index.php?](#)
[width=840&height=800&ifframe=true&def_id=2793160233b7f148d8ee84c6eb66c9c2&term_occur=5&term_src=Title:36:Chapter:](#)
if any, in accordance with § 800.5 (<https://www.law.cornell.edu/cfr/text/36/800.5>).

[65 FR 7725 (https://www.law.cornell.edu/rio/citation/65_FR_7725), Dec. 12, 2000, as amended at 69 FR 40553
(https://www.law.cornell.edu/rio/citation/69_FR_40553), July 6, 2004]



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