

Before the  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Glenoaks Station Post Office  
Burbank, California 91504

Docket No. A2013-5

**REPLY TO THE UNITED STATES POSTAL SERVICE  
MOTION TO DISMISS**

(July 29, 2013)

In its Motion to Dismiss, the Postal Service offers three arguments for dismissing the appeal on the Final Determination to close the Glenoaks Station Post Office in Burbank, California:<sup>1</sup>

1. The appeal was premature because the Final Determination notice has not been posted.
2. The Glenoaks facility is a station, not an independent post office, and only decisions on post offices can be appealed to the PRC.
3. Postal services will continue to be available to Glenoaks' customers elsewhere in Burbank, and the closure is simply part of "a rearrangement of postal facilities," not a closing as defined in 404(b); according to Commission precedents, the closure is therefore outside the jurisdiction of the Commission.

The first two of these arguments do not require much reply. As the Public Representative observes in her Response to the Motion to Dismiss, some of the

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<sup>1</sup> Motion of United States Postal Service to Dismiss Proceedings, Glenoaks Station Post Office, Docket No. A2013-05 (July 15, 2013).

petitions were submitted before the Postal Service posted its corrected Notice of Final Determination, but the argument that these were premature should be moot at this point, considering that additional petitions were filed after the new Final Determination was posted.<sup>2</sup>

As for the second argument, that the appeals should be dismissed because the Glenoaks post office is a station, the Public Representative observes, "The Commission has repeatedly rejected the Postal Service's assertions that stations and branches are not 'post offices' under section 405(d)(5)."<sup>3</sup> The Commission will presumably continue to reject the Postal Service's argument concerning stations and branches.

The Postal Service's third argument for dismissing the appeal requires a more substantive answer. In the Motion to Dismiss, the Postal Service states the following:

Specifically, the procedural requirements of 39 U.S.C. §404(d) do not apply because the closing of Glenoaks Station does not qualify as a discontinuance action envisioned by 39 U.S.C. §404(d). When determining whether it has jurisdiction to hear an appeal, the Commission must consider the context of the Postal Service's actions in the affected community. Typically, a change to the Postal Service retail network in a community constitutes a "rearrangement" if the move or elimination of a Postal Service retail facility in that community is performed as part of an overall realignment of the network of access points in that community. As a result of the change, the postal services available to the community must continue to meet the community's postal needs as measured by customer use of postal services in that community.

The Commission and its predecessor, the former Postal Rate Commission, have long recognized that section 404(d) does not apply to Postal Service actions that constitute a rearrangement of retail facilities within a

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<sup>2</sup> Public Representative Response to United States Postal Service Motion to Dismiss Proceedings, Glenoaks Station Post Office, Docket No. A2013-05 (July 23, 2013).

<sup>3</sup> Ibid.

community.<sup>4</sup>

We believe that this argument is not persuasive, and we ask the Commission to reject the Motion to Dismiss for the reasons set forth below.

**1. The Postal Service conducted a discontinuance study under 404(b) and 241.3; now that the Postal Service has issued a Final Determination, it makes no sense to say that the closure falls outside of these statutes and is not available for appeal.**

According to the Code of Federal Regulations, there are two types of facility actions that involve closing a post office (aside from a temporary emergency suspension): a closure (i.e., a discontinuance), which is subject to the requirements of 241.3, and a relocation, which is subject to the requirements of 241.4. When the Postal Service initiated a discontinuance study on the Glenoaks post office in 2011, it clearly saw itself as operating under 241.3. As seen in the Administrative Record, a postal official requested approval to begin a discontinuance study on Feb. 4, 2011. Letters were sent to Glenoaks customers on March 21, 2011, informing them that the Postal Service was “conducting a discontinuance feasibility study,” and customers were invited to submit comments and attend a public meeting on May 30, 2011. Some 132 customers submitted surveys, with 83 of them objecting to the proposal. A Discontinuance Feasibility Study Survey was completed on May 8, 2013, and on June 20, 2013, the Final

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<sup>4</sup> Motion of United States Postal Service to Dismiss Proceedings, Glenoaks Station Post Office, Docket No. A2013-05 (July 15, 2013).

Determination to Close the Glenoaks Station was posted.

The Postal Service went through the steps involved with a discontinuance as described in 404(d), 241.3, and the Discontinuance Handbook, and it concluded the process in 2013 with a Final Determination to discontinue the Glenoaks Station. The statutes on a discontinuance, 404(d) and 241.3, clearly guarantee the right to appeal a Final Determination to the Commission. It makes no sense for the Postal Service to go through a discontinuance procedure on a post office, and then say that the procedure stops with a Final Determination, with no further recourse to an appeal.

If an appeal were not available, the Postal Service could violate the discontinuance regulations in any number of ways, without concern for the consequences. In fact, there would be no reason to follow the discontinuance requirements at all. The Postal Service could close a post office in an entirely arbitrary and capricious manner, and customers would have no recourse and no opportunity for review by the Commission.

**2. There is nothing in the statutes about “rearrangement of retail services” and nothing to indicate that such “realignments” are outside the scope of 404(d); in any case, the closure of the Glenoaks station is not part of a “rearrangement” or “realignment” because the only change taking place is the closure of the Glenoaks post office.**

In previous orders issued by the Commission, there has been reference to a category described as a “rearrangement of retail services.” The phrase, or some

variation of it (e.g., “realignment of facilities”), appears in several orders, going back to *Oceana* (1982).<sup>5</sup> It appears, for example, in *Birmingham Green* (2003),<sup>6</sup> *Ecorse* (2006),<sup>7</sup> *Steamboat Springs* (2010),<sup>8</sup> *East Elko* (2010),<sup>9</sup> *Pimmit* (2011),<sup>10</sup> and *Ukiah*.<sup>11</sup>

This terminology is extremely problematic because it exists nowhere in the statutes. The regulations describe closures (discontinuances), emergency suspensions, and relocations, but there is nothing about “rearrangements” or “realignments.” There is nothing in 404(d) or 241.3 or 241.4 explaining how some such “rearrangements” permit the Postal Service to close a post office without going through a discontinuance procedure. The terminology is the Commission’s own creation, and it is repeated in one order after another without reference to the language of the statutes on discontinuances and relocations.

In any case, the previous orders by the Commission that were characterized as “rearrangements” all involved facility actions other than simply closing a post office. In *Birmingham Green*, for example, the Postal Service planned to open a contract postal unit to replace the office that was closing. In *Ecorse*, the Postal

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<sup>5</sup> Order No. 436, PRC Docket No. A82-10, *Oceana Station, Virginia Beach, Virginia* (June 25, 1982).

<sup>6</sup> Order No. 1387, Docket No. A2003-1, *Birmingham Green, Alabama* (December 3, 2003).

<sup>7</sup> Order No. 37, PRC Docket No. A2007-1, *Ecorse Classified Branch, Ecorse, Michigan* (October 9, 2007).

<sup>8</sup> Order No. 448, PRC Docket No. A2010-2, *Sundance Post Office, Steamboat Springs, Colorado* (April 27, 2010).

<sup>9</sup> Order No. 477, PRC Docket No. A2010-3, *East Elko Station, Elko, Nevada*, (June 22, 2010).

<sup>10</sup> Order No. 1159, Docket No. A2011-90, *Pimmit Branch, Falls Church, Virginia* (Jan. 20, 2012).

<sup>11</sup> Order No. 804, PRC Docket No. A2011-21, *Ukiah Main Post Office, Ukiah, California* (August 15, 2011).

Service relocated the River Rouge post office to a new, larger facility, and subsequently closed the Ecorse Branch and told its customers to use the new River Rouge facility.

In the Glenoaks case, there is no such rearrangement going on. No new facility is being built, no other post offices are being relocated, no new contract postal unit is being opened. The only facility action taking place is the closure of the Glenoaks post office. It is difficult to see how this closure can be viewed as part of a larger “rearrangement” or overall “realignment” of retail services.

**3. The closure of the Glenoaks station is not part of a “relocation” because no new facility is opening to replace it, so it is not subject to the requirements of 39 CFR 241.4 as an alternative to 39 CFR 241.3.**

While “rearrangement” and “realignment” are not described in the statutes, 39 C.F.R. 241.4 (“Expansion, relocation, and construction of post offices”) does deal with “relocations” of postal facilities. The Postal Service, however, has announced no plans to open a new postal facility to replace the Glenoaks Station when it closes. The Postal Service will not be opening a new retail counter in a carrier annex, it is not building a new post office, and it is not leasing space in a new location. The Postal Service has not indicated in any way that the facility action underway in Burbank is a “relocation,” it has not told customers they can appeal to the Vice President, Facilities (as required for a relocation), and it did not cite 241.4 in its Motion to Dismiss.

The closure of the Glenoaks station is therefore clearly not a relocation as

described by 241.4.

**4. The argument that a post office can be closed outside the scope of 404(b) simply because customers will continue to have access to a post office does not stand scrutiny.**

There is one precedent for viewing a simple closure as part of a “rearrangement” — the East Elko decision. In that case, the Postal Service closed the East Elko Station and transferred retail services to the main Elko Post Office, located 1.5 miles away. In dismissing the appeal for lack of jurisdiction, the Commission explained, “While there is no new facility... the East Elko Station customers are not losing access to the postal services offered in their community.”<sup>12</sup>

This is basically the argument the Postal Service now uses to say the appeal on the Glenoaks post office should be dismissed. In its Motion to Dismiss, the Postal Service insists on characterizing the closure of Glenoaks as a “rearrangement,” even though there is no rearranging or realigning taking place aside from the closure of Glenoaks, so its main argument for classifying the closure as outside of the scope of 404(d) is reduced to one basic claim: “As recognized in longstanding Commission precedent, the section 404(d) procedural requirements apply only where postal customers lose access to postal services,

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<sup>12</sup> Order No. 477, PRC Docket No. A2010-3, *East Elko Station, Elko, Nevada*, (June 22, 2010).

and postal customers do not lose access to postal services where alternate retail facilities are located in 'close proximity' to the discontinued station.”

In her Response to the Motion to Dismiss, the Public Representative takes a similar line of reasoning. She too characterizes the closing as part of a rearrangement, without noting the fact that there is no rearranging going on besides the closing, and then she too falls back on the argument that the Postal Service uses: Glenoaks customers will continue to have access to retail services as other post offices and non-USPS retail outlets. “There is no claim or evidence presented,” states the Public Representative, “that indicates this rearrangement will have an adverse affect on retail and delivery services of Glenoaks residents and businesses.”<sup>13</sup>

With all due respect to the Postal Service, the Commission, and the Public Representative, this view that a post office can be closed outside the scope of 404(d) simply because another post office is in “close proximity” or because customers will continue to have access to postal services simply does not stand scrutiny. There is nothing in the language of 404(d) or 241.3 that suggests Congress intended the Commission to decide that some closures were closures under 404(d) while others were outside the scope of 404(d) based simply on the issue of how far away another post office or stores that sell stamps might be. The closing of a post office and transfer of retail services to an existing post offices can

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<sup>13</sup> Public Representative Response to United States Postal Service Motion to Dismiss Proceedings, Glenoaks Station Post Office, Docket No. A2013-05 (July 23, 2013).

be viewed as nothing other than a closure under 404(d).

**5. The distance to other post offices is not an appropriate criterion for determining the scope of 404(d).**

The fact that another post office may be in “close proximity” to the post office that is closing is certainly an important matter. It is the kind of fact that one would expect the Postal Service to take note of when it conducts a discontinuance study. It is the kind of detail the Postal Service references when it issues a Final Determination. But it is not a subject that should have any bearing on whether a closure falls within 404(d).

The issue of whether customers will have access to postal services after their post office closes should be a question for the Commission to consider once an appeal is being heard. It is too subjective and too relative to the circumstances to be of any use in evaluating whether or not a post office has actually closed under the scope of 404(d). If the Commission were to adopt the view expressed by the Postal Service and the Public Representative, the Commission would find itself in the position of having to evaluate whether or not the distance to another post office is “reasonable” or “close” (or whatever) each time it decided whether or not to dismiss an appeal.

Just to show what kind of problem the Commission opens itself to, consider how the Postal Service describes the distance to other retail options for Glenoaks’ customers. The Postal Service states, “Glenoaks Station customers will continue to have access to the Downtown Burbank Station, located approximately one mile

from the Glenoaks Station, the Burbank Post Office, also located approximately one mile away from the Glenoaks Station, and numerous alternative access retail locations.” The Postal Service includes a page from its USPS.com “Find Locations” website listing the alternatives and the distances.

These distances, however, are all “as the crow flies.” The actual distances are greater, and the routes one must take are decidedly not pedestrian-friendly. For example, the website shows the distance from the Glenoaks post office to the Downtown Burbank office at 135 E. Olive Ave. as 1.1 mile. On Google Maps, the actual driving distance is 1.3 to 1.7 miles, depending on the route.<sup>14</sup> For customers who want or need to walk, it takes a half hour to get to the Downtown office. The Postal Service suggests that Glenoaks customers can also use the Burbank office at 2140 N. Hollywood Way, which it says is located “approximately one mile away.” On Google Maps, the driving distance between the Glenoaks office and the Burbank office on N. Hollywood Way is 2.4 miles.<sup>15</sup> It is probably not very walkable, either. Google Maps says it is a 40-minute walk, and one needs to pass under the Golden State Freeway.<sup>16</sup> As Google Map warns, “Use caution: This route may be missing sidewalks or pedestrian paths.” As for all the other alternative retail access points noted by the Postal Service, they are all stores like Staples and CVS and banks, places that just sell stamps. They do not constitute any kind of ready access to a full line of postal services.

All of which is simply to say that evaluating customer alternatives to a post

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<sup>14</sup> See Exhibit A.

<sup>15</sup> See Exhibit B.

<sup>16</sup> See Exhibit C.

office that is closing is a matter of some complexity, subjectivity, and controversy. As the Glenoaks example shows, it can also be the occasion for the Postal Service to present misleading and incorrect information to support its case. The distance to another post office is simply not an appropriate criterion for determining whether or not a post office closing is a closing within the scope of 404(d).

**6. The Administrative Record raises questions that should be considered by the Commission as part of the appeals process.**

One of the probable motivations for closing the Glenoaks post office is that the Postal Service wants to sell the building. According to the Administrative Record, the broker's opinion of its value is \$1.23 million.<sup>17</sup> This is not presented as a rationale for closing the post office, however. Instead, the justifications offered are (1) the declining revenue, (2) the estimated cost savings, and (3) the claim that "there are a number of alternate sites within a short radius of this office that can provide the sale of stamps and the mailing of most package items." There are issues with all three of these justifications.

The Administrative Record indicates that the Postal Service believes it will save \$740,270 over the next ten years. It breaks down the cost savings as follows:

Building maintenance	\$152,570
Utilities	\$128,890
Transportation	\$67,690
EAS Craft & Labor	\$391,120

There are no details about how the Postal Service will save nearly \$40,000 a year

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<sup>17</sup> Administrative Record, p. 6, at [prc.gov/Docs/87/87345/A2013-5\\_Glenoaks\\_Station.pdf](http://prc.gov/Docs/87/87345/A2013-5_Glenoaks_Station.pdf)

in craft and labor costs. Under “Effect on Employees,” the Postal Service simply states, “The unit is a retail annex and all employees are part of another installation and their work schedules will be adjusted to work at the parent facility.” If there will be no impact on employees, how can the Postal Service save any labor costs?

The Record shows that revenues have been falling since 2008, but this period coincides with the Recession and its aftermath, so they are not a good indication of what the future holds. In any case, revenues in 2012 were substantial: \$877,111.<sup>18</sup> It is not clear from the Record how much it actually costs to operate the Glenoaks office. There are apparently just two employees. Together they may be earning as little as \$40,000 a year (the estimated labor savings in the Final Determination) or \$48,000 (the estimate in the Proposal to close) or as much as \$150,000 (a rough estimate for the salary and benefits of two career employees); the maintenance, utilities, and transportation costs are apparently about \$35,000 a year. Perhaps it costs between \$75,000 and \$200,000 a year to operate Glenoaks. With annual revenues averaging nearly \$1 million over the past five years, Glenoaks appears to be a very profitable post office. What is the logic behind closing it?

The Postal Service’s cost-savings analysis assumes that the entire annual revenue of the post office will migrate to another post office, but that is probably an overly optimistic assumption. Many customers will seek alternatives. According to a news account, for example, one customer said he walks to the post office on his lunch hour to mail his music to record companies and packages to family on the

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<sup>18</sup> Administrative Record, at [prc.gov/Docs/87/87362/Supplement\\_to\\_Record.pdf](http://prc.gov/Docs/87/87362/Supplement_to_Record.pdf)

East Coast. If it closes, he says, “I don’t know if I’ll have time to do what I have to do at the other [post office.]”<sup>19</sup> The Postal Service may lose this customer’s business. If even ten percent of the revenues are lost with the closing of the office, that would mean an annual loss of about \$87,000 — \$13,000 more than the Postal Service anticipates saving.

As for the justification that there are other places nearby where one can buy stamps and mail some packages, the Commission is well aware of the problems associated with using stores that sell stamps and Village Post Offices and other non-postal facilities as replacements for post offices. They are a useful supplement, but not an adequate substitute.

As this brief look at the Administrative Record reveals, there are many issues with the Postal Service’s rationale for closing the Glenoaks post office. In addition, there is the simply fact that the discontinuance study was done two years ago. The regulations may not say anything about how this, but it seems highly problematic to use old surveys and the notes on a public meeting that took place in May, 2011, to discontinue a post office in July 2013. As Congressman Adam Schiff wrote the Postmaster General recently, “Lastly, I have concerns about the process used to close the Glenoaks facility.... I’m currently unaware of any steps USPS has taken to ensure that that community members affected by the proposed closure have the opportunity to present their views. USPS should solicit input from the community on the closure through a variety of formats – postal mail, online

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<sup>19</sup> “Glenoaks post office in Burbank to close, officials confirm,” Burbank Leader, June 21, 2013 ([burbankleader.com/the818now/tn-blr-glenoaks-post-office-in-burbank-to-close-officials-confirm-20130621,0,1085126.story](http://burbankleader.com/the818now/tn-blr-glenoaks-post-office-in-burbank-to-close-officials-confirm-20130621,0,1085126.story)).

submissions and a public forum with USPS representatives present to answer any questions about the closure.”<sup>20</sup>

All of the issues raised in this Reply — the distances to other post offices, the cost-savings analysis, the two-year old discontinuance process, the possibility that the closure will actually lose money for the Postal Service — are subjects that would normally be addressed during the appeals process. If it were to dismiss the appeal, the Commission would deprive itself and the petitioners of an opportunity to review the Postal Service’s process in determining to close the Glenoaks post office.

**7. Expanding the scope of what is outside 404(d) and beyond the jurisdiction of the Commission threatens to undermine the entire appeals process, thereby giving the Postal Service free rein to close post offices without regard for any procedural requirements.**

When the Postal Service decided it wanted to consider the Glenoaks post office for discontinuance back in early 2011, it recognized the necessity of going through a conventional discontinuance process as required by 404(d) and 241.3. The Postal Service would probably have filed comments with the Commission reiterating its long-held view that stations and branches are not “post offices” within the scope of 404(d), but it would have maintained that it nonetheless followed all the procedures required for a discontinuance.

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<sup>20</sup> Letter from Congressman Schiff to Postmaster General Donahoe, April 30, 2013 ([schiff.house.gov/press-releases/rep-schiff-calls-on-postal-service-to-keep-glenoaks-post-office-in-burbank-open/](http://schiff.house.gov/press-releases/rep-schiff-calls-on-postal-service-to-keep-glenoaks-post-office-in-burbank-open/)).

Now the Postal Service has filed a Motion to Dismiss the Glenoaks appeal based not simply on the argument that it is a station but also because the closure is part of “a rearrangement of postal facilities,” which it claims is “an event that falls outside the scope of section 404(d)(5).” This is probably the first time the Postal Service has filed a Motion to Dismiss an appeal using that argument. The Postal Service did file a Motion to Dismiss the Venice appeal, but in that case the Postal Service argued that the closure was actually a relocation as governed by 39 C.F.R. 241.4.

In the Glenoaks case, there is no relocation going on. No new facility is opening to replace it. There is also no overall “rearrangement” or “realignment” going on. The post office is simply being closed.

So what has happened since spring 2011, when the Postal Service initiated a discontinuance review on Glenoaks, that now allows the Postal Service to say that the Glenoaks decision lies outside 404(d)? What orders have been issued by the Commission since then that would have changed matters?

The only order cited in the Motion to Dismiss that was issued after spring 2011 is *Pimmit Branch* (Jan. 20, 2012). In that case, a new post office was opened in Falls Church, and another one closed a few blocks away. The Commission determined that closing the Pimmit Branch was part of this so-called “rearrangement.” There is nothing like that going on in Burbank. The only facility action taking place is the closure of the Glenoaks office.

The Postal Service appears to be testing the Commission’s willingness to extend the scope of what it views as outside of its jurisdiction. Dismissing the

Glenoaks appeal would thus not simply be a matter of making a decision based on precedents. It would set an entirely new precedent, and a very dangerous one. It would give the Postal Service permission to close post offices without concern for following the discontinuance requirements. The Postal Service would not even need to inform customers that they have the right to appeal — as illustrated by the Postal Service’s withdrawal of a Final Determination notice that informed Glenoaks customers they could appeal to the PRC. If anyone did appeal, the Postal Service would simply have to remind the Commission of its Glenoaks order dismissing an appeal not because there was a relocation, not because there was a rearrangement, but simply because there were other post offices in what the Postal Service considers “close proximity.” How many thousands of post offices could be closed under that scenario, with no right for communities to appeal and no reason for the Postal Service to obey the discontinuance procedures?

A handful of orders dismissing appeals over a period of three decades may not seem very significant, but the Commission finds itself at a crossroads with the Glenoaks appeal. If it dismisses this appeal, it will give the Postal Service free rein to close thousands of stations and branches, as well as many independent post offices that happen to be in “close proximity” to another, without concern for following proper procedures. Why worry about 404(d) and 241.3 if the Commission is not going to hear appeals? Communities will have no way to ensure that their post office has not been closed in an “arbitrary, capricious” manner, without observance of procedure required by law, and for reasons “unsupported by

substantial evidence on the record.”<sup>21</sup>

Moreover, because there is almost always another post office in “close proximity” to a station or branch, the Commission’s long-held view that decisions on stations and branches can be appealed will be rendered irrelevant. Instead of dismissing an appeal because the post office is a station or branch, as the Postal Service has advocated, the Commission will now dismiss the same appeal because the post office is near enough to another post office.

For the reasons set forth above, we respectfully urge the Commission to reject the Postal Service’s Motion to Dismiss the appeal on the Glenoaks Station, Burbank, California.

Respectfully submitted on behalf of petitioner  
Marlene Keables Benda

s/ Steve Hutkins

Steve Hutkins  
PO Box 43  
Rhinecliff, New York 12574  
[admin@savethepostoffice.com](mailto:admin@savethepostoffice.com)

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<sup>21</sup> 39 U.S.C. 404(d)(5)

# EXHIBITS

## Exhibit A

Map of walk from Glenoaks Station to Downtown Burbank office at 135 E. Olive Ave.

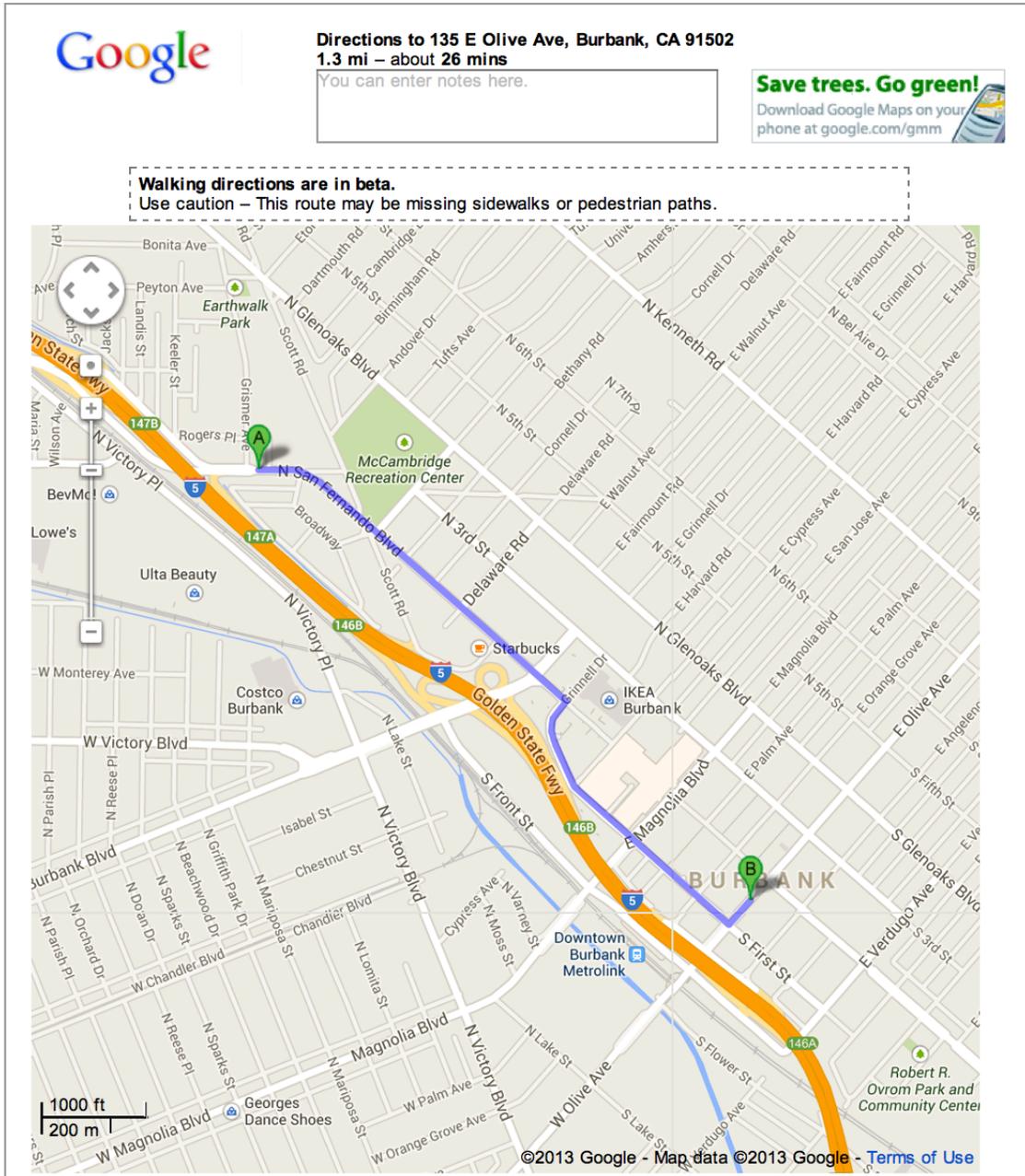


Exhibit B

Map of walk from Glenoaks Station to Burbank post office, 2140 N. Hollywood Way

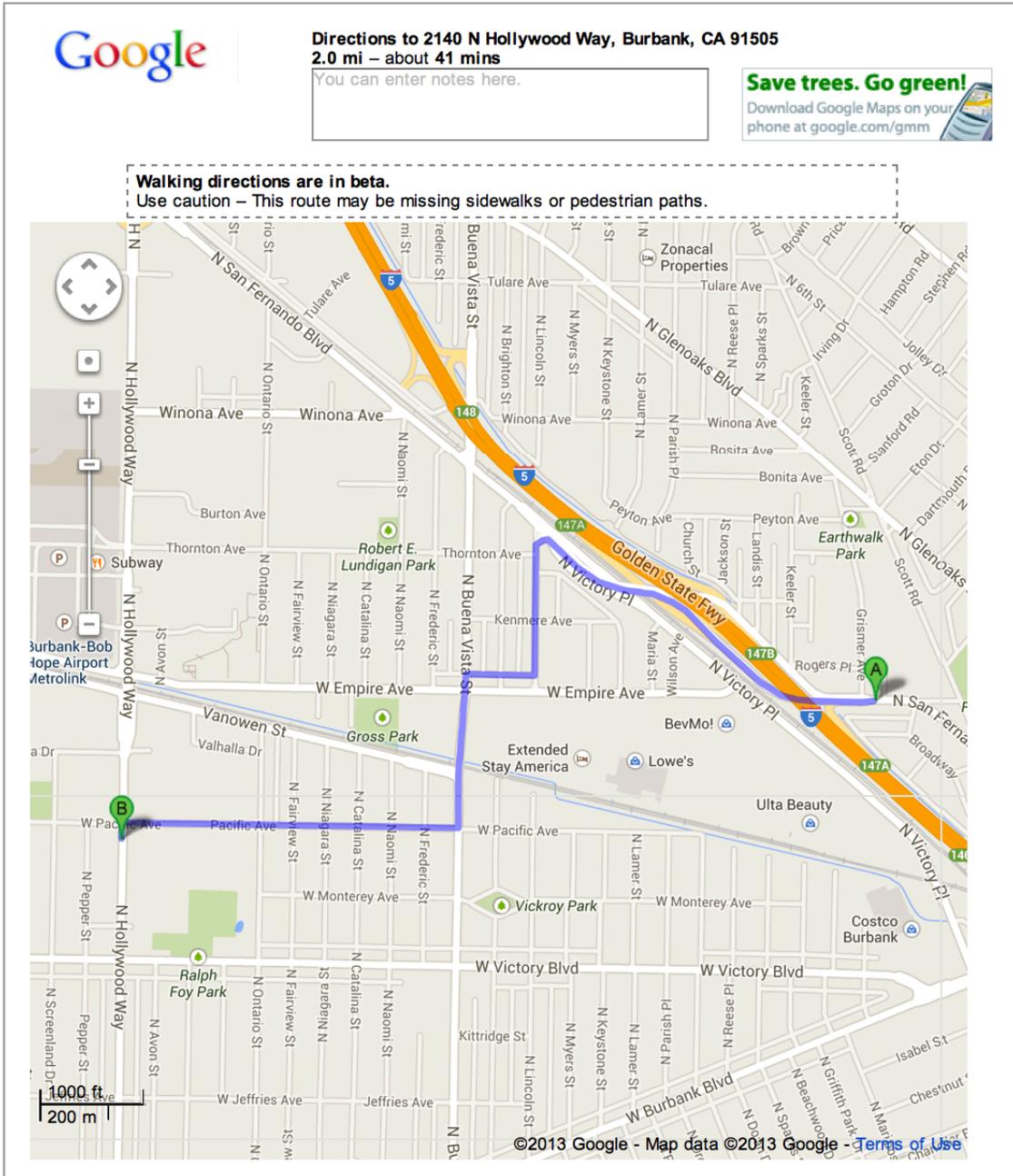


Exhibit C

Google Street view image of walk to Burbank Post Office,  
under Golden State Freeway

