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October 14, 2011

**VIA U.S. MAIL**

David E. Williams  
Vice President, Network Operations  
United States Postal Service  
475 L'Enfant Plaza SW  
Washington, D.C. 20260-7100

Re: Final Decision Regarding Relocation of Retail Services in Venice, California  
(Closure of Historic Venice, California Main Post Office)

Dear Mr. Williams:

We have received your letter dated September 23, 2011, which attaches the "Final Decision Regarding Relocation of Retail Services in Venice, California."

As an initial matter, we must protest your statement in the closing of the letter that "there is no right to further administrative or judicial review of this decision." While we acknowledge your contention that there is no further administrative review because the decision was made ostensibly under 39 C.F.R. § 241.4 (Expansion, relocation and construction of post offices), there is no basis whatsoever for your contention that there is no right to further judicial review. In fact, judicial review is always available to require a government agency or officer to follow the law, and neither you nor the Postal Service is exempt from such review. Thus, your statement in this regard is vastly overreaching and seems manifestly intended to intimidate – some would even say to bully – any would-be opponents of your decision.

Moreover, you are incorrect even with regard to the availability of administrative review. In fact, we have appealed your decision to the Postal Regulatory Commission on the ground that it is not a "relocation," but rather, a closure – or at least a partial closure – of the historic Venice Main Post Office and thus compliance with 39 C.F.R. § 241.3 was necessary. A copy of that appeal is attached.

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Finally, the decision and recent activity by the Postal Service apparently aimed at selling the historic VMPO structure indicates that the Postal Service is not complying even with the more permissive federal regulations concerning a “relocation” of a customer service facility to another existing building (39 C.F.R. § 241.4), which you expressly cite as the authority for your decision. Instead, it appears that the Postal Service is preparing to relocate the facility without complying beforehand with a specific mandate to follow local planning, zoning and building codes at the new location in the Venice Carrier Annex.

Specifically, 39 C.F.R. § 241.4(f) provides:

(f) *Planning, zoning, building codes.* In carrying out customer service facilities projects, it is the policy of the Postal Service to comply with local planning and zoning requirements and building codes consistent with prudent business practices and unique postal requirements. In order to promote a partnership with local officials and assure conformance with local building codes, plans and drawings will be sent to the appropriate building department or other officials for review. Where payment of fees is normally required of private entities, the Postal Service will pay a reasonable fee for the review. The Postal Service will give local public officials written notice of any timely, written objections or recommendations that it does not plan to adopt or implement.

To our knowledge, notwithstanding the foregoing regulation, the Postal Service has thus far submitted no plans or drawings to the City of Los Angeles for the proposed relocation of the VMPO to the Venice Carrier Annex. (Venice is not, as you seem to believe, a separate city.) Such plans and drawings would initially be submitted to the City’s Department of Building and Safety, but inevitably would also require clearances by both the City Planning Department and the California Coastal Commission, a separate entity with jurisdiction in the Coastal Zone that includes the property. (See our separate letter on this issue to USPS Consumer Affairs, dated May 25, 2011.)

Your September 23 letter appears to imply that the “relocated” retail operations can simply be piggybacked onto the existing Venice Carrier Annex without any substantial change to the development on that site other than perhaps the restriping of parking spaces. This view is naïve at best. The Annex is a substantial commercial-type operation that already consumes most, if not all, of the parking on the site. It is located in perhaps the most parking-starved parts of the City, and just a few blocks from the ocean, where residents, beachgoers and other visitors constantly compete for scarce available parking. As such, development in the area is subject to especially stringent parking requirements contained in the City’s Venice Coastal Zone Specific Plan. Moreover, the Annex is located on three separate parcels with multiple zoning

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classifications and which are substandard in numerous respects under the modern building and zoning codes.

If a private property owner were to inject a new retail use onto this site akin to that proposed by the Postal Service here, the owner would most certainly be obligated to present plans to the City that bring the entire site (including the existing facility) into conformance with the modern codes. This is likely to require a significant reconfiguration of access and parking, among other things. Moreover, once the site is brought into conformance with modern codes it may in fact become apparent that the site is not, in fact, adequate to accommodate the proposed relocation unless relief is granted from the applicable codes, such as through a variance.

Given this fact, the only prudent approach is for the Postal Service to complete all plans for the relocation of retail services to the Annex and have them approved by the City and other bodies, before a decision is made to abandon the historic VMPO – which, after all, is the only place that is demonstrably adequate for those existing retail services. Yet, the Postal Service is presently pursuing a course by which the historic VMPO may be abandoned or even sold before a suitable, code-conforming project has been identified to replace it.

In a similar vein, the Postal Service appears to be ignoring language in 39 C.F.R. § 241.4(f), quoted above, which clearly contemplates that local officials (such as Councilmember Bill Rosendahl) have an opportunity to make written objections or recommendations concerning the actual plans and drawings depicting the proposed “relocation” to the Venice Carrier Annex. Despite the regulation, to our knowledge no such opportunity has been afforded. Rather, the Postal Service has instead received limited public comment only on the specific subject of closing the existing historic VMPO. Meanwhile, the Postal Service has left both the public and local officials completely in the dark regarding its actual plans for the new retail operation to be added at the Venice Carrier Annex and how they will comply with local codes and the Coastal Act. Again, that places the cart before the horse, and it is not what the regulations require.

Thus, we ask that you rescind your September 23 decision immediately and that you fully address the issues set forth above before taking any further action concerning the historic VMPO.

If you have any questions, please do not hesitate to call me.

Very truly yours,



John A. Henning, Jr.

Enclosure

cc: Congresswoman Janice Hahn (via electronic mail)  
Congressman Henry Waxman (via electronic mail)

1 JOHN A. HENNING, JR. (State Bar No. 159138)  
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2 Los Angeles, California 90048  
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3 Facsimile: (323) 655-6109

4 Attorney for Petitioners VENICE STAKEHOLDERS  
5 ASSOCIATION and MARK RYAVEC

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7  
8 BEFORE THE  
9 POSTAL REGULATORY COMMISSION  
10

11 VENICE STAKEHOLDERS  
12 ASSOCIATION, an unincorporated  
13 nonprofit association; MARK RYAVEC,  
an individual,

14 Petitioners,

15 v.

16 UNITED STATES POSTAL SERVICE,  
a government entity,

17 Respondent.  
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Docket No. \_\_\_\_\_

**PETITION FOR REVIEW OF  
DECISION TO CLOSE VENICE  
MAIN POST OFFICE [39 C.F.R.  
3001.111];**

**AND**

**APPLICATION FOR SUSPENSION  
OF CLOSURE DECISION  
PENDING OUTCOME OF APPEAL  
[39 C.F.R. 3001.114]**



1 c. The Postal Service has failed to comply with 39 U.S.C. §  
2 404(b)(1), which requires, prior to closing the VMPO, the provision of at least 60 days'  
3 notice to persons served by such post office;

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5 d. The Postal Service has failed to comply with 39 U.S.C. §  
6 404(b)(2), which requires the Postal Service to consider, before closing the VMPO,  
7 numerous factors including the effect on the community, the effect on employees, and the  
8 economic savings to the Postal Service;

9  
10 e. The Postal Service has failed to comply with 39 C.F.R. §  
11 241.3(a)(5), which requires that an initial feasibility study be prepared before any decision  
12 to discontinue the VMPO.

13  
14 f. The Postal Service has failed to comply with 39 C.F.R. §  
15 241.3(c)(1)(i), which requires that the District Manager, in considering whether to  
16 recommending closure of the VMPO, to follow all standards and procedures set forth in 39  
17 C.F.R. § 241.3(c) and (d).

18  
19 g. The Postal Service has failed to comply with 39 C.F.R. §  
20 241.3(c)(4), which requires the District Manager to prepare a written proposal to close the  
21 VMPO, which would describe, analyze and justify in detail the proposed change and its  
22 effect on available services, the community, employees, economic savings to the Service,  
23 and other factors; and which would notify the public of where to inspect materials on  
24 which the proposal was based, and its right of appeal from any final determination; and  
25 which requires the District Manager to preserve for the record all documentation used to  
26 assess the proposed change.

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1 h. The Postal Service has failed to comply with 39 C.F.R. §  
2 241.3(d), which requires that the written proposal and a signed invitation for comments be  
3 posted prominently at the VMPO and elsewhere, that a community meeting be held on the  
4 proposal, and that a complete copy of the record be available for public inspection during  
5 normal office hours;

6  
7 i. The Postal Service has failed to comply with 39 C.F.R. §  
8 241.3(e), which requires consideration of all public comments and a final local  
9 recommendation by the District Manager concerning the proposal to close the VMPO;

10  
11 j. The Postal Service has failed to comply with 39 C.F.R. §  
12 241.3(f), which requires the preparation of a final written decision by the responsible  
13 Headquarters Vice President, including a specific notice advising the public of its right to  
14 appeal the determination to this Commission within 30 days after the posting of the  
15 determination;

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17 k. The Postal Service failed to comply with 39 U.S.C. §  
18 404(b)(3), which requires the determination to close the VMPO to include written findings  
19 with respect to the considerations required to be made under with 39 U.S.C. § 404(b)(2),  
20 and by failing to make the determination and findings available to persons served by the  
21 VMPO; and

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23 l. The Postal Service has failed to comply with 39 U.S.C. §  
24 404(b)(4), which requires it to refrain from taking any action to close the VMPO until 60  
25 days after its written determination is made.

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1           3.     Petitioner Venice Stakeholders Association (“VSA”) is an  
2 unincorporated nonprofit association organized under section 501(c)3 of the Internal  
3 Revenue Code, which includes members who are served by the VMPO. As such, VSA is a  
4 “Person” under 39 C.F.R. § 3001.5 that is served by the VMPO, and thereby entitled to file  
5 this Petition.

6  
7           4.     Petitioner Mark Ryavec is a resident of Venice who is served by the  
8 VMPO, and is thereby entitled to file this Petition.

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10          5.     Respondent United States Postal Service is a government entity which  
11 operates the VMPO and is responsible for the Closure Decision.

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13                   **APPLICATION FOR SUSPENSION OF CLOSURE DECISION**

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15          6.     Petitioners further apply pursuant to 39 C.F.R. § 3001.114 for an  
16 order suspending the effectiveness of the Closure Decision pending the outcome of this  
17 appeal. Such application is made based upon facts that are not subject to dispute, namely,  
18 as follows:

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20           a.     The closure would result in an immediate and dramatic  
21 reduction in the services now provided at the VMPO, including, but not limited to, a  
22 reduction of customer service windows by 60 percent, i.e., from five windows to no more  
23 than two;

24  
25           b.     The Postal Service is, as a result of the Closure Decision,  
26 already attempting to sell the historic structure that has housed the VMPO since 1939; and



1 c. If said structure is sold while this appeal is pending, the Postal  
2 Service would be incapable of restoring the services that are the subject of the appeal.

3  
4 **PRAYER FOR RELIEF**

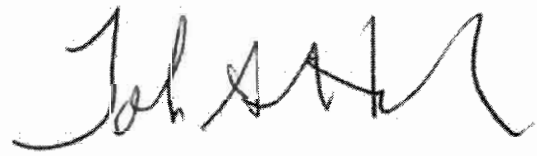
5  
6 WHEREFORE, Petitioners request that the Commission:

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8 a. Make an immediate order suspending the effectiveness of the  
9 Closure Decision until the final disposition of this appeal;

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11 b. Reverse the Closure Decision and return the matter to the  
12 Postal Service for further consideration; and

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14 c. Provide such other and further relief as the Commission deems  
15 just and proper.

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17 DATED: October 13, 2011

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23 JOHN A. HENNING, JR.  
24 Attorney for Petitioners  
25 VENICE STAKEHOLDERS ASSOCIATION  
26 and MARK RYAVEC  
27  
28

DAVID E. WILLIAMS  
VICE PRESIDENT, NETWORK OPERATIONS



September 23, 2011

John A. Henning, Jr., Esq.  
125 N. Sweetzer Avenue  
Los Angeles, CA 90048

Dear Mr. Henning,

Thank you for your August 31, 2011 request for review of the decision to relocate retail services currently located at 1601 Main Street, Venice, California. Please find enclosed the final decision of the Postal Service regarding the requests for review relating to that facility.

I was designated as the decision maker in this matter because the Vice President, Facilities, had already concurred in the original decision. The attachment explains our position in more detail and we believe we have addressed all of the concerns expressed by our customers. As I have explained, I will not set aside the original decision.

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Williams", with a long horizontal flourish extending to the right.

David E. Williams

Enclosure

cc: Tom A. Samra

## **Final Decision Regarding Relocation of Retail Services in Venice, California**

In accordance with the procedures set forth at 39 C.F.R. § 241.4(c)(6), this is the final decision of the Postal Service with respect to the relocation of retail services from the Venice, California Main Post Office at 1601 Main Street to the Venice Carrier Annex at 313 Grand Boulevard. The Postal Service announced its decision to relocate retail services on July 18, 2011 and subsequently received requests for review from several postal customers. I have carefully considered all the concerns expressed by our customers in each of the requests for review and other correspondence along with the complete project file relating to the relocation proposal. While I am sympathetic to some of the concerns raised, for the reasons set forth below, I will not set aside the Postal Service's prior decision.

Postal customers raised concerns about impacts the Postal Service's decision to relocate retail services might have on (1) historic resources and (2) the surrounding environment, specifically traffic and parking impacts within a coastal zone and in the residential neighborhood around the Venice Carrier Annex. Each of these issues is addressed below.

### **I. Historic Resources**

The Venice Main Post Office was constructed in 1939 and is eligible for listing in the National Register of Historic Places. An oil-on-canvas mural entitled "Story of Venice" by artist Edward Biberman is currently on display in the lobby. Several customers expressed concern that the building and/or mural would not be preserved.

Section 106 of National Historic Preservation Act ("NHPA") requires federal agencies to take into account the effects of their proposed undertakings on historic properties, and when such effects are possible, to initiate and complete the Section 106 consultation process. Section 106 review ensures that federal agencies consider historic properties, along with other factors such as cost and agency mission, in the planning process of proposed undertakings. However, the preservation of every historic property is not the goal of Section 106, nor does Section 106 require a business to continue to operate in a historic property even if doing so causes the business to become unprofitable.

The relocation of retail services is not an "undertaking" within the meaning of Section 106. An undertaking is a "project, activity or program" that can result in changes in the character or use of historic properties. The relocation of retail services does not alter the character of the Venice Main Post Office building or the mural. Nor does it change the uses that can be made of the property. There will be no "undertaking" within the meaning of NHPA until the Postal Service adopts a plan for the reuse of the Venice Main Post Office or the transfer of the Post Office building from Postal Service ownership to private ownership. The

Postal Service will initiate the Section 106 consultation process when it develops plans for the reuse or disposal of the property, and the City of Venice will be a consulting party. The Postal Service will include measures to ensure the mural will remain available for public viewing in any plan for reuse or disposal of the Post Office property.

## **II. Traffic and Parking**

The Venice Main Post Office will be relocated 400 feet to the Venice Carrier Annex. The relocation will not result in any negative environmental impacts, nor will it be inconsistent with the policies of the California Coastal Act. The Carrier Annex can accommodate retail counters and Post Office Boxes without expansion of the building. While trips will be 400 feet shorter or longer depending on the direction from which vehicles are traveling, there will be no rerouting of traffic as a result of the relocation. Although several customers expressed concerns about a parking shortage in the area, this situation should not be exacerbated by the relocation of the Venice Main Post Office since the Carrier Annex property includes an on-site parking lot for postal vehicles and will be restriped to accommodate additional parking spaces for our customers.

## **III. Balancing the Impact on the Community and the Best Interests of the Postal Service**

While the Postal Service is not insensitive to the impact of this decision on its customers and the Venice community, the relocation of the Venice Main Post Office is in the best interest of the Postal Service. The Venice Carrier Annex can accommodate the retail counters and Post Office Boxes without expansion of the building. Relocation of the carriers from the Venice Carrier Annex to the Venice Main Post Office was considered, but rejected because the Venice Main Post Office has insufficient parking to accommodate additional operations and insufficient platform space to accommodate tractor/trailer mail delivery. I have also taken into account the comments regarding the physical appearance of the Annex. The Postal Service will realize an annual cost savings of \$135,498 by moving retail services into the Venice Carrier Annex. The annual cost savings takes into consideration the cost of relocation, which is offset by savings from utilities and maintenance labor.

In reaching this decision, I considered all of the public input received but the objections expressed do not outweigh the financial exigencies facing the Postal Service. With current projections for declining mail volume, and the financial condition of the Postal Service, the Postal Service must make any feasible change to reduce costs. As our customers are no doubt aware, the Postal Service is funded by the sales of its services and products. It has an obligation to match its retail and distribution networks to the demand for its services from customers.

Accordingly, I conclude that there is no basis to set aside the decision to relocate the Venice Main Post Office, 1601 Main Street, to the Venice Carrier Annex, 313 Grand Boulevard. This is the final decision of the Postal Service with respect to this matter, and there is no right to further administrative or judicial review of this decision.

A handwritten signature in black ink, appearing to read 'DAVID E. WILLIAMS', with a long horizontal flourish extending to the right.

David E. Williams  
Vice President, Network Operations