



CITY OF OSAWATOMIE  
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 <b>GRANTED</b> Office of Proceedings	DECISION ID NO.: <u>43673</u>
	DECIDED DATE: <u>3/6/14</u>
	SERVICE DATE: <u>3/7/14</u>
	APPROVED: <u>Rachel Campbell</u> Director
	<input checked="" type="checkbox"/> <u>extended to 7/31/14</u>

ENTERED  
Office of Proceedings  
February 18, 2014  
Part of  
Public Record

FEB 18 2014

February 5, 2014

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  
Osawatomie Industrial Lead

Dear Ms. Brown:

The City of Osawatomie (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 Osawatomie ("City") has been actively negotiating with Union Pacific Railroad (UPRR), but the parties need additional time to complete the negotiations.

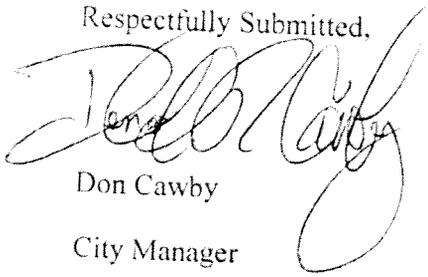
To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **July 31, 2014**. See Policy Statement on Rails to Trails 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 Osawatomie 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.

**FILING FEE WAIVED**

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", written in a cursive style.

Don Cawby

City Manager

**FILING FEE WAIVED**