Postal Regulatory Commission
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POSTAL REGULATORY COMMISSION
Washington, DC 20268-0001

Office of the Secretary

June 30, 2017

Joseph Baxter
645 Fourth Street
Suite 205
Santa Rosa, CA 95404

Re: Petition for Review Received from Joseph Baxter on behalf of the Petitioners Regarding the Rio Nido, California Post Office 95471

Dear Mr. Baxter:

The Postal Regulatory Commission received your appeal on behalf of the Petitioners regarding the Postal Service's determination to close the Rio Nido, California Post Office, located at 14770 Rio Nido Road, Rio Nido, CA 95471. The appeal has been assigned Docket No. A2017-2. The Commission's Notice and Order accepting the appeal is enclosed.

A copy of Commission Form 61 is also enclosed. You may complete Form 61 or file a brief to provide the Commission with arguments to support your appeal. *See* 39 CFR 3025.40. The deadline for submission of your arguments is July 31, 2017. Other deadlines are set out in the Notice and Order accepting your appeal.

If you have questions, do not hesitate to call the Public Representative named in the Notice and Order. The telephone numbers and e-mail addresses of Public Representatives are posted on the Commission's website, *www.prc.gov*. You may also call the Commission's Docket section (202-789-6846) to obtain contact information for the Public Representative assigned to your appeal. Please keep in mind that the Public Representative represents the interests of the general public and may not necessarily support all of your arguments.

Sincerely,

Stacy L. Ruble
Secretary

Enclosures

Print Form

PLEASE READ THESE INSTRUCTIONS ENTIRELY BEFORE FILLING OUT THE ENCLOSED PARTICIPANT STATEMENT

APPEALS OF POSTAL SERVICE DETERMINATIONS TO CLOSE OR CONSOLIDATE POST OFFICES

INTRODUCTION

Congress requires the Postal Service to follow specific procedures and to consider certain factors before making a Final Determination to close or consolidate a post office. When a patron appeals a Final Determination, the Postal Regulatory Commission (Commission) must decide whether the Postal Service's closure or consolidation of a post office is consistent with the law. **The Commission may not change the Postal Service's Final Determination.** It may only (1) affirm the determination, or (2) remand the entire matter to the Postal Service for further consideration.

You may assist the Commission in its consideration of your appeal by sending a written statement explaining why you believe that the Postal Service has not complied with the law. Enclosed please find a Participant Statement form, which you may use to present your written argument. The purpose of the Participant Statement is the same as a formal brief, which is to point out issues that you believe the Commission should consider in its review of the Postal Service's actions. You may also identify items in the Administrative Record that support your position. You are not required to use this form. You may file a Participant Statement as well as a formal brief.

REASONS FOR REMANDING A FINAL DETERMINATION

The Commission may remand a Final Determination if the Postal Service (1) fails to follow proper procedure, or (2) fails to provide a written record of its actions that is adequate to support its decision. The legal language that specifies how the Commission evaluates a Final Determination appears under the heading "Postal Regulatory Commission Authority" below. General examples of some reasons for remand would be:

1. The Postal Service did not follow the procedure required by law;
2. The Postal Service did not adequately consider certain issues it is required to consider;
3. The facts relied on by the Postal Service have not been established;
4. The facts in the Postal Service's Final Determination are true, but they do not prove what the Postal Service says they prove; or
5. The Final Determination does not resolve conflicts in the Administrative Record.

REVIEWING THE ADMINISTRATIVE RECORD

When investigating a post office for possible closing or consolidation, the Postal Service keeps a record of all the actions it takes (such as soliciting comments or holding a community meeting) and all the facts it considers in reaching a decision on whether to close or consolidate the post office. This record is called the Administrative Record. The Administrative Record also contains the Proposal, the Final Determination, and other documents the Postal Service collects during its investigation. **You should review the Administrative Record before preparing your Participant Statement,** and you should provide references to it to support the arguments and assertions in your Participant Statement.

When considering appeals of Final Determinations to close or consolidate post offices, the Commission is limited to "appellate jurisdiction." As a result, the Commission cannot conduct its own fact-finding investigation and must consider appeals based solely upon the Administrative Record. **Postal Service regulations require that a copy of the Administrative Record be available at affected post offices** (*i.e.,* wherever the Final Determination is posted) for 30 days after the Final Determination is first posted. If an appeal is filed, the Administrative Record remains available at the affected post offices, and **all documents filed with the Commission relating to the appeal will be posted at the affected post offices.** Affected post offices include the post office to be closed or consolidated, the proposed supervising post office, and any post office likely to serve a significant number of customers of the post office to be closed or consolidated.

AUTHORITY OF THE POSTAL SERVICE

In keeping with its responsibility to operate the nation's mail system, the Postal Service has been given considerable authority over the operations of post offices. This authority includes the power to decide whether a post office should be closed or consolidated. However, before reaching a decision to close or consolidate a post office, the Postal Service must follow a procedure set up by law, and it must take account of certain specific effects of such an action.

PROCEDURE

The law sets out steps the Postal Service must take before it closes or consolidates a post office. Prior to making a determination as to the necessity of closing or consolidating any post office, the Postal Service must provide adequate notice of its intention to close or consolidate the post office. Notice must be given at least 60 days prior to the proposed date of closing or consolidation to persons served by the post office. This is to insure that such persons have an opportunity to present their views. The Postal Service calls the "notice of its intention to close or consolidate" the "Proposal." During the 60 days, patrons are invited to give the Postal Service their comments on the proposed closing or consolidation.

The Postal Service calls its decision to close or consolidate a post office the "Final Determination." Any Final Determination of the Postal Service to close or consolidate a post office must be in writing and must include the findings of the Postal Service with respect to certain specific factors. The Final Determination and findings must be made available to persons served by the post office. The Postal Service may not close or consolidate a post office until 60 days after its written Final Determination is made available to persons served by the post office.

FACTORS TO BE CONSIDERED

In addition to following the required procedure, the Postal Service must also consider certain factors. The Postal Service must consider:

(A) the effect of the closing or consolidation on the community served by that post office;

(B) the effect of the closing or consolidation on employees of the Postal Service employed at that office;

(C) whether the closing or consolidation is consistent with the policy of the Government that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

(D) the economic savings to the Postal Service resulting from the closing or consolidation; and

(E) such other factors as the Postal Service determines are necessary.

POSTAL REGULATORY COMMISSION AUTHORITY

Limitations on the Commission's authority prohibit it from remanding a Final Determination to the Postal Service simply because the Commission believes a different result might be better. Rather, the Commission may only examine the Postal Service's decision and record in order to determine whether the Postal Service abided by statutory guidelines. Specifically, the law requires that the Commission affirm the Postal Service's Final Determination unless the determination is:

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(B) without observance of procedure required by law; or

(C) unsupported by substantial evidence on the record.

PARTICIPANT STATEMENT

We have included a form that you may use for your written argument.

The Participant Statement should be as specific as possible.

Commission proceedings to review Postal Service Final Determinations to close or consolidate post offices can be much less formal than is customary in courts. The Commission does not require patrons appealing Postal Service decisions to meet the usual format requirements for filed documents. However, it is important that papers sent to the Postal Regulatory Commission be legible. It is also important for statements to be clear and as specific as possible.

The due date for a Participant Statement or brief can be found in the schedule which is attached as an Appendix to the "Notice and Order of Filing of Appeal." You should have a copy of the Notice and Order. If you do not, you should be able to find a copy posted at the post office.

Briefs and Participant Statements may be filed electronically, using the Filing Online function on the Commission's website, *www.prc.gov*, or by mail. Under its rules, the Commission expects to receive briefs on or before the day specified in the schedule, rather than receiving briefs that are simply postmarked by that day.

Address the Participant Statement or brief to:

Office of the Secretary
Postal Regulatory Commission
901 New York Avenue, NW, Suite 200
Washington, DC 20268

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268

In the Matter of

Docket No.:_____

_____, _____ _____
Post Office State ZIP Code

_____Petitioner(s)

PARTICIPANT STATEMENT

1. Petitioner(s) are appealing the Postal Service's Final Determination concerning the _____ post office. The Final Determination was posted _____.
(date)

2. In accordance with applicable law, 39 U.S.C. § 404(d)(5), the Petitioner(s) request the Postal Regulatory Commission to review the Postal Service's Final Determination on the basis of the Administrative Record before the Postal Service in the making of the Final Determination.

3. Petitioners: Please set out below the reasons why you believe the Postal Service's Final Determination should be reversed and returned to the Postal Service for further consideration. (See pages 1 and 3 of the Instructions for an outline of the kinds of reasons the law requires us to consider.) Please be as specific as possible. Please continue on additional paper if you need more space and attach the additional page(s) to this form.

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Participant Statement

ORDER NO. 3989

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners: Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Rio Nido Post Office
Rio Nido, California

Docket No. A2017-2

NOTICE AND ORDER ACCEPTING APPEAL
AND ESTABLISHING PROCEDURAL SCHEDULE

(Issued June 30, 2017)

I. INTRODUCTION

On June 29, 2017, Joseph Baxter filed a petition for review on behalf of several named citizens and entities (Petitioners) appealing the Postal Service's determination to close the Rio Nido Post Office located at 14770 Rio Nido Road, Rio Nido, CA 95471.[1] Petitioners state that the Postal Service failed to provide the 60-day notice of pending closure required by statute. Petition at 1. Petitioners request that the Commission stay the Postal Service's final determination pending a decision by the Commission.[2]

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[1] Appeal of Final Determination Re: Closure of Rio Nido, California Post Office, June 29, 2017 (Petition).

[2] *Id.* Petitioners indicate that the facility was to be closed on June 20, 2017, which is nine days past the filing of the Petition.

II. COMMISSION ACTION

In accordance with 39 U.S.C. § 404(d)(5), the Commission establishes Docket No. A2017-2 for consideration of the Petitioner's appeal of the Postal Service's determination to close the Rio Nido Post Office.

The Commission has posted the Petition on its website at *http://www.prc.gov*. Additional filings in this proceeding will also be posted on the website under Docket No. A2017-2.

The Commission invites comments on the Postal Service's determination to close the Rio Nido Post Office. The Procedural Schedule, which includes deadlines for submitting comments, appears in section III below.

Pursuant to 39 U.S.C. § 505, the Commission appoints Kenneth E. Richardson to represent the interests of the general public (Public Representative) in this proceeding.

III. PROCEDURAL SCHEDULE

Pursuant to 39 C.F.R. § 3025.21, the Postal Service must file the administrative record pertaining to its determination to close the Rio Nido Post Office by no later than July 10, 2017. In addition, the due date for any other Postal Service pleading in response to this Notice is July 10, 2017. **If any motions are filed by the Postal Service, responses are due no later than 10 days after any such motion is filed.**[3]

Petitioners may supplement the Petition by filing PRC Form 61 (Participant Statement)[4] and/or an initial brief with the Commission no later than July 31, 2017. *See* 39 C.F.R. §§ 3025.40-.41.

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[3] *See id.* § 3025.2(c). *See* 39 C.F.R. § 3001.15 for information on how filing deadlines are calculated.

[4] A copy of this Order, PRC Form 61, and a letter from the Commission's Office of the Secretary and Administration will be sent to the Petitioners' representative, Joseph Baxter, at 645 Fourth Street, Suite 205, Santa Rosa, CA 95404 contemporaneous with the filing of this Order. PRC Form 61 is also available on the Commission's website at *https://www.prc.gov/sites/default/files/prc_form61.pdf*.

Participant statements, initial comments, and initial briefs in support of the Petition from interested persons other than the Petitioner are due no later than July 31, 2017.[5] Reply comments and reply briefs in support of the Postal Service's determination to close are due no later than August 14, 2017. *See* 39 C.F.R. § 3025.42. Responses to reply comments and reply briefs are due no later than August 24, 2017.[6]

Upon review of the administrative record filed by the Postal Service, the Commission may find that there are more legal issues than those set forth in the Petition or that the Postal Service's determination disposes of one or more of the issues raised in the Petition. The Commission may request that the Postal Service or other participants submit information or memoranda of law on any applicable issue to facilitate the Commission in conducting its review.

Pursuant to 39 U.S.C. § 404(d)(5), the Commission is required to issue its decision within 120 days from the date it receives the appeal. *See* 39 U.S.C. § 404(d)(5). The Commission establishes the following Procedural Schedule to accommodate this statutory deadline.

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[5] *See* 39 C.F.R. § 3025.14; *id.* § 3025.41. Participants other than the Petitioner may also use PRC Form 61, which is available on the Commission's website. *Id.* § 3025.14; *see* n.2 *supra*.

[6] *See id.* § 3025.43. The scope of any responses filed must be limited to the issues discussed in the reply comments and reply briefs. *Id.*

June 29, 2017	Appeal filed
July 10, 2017	Deadline for Postal Service to file relevant administrative record (*see* 39 C.F.R. § 3025.21)
July 10, 2017	Deadline for Postal Service to file any responsive pleading (*see id.* § 3025.30(b))
July 31, 2017	Deadline for Participants to file Participant Statement and/or initial briefs, and others in support of Petition to file Participant Statement, initial comments, and/or initial briefs (*see id.* § 3025.14; *id.* § 3025.41)
August 14, 2017	Deadline for Postal Service or others in support of Postal Service determination to close to file reply comments and/or reply briefs (*see id.* § 3025.42)
August 24, 2017	Deadline for Participants or others in support of Petition to file responses to reply comments and/or reply briefs (*see id.* § 3025.43)
October 27, 2017	Deadline for Commission to issue its decision (*see* 39 U.S.C. § 404(d)(5))

Pursuant to 39 C.F.R. §§ 3001.9(a) and 3001.10(a), the Postal Service must electronically file its documents in this proceeding using the Commission's Filing Online system on the Commission's website. Other participants may submit filings electronically via the Filing Online system or by mail or other forms of physical delivery to the Commission's offices located at 901 New York Avenue, N.W., Suite 200, Washington, DC 20268.[7] Instructions for how to create an account to electronically file documents online may be obtained on the Commission's website at *https://www.prc.gov/filingonline/userguide*, or by contacting the Commission's Docket section via email at *dockets@prc.gov*. The Dockets section can also be reached by phone by calling the Commission's main line at 202-789-6800 and asking to be

[7] *See* 39 C.F.R. § 3025.11. The Commission reserves the right to redact personal information that may infringe on an individual's privacy rights from documents filed in this proceeding.

connected to the Docket section. Docket section hours are 8 a.m. to 4:30 p.m., Eastern Time, Monday through Friday, except on Federal holidays.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. A2017-2 for consideration of the Petition filed on June 29, 2017.

2. The Commission establishes the Procedural Schedule as set forth in the body of this Order.

3. Pursuant to 39 U.S.C. § 505, Kenneth E. Richardson is designated as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

By the Commission.

Stacy L. Ruble
Secretary