



**Iowa
Natural Heritage
Foundation**

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November 12, 2015

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

 GRANTED	DECISION ID NO.: <u>44899</u>
	DECIDED DATE: <u>11/24/15</u>
	SERVICE DATE: <u>11/25/15</u>
	APPROVED: <u>Lachelle Campbell</u> Director
	☒ <u>extended to 5/18/16</u>

239531

ENTERED
Office of Proceedings
November 12, 2015
Part of
Public Record

BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Burlington Northern Santa Fe Company, Page and Fremont Counties in Iowa; Docket # AB 6 (Sub No 479X)

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

In partnership and on behalf of the Fremont County Conservation Board, the City of Farragut (public agencies), Southwest Iowa Nature Trails, Inc. (SWINT) 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 18, 2016**.

The Iowa Natural Heritage Foundation (INHF) and the public agencies have been negotiating with the Burlington Northern Santa Fe Railroad (BNSF), 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 18, 2016**. See Policy Statement on Rails to Trails

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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, BNSF 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 21.90 and Milepost 26.0). 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 Fremont County Conservation Board, the City of Farragut and SWINT requests that an extension of the NITU negotiation period be granted through **May 18, 2016**.

Respectfully Submitted,



Andrea Boulton
Trails Coordinator, Iowa Natural Heritage Foundation

cc: City of Farragut, SWINT

CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2015 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 (202) 783-6947.

Karl Morell
BNSF Railway
655 Fifteenth Street NW, Suite 225
Washington, DC 20005



Andrea Boulton, Trails Coordinator
Iowa Natural Heritage Foundation

cc: City of Farragut, SWINT