

AVIATION TECHNOLOGIES LTD.

Administrative Offices: 4959 - Talbot Lane, Unit # 69, Reno, Nevada 89509
Physical Operations: Tonopah Airport, Tonopah, Nevada

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

Robert Alan Kemp

222735

Chief Executive Officer - Aviation Technologies Ltd.

[Representing]

NEVADA CENTRAL RAILROAD

Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 - E Street, SW
Washington, D.C. 20423-001

ENTERED
Office of Proceedings
JUL - 3 2008
Part of
Public Record

June 13, 2008



Re: STB Finance Docket No. 35106 [United States Department of Energy - Rail Construction and Operation - Caliente Rail Line in Lincoln, Nye, and Esmeralda Counties, Nevada]

NEVADA CENTRAL RAILROAD'S:

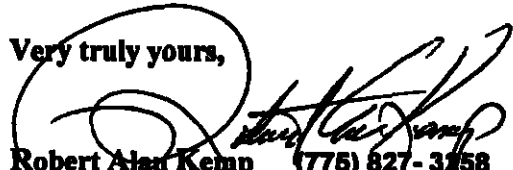
[Certificate of Service for Notice of Intent to Participate With Comment]

Dear Acting Secretary Quinlan:

1. Pursuant to the May 30, 2008 Notice served in the above-entitled proceeding received by NCR today June 13th, 2008 via USPS, the attached certificate of service certifies that all filings submitted so far in this proceeding by Nevada Central Railroad have been served on each Party of Record as of June 13th, 2008.

2. Nevada Central Railroad ("NCR"), is sending this Certificate via USPS first class mail. NCR has and continues to require notification and service by All Parties of Legal Record via Documented Letter via USPS, C/O: NEVADA CENTRAL RAILROAD, 4959 - Talbot Lane, Unit: # 69, Reno, NV 89509 Thank you for your assistance. If you have any questions, please call me.

Very truly yours,


Robert Alan Kemp (775) 827-3258

Acting Representative and Legal Resident Agent for: **NEVADA CENTRAL RAILROAD**

Enclosures: Nevada Central Railroad's [Intent to Participate with Comment FD: 35106-04-08-2008], Certificate 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

CERTIFICATE OF SERVICE

I, Robert Alan Kemp, HEREBY CERTIFY, that on this 13th, day of June, 2008, a true and correct copy of the foregoing NEVADA CENTRAL RAILROAD [NOTICE OF INTENT TO PARTICIPATE IN PROCEEDING - WITH COMMENT] (originally filed and served on April 8, 2008 on the then-existing service list) was served on the following additional parties or counsel of record and others identified below and listed in the service list attached to the STB Notice dated May 30, 2008, by (1) first-class U.S. mail, postage prepaid. Such Notice constitutes all filings submitted so far in this proceeding:

Paul H. Lamboley
50 W. Liberty Street
Bank of America Plaza, #645
Reno NV 89501

Honorable Shelley Beridey
U.S. House of Representatives
405 Cannon House Office Building
Washington, DC 20515

Louis E. Gitomer
The Adams Building
600 Baltimore Avenue, #301
Towson, MD 21204
Represents: CSX Transportation, Inc.

Jan Cole
Caliente Hot Springs Resort LLC
6772 Running Colors Avenue
Las Vegas, NV 89131

David Wright
Nuclear Waste Strategy Coalition
P.O. Box 5233
Pinehurst, NC 28374

Bradley L. Levine
Office of General Counsel (GC-52)
United States Department of Energy
1000 Independence Avenue, SW
Washington DC 20585

Fred Miller
915 S. Buchanan Street, #29
Arlington, VA 22204
Represents: Friends of the Earth

John E. Hadder
Healing Ourselves & Mother Earth
P.O. Box 6595
Reno, NV 89513

Barry S. Neuman
Carter Ledyard & Milburn LLP
701 8th Street, NW #410
Washington, DC 20001
Represents: Lincoln County, Nevada

G. Paul Montes
Sidley Austin, LLP
1501 K Street, NW
Washington, DC 20005

Mayor Kevin Phillips
City of Caliente
P.O. B 158
Caliente, NV 89008

Kevin W. Bell
California Energy Commission
1516 9th Street
Sacramento, CA 95814

Gracian Uhalde
P.O. Box 151088
Ely, NV 89315

Deborah Teake
Lander County
3155. Humboldt Street
Battle Mountain, NV 89820

Linda Mathias
Mineral County Nuclear Projects Office
P.O. Box 1600
Hawthorne, NV 89415

Connie Simkins
N-4 State Grazing Board
P.O. Box 461
Panaca, NV 89042

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City of Henderson
240 S. Water Street, MSC #133
Henderson, NV 89015

Rex Massey
Churchill County Comptroller
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Robert T. Opal
Union Pacific Railroad Company
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R.J. Gillen
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Board of County Commissioners
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White Pine County Nuclear Waste Project
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Ely, NV 89301

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Michael and Mary Heizer
Triple Aught Foundation
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Margene Bullcreek
Native Community Action Council
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Baker, NV 89311

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Denver, CO 80202

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400 Stewart Avenue, Ninth Floor
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N-4 State Grazing Board Bassett Creek
Ranch
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Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

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Gregory Barlow
Lincoln County District Attorney
P.O. Box 90
Pioche, NV 89043

Bret Whipple
1100 South 10th Street
Las Vegas, NV 89104

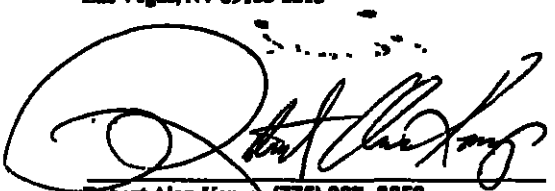
Phillip Kievorick
Clark County Nuclear Waste Division
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Las Vegas, NV 89155

William Kirby
Board of County Commissioners
Esmeralda County, NV
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Goldfield, NV 76131

Nancy Boland
Board of County Commissioners
Esmeralda County, NV
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Allen Benson
United States Department of Energy
Office of Civilian Radioactive Waste
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180 Town Center Drive
Las Vegas, NV 89134

Elizabeth A. Vibert
Clark County District Attorney
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Las Vegas, NV 89155-2215


Robert Alan Kemp (775) 827- 3258
Acting Representative and Legal Resident Agent for:
NEVADA CENTRAL RAILROAD

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Egan Fitzpatrick & Malsch
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Attorney General, State of Nevada
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Carson City, NV 89703

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Ross Dixon & Bell
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Mary B. Neumayr
Director, Office of Logistics Management
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Nye County
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Las Vegas, NV 89123

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1975 Village Center Circle
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State of California Department of Justice
P.O. Box 944255
Sacramento, CA 94244-2550

Mike Baughman
P.O. Box 2008
Carson City, NV 89702

Enclosures: Nevada Central Railroad's Intent to Participate with Comment FD: 35106-04-08-2008. Certificate of Service

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

2/2/2024

AVIATION TECHNOLOGIES LTD.

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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 - USPS and IMMEDIATE OFFICIAL FAX FILING

The Honorable Charles D. Nottingham, Chairman - STB.

The Honorable Ann K. Quinan, Acting Secretary

Office of the Chairman and Secretary

Surface Transportation Board

395 - E Street, SW.

Washington, DC 20423-0001

(Tuesday), April 8, 2008

ENTERED
Office of Proceedings

APR 8 2008

Part of
Public Record

ORIGINAL

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

[Notice of Intent to Participate in Proceeding - With Comment], and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Application, on or before: Wednesday, April 16th, 2008.]

Concerning: United States Department Of Energy -
Rail Construction And Operation - Collette Line
in Lincoln, Nye, and Esmeralda Counties, Nevada

Dear Chairman Nottingham, Secretary Quinan:

We are writing today in relation to the (US-DOE), "Notice of Application" Filed on March 17th, 2008, under Docket Number FD - 35106. Please now be advised that: NEVADA CENTRAL RAILROAD intends to participate within the instant proceeding and as such now files its [Notice of Intent to Participate in Proceeding - With Comment], as well as its: [Notice of Intent to File Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Application, on or before: Wednesday, April 16th, 2008]. If You or Your Staff have any questions or comments, please feel free to contact me personally 24-7 at the following telephone number and or email address.

Very truly yours,

Robert Alan Kemp

(775) 827-1288

atl@nccr.com

Acting Representative and Legal Resident Agent for:

NEVADA CENTRAL RAILROAD

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

UNITED STATES OF AMERICA

BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 35106

**UNITED STATES DEPARTMENT OF ENERGY - RAIL
CONSTRUCTION AND OPERATION - CALIENTE LINE IN
LINCOLN, NYE, AND ESMERALDA COUNTIES, NEVADA**

NCR - NOTICE AND PRELIMINARY COMMENTS

1. Notice is hereby given that NEVADA CENTRAL RAILROAD hereafter ("NCR"), intends to participate as a party of record in the above entitled proceeding. Therefore, please direct a copy of all matters pertaining to this proceeding to: Nevada Central Railroad; C/O: NCR - Nevada State Resident Agent, Robert Alan Kemp, 4959 - Talbot Lane, Unit: # 69, Reno, NV 89509. Telephone: (775) 827- 3258

2. During 1996 at the Direct Request of the US-Department of Energy, hereafter ("DOE"), NCR provided its (Privileged, Corporate - Confidential & Proprietary): [Notice of Construction, and Operational Construction Development and Operations Plan], for the NEVADA CENTRAL BYPASS™, hereafter ("NCR-By-Pass™"), by hand delivering same to DOE Officials in Las Vegas, Nevada, to Include Personal Hand Delivery of same to DOE by handing same to Mr. Wesley Barns.

3. On the afternoon of (Monday), May 17th, 2004, NCR again provided Official Confirmed Notice of the Construction of the NCR-By-Pass™, to the DOE, as well as Public Notice of Confirmed Communications with the DOE concerning NCR. See Exhibit attached hereto and identified below as:

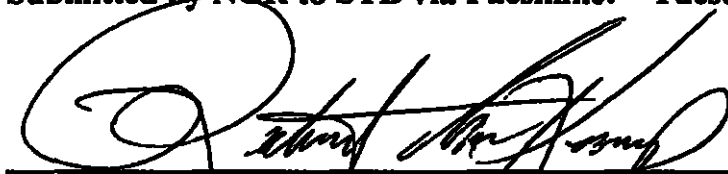
[NCR: US-FEDERAL COURT OF APPEALS DISTRICT OF COLUMBIA EXHIBIT-13-1.]

4. DOE's Application for Construction & Operation does NOT conform with the following United States Government Congressional: (Title 49 rail transportation policies):

4-A. to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required;

- 4-B. to ensure the... continuation of a sound rail transportation system. , to meet the needs of the public;
- 4-C. to reduce rcgulatory barriers to entry into and exit from the industry;
- 4-D. to encourage and promote energy conservation; and
- 5. Granting DOE's Application would Contravene other CRITICAL rail transportation policies.
- 6. Granting DOE's Application would result in irreparable CATASTROPHIC DAMAGE to NCR. NCR has previously executed an engagement for the Provision of Legal Securities Services, confirming NCR's ability to proceed and complete the Sale of Corporate Bonds in the amount of: \$ 3.995-Billion-USD., in order construct the NCR-ByPass-™.
- 7. Granting DOE's Application will result in the Permanent loss of revenue to the State of Nevada in an amount not less then (\$ 11-Billion-USD.) Over a 50-Year Period, including ANY OFFSET for the loss of Access To, and Use of Public Lands.

Submitted by NCR to STB via Facsimile: Tuesday, April 8th, 2008.



By: Robert Alan Kemp, NEVADA CENTRAL RAILROAD
(775) 827- 3258

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Robert Alan Kemp

Chief Executive Officer - Aviation Technologies Ltd.

[Representing]

NEVADA CENTRAL RAILROAD

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

[Notice of Intent to Participate in Proceeding - With Comment], and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Exemption, on or before: Wednesday, April 16th., 2008.]

**Concerning: United States Department Of Energy -
Rail Construction And Operation - Caliente Line
in Lincoln, Nye, and Esmeralda Counties, Nevada**

CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 8th day of April, 2008, that I made service of the attached original NCR [Notice of Intent to Participate in Proceeding - With Comment] and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Exemption, on or before: Wednesday, April 16th, 2008, upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the DOE Application/Petition: 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.

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

Representing: NEVADA CENTRAL RAILROAD

AVIATION TECHNOLOGIES LTD.

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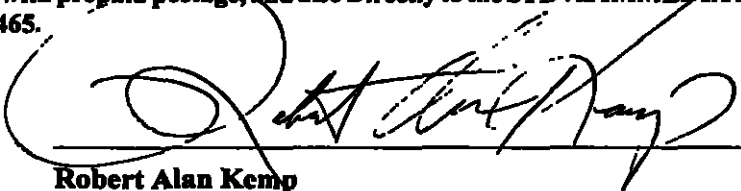
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**Concerning: United States Department Of Energy -
Rail Construction And Operation - Caliente Line
in Lincoln, Nye, and Esmeralda Counties, Nevada**

CERTIFICATE OF SERVICE

I, Robert Alan Kemp certify that on this 8th day of April, 2008, that I made service of the attached original NCR [Notice of Intent to Participate in Proceeding - With Comment] and Notice of Intent to file [Motion/Petition to Reject and Dismiss with Prejudice, and or Stay Application, on or before: Wednesday, April 16th, 2008.], upon the Surface Transportation Board, (STB), and mailed a Single Copy of same to all Parties, Agencies, and Individuals, listed for Service within the DOE Application/Petition: 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) 245-0464 / -0465.


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

Representing: NEVADA CENTRAL RAILROAD

LAS VEGAS PUBLIC COMMENTS 5/17/2004

Page 1

**YUCCA MOUNTAIN SCOPING MEETING
PUBLIC COMMENTS**

REPORTER'S TRANSCRIPT OF PUBLIC COMMENTS

Taken at Cashman Center
850 Las Vegas Boulevard North, Rooms 103-106
Las Vegas, Nevada

On Monday, May 17, 2004
At 3:00 p.m.

Reported by: Deborah Ann Hince, CCR #473, RPR

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To keep it underground, this is what I suggest. Dig the hole underground. Make a rail run directly to Yucca Mountain. That way nothing above ground would ever be seen. I think DOE should have the sense that they need to build the rail system, but keep it underground where it can be utilized and sealed off just in case something may come up as a horrific accident. That way DOE can protect the people and protect our government, we can protect the people and we can protect the environment everything, all the living creatures on it should support this one hundred percent as long as they kept it underground. God bless you and good night to you.

Overall we got to have our nuclear energy. We got to have it because we see what gas prices are doing. We see our water prices are getting ready to go up. Neutralize it and use it. We should have it for every life that is given to us by birth rights instead of inheriting wealth. We inherit the wealth and all the energy it takes to keep us what, wealthy for the remainder of the turn of the centuries.

Because, remember, nuclear energy is around forever. Am I correct? So let's treat it like it's

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SAAC HENDERSON: My comment is on nuclear transportation from Caliente to Las Vegas. Does this program include the protection of animals, the welfare of the county, the welfare of the city, the welfare of the township, and who does it protect and save the military from having to come in to clean up if there happened to be a spill accident that would give a total sterilization of the event in order to put everything back into perspective for us to make it like it was before the incident happened?

Also I want to know if our radio are protected from the waste, our historical society is protected, our mountains and desert are protected in Nevada, just as well as the media and newspapers, radios, teachers, lawyers, judges, the general public that would be affected also just in case if there was an accident.

Also I want to know if there is any grants that it is to utilize some of the services that DOE has for Caliente to help their needy, to help the people for jobs, food, benefits in order to help keep that project continuously running. Once we start it, we want to continue it, not to discontinue

going to be around forever. But let's use it and keep it where we can suppress it in order to have a channel in the right areas where it can be used what, the ultimate results as far as our way of life, the good life. All we want is to live the good life. And DOE would like to have the good life as far as the government to use it and maintain and keep control.

I want DOE to keep it underground because you guys have what, the will, the vision, the mind, the attitude, the experience and the engineering and the engineering to do this. So I feel that nothing is impossible for you guys, but it's up to you to make that decision. I hope that DOE gets that they want, but I hope that they keep it underground so DOE gives us what we want.

ROBERT DREW: Background: It is my belief that many individuals and organizations currently opposed to the Yucca Mountain Project would experience enormous relief of their fears if all were to observe daily, as I have, the professionalism and integrity of the women and men who work on the Yucca Mountain Project. I have simply never seen a higher level of dedication and work ethic in any other workplace in the three decades I have been in

LAS VEGAS PUBLIC COMMENTS 5/17/2004

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1 so that we can be in communication in regards
2 another citizen proposal in this area that may
3 happen through these counties. Contact me on
4 Netherland (75)324-7667.

5 We submit our proposals directly to the BLM
6 Reid and Ensign. You can also contact the staff
7 also. Generally the BLM knows the courtesy,
8 but BLM does not seem to treat the area as a
9 wilderness study area. They don't seem to treat it
10 any differently unless it is a project, become
11 designated wilderness by the BLM.

12 RAYMOND IZEN: I'm against Yucca and against
13 transportation of waste. I think it's a
14 dangerous situation. I think it's a world
15 conditions today. Somewhere between New York or
16 wherever else the waste is coming from, here
17 there's too many chances of something happening, and
18 they're just people between here and there.

19 Oh, my voice is New York but you know
20 know, the tape, but I moved here for my retirement.
21 Initially I'm still working in a different career,
22 but I get away from certain things. I love Las
23 Vegas. I now have grandchildren here living here in
24 Las Vegas and don't want the dangers of waste being
25 60 miles away.

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1 Also for our whole economy here with the
2 tourism industry and everything else why would people
3 come here if we're sitting on a hot bed?
4 Additionally, people are saying they're for it
5 because it's going to bring jobs here for the
6 people or whatever. They may get jobs in the
7 Nevada. Overall it's better to buy the waste and not
8 have the waste come here to be processed here
9 and endanger everyone's health.

10 But there are jobs available for them
11 somewhere. If they want to work in their own area,
12 fine, buy them out and let them stay here, but don't
13 bring the waste there. Callente or somewhere else.
14 It's dangerous. We have the waste down
15 here in Las Vegas. We have over a million population
16 in Clark County. You have people retiring here
17 moving here, tourism, millions of people per year
18 coming here. That would just endanger everybody.

19 KAREN LEVENSON: I am just opposed to
20 transporting it under very lax security and through
21 the desert. I don't want to see it here and
22 that one accident could ruin our economy.

23 ROBERT ALAN KEMP: (STATEMENT ORALLY GIVEN
24 TO BOB BLACK).

25 I reside [redacted]

1 [redacted] I'm the chairman, CEO
2 Nevada Central Railroad, dba Great Basin Railroad,
3 dba Nevada Northern Railroad. I'm the CEO of
4 Aviation Technologies Limited, a Nevada corporation,
5 incorporated in 1987 in the state of Nevada.

6 The Nevada Central Railroad is owned by
7 Aviation Technologies Limited. Nevada Central
8 Railroad is a Nevada Corp. that was incorporated in
9 July of 2003.

10 History regarding the intended construction
11 of a railroad by Aviation Technologies Limited and
12 Nevada Central Railroad is as follows: In 1988 I,
13 acting on behalf of Aviation Technologies Limited,
14 executed an analysis and study within the western
15 United States from El Paso, Texas west through New
16 Mexico, Arizona, Nevada and north through Oregon,
17 Washington state ending at Vancouver, Canada of the
18 viability of the construction of a commercial
19 north/south west/central region heavy, high speed
20 mainline rail system.

21 In 1991 we completed the initial scoping and
22 came to conclusions in relation to the first phase of
23 potential construction of what was then named the
24 Nevada Central Railroad, and by '93 made final
25 corporate decisions relating to the financial

1 feasibility and traffic analysis to support the
2 conclusion, execution and construction of a
3 construction project that would be initiated within
4 the state of Nevada on a route that was determined by
5 the U.S. Department of Energy and identified by U.S.
6 DOE as the Carlin route and Jean route.

7 We decided by 1996, after executing a number
8 of meetings in Las Vegas, Nevada with the U.S.
9 Department of Energy at the request of the U.S.
10 Department of Energy, to move forward and initiate a
11 commercial independent rail construction project. A
12 documented proposal was provided by Aviation
13 Technologies Limited to the U.S. Department of Energy
14 Las Vegas, Nevada in 1996. That in concept was
15 approved by Nye County Commission on October 15, 1996
16 in Amargosa Valley.

17 ATL then proceeded, dba Nevada Central
18 Railroad, to then execute the final construction type
19 design specifications, and by 2002 executed a program
20 to acquire necessary legal funding for the execution
21 and construction of the Nevada Central Railroad in an
22 approximate amount of four billion U.S. dollars
23 deriving from commercial public bonding to be
24 collateralized with the roadbed and railway system.

25 In 2003 Aviation Technologies Limited, by an

10 (Pages 37 to 40)

LAS VEGAS PUBLIC COMMENTS 5/17/2004

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1 through its general counsel, Fritz Kahn, notified the
2 U.S. Surface Transportation Board of its notice to
3 execute a construction permit and begin construction,
4 that was July 17, 2003, of the Nevada Central
5 Railroad bypass. The trade name for that particular
6 system owned and controlled by Aviation Technologies
7 Limited through its wholly owned subsidiary Nevada
8 Central Railroad is the NCR bypass, and that has been
9 trademarked.

10 ATL and Nevada Central Railroad staff in
11 July and August of 2003 contacted the U.S. Department
12 of Energy in Washington, D.C. and provided the
13 previously identified information to U.S. DOE staff
14 working under the supervision and authority of
15 Margaret S. Chu. U.S. Department of Energy staff
16 provided Nevada Central Railroad and Aviation
17 Technologies staff with the final 2003 EIS so that
18 Nevada Central Railroad could provide same to the
19 U.S. Surface Transportation Board, which has since
20 been completed following the six-month waiting period
21 under the Federal Rail Agency and Surface
22 Transportation Board regulations following the
23 initial notice of construction in 2003.

24 Surface Transportation Board has
25 appropriately responded three times to ATL staff as

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1 reply that was copied to U.S. Department of the
2 Interior, Bureau of Land Management. Prior to
3 Margaret Chu's provision of testimony to the United
4 States Congress and Senate concerning her future
5 requirements for the 2005 budget, which later
6 included her subsequent decision followed by
7 confirmation and communication by telephone, prior to
8 her testimony to Congress of her decision in relation
9 to the selection of the Caliente route. ...

10 At all reasonable times the U.S. Department
11 of Energy has been made aware through both oral and
12 documented communication of the existence and public
13 notice of intent to construct the NCR bypass as a
14 north/south route within the state of Nevada.
15 Mr. Fritz Kahn, general counsel for Nevada Central
16 Railroad, executed a documented letter to the City of
17 Ely on February 12th, 2004 to acting mayor Robert B.
18 Miller, Mayor, City of Ely, informing the City of Ely
19 that NCR had already executed its notice of intent to
20 construct its north/south bypass route along the
21 historic Nevada Northern Railway right-of-way that in
22 general terms runs from the Ruth mine through Ely to
23 McGill junction due north to Shafter and Covre.
24 Covre and Shafter are the intersections to the Union
25 Pacific east/west mainline that runs to Salt Lake

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1 well as direct documented response to ATL and Nevada
2 Central Railroad general counsel legal
3 representatives in Washington, D.C.

4 Nevada Central Railroad staff and Aviation
5 Technologies Limited staff replied to the notice of
6 withdrawal that was publically noticed by U.S.
7 Department of Interior, Bureau of Land Management
8 through documented communication on Monday,
9 March 29th, 2004 by copying original communications
10 to Dennis Samuelson, BLM coordinator for the state of
11 Nevada working under authority of Bob Abbey. Such
12 documented communication was legally addressed and
13 provided to Margaret S. Chu personally as confirmed
14 as received on March 29th, 2004 at her offices within
15 the Department of Energy.

16 ATL NCR staff confirmed receipt by U.S. BLM
17 through direct oral communication with Dennis
18 Samuelson and state of Nevada BLM director Robert
19 Abbey, as well additional staff within Margaret Chu's
20 office to include Jay Johnson and senior DOE staff
21 directed by Margaret Chu.
22 Robert Alan Kemp, acting as a legally
23 designated officer of Aviation Technologies Limited
24 and the Nevada Central Railroad contacted Margaret
25 Chu by telephone personally to confirm receipt of our

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1 City.

2 The communication that I will provide to the
3 U.S. Department of Energy in relation to the
4 provision of comments today from Fritz Kahn will be
5 identified by my initials RAK Exhibit 13-A.

6 On May 5th, 2004 Aviation Technologies and
7 Nevada Central Railroad staff provided documented
8 request for the inclusion of agenda items relating to
9 the construction of the Nevada Central Railroad NCR
10 bypass within the state of Nevada to White Pine
11 County District Attorney Richard Sears, and White
12 Pine County Clerk Mrs. Donna Bath.

13 ATL NCR staff provided the City of Ely city
14 council by and through its district attorney, which
15 is also Richard Sears, acting for and on behalf of
16 the City of Ely, also to Jim Allworth, the city
17 clerk, City of Ely, Nevada, and by and through Shane
18 Bybee, the acting mayor pro tem, of its notice of
19 intent for the inclusion of agenda items relating to
20 the construction of the Nevada Central Railroad.

21 For purposes of identification in relation
22 to the provision of comments today, I am going to
23 identify the May 5th, 2004 notice to White Pine
24 County District Attorney Sears as RAK 13-B.
25 For purposes of identification in relation

11 (Pages 41 to 44)

1 to provision of comments today I'd like to refer to
2 the documented notice to the City of Ely through City
3 Attorney Richard Sears as RAK 13-C.
4 I'm going to include with my comments today
5 to the U.S. Department of Energy a copy of Nevada
6 Revised Statute chapter 37.230, which is condemnation
7 by railroad companies. And I will refer to this in
8 relation to my comments for purposes of
9 identification as RAK Exhibit 13-D.
10 I'm going to include with my comments today
11 the provision of a documented presentation that was
12 executed to the White Pine County Commission as well
13 as the City of Ely city council. And for purposes of
14 identification I'll refer to that as RAK Exhibit
15 13-E.
16 In conclusion the Nevada Central Railroad is
17 a commercial railroad existing within the central
18 corridor of the state of Nevada that in relation to
19 U.S. Department of Interior federal statutes under
20 U.S. congressional code as well as the U.S. Federal
21 Railway Act exists as a railroad under construction.
22 Railroads under construction under the
23 Federal Railway Act as well as regulations of the
24 Department of Interior cannot be interfered with by
25 any federal agency, state or local state governmental

1 rail alignment directly to the U.S. Department of
2 Interior by and through the Secretary of Interior to
3 the U.S. government. We will copy the provision of
4 this filing to Margaret S. Chu and Robert Abbey,
5 State of Nevada, Director Bureau of Land Management.
6 ATL NCR staff have confirmed with U.S.
7 Department of Energy staff in Washington, D.C. that
8 the 2003 EIS was a legally qualified final EIS under
9 U.S. Environmental Protection Agency regulations that
10 meets in excess of 70 percent of the EIS requirements
11 for the construction by U.S. Department of Energy of
12 a rail corridor within the state of Nevada.
13 In direct conflict with documented decisions
14 provided to ATL NCR staff by and through the U.S.
15 Surface Transportation Board, office of SEA, ATL NCR
16 staff intend to proceed and notify Congress and
17 Senate of the United States of the existing conflict
18 that relates between Surface Transportation Board and
19 U.S. Department of Energy in relation to the
20 characterization, specific technical applicability
21 and identification referencing of information
22 contained within the U.S. DOE final EIS of 2003 that
23 is applicable within the scope of the Surface
24 Transportation Board filing by ATL NCR staff to the
25 STB in 2003 to meet either NEPA or commercial EIS

1 incorporated entities, such as a city or town, or
2 other commercial entity with the exception of a
3 preexisting commercial railroad.
4 ATL NCR submits that it has properly noticed
5 the U.S. Department of Energy of its legally defined
6 existence as a railroad under construction within the
7 legislation approved by Senate and Congress as an
8 existing railroad system within the state of Nevada
9 authorized by Congress as a commercial transport
10 provider capable of providing a connection to Yucca
11 Mountain repository for purposes of meeting all U.S.
12 DOE heavy transportation requirements.
13 The Nevada Central Railroad, by and through
14 its general counsel and legal staff in Washington,
15 D.C., will execute a filing with the Secretary of
16 Interior in June 2004 to obtain a permanent easement,
17 a portion of which has already been identified by
18 U.S. Department of Energy Margaret S. Chu for land
19 withdrawal in direct conflict with Department of
20 Interior and BLM regulations that integrate with the
21 Federal Railway Act concerning impact to a commercial
22 railroad operation and/or construction project.
23 NCR will then proceed to provide a general
24 map, a legal description and GPS coordinates of its
25 intended corridor as well as specific site survey

1 requirements under the construction permit process of
2 the Surface Transportation Board, U.S. DOT. That
3 concludes my comments.
4 (Thereupon the proceedings
5 were concluded at 8:00 p.m.)
6 * * * * *