

# AVIATION TECHNOLOGIES LTD.

Administrative Offices: 4959 - Talbot Lane, Unit # 69, Reno, Nevada 89509  
Physical Operations: Tonopah Airport, Tonopah, Nevada

Aviation Technologies Ltd., "A11" PRINCIPAL PLACE OF BUSINESS TONOPAH AIRPORT, NYE COUNTY, NEVADA

Robert Alan Kemp

Chief Executive Officer - Aviation Technologies Ltd.

[Representing]

2222/2

## NEVADA CENTRAL RAILROAD

VIA - OVERNIGHT FedEx COURIER

(Tuesday), April 29, 2008

The Honorable Charles D Nottingham, Chairman - STB.

The Honorable Ann K. Quinlan, Acting Secretary

Office of the Chairman and Secretary

Surface Transportation Board

395 - E Street, SW.

Washington, DC 20024

EMERGENCY FAX FILING: 202-245-0458, 202-245-0464

RE: Docket No. AB-33 (SUB-NO. 230X)

### Motion to Strike

Union Pacific Railroad Company

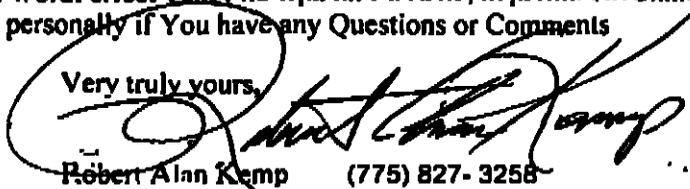
-- ABANDONMENT EXEMPTION --

Dear Secretary Williams:

The instant Motion to Strike, refers to the Union Pacific Railroad Company Abandonment Exemption Request: Docket No. AB-33 (SUB-NO. 230X), the Public Comment Letter filed by NCR on October 13<sup>th</sup> 2006, and the Notice of Intent and Extension of Time to File [OFA], respectively filed by NCR on October 30<sup>th</sup> 2006., and January 25<sup>th</sup>., 2007, and the NCR: [Motion to Extend Tolling Period for NCR, and Compel] filed on April 9<sup>th</sup>., and specifically the UP reply received by both (NCR and the Board) on April 11<sup>th</sup>., 2008.

Despite assertions by Union Pacific Railroad filed with the Board on April 11<sup>th</sup> , 2008, as well as a previous Supplemental Filing, (the provision of which NCR conditionally stipulates) Dated April 4<sup>th</sup>., 2008, the Data which NCR requested for production from Union Pacific Railroad Company ("UP"), pursuant to: 49 C.F.R. 1152.27(a), has Not yet been received by NCR at it's Administrative Office located at. 4959 - Talbot Lane, Unit: # 69, Reno, NV 89509, as of: Today, April 29<sup>th</sup>., 2008. Therefore, please find and immediately grant the instant MOTION TO STRIKE the UP Reply of April 11<sup>th</sup>., 2008 in its entirety, or in the alternative - in part Ten hard copies of this Motion are enclosed via FedEx Courier, including a WordPerfect Text File wpd on Cassette, to permit circulation of same to the Board and Staff. Please feel free to contact me personally if You have any Questions or Comments

Very truly yours,



Robert Alan Kemp (775) 827- 3258

Acting Representative and Legal Resident Agent for: **NEVADA CENTRAL RAILROAD**

Enclosures. Motion to Strike. Certification of Service

cc: Mr John T. Digilio, Jr., Vice Chairman - Director/President, Nevada Central Railroad  
Mr. Joseph Anthony McNulty, III - Director/Vice President, Nevada Central Railroad

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB - DOCKET NO: AB-33 (SUB-NO. 230X)**

**Union Pacific Railroad Company  
-- ABANDONMENT EXEMPTION --  
IN LASSEN COUNTY, CALIFORNIA AND WASHOE COUNTY, NEVADA  
(FLANIGAN INDUSTRIAL LEAD)  
(SUSANVILLE INDUSTRIAL LEAD)**

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**MOTION TO STRIKE**

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**- NEVADA CENTRAL RAILROAD -  
(FACTUAL BACKGROUND AND SUMMARY OF RELIEF REQUESTED)**

**STATEMENT OF FACTS**

1. NEVADA CENTRAL RAILROAD hereafter ("NCR") is in the process of constructing the (NCR-ByPass-TM), over the right of way previously identified and lawfully established for Construction and Operation by Nevada Central Railroad with the Surface Transportation Board on July 14<sup>th</sup>, 2003 identified and referenced under Finance Docket No. 34382. The lines described herein for Abandonment, directly connect to the (NCR-By-Pass-TM. PHASE-1 Construction Project), as further described as background information within the NCR Notice of Operation and Acquisition STB Docket Number: 34773, and as described personally to the STB Director of Section of Environmental Analysis; Victoria Rutson, both Orally, with Documented Legal Description, as well as with Mapping, and again herein by description as the [NCR: North-West Fork] which starts near Tonopah, NV, and runs in a North/North-West Direction to Mina on the (Historic Abandoned SP

Mina Route), then to Hawthorne, continuing North/North-West to Wadsworth, and then to the Flanigan connection with the UP, running Appx: 6-Miles in Nevada and then crossing Appx: 16-Miles over the California/Nevada Border directly to Wendell, California, finally linking to the Susanville Industrial Lead. NCR will execute the Commercial Transportation of either processed and or unprocessed Raw Material as either Liquid, Gaseous, or Solid (state's) of Fuel, and or Additives and Related Materials for the Generation of Electrical Power necessary to support the Maintenance and Operation of Heavy High Speed Mainline Railroad Operations within the State of Nevada, with Future Extensions into California, Oregon, Washington State, and (Canada), as well as to the Southwest in Arizona, New Mexico, Texas, and (Mexico). Moreover NCR will eventually operate the subject 22-Mile lines in Washoe County, NV, as well as in Lassen County, CA, as a virtual: Pollution-less Heavy High Speed Mainline Railroad System.

2. Union Pacific Railroad along with RTI and Attorneys Heffner and Kahn, proceed over a year ago to establish an Unlawful Artifice by which UP could manufacture the basis of its subsequent actions to Terminate the Provision and Access of Information to NCR in direct violation of: [49-C.F.R., 1152.27(a)], for more than a Year from the time that NCR contacted UP by telephone at its offices in both Chicago, IL, as well as Omaha, NE. UP further stated that it would NOT DEAL with NCR in any way, and that UP could in essence and as such would in fact in the instant case; Circumvent the Authority of the Board and execute a Direct Sale of the Subject Lines described herein for abandonment to RTI, even though UP has just recently clearly admitted to the Board in effect that: RTI Never Intended to Operate the Line as Common Carrier executing Interstate Commerce. Further admissions by UP directly to NCR-Staff, include a detailed description of the confirmed operative intent of RTI to Salvage the Entire 22-Mile Line from Flanigan, NV, to Wendel, CA. in direct contravention of the Intent for which the STB instituted and authorized the current OFA process as a means to preserve a federally active line of rail, as well as the basis upon which UP documented, as the predicate basis upon which this abandonment was filed as a means to BARR NCR from executing interstate commerce, as a Railroad Company. Moreover, NCR-Staff have just confirmed that RTI did (NOT AT ANY TIME Offer, Nor Negotiate, with Any Potential Customer located along the lines described herein, including but not limited to the HL-Power Company, in order to connect to and commence the execution of Interstate Commerce by Rail.

**Bottom Line, is that the RTI OFA was a Complete Artifice manufactured by UP with Smoke and Mirrors, as a means to Criminally Defraud NCR for over a year, from obtaining a Certificate of Public Convenience and Necessity as a Nevada State Based Rail Carrier, in order to enable UP the necessary time to Maintain and Execute its Secret Covenant and Conspiracy with individuals employed within the U.S. Department of Energy, along with Director of Section of Environmental Analysis Victoria Rutson and David Navecky, to RIG and thus STEAL as defined within, but not limited to the: Federal RICO Act, as well as the Federal Industrial Economic Espionage Act, [the NCR-ByPass-™. Legally Defined within FD: 34382], from NCR and its Shareholders.**

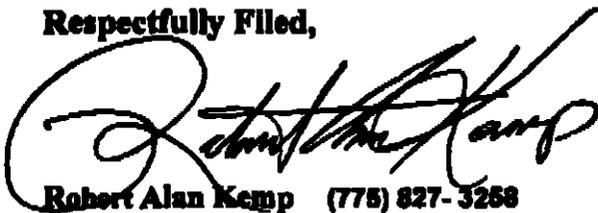
### **REQUEST FOR RELIEF**

**3. The Second NLY provided by UP to NCR contained within the UP Reply filed with the Board on April 11<sup>th</sup>., 2008, exists as a direct and Proximate Result of Criminal Fraud by UP enacted as and against NCR and it's Shareholders, and as a result must be Stricken from these Abandonment/OFA Proceedings. The UP Reply of April 11<sup>th</sup>., 2008 was very carefully and specifically crafted as a False Artifice, in which to unlawfully persuade the Board that UP had opened it's Books for Examination to NCR more than a Year Ago, which NEVER OCCURRED. In fact, only within the last 25-Days, has UP indicated within it's letter of April 4<sup>th</sup>., 2008 within the context of Fraud, that it would ever Open the Books for examination by NCR, while at the same time executing Contemporaneous Actions to BARR NCR from ever obtaining Verified Condition Reports of the Trackage of the Lines described within the instant case, as of the Original Date of Filing, as well as Current Condition, as well as All Records, Mapping, Diagrams, and Deeds of Title and Trust, to All Real Property held in Fee Simple by UP, including Structural Condition and Historical Reports, thus at best the Up Reply of April 11<sup>th</sup>., 2008 was Misleading, and at Worst is a Confirmed Criminal Act as and against NCR and it's Shareholders thus it must be Stricken from these Proceedings in its Entirety. If UP desires to VOID and thus ALTER the Original NLV within these Proceedings, then it must Motion the Board of it's Intent to VOID same to include a PRECISE COMPREHENSIVE EXPLANATION of such action. Then after the Board has made a Decision relating to UP's Decision to Operatively and Officially VOID the Original NLV, for which NCR may**

or may Not Agree, then NCR can proceed to the U.S. Federal Court of Appeals in the District of Columbia, as well as Execute at Any Time, wholly separate legal actions in U.S. Federal District Court in Reno, NV, within the context of the current pending Federal Case: 3:07-CV-0567-BES-(VPC), See attached U.S. Federal Court Order extending the Filing Date for Case: 3:07-CV-0567-BES-(VPC). Until that time, the Second NLV filed by UP thus provided to the Board and NCR within the instant UP Reply of April 11<sup>th</sup>, 2008 Must Be Stricken from this Proceeding in order to preserve a Lawful and Accurate Record of these Proceedings as well as to Maintain the rights of NCR within the OFA Process. Any action taken by the Board within the instant Case to Maintain the Existence of and Legal Effect of the [Second "Rigged" NLV] filed by UP, will aid and abet the Criminal Fraud being executed by UP as well as individuals employed within the U.S. Department of Energy, as well as Individuals Employed by STB within the Office of Director or Proceedings, and STB Section of Environmental Analysis, thus further existing as a Critical Breach of U.S. National Security, damaging the United States Government and its People.

4. The Second NLV Filed by UP based on its Factually ALTERED CONTENT, exists as legally admissible evidence of a Criminal Fraud executed by UP, as and against NCR and its Shareholders, and as such is a Federally Defined Instrument of a Criminal Act, and as such Must be Stricken from the Instant Proceeding.

Respectfully Filed,



Robert Alan Kemp (775) 827-3268

Acting Representative and Legal Resident Agent for: NEVADA CENTRAL RAILROAD

# AVIATION TECHNOLOGIES LTD.

Administrative Offices: 4959 - Talbot Lane, Unit # 69, Reno, Nevada 89509  
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**Robert Alan Kemp**

**Chief Executive Officer - Aviation Technologies Ltd.**

**[Representing]**

## NEVADA CENTRAL RAILROAD

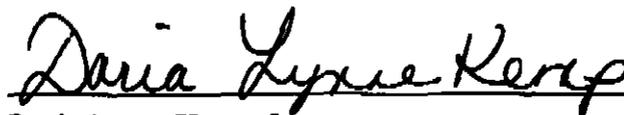
RE: Docket No: - (SUB-NO. 230X) (UNION PACIFIC COMPANY)

### Motion to Strike

Concerning: ABANDONMENT EXEMPTION

### CERTIFICATE OF SERVICE

I, Daria Lynne Kemp certify that on this 29<sup>th</sup> day of April, 2008, that I made service of the attached original NCR ~~Motion to Strike~~, upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the Union Pacific Exemption: AB-33 (SUB-NO. 230X), by depositing same into the United States First Class Mail with prepaid postage, and also Directly to the STB via EMERGENCY FAX FILING, and by OVERNIGHT FedEx COURIER to: Surface Transportation Board, 395 - E Street SW, Washington, DC 20024



Daria Lynne Kemp, for:

Robert Alan Kemp  
Chairman & CEO., AVIATION TECHNOLOGIES LTD.,  
4959 - Talbot Lane, Unit: # 69  
Reno, Nevada, 89509 (776) 827- 3258

Representing: **NEVADA CENTRAL RAILROAD**

Case 3:07-cv-00567-BES-VPC Document 6 Filed 04/02/2008

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RECORDED SECTION

COURT CLERK'S OFFICE OF RECORD

APR - 2 2008

CLERK

BY

PROPERTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ROBERT ALAN KEMP, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 CITY OF ELY, et al., )  
 )  
 Defendants. )

3:07-CV-0567-BES (VPC)

MINUTES OF THE COURT

April 1 2008

PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PETITIONER(S): NONE APPEARING

COUNSEL FOR RESPONDENT(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

Plaintiff filed his complaint and paid the full filing fee on November 21, 2007 (#1). Plaintiff failed to effect service on any defendant and on March 25, 2008, the Clerk sent plaintiff a notice of intent to dismiss pursuant to Rule 4(m) of the Federal Rule of Civil Procedure (#4). In response to that notice, plaintiff has filed a motion for extension of time to amend and serve (#5) in which plaintiff seeks an additional 113 days to July 11, 2008 to file an amended complaint and properly effect service of process on all defendants (#5). Plaintiff cites his "critically limited resources" as the ground for allowing this extension of time.

It appears to the court that the plaintiff has not attempted service of process on any of the thirty-two named defendants. Therefore, the court finds that the extreme length of plaintiff's requested extension is unwarranted. Plaintiff is not proceeding *in forma pauperis*; therefore, he must proceed with service of process without the court's assistance. However, plaintiff's motion (#5) is **GRANTED in part**. Plaintiff shall have an additional sixty (60) days to May 30, 2008 by which to amend his complaint and complete service of process. No further extensions of time shall be granted.

**IT IS SO ORDERED.**

LANCI S. WILSON, CLERK

By:     / s/      
 Deputy Clerk