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Robert Alan Kemp

[ D/B/A: ]

## NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Tuesday), November 11, 2008

The Honorable Charles D. Nottingham, Chairman - STB.

The Honorable Amy 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 / - 0451 / - 0484**

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

### Motion to Strike

ENTERED  
Office of Proceedings

NOV 12 2008

Union Pacific Railroad Company

-- ABANDONMENT EXEMPTION --

Part of  
Public Record

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 October 21<sup>st</sup>, 2008, to the [Notice of Intent to File (Motion to Strike)], timely filed by Robert Alan Kemp, D/B/A: NEVADA CENTRAL RAILROAD on October 15<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, and the UP Reply of October 21<sup>st</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, Tuesday, November 11<sup>th</sup>, 2008. Please find and immediately grant the instant MOTION TO STRIKE the knowingly defective and fraudulent UP Reply of October 21<sup>st</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 (775) 287-3681 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**

**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)**

**MOTION TO STRIKE**

**- 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 October 21<sup>st</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 October 21<sup>st</sup>, 2008 REPLY filed by UP.

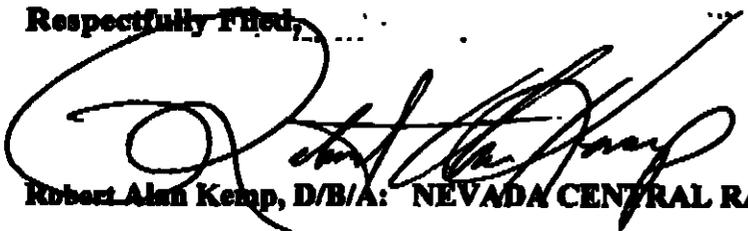
### **REQUEST FOR RELIEF**

4. UP knowingly deceives the Board when it states in the Second Paragraph on Page # 1., that and I quote: "By Error Certification filed with the Board on August 15<sup>th</sup>, 2008, the Union Pacific

certified to the Board that it has provided to Nevada Central Railroad Union Pacific's most recent report on the physical condition of the above-referenced line as well as the documents that UP used to establish its Net Liquidation Value for the Line." In FACT: UP has only provided NCR with a Historic Southern Pacific/Western Pacific, hereafter ("SP/WP"), [Speed Chart, including a Patently Knowingly Defective, False, and Unlawful Deliberately Inflated: NLV], with Virtually NO MEANINGFUL BACK UP DOCUMENTS. None of these Documents described by UP even remotely represent, nor even attempt to meet the clearly detailed information originally requested by NCR, nor that information subsequently requested that was subsequently denied by UP for provision to NCR. This FRAUD by UP is so flagrant that even the Board in its Defective Decision of 08-05-2008, only refers to the Documents Certified by UP, as those Documents that in effect, Apparently Represent those Documents asserted by UP, to have been requested by NCR. Precise quote: "it appears that, once NCR receives from UP its most recent report on the physical condition of the Line and the documents that UP used to establish its NLV for the Line, NCR would have sufficient information to submit an OFA." (Key Word in the Preceding Quote from the Board: "APPEARS"). Not even the Board, specifically the Director of Proceedings, can BUY INTO THIS MANUFACTURED FRAUD/ARTIFICE by UP, and as such the statement in Second Paragraph on Page (1.) Continuing on Page (2.) is Knowingly and Factually False, and as Such represents the basis upon which the entire Reply of October 21<sup>st</sup>, 2008 is inadmissible, and as such must be stricken from this Docket in its entirety.

5. Based on the Foregoing, Petitioner now requests the that UP Reply of October 21<sup>st</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 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).

Respectfully Filed,



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

(775) 287-3881 [nernv@aol.com](mailto:nernv@aol.com)

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**Robert Alan Kemp**

[ D/B/A: ]

## NEVADA CENTRAL RAILROAD

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(Tuesday), November 11, 2008

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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 11<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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