

224188

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

Executive Field Office: 9084 - East Arbab Court, Tucson, Arizona, 85747

Physical Operations Base: Tonopah Airport, Tonopah, Nevada

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

**Robert Alan Kemp****[ D/B/A: ]****NEVADA CENTRAL RAILROAD****VIA - USPS and IMMEDIATE OFFICIAL FAX FILING****(Friday), December 4, 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 20423-0001

**By Emergency Fax Filing: (202) 245-0458 / 0461 / 0464 Part of  
Public Record**ENTERED  
Office of Proceedings

DEC 12 2008

**RE:****Docket No. FD-35106  
(US - DEPARTMENT OF ENERGY)****[Preliminary Provision of Non-Revised Oral Testimony to STB]  
Las Vegas Nevada, DECEMBER 4<sup>th</sup>, 2008.**

Dear Chairman Nottingham, Secretary Quinlan:

Under Objection, please find the Preliminary Submission of Oral Testimony executed by Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD, to the STB in Las Vegas, Nevada on December 4<sup>th</sup>, 2008, which includes Support Documents. Within 5-Days of receipt of CD-Media Copies of the Video of my testimony executed December 4<sup>th</sup>, 2008, from the Board, which has already been ordered, I will provide an Amendment to the instant filing in order to ensure an Accurate Record within this proceeding. This submission confirms incontrovertible evidence to the STB that the EIS submitted to the STB by DOE is both INCOMPLETE, and an UNLAWFUL representation of Facts relating to the Unlawful Application filed within FD-35106 by DOE.

Very truly yours,


 Robert Alan Kemp
D/B/A. **NEVADA CENTRAL RAILROAD**

(775) 287- 3881

ncrmv@aol.com

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

**DOE Hearing December 4, 2008  
Las Vegas, Nevada**

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

**My name is Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD. I am the Chairman and CEO of: NEVADA CENTRAL RAILROAD, a Nevada Corporation. I am the Chairman and CEO of: AVIATION TECHNOLOGIES LTD., a Nevada Corporation.**

**I hereby state my objections to STB Authority to execute the instant hearing. STB Regulations were specifically created by Congress to protect and also regulate railroads, not federal agencies such as the DOE. I further execute within this proceeding, Notice of Claim under: 28 - USC 2675. I am appearing today under opposition to any hearing and or proceeding filed under: FD35106, and am providing my comments and notice within both FD35106 as well as FD34382. The Board has NO JURISDICTION with which to execute this hearing.**

**The Nevada Central Railroad Construction Project, publically described by trademark name: ("NEVADA CENTRAL BY-PASS") or ("NCR-BYPASS"), filed and lawfully noticed to the STB under STB FD-34382 on July 14, 2003 5 years prior to DOE's decision to construct the Caliente Rail Line, is superior to, and federally preempts any and all actions by the Department of Energy within the STB FD-35106.**

**In 2003, NCR Staff already provided a legal description and mapping to the STB with additional mapping submitted again in DOE public hearings in 2004 and BLM hearings concerning DOE Land withdrawal in 2005. The DOE Hearing occurred in Las Vegas, Nevada and the BLM-Hearing occurred in Reno, Nevada.**

**In 1996, prior to NCR's 2003 Notice to STB of Construction of the NCR-ByPass, US Department of Energy, "DOE", contacted NCR Staff regarding the NCR Railroad Construction Project, "The NCR-ByPass", in order to obtain a sole source contractual "will serve" commitment from the NCR, in order to meet any and all requirements for transportation requirements of the DOE within the state of Nevada. Meetings with DOE in Las Vegas totaled 7-EA from 1996 through 1998. Meetings with USAF totaled 4-EA and were conducted from 1996 through 1999. Communications and correspondence with DOE has been maintained by NCR to date. DOE has authorized NCR as late as 2003 to utilize the EIS Completed by DOE for studies relating to construction of rail systems within the state for purposes of submission by NCR to STB as its own EIS under the lawful doctrine of Identity, in order to enable the NCR to construct the NCR-ByPass Main Line, Heavy High Speed Rail System. NCR delivered a warranted "Will Serve" letter to DOE for the provision of Rail Service at the Request of DOE in 1996**

**Under 49-USC-10901, NCR has executed 3-Meetings in person at STB-HQ in Washington, DC, from 2003 through 2008, 2-EA., Additional Meetings In Person were executed within the state of Nevada, with STB Staff.**

**NCR has noticed the Secretary of Interior, then Gayle Norton, in 2003 of the Lawful Notice and Application for Right of Way for the Construction of the NCR-ByPass within the state of Nevada.**

**NCR has filed preliminary comments with STB following application by DOE for Rail Construction of the Caliente Route. STB has failed to lawfully respond to any lawfully submitted information by NCR, including, but not limited to Mapping, Financial Information, EIS, Operational Data and Procedural Violations. As a result, NCR has instituted Federal Charges against STB SFA Director Victoria Rutson, and her assistant, David Navecki, relating to Fraud, Industrial Economic Espionage, Theft of Trade Secrets, Conspiracy, Corruption and Falsification of Public Records. We are now considering both execution of Federal Criminal and Civil Charges against the STB Director of Proceedings, for similar charges.**

**NCR will petition President-Elect Obama to intervene under congressional mandatory statutory authority, to Summarily Terminate the DOE Application.**

**No Construction agreement can be executed by the DOE that would not violate pre-existing NCR contracts for the manufacture of both Steel Rail, and High Technology Steel Railroad Tie Systems, and would violate the confidentiality Basis of the Proprietary Railroad Operational Elements of the Construction of the NCR.**

**The EIS filed by DOE, according to STB-SEA was only viable in terms of dedicated shipments sole executed by US Government and does not apply (emphasis on not apply) to any commercial application of the Caliente Route for the Execution of Commercial Interstate Commerce.**

**Now DOE states it will initiate unlawful execution of commercial interstate commerce on the same line. In other words, in terms of interstate operations, DOE assured NCR-Staff during multiple meetings that DOE would NOT INTERFERE with the Commercial Execution of the Construction and Operation of the NCR-ByPass. As a result, NCR released and subsequently provided DOE with ATL/NCR Privileged, Confidential and Proprietary Information. NCR Now Discovers that DOE has Converted It's Entire Sole US Government Estimated Requirement for future transportation of Government Materials, to Subcontract execution of same by converting the rail to be constructed for the sole private use by Union Pacific Railroad. In Direct Contravention of Board Regulations Concerning Unlawful Construction, Competitive Operations, as well as the Board's responsibilities in Regulating the National Railroad System.**

**Finally, the NCR, is a High Technology, High Speed, Passenger and Freight Railroad System Employing Multiple Trademarked Features, and Lawfully Patent-able Technologies.**

**The NCR is 82% more efficient and 300% faster than the rail line proposed by the DOE, unlawfully subcontracted as a Defacto Private Rail System by Union Pacific. The NCR is some 1,000% safer in terms of operational reliability.**

**ATL-NCR Staff have successfully worked for a period of 10-years in order to execute a commitment from the largest legal securities firm in Providence, R.I. in order to Raise the approximate: \$3.995 Billion USD in Financing through the Public Commercial Sale of SEC Approved Bonds, since January 1, 2004 which is now on hold and remains on hold until the DOE Application is terminated. Therefore NCR, is continuing to experience damages as a result of the instant unlawful application by DOE in Criminal Conspiracy with UP.**

## **ATTACHMENTS AND EXHIBITS**

**No Insurance Carrier will insure any commercial railroad to transport high level waste, as a primary insurance carrier and underwriter requires a complete "hold harmless from any relevant government agency, essentially relieving said commercial carrier from liability for said transport.**

**Water contamination could last in excess of 5,000 years.**

**Both Nye and White Pine Counties have violated the constitution under the supremacy clause Article VI, the Federal Preemptive Regulation of STB Regulations as outlined by this same Board within the Board's decision granting declaratory relief as filed for by: DesertXpress within both Nevada and California Jurisdictions. Both Nye County and White Pine County can NOT interfere with the construction of the NCR-ByPass-TM., thru the unlawful endorsement of the construction of a Rail Line over the existing Route previously lawfully identified by NCR to the STB for Construction.**

**Internal Initial Infrastructure Improvements within the state of Nevada by DOE, necessary to ensure Public Safety relating to the Execution of Transportation of High Level Hazardous Waste Material by DOE will exceed \$ 5-Billion-USD., and will cost an additional: \$ 135-Million per year to maintain within the State of Nevada, and another \$ 185-Million to maintain within the US.**

FEB 19 2004 15:28 FR THOMPSON HINE LLP 202 331 8330 TO \*04152\*049836000 P.01/02

LAW OFFICES  
FRITZ R. KAHN, P.C.  
EIGHTH FLOOR  
1900 N STREET, N.W.  
WASHINGTON, D.C. 20036-1071

PHONE: 202-4188  
FAX: (202) 431-4380  
e-mail: fritz@fritzpc.com

**FACSIMILE TRANSMISSION SHEET**

To: Mr. Robert A. Kemp  
Fax No. (570) 693-0539  
From: Fritz R. Kahn  
Fax No. (202) 331-8330  
Date: February 19, 2004  
Client: ATL  
Number of pages: 2

04152-04983600004

This transmission is prepared and addressed for the exclusive use of the addressee only. If it has been misdirected, please advise by telephone and advise the transmitter by returning to the originator of the document.

FEB 19 2004 15:29 FR THOMPSON HINE LLP 202 331 8330 TO \*04152\*049836000 P.02/02

LAW OFFICES  
**FRIEZ H. KAHN, P.C.**  
 EIGHTH FLOOR  
 1800 N STREET, N.W.  
 WASHINGTON, D.C. 20006-4004  
 (202) 462-4155  
 FAX (202) 461-9000  
 e-mail: fritz@washington.com

February 19, 2004

VIA HAND DELIVERY

Ms. Victoria J. Rutson  
 Chief  
 Section of Environmental Analysis  
 Surface Transportation Board  
 1925 K Street, NW  
 Washington, DC 20423

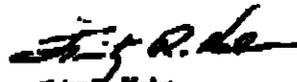
Dear Ms. Rutson:

This refers to STB Finance Docket No. 34382, Nevada Central Railroad - Construction and Operation - in Clark, Elko, Bureau, Lander, Nye and White Pine Counties, and to your letter, dated July 28, 2003, requesting additional information to enable you to prepare the draft scope of study for the Environmental Impact Statement pertaining to the construction proposal.

Delivered to you herewith is the Environmental Impact Statement prepared by the Department of Energy and adopted by the applicant, Nevada Central Railroad, covering what was described in the applicant's letter to you, dated July 17, 2003, as the Bypass Line.

If you have any question concerning the foregoing which you believe I may be able to answer or if I otherwise can be of assistance, please let me know.

Sincerely yours,

  
 Fritz H. Kahn

cc: Mr Robert A Kemp

\*\*\* TOTAL PAGE 02 \*\*\*

July 14, 2003

Victoria J. Rutson, Esq.  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423

Dear Ms. Rutson:

Pursuant to 49 C.F.R. 1105.10(a), I wish to notify you that in six months' time the Applicant, Nevada Central Railroad, anticipates filing its Application in Finance Docket No. 34382, Nevada Central Railroad—Construction and Operation—In Elko, Eureka, Lander, Nye and White Pine Counties, Nevada.

The initial phase of construction by Nevada Central Railroad will be in three parts.

The Bypass Line will start at a proposed connection with the Union Pacific Railroad Company ("UP") at Jean, thence proceed in a westerly direction to Sandy Valley, thence in a northwesterly direction to a point northeast of Paharump, thence in a northwesterly direction to a point northeast of Johnnie, thence in a northerly direction to a point northeast of Crystal, thence in a west, northwesterly direction to a point southeast of Amargosa Valley, thence in a north, northwesterly direction to the southwestern corner of the Nevada Test Site, thence in a north, northwesterly direction to a point west of the southwest corner of the Nellis Air Force Bombing and Gunnery Range and east of Beatty, thence in a north, northwesterly direction to a point northeast of Scotty's Junction, thence in a northerly direction to Mud Lake, thence in a northerly direction to Carlin and thence in a easterly direction to a proposed connection with the UP at Cobre

The North Fork Line will start at a point east of Ralston Valley, south of Monitor Peak, thence proceed in a north, northeasterly direction through Monitor Valley to a point east of Belmont, thence in a northerly direction through Monitor Valley to a point southwest of Hickison Summit, thence in a westerly direction to Rye Patch Canyon, thence in a north, northeasterly direction to a point northwest of Fagin Mountain, thence in a northerly direction to a point northwest of Bald Mountain, thence in a westerly direction to Cortez and thence in a north,

FILE COPY

Victoria J. Rutson, Esq.  
Page Two  
July 14, 2003

northeasterly direction to a proposed connection with UP at Beowawe.

The Northeast Fork Line will start at the junction with the North Fork Line at the point east of Ralston Valley and south of Monitor Peak, thence proceed in northeasterly direction to a point northwest of Kawich Peak, thence in a north easterly direction through Stone Cabin Valley to Warm Springs, thence in an east, northeasterly direction to a point northwest of Nyala, thence in a north, northeasterly direction through Railroad Valley to a point east of Current, thence in a northerly direction to Ruth, thence in a north, northeasterly direction to the proposed connection with the former Nevada Northern Railroad at a point two miles north of McGill, thence in a northerly direction to Currie, and thence in a northerly direction to proposed connections with UP southeast and northeast of Oasis.

I hope the foregoing information is sufficient to enable you to publish the Federal Register notice of your intent to prepare an Environmental Impact Statement and of the scope of the document. If, however, you require additional information or if I otherwise can be of assistance, please let me know.

Sincerely yours,

Fritz R. Kahn

FILE COPY

# AVIATION TECHNOLOGIES LTD.

P.O. BOX: # 73, Tonopah, Nevada 89048  
Administrative Offices: 4959 - Talbot Lane, Unit # 69, Reno, Nevada 89509  
Aviation Technologies Ltd., "ATL" PRINCIPAL PLACE OF BUSINESS: TONOPAH AIRPORT, NYE COUNTY, NEVADA

**Robert Alan Kemp**

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

**[Representing]**

## NEVADA CENTRAL RAILROAD

**VIA - FedEx COURIER DELIVERY**

**(Tuesday), November 7, 2006**

Mr. Vernon A. Williams, Secretary  
Office of the Secretary  
Surface Transportation Board  
1925 - K Street, NW Room: 711  
Washington, D.C. 20423-0001

**AIRBILL NO: 8563-8736-3589**

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

### **Notice of Intent to File: Offer of Financial Assistance**

**Union Pacific Railroad Company**  
**-- ABANDONMENT EXEMPTION --**

Dear Secretary Williams:

We have enclosed the instant Original and ten copies of: **NEVADA CENTRAL RAILROAD's Notice of Intent to File Offer of Financial Assistance** in response to Union Pacific Railroad Company's ABANDONMENT EXEMPTION Filed with the Board on October 10<sup>th</sup>, 2006.

If You or Your Staff have any questions or comments, please feel free to contact me personally.

Very truly yours,

  
Robert Alan Kemp (776) 827-3258  
Acting Representative and Legal Resident Agent for: **NEVADA CENTRAL RAILROAD**

Enclosures: Notice of Intent to File Offer of Financial Assistance, Verification, Certification of Service  
cc: Mr. John T Digillo, 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 WASHOE COUNTY, NV, AND LASSEN COUNTY, CA.**

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**PUBLIC NOTICE OF INTENT TO ACQUIRE AND PROVIDE FOR  
THE MAINTENANCE OF INTERSTATE COMMERCE AND  
OPERATION OF RAIL TRANSPORTATION SERVICES IN WASHOE  
COUNTY, NEVADA, AND LASSEN COUNTY, CALIFORNIA, AS  
PART OF THE NEVADA CENTRAL RAILROAD: NCR - ByPass <sup>TM</sup>,  
BY AND THROUGH THE EXECUTION AND LEGAL SUBMISSION  
OF A NOTICE OF INTENT TO FILE AN OFFER OF FINANCIAL  
ASSISTANCE TO THE UNION PACIFIC RAILROAD COMPANY**

**- NEVADA CENTRAL RAILROAD -  
- NOTICE OF INTENT: TO FILE OFFER OF FINANCIAL ASSISTANCE -**

**THIS INFORMATION IS PROVIDED BY NEVADA CENTRAL RAILROAD IN RESPONSE TO THE  
PETITION FOR EXEMPTION FILED BY UNION PACIFIC RAILROAD TO THE STB ON:  
OCTOBER 10<sup>TH</sup>, 2006.**

1. Nevada Central Railroad, as a financially responsible entity executing the purchase now described, identified hereinafter as (NCR), a Railroad Corporation of Tonopah, Nevada, #9049, pursuant to 49 U.S.C. 10904(c) and 49 C.F.R. 1152.27(c)(2)(I), hereby formally expresses its intent to file an offer of financial assistance by purchasing the combined lines identified by Union Pacific Railroad Company as the (Flanigan Industrial Lead) from Milepost 338.33 near Flanigan, Nevada to Milepost 360.10 near Wendel, California, a distance of 21.77 miles in Washoe County, Nevada, and Lassen County, California; and the (Susanville Industrial Lead) from Milepost 358.68 to Milepost 359.25 near Wendel, California,

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a distance of 0.57-Miles in Lassen County, California, (collectively) the lines proposed to be abandoned as further identified within the Map previously published and publically submitted to the STB by the Union Pacific Railroad Company, that is attached and identified herein for visual clarification as: (EXHIBIT: 00913-A), and within the Map Now Published and publically submitted by NEVADA CENTRAL RAILROAD as part of the Nevada Central Railroad; [NCR-ByPass-™. North-West Fork, Heavy High Speed Railroad Construction Project], that is attached and identified herein as: (NCR - MAP - EXHIBIT: 00913-B).

2. By copy of this Notice, NCR, pursuant to 49 C.F.R. 1152.27(a), asks the Union Pacific Railroad Company to provide it with copies of the most recent report on the physical condition of the line, the carrier's estimate of the net liquidation value of the line, with supporting data including, but not limited to identification of the parcels of land underlying the rights-of-way which are owned in fee and those which are easement grants including [US-Government Granted Rights of Way], the lengths, weight, age and condition of the relay, reroll and scrap rails, the reusable and scrap ties, the speed limits on the line, and any other restrictions which pertain to the use of the line by Milepost, and any other information including Engineering Diagrams and Drawings, or Maps, deemed relevant to enable NCR to calculate the net liquidation value of the line and the minimum purchase price which the Union Pacific Railroad seeks for the property.

Respectfully submitted this:

8<sup>th</sup> Day of November, 2006.

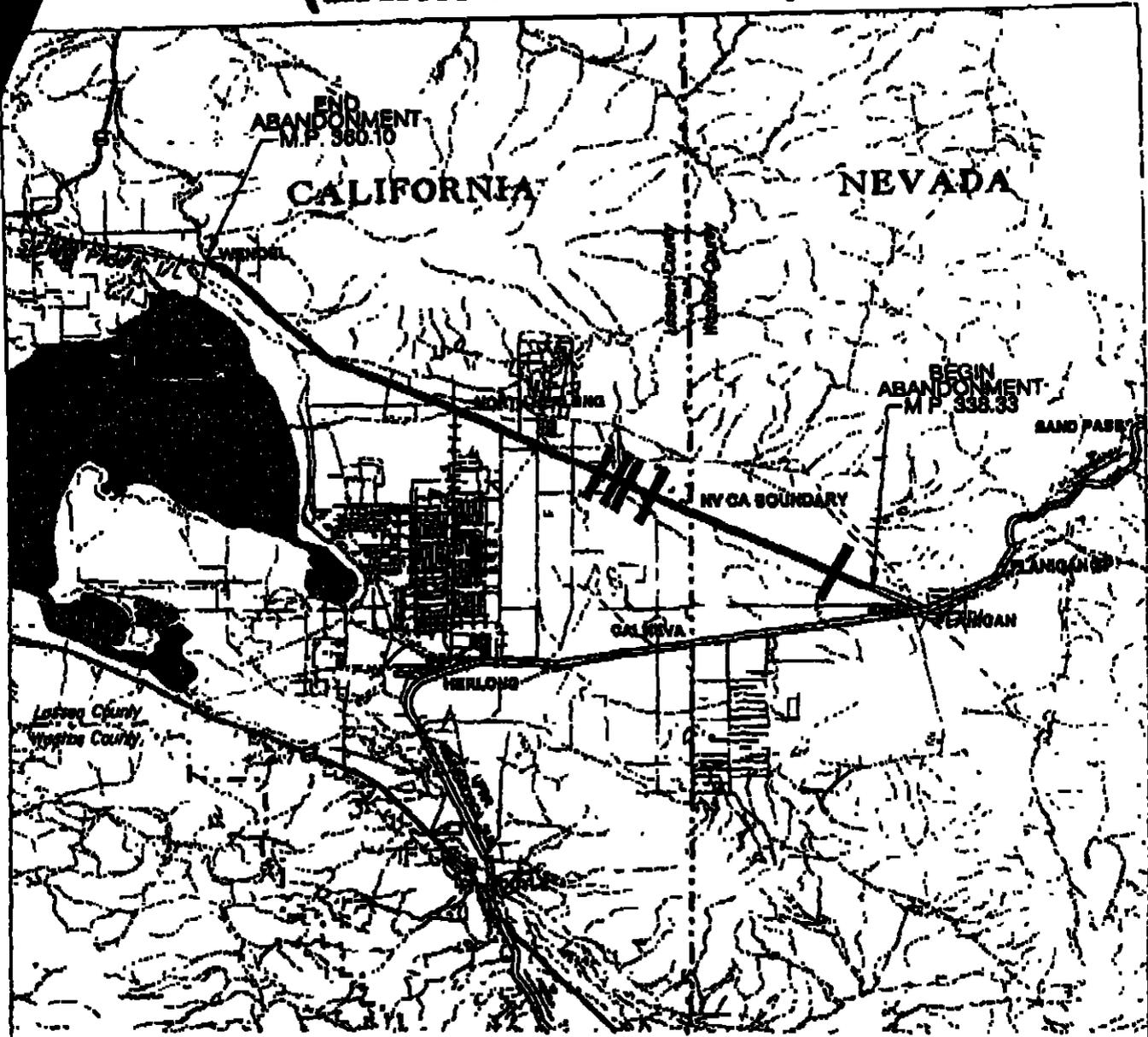
by NEVADA CENTRAL RAILROAD

  
Robert Alan Kemp  
Chairman & CEO., AVIATION TECHNOLOGIES LTD.,  
4959 - Talbot Lane, Unit: # 69  
Reno, Nevada, 89509 (775) 827- 3258  
Representing: NEVADA CENTRAL RAILROAD

Page -3-

# (EXHIBIT: 00913-A)

ATTACHMENT 1



STATION	MILE POST	AGENCY
CADNY ST LINE	343.13	ND
NORTH HERLONG	349.6	ND
WINDSOR	351.7	ND

STATION	MILE POST	AGENCY
WINDSOR	351.7	ND
NORTH HERLONG	349.6	ND
CADNY ST LINE	343.13	ND

- LEGEND**
- UPRR LINES TO BE ABANDONED
  - OTHER UPRR LINES
  - OTHER RAILROADS
  - RAILROADS (abandoned)
  - PRINCIPAL HIGHWAYS
  - OTHER ROADS
  - 50+ YEAR OLD STRUCTURES

### FLANIGAN INDUSTRIAL LEAD

MP 338.33 TO MP 360.10  
TOTAL OF 21.77 MILES

IN WASHOE COUNTY, NEVADA = 4.79 MILES  
IN LASSEN COUNTY, CALIFORNIA = 15.98 MILES

### UNION PACIFIC RAILROAD CO. FLANIGAN INDUSTRIAL LEAD CALIFORNIA - NEVADA

INCLUDING 50+ YEAR OLD STRUCTURES

SCALE MILES

FILE: g:\abandonments\0353\_flanigan.dgn

DATE: 25-Jan-05 11:47

AB-33 (Sub-No. 230X)

# (NCR - MAP - EXHIBIT: 00913-B)



NEVADA CENTRAL RAILROAD - NCR-ByPass .TM.

7/06 12:01 FAX 210 270 0796

PALACIO DEL RIO SALES

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PAGE 02

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RAK ATL

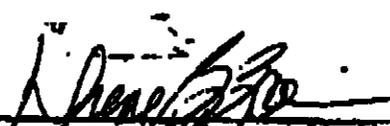
### VERIFICATION

State of Texas:        )  
                              ) ss.  
County of Bexar:     )

John T. Diglio, Jr., being duly sworn, deposes and states that he is the Vice Chairman & President of the NEVADA CENTRAL RAILROAD, and is authorized to make this verification; has read the foregoing Notice of Intent to Execute an Offer of Financial Assistance and has personal knowledge that the facts asserted therein are true and accurate as stated to the best of his knowledge, information, and belief.

  
\_\_\_\_\_  
John T. Diglio, Jr.

APPEARED Mr. John T. Diglio, Jr. SUBSCRIBED AND SWORN TO before me this 17th day of November, 2006.

  
\_\_\_\_\_  
Notary Public Irene G. Garcia, State of Texas, Bexar County



My Commission Expires: August 25 2007



# AVIATION TECHNOLOGIES LTD.

P.O. BOX: # 73, Tonopah, Nevada 89049

Administrative Offices: 4969 - Talbot Lane, Unit # 69, Reno, Nevada 89509

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

**Robert Alan Kemp**

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

**[Representing]**

## NEVADA CENTRAL RAILROAD

**VIA - FedEx COURIER DELIVERY**

Mr. Vernon A. Williams, Secretary

Office of the Secretary

Surface Transportation Board

1925 - K Street, NW Room: 711

Washington, D.C. 20423-0001

(Tuesday), November 7, 2006

AIRBILL NO: 8563-8736-3589

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

### **Notice of Intent to File: Offer of Financial Assistance**

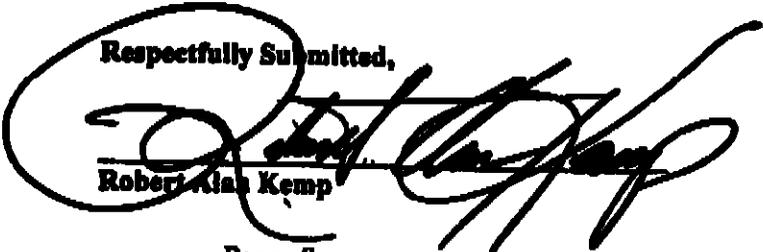
**Union Pacific Railroad Company**

**-- ABANDONMENT EXEMPTION --**

### **CERTIFICATE OF SERVICE**

I, Robert Alan Kemp certify that on this 8<sup>th</sup>, day of November, 2006, that I made service of the attached original **NCR Notice of Intent to File: Offer of Financial Assistance**, Via - FedEx Courier Delivery along with 10-Copies, upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all listed Parties, Agencies, and Individuals, listed for Service in the UP Petition for Exemption: AB-33 (Sub. NO. 230X), by depositing same into the United States First Class Mail with prepaid postage.

Respectfully Submitted,

  
Robert Alan Kemp

Page -8-

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

**Executive Field Office: 9084 - East Arbab Court, Tucson, Arizona 85747**

**Physical Operations Base: Tonopah Airport, Tonopah, Nevada**

**Aviation Technology Ltd., "ATL" PRINCIPAL PLACE OF BUSINESS: TONOPAH AIRPORT, NYE COUNTY, NEVADA**

**Robert Alan Kemp**

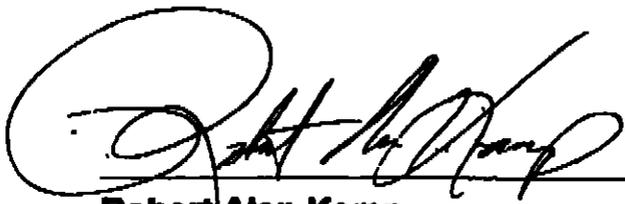
**[ D/B/A: ]**

**NEVADA CENTRAL RAILROAD**

**RE: Docket No. FD- 35106  
(US - DEPARTMENT OF ENERGY)**

**[CERTIFICATE OF SERVICE]**

I, Robert Alan Kemp certify that on this 12<sup>th</sup>, day of December, 2008, that I made service of the attached original NCR [**Preliminary Provision of Non-Revised Oral Testimony to STB**] in Las Vegas Nevada, **DECEMBER 4<sup>th</sup>, 2008**, upon the Surface Transportation Board, (STB), and have mailed a Single Copy of same to all Parties, in Proceeding: **FD-35106**, by depositing same into the United States First Class Mail with prepaid postage, and also Directly to the STB via **IMMEDIATE FAX DELIVERY FILING** to: (202) 245-0458 / 0461 / 0464



**Robert Alan Kemp**

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

**(775) 574- 2262, or email at: [ncrnv@aol.com](mailto:ncrnv@aol.com)**