

# AVIATION TECHNOLOGIES LTD.

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

Robert Alan Kemp

[ D/B/A: ]

224047

## NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Monday), November 24, 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 / - 0461 / - 0464**

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

ENTERED  
Office of Proceedings

**Motion to Strike**

NOV 24 2008

**Union Pacific Railroad Company**

Part of  
Public Record

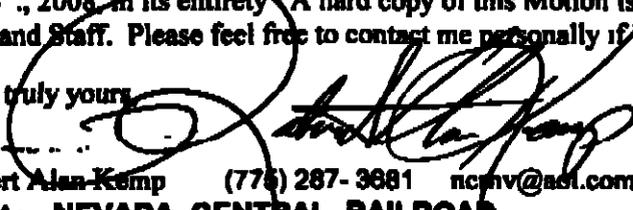
**-- ABANDONMENT EXEMPTION --**

Dear Secretary Quinlan;....

The instant **Motion to Strike**, refers to the Union Pacific Railroad Company Abandonment Exemption. Docket No. **AB-33 (SUB-NO. 230X)**, and specifically the **[Reply] filed by UP on November 4<sup>th</sup>, 2008**, to the **[Motion to Strike]**, timely filed by Robert Alan Kemp, D/B/A: **NEVADA CENTRAL RAILROAD** on October 27<sup>th</sup>, 2008.

Despite assertions by Union Pacific Railroad filed with the Board on August 15<sup>th</sup>, 2008, 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 Reply of October 21<sup>st</sup>, 2008, and the UP Reply of November 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 previously identified Administrative Office located at 4959 - Talbot Lane, Unit # 69, Reno, NV 89509, nor to the current NCR Executive Field Office at: 9084 - East Arbab Court, Tucson, Arizona, 85747, as of: Today, Monday, November 24<sup>th</sup>, 2008. Please find and immediately grant the instant **MOTION TO STRIKE** the knowingly defective and fraudulent UP Reply of November 4<sup>th</sup>, 2008 in its entirety. A hard copy of this Motion is also enclosed via USPS, 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 (776) 287-3881 ncrnv@aol.com

D/B/A: **NEVADA CENTRAL RAILROAD**

Enclosures **Motion to Strike, Certification of Service**

cc. Mr. John T. Digillo, Jr, Vice Chairman - Director/President,

Nevada Central Railroad, Corporation

Mr. Joseph Anthony McNulty, III - Director/Vice President,

Nevada Central Railroad, Corporation

**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™), 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 to the Surface Transportation Board, hereafter ("STB" or the "Board"), and the STB Section of Environmental Analysis, hereafter ("SEA"), referenced under Finance Docket No. 34382. The lines described herein for Abandonment, directly connect to the (NCR-By-Pass™. PHASE-1 Construction Project, specifically the NCR: North-West Fork), as further described as background information within the NCR Notice of Operation and Acquisition to the Board within STB Docket Number: 34773, and as described personally to the STB Director of Section of Environmental Analysis; Victoria Rutson and her staff, 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 previously 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 historic Susanville Industrial Lead and the historic Modoc Route. 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 the NCR Class - III Modoc Route, and in the future the 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 upgrade and then 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. The continuing operation of the Class - III, 220' Main Line at Flanigan, as well as the Re-Construction of the Appx: 21+ Mile Balance of the NCR - MODOC ROUTE, will be permanently sustained for a Minimum Period of 30-Years by revenues generated by Customers for which ATL has already contracted for the provision of Transportation Services constituting Interstate Commerce by Rail to be either Located Adjacent To, or Connected To said 220' Main Line Rail System, with it's 21+ Mile Re-Constructed Rail.**

**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 already **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 her assistant 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.

3. Most recently on November 4<sup>th</sup>, 2008 UP filed a REPLY that knowingly contained False, Defective and Misleading Information with Criminal Intent to Destroy NCR, and directly damage the shareholders of the NEVADA CENTAL RAILROAD, CORPORATION, as well as the AVIATION TECHNOLOGIES LTD., CORPORATION. Therefore, Petitioner in the name of NCR, now files the following information to the Board supporting the instant MOTION TO STRIKE the November 4<sup>th</sup>, 2008 REPLY filed by UP.

### **HISTORY OF CRITICAL ACTIONS BY: UNION PACIFIC**

4. A. UP Lied, and deliberately omitted any identification of the existence of the HL-Powerplant located within 1-Mile of the end of the Appx: 22-Mile Rail System running from

**Flanigan, Nevada, to Wendell, California, in their Abandonment Application to the STB, in order to deliberately conceal the existence and location of the Powerplant from NCR and the Board.**

**4. B. UP Lied, and deliberately identified within the Draft Notice for STB Publication on Federal Register of their original Abandonment Application, that the Right of Way for the Appx: 22-Mile Rail System running from Flanigan, Nevada, to Wendell, California: Contained NO GOVERNMENT GRANTED RIGHTS OF WAY, to deliberately mislead the NCR and the Board into believing that the Right of Way was Private, and thus could be sold to RTI as part of the Manufactured Criminal Conspiracy executed along with RTI, (Atty's Heffner, and Kahn), and Kern Shumacher, D/B/A: V & S Railway, in order to BLOCK any in effect BARR any Ofa to be filed by NCR. Moreover, UP relied upon direct assistance from the Board when it BLOCKED the Publication of the Specific Abandonment Application for the initial 10-Day Publication Period, as a means to BARR NCR from Terminating its Abandonment Exemption Proceeding.**

**4. C. UP Lied, and deliberately Mischaracterized the Operational Capacity of the 220' Rail Line at Flanigan, Nevada, by comparing same with the Rail Line located in Los Angeles, California, in order to enable the Director of Proceedings to Knowingly and Defectively execute a Decision that the 220' Rail Main Line to be acquired by NCR at Flanigan, was Physically Constrained as a means to BARR NCR from the execution of Interstate Commerce by Rail, and enable DOE to obtain a License from the Board to Construct a Rail Line over portions of the NCR-ByPass-TM., previously identified to the Board in 2003, eventually enabling UP to Destroy the NCR-ByPass, and Run on the Right of Way previously identified by NCR for construction of its Main Line Extension.**

**4. D. UP Lied, when it said it was interested (historically speaking prior to its Application for Abandonment of the 22-Mile Flanigan Rail Line), in providing Rail Service to the Powerplant, so it can essentially Bankrupt the Environmentally Friendly HL-Powerplant as part of a Direct Conspiracy along with Sierra Pacific Resources, Now NEVADA ELECTRIC, to CLOSE the POWERPLANT at Wendell, in order to Stop NCR from utilizing same for the Generation of Electrical Power sufficient to Power the NCR-ByPass-TM., as well as NCR's operation of the 22-Mile Main Line supplying the Powerplant, and the 128-Mile Rail Line currently being acquired by NCR, running from Cobre, to McGill, Nevada, as a means to enable UP to Transport Millions of Pounds of NON-Environmentally Friendly COAL Per/Year to a COAL FIRED POWERPLANT**

scheduled for construction near Ely, Nevada.

4. E. UP Lied, when it stated that NCR Failed to Estimate and State the Estimates to Acquire and Operate the 220' NCR Railroad Main Line at Flanigan, as a means to provide the basis of the Board to Defectively Uphold the Decision of the Director of Proceedings to UNLAWFULLY REJECT the Ofa lawfully filed by this Petitioner.

### REQUEST FOR RELIEF

5. UP knowingly deceives the Board when it states in the First Paragraph in Section I., on Page # 1., that and I quote: "There is no merit to Kemp's Motion to Strike, and it should be denied. Kemp's Motion to Strike confirms that the STB Directors' decision rejecting the Kemp OFA was correct." UP clearly knows that this documented statement is a Lie. The Motion to Strike filed by this Petitioner was a Lawful Filing based on INCONTROVERTIBLE FACT, not a Conspiracy with Nevada Electric, GE, and the Department of Energy to construct an Appx: 300+ Mile Rail Line that is intended to be used primarily by Union Pacific, as its own Private Rail Line. Petitioner has the Legal Right under STB Regulations to Strike any and all information that is NOT based on FACT from this proceeding, especially if said False Statements are based on a Criminal Fraud.

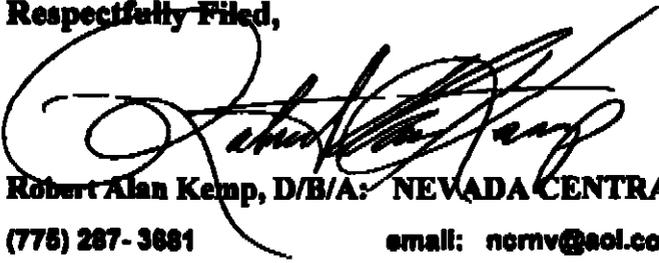
6. UP knowingly deceives the Board when it states in the Third Paragraph in Section I., on Page # 1. & # 2., in effect First that: "Kemp had failed to show that he had the financial resources to acquire and operate the line" This is a Known Fraud and False Statement by Union Pacific. The Banks Family Trust has filed Evidence in the form of the Authorization for Conveyance of ("BOND") to the STB, today November 24<sup>th</sup>., 2008 that confirms the Financial Capacity of the Banks Family Trust relating to its previous lawful Certified Financial Guarantee to the Board. Today's filing is INCONTROVERTIBLE EVIDENCE of the Financial Capacity of this Petitioner necessary to Secure the Acquisition of the 220' Rail Main Line for the NCR at Flanigan, as well as to place the same Rail Main Line into STB/FRA Certified Commercial Operation executing Interstate Commerce by Rail. Petitioner has Factually provided INCONTROVERTIBLE PROOF of the Operational Suitability of the 220' Rail Main Line, as well as the ability to Successfully Extend

same from Flanigan back to the HL-Powerplant in Wendell, California. The submission of any additional supporting financial information by this Petitioner is subject to the Granting by the Board of a Protection Order, to ensure that UP can NOT Use said Confidential and Proprietary Sensitive Financial Information as a means to Further DAMAGE Petitioner, as well as the NEVADA CENTRAL RAILROAD, Corporation, blocking NCR from the execution of Interstate Commerce by Rail. Petitioner clearly stated his prospects for Rail Shippers on both the 220' Rail Line, as well as those that can and WILL BE SERVED following the acquisition of the 220' Rail Main Line by NCR, and the Appx: 21+ Mile Extension to Same. None of the Prospective Rail Shippers that EXIST NOW on any portion of the 220' Rail Main Line at Flanigan, nor those on the Extension to Wendell, California are in any way Contingent on the, [and I Quote Union Pacific in Paragraph # 3.], "Kemp "458-Mile Heavy High Speed Mainline Railroad System." UP simply does NOT want the Petitioner to Factually Successfully Demonstrate to US-Congress, the Operational Execution of the Transport of HEAVY FREIGHT via (((HIGH SPEED RAIL))), using a Virtually Pollution-less New Technology Based (((PROPRIETARY))) Railroad System.

7. Based on the Foregoing, Petitioner now requests the that UP Reply of November 4<sup>th</sup>, 2008 be Stricken in its Entirety from these proceedings, as the entire Document is essentially Criminally Motivated and is a Total Distortion of Facts, and is Clearly Knowingly Defective, and False. The undersigned has factually executed a Confirmed Viable OFA, and as such continues to request that the Board Overturn and thus Reverse the Defective and Un-Constitutional Decision to Reject Petitioners OFA, and lawfully following the Boards Statutory and Mandatory Congressional Mandate, [to Order UP to sell to NCR the said 220' of Main Line Rail in accordance with said OFA filed under: 49 CFR 1152.27.(c)(2)(II).] Finally, NCR respectfully submits that the Lie's by UP concerning the NCR are Criminally Motivated, False, and thus exist as Factual Evidence of a DISRESPECTFUL ATTITUDE toward the BOARD and for the importance of the functions it administers." As a result, Petitioner has instituted Civil Charges, and will institute the Criminal Indictment of All Individuals Employed with Union Pacific Railroad, GE, and the Department of

**Energy, to ensure that a RESPECTFUL ATTITUDE within these proceedings is duly restored.**

**Respectfully Filed,**

A large, stylized handwritten signature in black ink, appearing to read 'Robert Alan Kemp', is written over the typed name and contact information.

**Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD**

**(775) 287-3881**

**email: ncrmv@aol.com**

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**Robert Alan Kemp**

[ D/B/A: ]

## NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Monday), November 24, 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.

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**EMERGENCY FAX FILING: 202-245-0458 / - 0461 / - 0464**

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

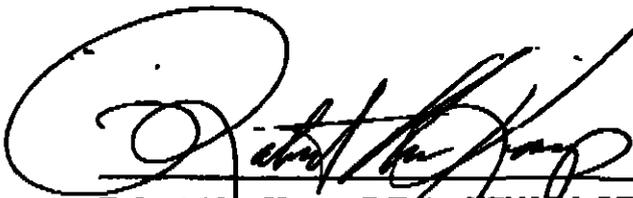
### Motion to Strike

Union Pacific Railroad Company

-- ABANDONMENT EXEMPTION --

### CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 24<sup>th</sup> day of November, 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 United States First Class Mail with prepaid postage to: Surface Transportation Board, 395 - E Street SW, Washington, DC 20024



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Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD  
(775) 287-3881 [ngny@aol.com](mailto:ngny@aol.com)