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February 25, 2014
Part of February 25, 2014
Public Record

E-FILE

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 Osawatomie Industrial Lead from Milepost 335.0 to Milepost 335.5 near Osawatomie, a total distance of 0.50 miles in Miami County, Kansas, STB Docket No. AB-33 (Sub No. 313X)

Dear Ms. Brown:

Union Pacific Railroad Company ("Union Pacific") has received a request from the City of Osawatomie ("City") dated February 5, 2014 seeking extension of the negotiation period 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 that portion of the Union Pacific's right-of-way known as the Osawatomie Industrial Lead, as defined above, a distance of 0.50 miles in Miami County, Kansas to July 31, 2014.

The Union Pacific is willing to extend the negotiation period with City concerning the acquisition of the subject property for trail use and supports the City's request for an extension to July 31, 2014 with regard to that portion of the Line from Milepost 335.0 to Milepost 335.5 for a total distance of 0.50 miles. A copy of City's request is attached hereto as **Exhibit A** and is hereby made a part hereof.

Sincerely,



Mack H. Shumate, Jr.
Senior General Attorney

MHS/ev
Attachment

cc: City of Osawatomie

2014_02_25_STB Ltr to CBrown- Trail Use Request Response.doc



CITY OF OSAWATOMIE
 439 Main Street
 P.O. Box 37
 Osawatimie, Kansas 66064
 913-755-2146
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February 5, 2014

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LAW DEPARTMENT
 UNION PACIFIC RR CO.

Cynthia T. Brown
 Surface Transportation Board
 395 E Street, S.W.
 Washington, DC 20423-0001

RE: STB Docket No. AB-33 (Sub-No 313X)
 Union Pacific Railroad Company—Abandonment Exemption—in Miami County, Kansas
 Osawatimie Industrial Lead

Dear Ms. Brown:

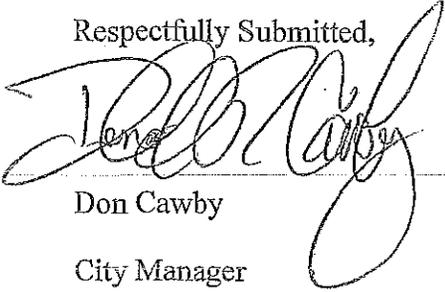
The City of Osawatimie (a Kansas municipal corporation) hereby moves the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **July 31, 2014**. The City of Osawatimie ("City") has been actively negotiating with Union Pacific Railroad (UPRR), 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 **July 31, 2014**. 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, UPRR 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 (between milepost 335.0 and milepost 335.5 near Osawatimie in Miami County, Kansas). The line remains intact and throughout the period, the railroad has been negotiating with the City 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 and 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, the City requests that an extension of the NITU negotiation period be granted through **June 30, 2014**.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Don Cawby", is written over a horizontal dashed line. The signature is stylized and cursive.

Don Cawby

City Manager