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Illinois Department of Natural Resources

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September 13, 2019
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Public Record

JB Pritzker, Governor
Colleen Callahan, Director

September 13, 2019

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

 GRANTED Office of Proceedings	DECISION ID NO. <u>47242</u>
	DECIDED DATE: <u>9/27/19</u>
	SERVED DATE: <u>9/27/19</u>
	APPROVED: <u>Julia M. Jarr</u> Acting Director Extended to 4/30/2020. Additional extension requests must include detailed ☐ information as described in 4/25/2018 and 11/14/2018 decisions.

RE: STB Docket No. AB-33 (Sub-No. 262X) — Union Pacific Railroad Company
Abandonment and Discontinuance of the Elm Industrial Lead in Fulton and Peoria
Counties, Illinois

Dear Ms. Brown:

On July 21, 2008, the Illinois Department of Natural Resources filed a request for Public Use Condition and a request for Interim Trail Use Condition (NITU) for approximately 24.7 miles of railroad between milepost 461.5 near Middle Grove and milepost 486.2 at Molitor Junction, in Fulton and Peoria Counties. By Order dated November 13, 2008, the Board granted the request to implement interim trail use and to permit public use negotiations as specifically set forth in the Order, for a period of 180 days commencing from November 13, 2008, and ending on May 12, 2009. On May 9, 2009, the Department filed a request for a 180 day extension, and by Order dated May 11, 2009, the request was so granted, extending the negotiating period from May 12, 2009, to November 8, 2009. On November 2, 2009, the Department filed a request for an additional 180-day extension, and by Order dated November 24, 2009, the request was so granted, thus extending the negotiating period from November 8, 2009, to May 10, 2010. The Department filed a request for an additional 180-day extension, and by Order dated May 17, 2010, the request was so granted, extending the negotiating period from May 10, 2010, to November 12, 2010. The Department filed a request for an additional 180-day extension, and by late Order dated December 14, 2010, the request was so granted, extending the negotiating period from November 12, 2010, until May 13, 2011. The Department filed a request for an

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additional 180-day extension, and by late Order Dated June 17, 2011, the request was so granted, thus extending the negotiating period from May 13, 2011, until November 13, 2011. The Department filed a request for an additional 180-day extension, and by Order dated November 9, 2011, the request was so granted, thus extending the negotiating period from November 13, 2011, until May 11, 2012. The Department filed a request for an additional 180-day extension, and by Order dated April 11, 2012, the request was granted, thus extending the negotiating period from May 11, 2012, until November 13, 2012. The Department filed a request for an additional 180-day extension, and by Order dated April 26, 2013, this was granted, extending the negotiating period from May 6, 2013, until November 6, 2013. The Department filed a request for an additional 180-day extension and by Order dated October 17, 2013, that request was granted, extending the negotiating period from November 6, 2013, until May 1, 2014. The Department filed a request for an additional 180-day extension, and by Order dated April 16, 2014, the request was so granted, thus extending the negotiating period from May 1, 2014, to October 28, 2014. The Department filed a request for an additional 180 extension, and by Order dated August 19, 2014, this request was granted, extending the negotiating period from October 28, 2014, to April 26, 2015. The Department filed a request for an additional 180-day extension, and by Order dated April 16, 2015, the request was granted thus extending the negotiating period from April 26, 2015, to October 23, 2015. On October 15, 2015, the Department filed a request for an additional 180 extension, and by Order dated October 30, 2015, the request was granted, thus extending the negotiation period from October 23, 2015, to April 20, 2016. The Department filed a request for an additional 180-day extension, and by Order dated April 21, 2016, this request was granted, extending the negotiation period from April 20, 2016, to October 17, 2016. On September 19, 2016, the Department filed a request for an additional 180-day extension period, and in an Order dated October 14, 2016, the request was granted and the negotiation period was extended from October 17, 2016, to April 15, 2017. On March 24, 2017, the Department filed a request for an additional 180-day extension period, and in an Order dated April 7, 2017, the request was granted and the negotiation period was extended from April 15, 2017, to October 12, 2017. On September 14, 2017, the Department filed a request for an additional 180-day extension period, and in an Order dated September 29, 2017, the request was granted and the negotiation period was extended from October 12, 2017 to April 10, 2018. On March 26, 2018, the Department filed a request for an additional 180-day extension period, and in an Order dated April 25, 2018, the request was granted and the negotiation period was extended from April 10, 2018, to October 7, 2018, but with a condition requesting additional information. On September 20, 2018, IDNR filed a letter requesting another 180-day extension of the NITU negotiation period. On November 14, 2018, an extension was granted and the negotiation period was extended from October 7, 2018, until April 5, 2019. On September 20, 2018, IDNR filed a letter requesting another 180-day extension of the NITU negotiation period. The extension was granted and the period was extended from October 7, 2018, to April 5th, 2019. On March 19, 2019, IDNR filed a letter requesting another 180-day extension of the NITU negotiating period. This extension was granted and the period was extended from April 5th, 2019, to October 2, 2019.

The Board has requested as follows: "...DNR will be required to describe in detail (1) the progress of its negotiations with UP since the last extension was granted, (2) the specific actions still needed to be taken before an agreement can be reached (including when those actions are

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expected to be completed), and (3) when (assuming the parties' further negotiations are successful) it expects an agreement with UP to be finalized. "

This negotiation involves the Department, as well as the Hanna City Trail Coalition and Union Pacific. IDNR and Union Pacific have discussed alternate ways of continuing negotiations through a potential lease arrangement. Both parties are interested in continuing the discussions at this time. A local jurisdiction (Hanna City) has now expressed an interest in assisting, and/or becoming lead agency in applying for and acquiring grants to acquire the property. Union Pacific and IDNR continue to discuss the aspects of a lease — which would satisfy rail banking — however, additional time is necessary for UP to analyze the draft lease agreement. Intergovernmental agreements with the Coalition have been revised to allow Hanna City to become the lead jurisdiction in acquiring grants. Specific actions that must still be completed include creating a lease agreement that would satisfy the rail bank and meeting the parties' objectives, appraisal updates (six months prior to acquiring), and final funding mechanisms. Appraisals are projected to take between three and nine months but must be done concurrently with actual funding to consummate the purchase. The Hanna City efforts to secure the funding through grants should take only a few months to complete, although review period will be up to the grantors. The Department estimates that negotiations should be finalized within one to one and a half years with traditional methods; however, if UP is amenable to one or more alternative acquisition methods, that period might be shortened to as little as three months. The parties are hopeful that this arrangement will produce a feasible purchase arrangement. The Department will provide further information on these topics if requested.

During the last extension period, the local coalition interested in developing the trail has re-formed, and has been able to attract the interest of the Peoria County Board for the project. The political leadership of the state has also changed, leading to new management at the agency and an increased potential for funding. Union Pacific is still reviewing the potential alternate ownership instruments provided for their evaluation. Lastly, the University of Illinois published a study through their Illinois Outdoor Recreation Department which confirmed the value added benefit of a rail-trail conversion.

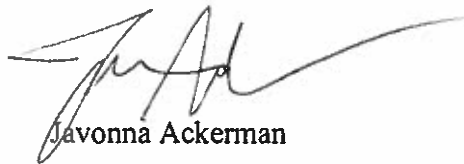
The Department continues to work with local partner jurisdictions to satisfy our negotiating needs. Involvement of multiple levels of government and diverse groups is good for the potential future of the trail, but does lead to delays. Additional time to research and conduct various aspects of valuation is required with review by Union Pacific Rail Corporation and to coordinate with the coalition on specific issues. We do not believe that the parties will be able to finalize negotiations by the end date of the Order. Therefore, the Department respectfully requests the Board grant a 180day extension until March 30th, 2020, or such time so indicated by the Board.

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It is my understanding that the filing fee of \$450.00 is waived for state agencies requesting extension of NITU negotiations as to STB Docket No. AB-33 (Sub-No. 262X), Union Pacific Railroad Company. Please date stamp a copy of this letter and return it to the DNR.

Thank you for your consideration of this request, and please contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Javonna Ackerman', with a long horizontal flourish extending to the right.

cc: Jeremy Berman, UP
George Bellovics, DNR
Richard Welsh, NARPO

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