

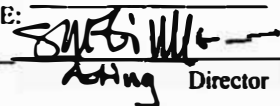


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November 20, 2018

Cynthia T. Brown
Surface Transportation Board
395 "E" Street, NW
Washington, D.C. 20423

 GRANTED Office of Proceedings	DECISION ID NO.: 46715
	DECIDED DATE: <u>11/21/18</u>
	<u>11/21/2018</u>
	SERVICE DATE: APPROVED:  Acting Director
	☒ <u>Extended to 5-23-19</u>

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, Cerro Gordo County, Iowa;
Docket Number: AB33 (Sub No. 327X)

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

In partnership and on behalf of the City of Mason City, Cerro Gordo County (public agencies) 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, 2019**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have completed negotiations with the Union Pacific Railroad (UP), but the parties need additional time to close. Similar to the UP, Bristow Subdivision, near Hampton, Iowa (Docket # AB 33 (Sub No 316X)) the parties have a Purchase and Sale Agreement, but need additional time to complete the transfer. This project has had several interruptions to delay the proceedings including M&Stl filing an offer of financial assistance after the initial trail use request was filed (it was over six

months before a conclusion with M&Stl was reached), delay in cultural clearance with the State Historic Preservation Office, and securing a contract with a salvage company to clear the short corridor. Fortunately, UP is anticipated to finalize a contract for salvage by bundling both the Mason City and Hampton corridors.

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, 2019**. 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 155.5 and Milepost 157.5**). 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 City of Mason City and Cerro Gordo County requests that an extension of the NITU negotiation period be granted through **May 23, 2019**.

Respectfully Submitted,



Andrea Boulton

Trails and Greenways Director, Iowa Natural Heritage Foundation

cc: Cerro Gordo County Conservation Board
City of Mason City
Thomas F. Mcfarland, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on November 20, 2018 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 email to

Jeremy M. Berman, General Attorney
Union Pacific Railroad Company
1400 Douglas Street, MS 1580
Omaha, NE 68179-1580

A handwritten signature in cursive script, reading "Andrea Boulton", is written over a horizontal line.

Andrea Boulton, Trails and Greenways Director
Iowa Natural Heritage Foundation

cc: Cerro Gordo County Conservation Board
City of Mason City
Thomas F. Mcfarland, P.C.