



CITY OF OSAWATOMIE
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 GRANTED Office of Proceedings	DECISION ID NO.: <u>43953</u>
	DECIDED DATE: <u>8/12/14</u>
	SERVICE DATE: <u>8/13/14</u>
	APPROVED: <u>Rachel Campbell</u> Director
☒ <u>extended to 11/30/14</u>	

July 25, 2014

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

236376
ENTERED
Office of Proceedings
July 31, 2014
Part of
Public Record

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 **November 30, 2014**. The STB had previously approved an extension to July 31, 2014 for negotiating and closing the agreement. The City of Osawatomie ("City") has been actively negotiating with Union Pacific Railroad (UPRR), and we have come to agreement on price and most important issues of the agreement; however, the parties will need additional time to close the sale.

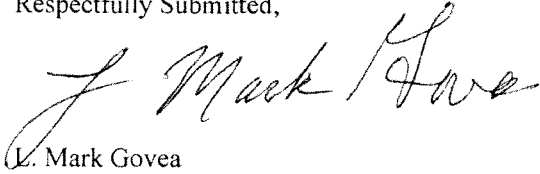
To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **November 30, 2014**. See Policy Statement on Rails to Trails 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 **November 30, 2014.**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "L. Mark Govea". The signature is fluid and cursive, with the first letter "L" being particularly large and stylized.

L. Mark Govea
Mayor

Cc: Don Cawby, City Manager
Ben Jones, Union Pacific
Rick Harris, Union Pacific