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November 29, 2016

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VIA E-FILING

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W., Room #100
Washington, DC 20423-0001

RE: Proposed Abandonment of the Bristow Subdivision from Milepost 318.07 to Milepost 318.66, a total distance of 0.59 miles, near Hampton, Franklin County, Iowa; STB Docket No. AB-33 (Sub-No. 316X)

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") has received a request from the Iowa Natural Heritage Foundation on behalf of the Franklin County Conservation Board (collectively, "Commentor") dated November 23, 2016 and served and received by Union Pacific on November 29, 2016 seeking to extend the time period for negotiation for interim trail use and rail banking under the provisions of 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding a portion of the Union Pacific's right-of-way known as the Bristow Subdivision, as defined above, for a distance of 0.56 miles in Franklin County, Iowa.

The Union Pacific is willing to extend again the negotiation period with Commentor concerning the acquisition of the subject property for trail use and supports the Commentor's request for the standard 180-day negotiation period extension to May 23, 2017 with regard to that portion of the Line from Milepost 318.66 to Milepost 318.10 for a total distance of .56 miles. The Union Pacific previously determined that the portion of the Line from Milepost 318.07 to Milepost 318.10 intersects with the Union Pacific's mainline known as the Mason City Subdivision and will remain part of Union Pacific's railroad system. While the Bristow Subdivision overlap with the Mason City Subdivision is properly part of the proposed abandonment, the fact that the overlap portion of the Mason City Subdivision will remain active trackage (former diamond) requires that neither public use nor interim trail use can be used from Milepost 318.07 to Milepost 318.10. A copy of Commentor's request is attached hereto as **Exhibit A** and is hereby made a part hereof.

Sincerely,

Mack H. Shumate, Jr.
Senior General Attorney

Attachment

cc: Iowa Natural Heritage Foundation



Iowa
Natural Heritage
Foundation

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November 23, 2016

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

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LAW DEPARTMENT
UNION PACIFIC RR CO.

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 23, 2017**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Union Pacific Railroad (UP), 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 **May 23, 2017**. 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 23, 2017**.

Respectfully Submitted,



Andrea Boulton

Trails Coordinator, Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board

CERTIFICATE OF SERVICE

I hereby certify that on November 23, 2016 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
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606-1718



Andrea Boulton, Trails Coordinator
Iowa Natural Heritage Foundation

cc: Franklin County Conservation Board