

# AVIATION TECHNOLOGIES LTD.

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**FILED**

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

DEC 17 2009

Robert Alan Kemp

ENTERED  
Office of Proceedings

DEC 17 2009

SURFACE  
TRANSPORTATION BOARD

[ D/B/A: ]

226177

Part of  
Public Record

## NEVADA CENTRAL RAILROAD

VIA - USPS and Emergency Fax Filing

(Thursday), December 17, 2009

The Honorable Daniel R. Elliott, III, Chairman - STB.

Ms. Cynthia T. Brown, Chief Section of Administration,

Office of Proceedings

Surface Transportation Board

395 - E Street, SW.

Washington, DC 20423

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

RE: Docket No. FD- 35306

### Emergency Petition To Reject And Or Revoke Exemption

Lassen Valley Railway, LLC.

-- ACQUISITION AND OPERATION EXEMPTION --

### Motion For Oral Argument and Leave To Supplement Filing

Dear Ms. Brown:

The instant Petition to Reject and or Revoke Exemption, refers to the Lassen Valley Railway, LLC., Acquisition and Operation Exemption: Docket No. FD-35306 filed by Fritz R. Kahn, on behalf of a Person: KERN W. SHUMACHER on November 17<sup>th</sup>, 2009. A hard copy of this Motion is also enclosed via USPS, to permit circulation of same to the Board and Staff.

Despite assertions by the entity of Lassen Valley Railway and Kern W. Schumacher, filed in person by Fritz R. Kahn on November 17<sup>th</sup>, 2010, the true intent of Union Pacific Railroad Company & the Burlington Northern Santa Fe Company acting in direct conspiracy within the scope of a Criminal Cartel engaged in Racketeering, is to Criminally; Violate the Sherman Antitrust Act, as well as to engage in the Execution of Industrial Economic Espionage, Fraud, and Conspiracy to Barr Interstate Commerce by Rail, as a means of blocking NCR from the execution of Condemnation of the HL-Power Plant located in Wendel, CA., the construction of the first HEAVY HighSpeed™. Rail Car Manufacturing Plant in Galesburg, IL., and the construction of its Main Rail Line most commonly referred to as the NCR-ByPass™., as well as the independent Legal and Operational Certification of the first Fully Integrated HEAVY HighSpeed Freight/PAX Rail Transportation and Logistics System in the World, triggering the loss of more than 17.5-Million, ("SEVENTEEN AND ONE HALF MILLION JOBS WITHIN THE UNITED STATES OVER THE NEXT 15-YEARS").

Please find the executed Confidential Credit Card Authorization Form attached to this cover sheet, authorizing the Board to charge the \$ 250.00 Fee as necessary to process the instant PETITION TO REJECT AND OR REVOKE EXEMPTION.

Very truly yours,  
Robert Alan Kemp (702) 914- 7796 ncrmv@aol.com

D/B/A: NEVADA CENTRAL RAILROAD

Enclosures: Petition to Reject and or Revoke, Credit Card Authorization, Certificate of Service

cc: Mr. John T. Digilio, Jr., Vice Chairman - Director/President, Nevada Central Railroad, Corporation

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**BEFORE THE  
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**STB - DOCKET NO: FD - 35306**

Lassen Valley Railway LLC.

**-- ACQUISITION AND OPERATION EXEMPTION --  
IN LASSEN COUNTY, CALIFORNIA AND WASHOE COUNTY, NEVADA**

**PETITION TO REJECT AND OR REVOKE**

**FREE RECEIVED**  
DEC 17 2009  
**SURFACE  
TRANSPORTATION BOARD**

**MOTION FOR ORAL ARGUMENT AND LEAVE TO  
SUPPLEMENT FILING**

**- 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 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 by Lassen Valley Railway, LLC., within their NOTICE OF EXEMPTION FOR ACQUISITION AND OPERATION directly connect to the (NCR-By-Pass-TM. PHASE-1 Construction Project, specifically the NCR: North-West Fork), as further described

as background information within the NCR Notice of Operation and Acquisition Exemption previously filed with the Board by NCR 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 Fuel Additives and Related Materials for the Generation of Electrical Power necessary to support the Maintenance and Operation of the NCR Class - III Modoc & Susanville Routes, and in the future, 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 upgrade and operate the subject 22-Mile lines in Washoe County, NV, as well as in Lassen County, CA, as a virtual: Fully Integrated Pollution-less HEAVY High Speed Mainline Transportation and Logistics 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 50-Years by revenues generated by Customers for which ATL has already contracted for the provision of Transportation Services constituting Interstate Commerce by Rail with it's own (PROPRIETARY) 21+ Mile Re-Constructed and Upgraded: [HEAVY HighSpeed RailCar-™. System.

2. Union Pacific Railroad along with RTI and Attorneys Heffner and Kahn, acting thru a Person: Kern W. Schumacher, proceed for a period of more then 6-years to establish an Unlawful Artifice by which UP could manufacture the basis of its subsequent actions to affect the Termination and Provision and Access of Information to NCR in direct violation of: [49-C.F.R., 1152.27(a). UP admitted that it would NOT DEAL with NCR in any way, and that UP within the scope proceedings

within: FD- 33-230X, could in essence and as such would in fact; Circumvent the Authority of the Board and execute a Direct Sale of the Subject Lines described herein for abandonment to RTI. UP has already admitted to the Board that: RTI Never Intended to Operate the Line as a Common Carrier executing Interstate Commerce by Rail. Further admissions by UP directly to NCR-Staff, included 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 Up filed with the STB to institute and authorize an OFA process (by which only NCR as a Party currently holds Legal Standing), 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, 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 stated intent by RTI to file an OFA within (STB: FD-33-230X), was a Complete Artifice manufactured by [UP and Schumacher] with Smoke and Mirrors, as a means to Criminally Defraud NCR for a period in excess of 2-Years from obtaining a Certificate of Public Convenience and Necessity as a Nevada State Based Rail Carrier, in order to enable UP and BNSF 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, along with acting Secretary of STB; Ann Quinlan, to RIG and thus enable the SYSTEMATIC THEFT by UP and BNSF as defined within but not limited to the: Federal RICO Act (Hobbs), as well as the Federal Industrial Economic Espionage Act, of the [NCR-ByPass-™. Legally Defined within FD: 34382], from NCR and its Shareholders.

3. Under 49 U.S.C. 10502(d), the Board may revoke an exemption, in whole or in part, if the Board finds that: (1) the notice of exemption (or request for exemption) contained False and/or Misleading Information; (2) regulation is necessary to carry out the rail transportation policy of 49 U.S.C. 10101; or (3) revocation is necessary to ensure the integrity of the Board's processes. Pursuant to 49 CFR 1150.42c, if a verified notice contains false or misleading information, the exemption is void ab initio.

4. Within Section ("C") of LVR's Notice of Exemption FD-35306, LVR states: *"A Line Sale Contract has been negotiated between LVR and UP and is expected to be finalized within the next few days, when a copy will be filed with the Board."* This statement by LVR is knowingly False, and at best was designed to mislead the Board acting for Congress, to believe that UP has finalized an Agreement that will be filed by LVR to the Board, ("within a few days"), which of course has never occurred as a result of the fact that LVR does Not Possess any Lawfully Binding Contract Line Sales Agreement for which UP and BNSF have executed and authorized Kern Schumacher to subsequently publically disclose to NCR, and file with the Board. This is precisely why LVR Lied with the Notice of Exemption, and never filed a Copy of the alleged Contract Agreement to the Board within the instant proceeding.

5. Within Section ("3") of LVR's Notice of Exemption FD-35306, LVR states: *"The lines which LVR seeks to acquire from UP are the Flanigan Industrial Lead, extending between Milepost 338.33 near Flanigan, NV, and Milepost 360.10 near Wendel, CA, and the Susanville Industrial Lead, extending between Milepost 358.68 and Milepost 359.25 near Wendel, CA."* LVR already knows that NCR is Condemning the majority of the historic Susanville Industrial Lead, in order to institute a service connection to the BNSF Main Line Rail System in Northern California, and further that the Mile Marker Description of 338.33 near Flanigan, NV, includes the current rail line identified within the (NCR OFA proceeding), now pending on Appeal at the 9<sup>th</sup>. Circuit Court of Appeals. By knowingly making False Statements within Section ("3"), LVR misleads the Board acting for Congress to believe that it has standing to acquire an entire rail line for which NCR has already executed an OFA.

6. Within Section ("4") of LVR's Notice of Exemption FD-35306, LVR states: *"The lines being acquired are approximately 22.34 route miles long."* This statement is absolutely False. LVR knows that the stated length of the Line as reported within Section ("4"), includes the entire rail line being acquired by NCR.

7. Within Section ("D") of LVR's Notice of Exemption FD-35306, LVR states: *"LVR acknowledges that a portion of the Flanigan Industrial Lead remain subject to 49 U.S.C. 10904 and will participate in the financial assistance procedures of 49 C.F.R. 1152.27 if Mr. Kemp ultimately is legally authorized to offer to purchase the 220-foot segment of the western end of the Flanigan Industrial Lead."* This statement by LVR is Absolutely False, and at best Misleading. LVR already very well knows that it did Not Participate within the scope of AB-33-230X and timely file an OFA on or before the Deadline set by the Board of September 19<sup>th</sup>, 2008, and as a result ONLY NCR has legal standing as a result of the Appeal filed for the Sole Purpose of enabling NCR as the ONLY Participant within the OFA

Process to complete the acquisition of the Rail Line identified by NCR, to the 9<sup>th</sup>. Circuit Court of Appeals. LVR already knows that it has No Legal Standing whatsoever within the scope of the OFA Proceeding on REMAND by the 9<sup>th</sup>. Circuit, and is attempting to utilize the Exemption Process as a means of criminally obtaining the procedural decision basis upon which to Unlawfully Gain Legal Standing within the scope of AB 33-230X on REMAND.

8. Within Section ["ss1180.6(a)(1)(iii)"] of SCHUMACHER's Notice of Exemption FD-35307, Schumacher states in support of the LVR Notice of Exemption, that: "He has many years of experience managing short line railroads. He anticipates that with the substantial resources at his disposal he will be able maintain and, where necessary, rehabilitate the lines of the LVR, to endeavor to restore service on the railroad's lines, to encourage shippers to locate their facilities along the railroad's lines and to create a financially viable railroad in the LVR." Schumacher very well already knows that NCR is condemning the HL-Power Plant, and will be Re-Constructing the Susanville Industrial Lead as a means of transporting Bulk Bio-Mass Fuel to the HL-Power Plant in Wendel, CA. Only NCR has existing Customers that can be served thru the operation of the line for which LVR states it will operate, and further NCR will principally service the Power Plant in Wendel, based on the construction of a New Rail Line over the Susanville Industrial Lead, as well as the line from Wendel to Flanigan. No where within the exemption filed by LVR, does LVR cite ANY TRAFFIC WHAT SO EVER AS THE BASIS UPON WHICH IT WILL OPERATE THE LINE, simply as a result of the Fact that LVR already knows that NCR has already contracted to execute and transport its own Material over the subject line. This is TYPICAL SCHUMACHER/KAHN Smoke and Mirrors, at the direction of UP/BNSF.

### REQUEST FOR RELIEF

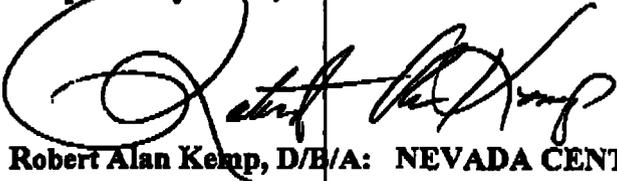
9. Based on the Foregoing, NCR now respectfully requests that the LVR Notice of Exemption be Rejected and or Revoked by the Board. The entire Notice is essentially Criminally Motivated and is a Total Distortion of Facts, and is Clearly Knowingly Defective, and False. The undersigned has factually executed a Confirmed Viable OFA. NCR submits that the knowing execution and provision of the Notice of Exemption filed by LVR exists as Factual Evidence of a DISRESPECTFUL ATTITUDE toward the BOARD and for the importance of the functions it administers.

10. LVR acting for and on behalf of UP and BNSF already know the Critical Value of the Appx: 22+ Mile rail Line to the NCR, and that NCR will Factually Test and Certify the Operation of its

**HEAVY Rail Car System on this same line. LVR's intent to acquire the line from UP, is only designed to enable UP/BNSF to Permanently BARR NCR.**

**11. NCR respectfully requests that it be afforded the opportunity to Execute Oral Argument relating to the instant Filing, and further requests leave to Supplement this Filing within the next 13-Calendar Days.**

**Respectfully Filed,**



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

**(702) 914-7796**

**email: ncrnv@aol.com**

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Robert Alan Kemp

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## NEVADA CENTRAL RAILROAD

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Ms. Cynthia T. Brown, Chief Section of Administration,  
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395 - E Street, SW.

Washington, DC 20423

RE: Docket No. FD-35306

### Emergency Petition To Reject And Or Revoke Exemption

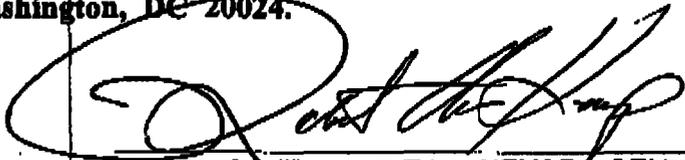
Lassen Valley Railway, LLC.

-- ACQUISITION AND OPERATION EXEMPTION --

### Motion For Oral Argument and Leave To Supplement Filing

#### CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 17<sup>th</sup> day of December, 2009, that I made service of the attached original NCR [Emergency Petition To Reject and / or Revoke Exemption], upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the Lassen Valley Railroad Exemption: FD-35306, 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.

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