

**WOODBURY COUNTY BOARD OF SUPERVISORS AGENDA ITEM(S) R**

#13d

Date: 1/22/16

Weekly Agenda Date: 2/19/16

DEPARTMENT HEAD / CITIZEN: David Gleiser – Rural Economic Development Director

SUBJECT: Status of Foreign Trade Zone Application

**ACTION REQUIRED:**

Approve Ordinance

Approve Resolution

Approve Motion

Give Direction

Other: Informational

Attachments

**WORDING FOR AGENDA ITEM:** Information – Update on the Status of Foreign Trade Zone (FTZ) Application

**EXECUTIVE SUMMARY:** The Rural Economic Development (RED) department seeks to provide the Board of Supervisors with an update on the County's application to join FTZ #288.

**BACKGROUND:** Woodbury County applied to join the Northwest Iowa Development (NWID) FTZ #288 in Feb. 2014. The application fee was \$3,500. Upon review of the application by the FTZ Board in D.C., the application was denied due to objections made by the Sioux Falls Port Authority Director. Efforts made to resolve the objections were unsuccessful. NWID has resolved to return Woodbury County's application fee, which has since been received.

**FINANCIAL IMPACT:** + \$3,500

**RECOMMENDATION:** None

**ACTION REQUIRED:** None

*Approved by Board of Supervisors March 3, 2015.*



# NORTHWEST IOWA DEVELOPMENT

Beyond Expectations.

February 12, 2014

Mr. David Gleiser  
Director of Economic Development  
Woodbury County  
6<sup>th</sup> Floor Court House  
620 Douglas Street  
Sioux City, IA 51101

Mr. Gleiser,

This letter is intended to provide information to you pertaining to the Northwest Iowa Economic Development Corporation's (NWID) proposed application to the U.S. Foreign-Trade Zones (FTZ) Board for authority to expand the use of a new procedure (the "Alternative Site Framework") to provide quick and simple access to FTZ service for companies in our region. Our organization is the grantee of FTZ #288 and currently sponsors a limited number of FTZ sites in our region. The authority we are requesting from the FTZ Board would enable us to quickly bring FTZ designation to any company within our proposed "service area." We will be asking to expand our proposed service area to include Woodbury County, IA. The Grant has already been approved to include Plymouth, Cherokee, Sioux, Lyon, Osceola and O'Brien Counties in northwest Iowa.

FTZ designation can provide companies with customs duty savings and logistical benefits that can help encourage them to establish or maintain operations in the U.S. As such, access to FTZ benefits can be an important tool in economic development efforts. If the FTZ Board approves our application, NWID will be able to bring FTZ designation to companies anywhere in the proposed service area based on those companies' trade-related needs. We also note that FTZ access will be made available on a uniform basis to companies across the service area, in a manner consistent with the legal requirement that each FTZ be operated as a public utility.

If you have questions about NWID's expansion application to the FTZ Board, please contact Steve Simons at 712-472-8546 or [ssimons@co.lyon.ia.us](mailto:ssimons@co.lyon.ia.us). If you have comments you would like the FTZ Board to consider regarding the proposed inclusion of Woodbury County in the proposed service area of FTZ #288, please provide your comments to the staff of the FTZ Board by March 15, 2014. The FTZ Board staff also welcomes any questions you may have – the staff can be reached at 202-482-2862 or [ftz@trade.gov](mailto:ftz@trade.gov).

Sincerely,

Stephen Simons  
Chairperson, NWID

Cc: Dan Janssen, NWID Treasurer  
Bill Hooton, ITTS-Iowa Consultant



# NORTHWEST IOWA DEVELOPMENT

Beyond Expectations.

February 12, 2014

Mr. David Gleiser  
Director of Economic Development  
Woodbury County  
6<sup>th</sup> Floor Court House  
620 Douglas Street  
Sioux City, IA 51101

Mr. Gleiser,

We are pleased to advise you that Northwest Iowa Economic Development Corporation, dba Northwest Iowa Development (NWID), Grantee of FTZ #288, has formally resolved to invite Woodbury County to become part of Northwest Iowa Development's FTZ# 288's 'Service Territory'.

Should Woodbury County choose to accept this offer by "Signing" the ASF Service Area Concurrence Letter and returning it to Northwest Iowa Development, NWID with a check for \$3,500, as called for in the FTZ's Zone Tariff, NWID will immediately and expeditiously begin preparing and, when completed, submit a Zone Expansion Application to include Woodbury County as part of FTZ #288.

The application should take about two weeks to prepare and submit and approval should be forthcoming within six months of the Application being received and given a Docket Number and published in the Federal Register. We have spoken with the Port Director who has jurisdiction over our Zone Grant, Sioux Falls Port of Entry, and with the FTZ Staff who will be reviewing the Application and we expect no difficulties or unusual delays in this process.

With your commitment to be part of our 'service territory' and the payment of your application fee, will also secure access to NWID's FTZ Consultant to undertake, at no cost to the prospect, an FTZ and International Business Opportunity Cost/Benefit Analysis for the balance of 2014 and while the Application is pending, subject to availability and agreed scheduling.

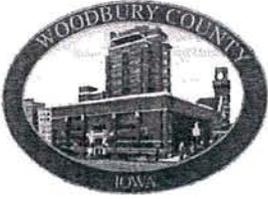
We very much look forward to working with you to bring these important economic incentives to Woodbury County businesses and for the entire region to become more attractive to inward international investment and internationally oriented businesses.

Sincerely,

Stephen Simons  
Chairperson, NWID

Attachments: ASF Notification Letter Woodbury County  
ASF Service Area Concurrence Letter Woodbury County

Cc: Dan Janssen, NWID Treasurer  
Bill Hooton, ITTS-Iowa Consultant



# Woodbury County Board of Supervisors

Courthouse • Room 104  
620 Douglas Street • Sioux City, Iowa 51101  
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KAREN JAMES

EXECUTIVE SECRETARY / PUBLIC BIDDER  
HEATHER SATTERWHITE

March 11, 2014

Northwest Iowa Economic Development Corporation  
603 West Park Street  
Sheldon, IA 51201

Dear Steve:

The purpose of this letter is to document the support of Woodbury County for inclusion within the Service Area of Foreign-Trade Zone (FTZ) #288. We understand that this means that the grantee, Northwest Iowa Economic Development Corporation, dba Northwest Iowa Development, will be able to apply to the Foreign-Trade Zones Board for authority to serve sites located within the county based on businesses' trade-related needs. We also note that the zone will be made available on a uniform basis to companies within the county, in a manner consistent with the legal requirement that each FTZ be operated as a public utility.

Sincerely,

George W. Boykin  
Chairman  
Board of Supervisors

# International Trade & Transportation Strategies - Iowa

The Carriage House  
514 Hill Avenue  
Walden, NY 12586

TSHooton1@gmail.com  
815-990-9368

**TO:** NWID  
**FROM:** Bill Hooton – ITTS-Iowa  
**RE:** Suggested 'White Paper' on Zone expansion for Legislators  
**DATE:** 04/06/2015

Dear All,

I had an opportunity to speak with Liz Whiteman, the Mid-west liaison for the FTZB, regarding Customs denial of NWID's Application to expand its service territory to include Woodbury County. She confirmed two things. First, the Board cannot (will not) force Customs to accept an expansion of service territory and/or to concur with the approval of a new site within a service territory or the activation of any already approved sites (NWID has three). Customs does respond to political persuasion, especially if it comes with more resources to support their mission. Second, even if the expansion of service territory does not happen, NWID remains the closest Zone Grant to Woodbury County/Sioux City and any individual company there can apply through NWID to become a Sub-zone of NWID. That Application takes a bit longer than under the Alternative Site Framework procedures but otherwise would work as we had hoped and within the same Fee Schedule already adopted. Each Sub-zone Application, however, would require Customs concurrence as would the 'activation' of any approved site. It would seem unlikely that Customs would refuse to activate a site (sub-zone or otherwise) that they had already approved in the application process, but they could and, given the 'reason' Port Director Horan had for not concurring with the Expansion Application, it would seem likely.

In summary, NWID can offer Woodbury County access to the Zone program by supporting individual Sub-zone Applications. We already have that authority and fee schedule and need no other approvals. Approval of any additional sites and activation of those sites (two separate chances for Customs to say no), in Woodbury County and throughout NWID, is dependent of Customs concurrence. We need to help Customs get the resources necessary support a program (the national FTZ Program) that they are mandated to oversee and to ensure that they are not 'arbitrary' and prejudicial to certain geographies and political jurisdictions.

In the meantime the following outline of the issues raised by CBP's 'objection' to the expansion of NWID's FTZ to Woodbury County still stand and might usefully be shared with influential local, regional and national politicians:

1. Woodbury County lies entirely within the 'Adjacency Requirements' indicated in the Foreign Trade Zones Board's AFS Expansion Application Guidelines – "Zones must be located within 60 miles or 90 minutes of the **outer limits** of the Customs Port of Entry. Our Application met that criteria as clearly demonstrated in the Port of Entry Proximity Map (see attached) submitted with our Expansion Application.

2. There are other recently expanded Zones in Iowa (FTZ # 133, Quad Cities) that have 'approved' territories (Counties) beyond the FTZB recommended limits (Dubuque – 80 miles/100 minutes).
3. We informally discussed the proposed Service Territory expansion with Port Director Horan prior to its submission and he had no objections but he also had the luxury of a second Customs Officer at that time and the issue of coverage didn't come up. In other words, if he had the resources, Port Director Horan would be pleased to service the expansion.
4. The reason that Port Director Horan gave for being unwilling to allow expansion of Zone status to Woodbury County was that it would be 'unfair' (to Sioux Falls) to have to close his office (assuming there is only one Customs Officer available) to audit sites in Woodbury County (Sioux City). There are several problems with Port Director Horan's reasoning.

First, he doesn't get to choose the Customs transactions he has to oversee. He and the Customs Service in general are mandated to oversight all the customs transactions within their service areas on an equal, public utility basis. Woodbury County is within his service territory. The issue is that Customs seems to not have the resources, in some areas, to perform the function they are obliged to fulfill. It's a Customs resource issue not an Application issue.

Second, the FTZ Program is a Federal Benefit and every citizen of the US (Corporate or individual) has the right to 'petition' their government for equal access to any Federal Program/Benefit. A government agency can't discriminate based on the timing of that petition (Application) or where in the US it emanates from.

Third, Customs is obliged by the Foreign Trade Zones Act, to serve the Zone program at Customs expense and provide their audit functions to any and every Zone site that is approved and activated. Customs needs to find the resources (although helping them would be a good idea) not discriminate against the last applicant for what should be a universal service.

Fourth, Horan's expressed position would not only unfairly discriminate against Woodbury County's 'petition', it would imply that any new Zone user with in the already approves FTZ's that the Port Director oversees would make the same demands on his time and resources as a new user in Woodbury County. This would include refusing to activate any of the already approved and designated Zone site within the NWID Zone. In other words, all the effort and expense of securing the NWID Zone Grant in the first place was for naught, no new Zone sites within the already approved service territory and the already approved Sites can't be activated, thereby denying those Citizens the right they have already been granted and that can't be arbitrarily withdrawn.

Sioux City is a critical economic engine for the region and NWID is the closest FTZ Grant that could readily give them access to this important economic benefit, especially as it relates to attracting inward international investment to the region. Second, the entire County lies within the Port adjacency requirements mandated by Customs and the FTZ Board in Washington and recognized and approved in our original application (see attached).

We understand that staff available to Customs at the Port since NWID's original application has diminished greatly and that Customs has considerable concern about the possibility of having to close their office at the Airport in order to perform the auditing responsibilities associated with the activated FTZ sites within their jurisdiction. This is a real concern for us as well but one that we believe should and could be addresses by getting Customs more resources not restricting international commerce in the region.

Customs already have the responsibility to oversee active Zone sites within the two Zones that lie within in the Sioux Falls Port District and need the resources to be able to do that work. We don't believe that the inclusion of Woodbury County in our Zone will demand much more of those resources but we do believe it can provide the political clout to help us obtain them.

# **International Trade & Transportation Strategies - Iowa**

**38 First Ave. NW  
P.O. Box 526  
Le Mars, Iowa 51031**

**TSHooton1@gmail.com  
815-990-9368**

**TO: Karyn Frideres – Senator Ernst’s Office  
FROM: Bill Hooton – ITTS-Iowa  
RE: NWID’s FTZ#288 Expansion of Service Territory Application to include Woodbury  
County, IA and thus Sioux City in that Service Territory  
DATE: 06/18/2015**

Karyn,

It was a pleasure to finally get to speak with you this week. I hope that the office move went well and that you are settling in nicely. Our topic of conversation was the decision by Customs & Boarder Protection Agency’s Office (CBP) in the Sioux Falls, SD Port of Entry (POE) (and, more particularly, its Letter of Non-Concurrence from its Port Director Michael Horan to the U.S. Department of Commerce Foreign Trade Zones Board) objecting to the expansion of the Service Territory of FTZ #288 (of which North West Iowa Development (NWID) is the Grantee) to include Woodbury County, IA in its expanded Service Territory.

Our conversation was wide ranging and I’m sure somewhat obscure for anyone unfamiliar with the US Foreign Trade Zone Program and the legislation (the Foreign Trade Zone Act) that created and controls that Program. As promised, I will try to summarize and highlight our discussion and put it in a framework that I hope helps you understand what I perceived as fairness and legal issues that are raised by CBP’s ‘objection’ and, specifically, how the reason given (the Port Director’s inability to leave his office) not only unfairly denies Woodbury County and Sioux City use of the U.S. Foreign Trade Zone Program it also threatens to make the hard work and expense NWID incurred to bring this beneficial federal program to the region of no avail. If he can’t leave the office he can’t audit the already approved FTZ sites or any new designation of other sites in NWID existing service territory.

By way of introduction, the US FTZ Program derives from depression era legislation, the 1934 Foreign Trade Zone Act, that was instituted to try and ‘level the playing field’ for companies that manufactured and/or assembled product in the US while still using some foreign sourced raw materials, parts and components in that manufacturing process. Through use of the Zone Program, they could be competitive with foreign manufacturers of the same goods and, in the process, retain jobs in the US and increase exports from the US. The program has served both purposes well.

Among the governmental agencies with jurisdiction over Foreign Trade Zone activities, CBP was given the primary oversight/audit role and the responsibility of serving the US Zone Program in that capacity at Customs expense. Those ‘obligation’ remains today.

As overlooking the Zone program does consume some CBP resources, CBP has an opportunity to ‘comment’ (concur or not concur) on each and every Zone Application, whether for a New Grant Application, an individual Site/User Application, Expansion Application and/or Boundary Modification Application. Their adverse comments can be determinative of the FTZB’s approval but only if the FTZ

site(s) in question exceed the 'adjacency' limits established by the FTZB for proximity of a Site(s) to a CBP POE. That adjacency rule, which can be viewed by going to the FTZB Web Site, clicking on the section 'New to Zone' and looking at the section titled "Where can a Zone be Located" and states that if a proposed Zone Site is "within 60 statutory or 90 minutes driving time from the **outer limits** of the CBP Port of Entry as verified by the CBP Services Port Director" it meets the agreed adjacency requirements. If the Site(s) meets that proximity criteria, CBP can't just say they don't have time to pay attention to Iowa because they are paying attention to South Dakota. Even if the site did not meet this adjacency requirement, and many approved sites do not, CBP has several other criteria/procedures they can and do adopt that would allow them to say yes.

This brings us to some elemental truths that apply to issues involved here. Any citizen of the United States, individual or corporate, can petition their government for any benefit that the government provides and the government (and their agents) is obliged to allocate those benefits on a public utility basis, where costs and access are fair, reasonable and equally applied. This public utility basis is a centerpiece of the US FTZ Program and the purpose of the program is to give every community and every business an equal opportunity to enjoy, within limits, the benefits of the FTZ program. The general position of the oversighting agencies should be and often is how to say yes and saying no can't be arbitrary or capricious and vary greatly between geographies.

Many Zone Grants of Authority in the US have active sites beyond sixty mile/90 minute rule with the concurrence of CBP, including all three of the other FTZ Grants of Authority in Iowa, FTZ # 107- Polk County/Des Moines; FTZ #133 – Quad Cities and FTZ #175 Cedar Rapids.

Leaving these more general and esoteric reasons why CBP should have said yes to NWID's Expansion Application and trying to avoid any appearance of usurping CBP's necessary discretionary powers, looking directly at the facts presents another reason why this denial might be reversed.

Attached you will find a 'copy' of the 'Adjacency' Map filed in NWID's original Application and used again in their Service Territory Expansion Application together with a copy of the CBP Concurrence Letter that the same Sioux Falls POE Port Director, Michael Horan, gladly provided for the original NWID Application. Please note that in his 'concurrence' letter he correctly identifies that his Port District includes all of Minnehaha and Lincoln Counties, SD. Those County boundaries are the 'outer limits' of his Port District. The 'radius' used in our Adjacency Map correctly originated centers at the most south easterly point of Lincoln County, SD. The vast majority of Woodbury County, including all of Sioux City is within the sixty mile arc and all of Woodbury County is within the 90 minute rule (although we would have to get the Port Director to 'verify' this understanding).

I believe that the Port Director said no to the Service Territory expansion to let his Minneapolis CBP Group, who determine resource allocation in the wider region that includes Sioux Falls, that his office was under resourced. Through sick leave and retirement, I believe that the Director had only himself at the time of the Expansion Application. I believe that the situation has since improved and I know that there might be a willingness on the part of North West Iowa's development, business and political community to work with him to get him more resources if it resulted in 'improved' or expanded CBP services in North West Iowa.

The informally expressed reason for not concurring with the expansion was that with only one CBP Agent at the Port and international cargo occasionally coming into Sioux Falls Airport that required CBP presence, the Port Director could 'close' his office at the Airport in order to 'oversight' an expanded FTZ #288. That excuse should not stand.

Even more alarming, if he is unable to get to Woodbury County/Sioux City he would also be unable to get to Le Mars or to Cherokee where there is already approved FTZ status and where those communities are telling their existing businesses and businesses they are trying to invite to locate to relocate there that one of the benefits they can offer is ready access to FTZ status.

I believe the gentle solution is to work with CBP to identify and secure the resources necessary to do the job they have already agreed to do and; in the meantime encourage them to reconsider arbitrarily (or intentionally) valuing the needs of SD and Sioux Falls Airport over their other regional constituents (your constituents on the Iowa side of the river) and in the harshest of cases, call them out for getting the Port Limits and Adjacency facts wrong. Thank goodness you are the gifted politicians who can broker such issues. I think you have both carrots and sticks to work with.

I hope this overview id helpful. If you have any additional questions, please do not hesitate to ask.

# Trade Strategies

The Carriage House  
514 Hill Avenue  
Walden, NY 12586

TSHooton1@gmail.com  
815-990-9368

**TO:** David Gleiser – Woodbury County  
**FROM:** Bill Hooton – Trade Strategies  
**RE:** NWID's FTZ#288 Expansion of Service Territory Application to include Woodbury County, IA and thus Sioux City in that Service Territory  
**DATE:** 01/25/2016

David,

I hope this finds you well. I understand from Neal Adler that you would appreciate an 'update' on the status of NWID's Application to the FTZB in Washington D.C. to expand its' service territory to include Woodbury County.

I will make the written update brief but I promise to be available to you at any time if either you or a constituent want to know more precisely if and how you could acquire Zone status for any and all specific potential 'Users' in Woodbury County.

To make a long story short, CBP has the discretionary ability to refuse to endorse or concur with any Zone Application and/or Site Activation within their jurisdiction. In the case of the Woodbury County Application, Port Director Horan from the Sioux Falls Port District was unwilling to 'concur' not because of any Port adjacency issues but because he believed that he did not have sufficient staff to allow him to properly 'oversight' Zone activity in Woodbury County. Between you and me, he was posturing with his superiors in Minneapolis to show them how 'understaffed' he was.

The issue, which raised several broad an important questions of fairness and sustainability in the national program, was raised and reviewed with Senator's Ernst's Office in DC (I believe you were copied into those discussions) and discussed in detail with the appropriate FTZB Examiner in DC. The Application was left 'open' for several months after its submission to determine the best course of action to effect a change of heart with Port Director Horan.

Eventually in October of 2015 NWID was contacted the FTZB and asked to withdraw the Application with the proviso that FTZ #288 would remained the proximate Zone to Woodbury County and that even though the formal service territory boundaries did not include Woodbury County, any potential FTZ User within Woodbury County would be legally able and would be welcomed to apply to the FTZB in DC for individual Sub-Zone designation through NWID's Grant and that that Application would be heard on its merits by both the Board and CBP.

NWID asked my opinion on this matter and I agreed that there would be no advantage in trying to pressure CBP to commit to the approval of expansion to sizable new territory with an unknown number of users. I agreed with the FTZ Board that CBP was much more likely to agree to a specific single Applications for real 'Users' who could demonstrate that acquiring and activating Zone status at their

facility would enable them to grow, prosper at and/or relocate to that location. The consensus was that CBP would be much more likely to say yes to such an Application and political pressure to say yes could be much more effective if there was a real business with real benefits applying.

Accordingly, NWID withdrew their Application; resolved to return your Application Fee; and have gone about strengthening their relationship with the Sioux Falls Port of Entry and strengthening their knowledge of Zone Application procedures so that they are ready, willing and able to process and support any Sub-zone Application from a qualified Woodbury County Firm.

There is no guarantee that such an Application will be successful but there is every reason to believe it would be and the more important the project/User the better. NWID is supporting its own Minor Boundary Modification Application that will reveal something of CBP attitude and that User might like a Zone in Woodbury County someday soon, but I'll leave Neal to explain that one to you

I hope that all makes sense to you. If you have any questions, please do not hesitate to ask.

Best regards,

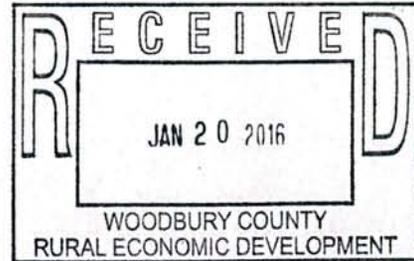
Bill Hooton



# NORTHWEST IOWA DEVELOPMENT

Beyond Expectations.

January 11, 2016



David Gleiser  
Director of Rural Economic Development  
6th Floor, Courthouse  
620 Douglas Street  
Sioux City, IA 51101

David:

I am enclosing a check refunding Woodbury County for the \$3,500 application fee from the unsuccessful attempt to add Woodbury County to our Foreign Trade Zone area. As Neal may have told you, adding the entire County to the Zone seems to be a dead end with the Customs and Border Patrol office in Sioux Falls. We do feel that activating individual business sights is still a strong possibility, which can be done without the entire County being in the Zone. Yes, it makes sense, doesn't it? CBP could then choose to approve a site in Sioux City but not a site in Sloan. You might use the enclosed check as seed money for a fund to assist businesses in the activation process.

NWID is looking forward to continuing to work with your office to provide information to your businesses on the benefits of the FTZ as well as sponsoring seminars on importing and exporting.

Sincerely,

Dan L. Janssen  
Treasurer  
NWID

**NORTHWEST IOWA DEVELOPMENT** 33-54-730 1014  
 FOREIGN TRADE ZONE #288 ACCT  
 C/O DAN JANSSEN  
 708 9TH AVE  
 SIBLEY, IA 51249-1436

date Jan. 12, 2016

Pay to the order of Woodbury County \$ 3,500  
 Three thousand five hundred and 00/100 dollars

**usbank.** All of us serving you® Debra Hoffmann

for Refund Appl Fee FTZ

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