



Mack H. Shumate, Jr.  
Senior General Attorney, Law Department

September 18, 2008

VIA E-Filing

The Honorable Anne K. Quinlan  
Acting Secretary  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423

223621

**RE: Docket No. AB- 33 (Sub-No. 230X) - Union Pacific Railroad Company - Abandonment and Discontinuance - In Lassen County, CA and Washoe County, NV (Flanigan-Wendel line)**

Dear Ms. Quinlan:

This letter will serve as the reply of Union Pacific Railroad Company ("Union Pacific") to the Offer of Financial Assistance filed September 16, 2008 by Robert Kemp on behalf of an entity calling itself the "Nevada Central Railroad" ("NCR"). NCR's offer proposes to purchase only 220 feet of the Line involved in this proceeding.

For the reasons stated below, Union Pacific respectfully requests that NCR's offer be rejected:

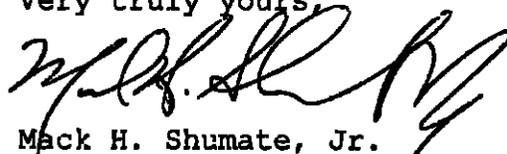
- (1) The OFA process is designed for the purpose of continuing to provide freight rail service, Docket No. AB-33 (Sub-No. 265X), Union Pacific R. Co. - Abandonment and Discontinuance Exemption - In Los Angeles County, CA, ("Los Angeles"), decision served May 7, 2008, p. 2 (rejecting OFA for 0.08 mile line segment). Whatever reasons NCR may have for attempting to acquire this 220 foot line segment, it clearly is not for the purpose of providing rail service. In the first place, there are no rail shippers or any other businesses located on this segment. Secondly, the 220-foot segment (0.04 mile) is too short to conduct any rail operations. It is actually much shorter than the 0.08 mile line segment involved in the Los Angeles decision. NCR's claim that it wants to acquire this segment "to enable Petitioner [NCR] to stage the Delivery of Necessary Fuel to supply Petitioners Mainline Railroad Generating Facility, supporting Petitioners Initial Operation of the 220-Foot

Electrified Rail Line as a Class III Carrier..." [capitalization in original] is ludicrous. NCR has no "Mainline Generating Facility" on this line segment or anywhere else.

- (2) NCR completely fails to demonstrate that it has, or will have within a reasonable time have, the financial resources to purchase and operate the "line", as required by Board's OFA regulations, 49 CFR 1152.27(c)(ii)(B). The offer contains no information at all about NCR's financial resources. All that appears is a letter from the "trustee" of an entity calling itself the "Banks Family Trust" purporting to guarantee the purchase price and funds to operate the line. But neither NCR nor the "Trust" provides any information about the financial resources (if any) of this "Trust". For all we know, the "Trust" exists only as a name on a letterhead.

Finally, Union Pacific cannot let Mr. Kemp's insulting and scandalous charge that Union Pacific "by and together with the STB staff" have engaged in, "Fraud, Conspiracy and Industrial Economic Espionage" pass without comment. This unsupported and unfounded charge clearly violates Board rules on a party's duty and attitude to the Board, treatment of other parties in Board proceedings and scandalous matter in Board filings, see 49 CFR 1103.12, 1103.14 and 1104.28. This is not the first time Mr. Kemp has engaged in this kind of conduct in this proceeding, see letter filed by Sierra Pacific Resources, November 1, 2006 (requesting scandalous matter filed by NCR be removed from the record).

Very truly yours,



Mack H. Shumate, Jr.  
Senior General Attorney

cc: Robert Allen Kemp (NCR)

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**CERTIFICATE OF SERVICE**

I certify that I have served a copy of the foregoing document upon the following via E-Mail and by first class United States Mail upon the following:

Robert Alan Kemp  
Nevada Central Railroad  
4959 Talbot Lane, Unit #69  
Reno, NV 89509

Atlnv13@aol.com

Dated at Chicago, Illinois this 17<sup>th</sup> day of September, 2008.

  
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Mack H. Shumate, Jr.