

## Postal Regulatory Commission

Washington, D.C. 20268-0001

### NOTICE OF FILING UNDER 39 U.S.C. § 404(d)

TO THE UNITED STATES POSTAL SERVICE:

Please take notice that on May 16, 2011, the Commission received a petition for review of the Postal Service's determination to close the Nooksack post office in Nooksack, Washington. The petition was filed by the City of Nooksack, Washington (Petitioner), and is postmarked May 13, 2011. In addition to the petition, Petitioner filed an application for suspension of the determination.

This notice is advisory only and is being furnished so that the Postal Service may begin assembling the administrative record in advance of any formal appeal proceedings held upon the alleged (closing/consolidation) for transmittal pursuant to 39 CFR § 3001.113(a) (requiring the filing of the record within 15 days of the filing with the Commission of a petition for review). The Postal Service's administrative record is due no later than May 31, 2011.



Shoshana M. Grove  
Secretary

Date: May 18, 2011

Attachment

May 12, 2011  
James Ackerman, Mayor  
City of Nooksack  
103 W Madison Street  
P.O. Box 4265  
Nooksack, WA 98276

RECEIVED  
2011 MAY 17 P 10 56

REGISTRATION  
A2011-17

Secretary of the Commission  
Postal Regulatory Commission  
901 New York Avenue NW, Suite 200  
Washington, D.C. 20268-0001

**Re: Appeal of Closure of Nooksack Post Office, Nooksack, Washington 98276**

Dear Sir/Madam:

Please accept this letter as a petition for review of the United States Postal Service's decision to close the Nooksack post office, located at 605 Nooksack Avenue, Nooksack, Washington 98276.

**Party seeking review.**

The City of Nooksack, Washington is seeking review of the closure of the Nooksack post office. The City of Nooksack was incorporated in 1912. It is currently organized pursuant to RCW 35A. et. seq. According to the U.S. Census, the 2010 population of the city itself was 1,338 although the Nooksack post office also serves a portion of the surrounding unincorporated rural community. The City of Nooksack includes five churches, three gas stations, two convenience stores, a farm co-op store, two auto repair shops, a major local trucking company, a primary school and a middle school, a veterinarian clinic and numerous other small commercial businesses. Over the past

decade the City of Nooksack grew by over 57% and even during the recent economic downturn (2008-2010) Nooksack continued to see strong growth and was one of the fastest growing Cities in Western Washington.

The City of Nooksack is a “person” pursuant to 39 C.F.R. §3001.5(f) to the extent that under this definitional section of the code a person means an individual, a partnership, a corporation, trust, unincorporated association, a public or private organization, or a government agency. Given that the City of Nooksack meets the definition of a person and is served by the Nooksack post office, the City of Nooksack has standing to seek review of the decision by the U S Postal Service to close the Nooksack post office pursuant to 39 U. S. C. §404(d)(5).

Many citizens of the City of Nooksack and persons residing in the surrounding unincorporated rural community make regular use of the Nooksack post office for purchasing stamps or money orders, sending packages, and sending certified mail or other specialized mailing, and many persons residing in the City of Nooksack maintain post office boxes at the Nooksack post office as their primary personal or business address.

**Respondent.**

The respondent in this appeal is the United States Postal Service. (Postal Service).

**Decision being appealed.**

The determination the City of Nooksack is appealing is set forth in the letter received on May 2, 2011 by the City of Nooksack which indicates the Nooksack post office will be vacated after May 27, 2011. A copy of the letter received by the City of

Nooksack on May 2, 2011 is attached as Exhibit “A”. It is unclear if the May 2, 2011 letter is the determination to close the Nooksack post office as contemplated by 39 U.S.C. §404(d)(5) or only a letter soliciting information about where customers would like their mail delivered in the future. However, given the use of the word vacated and the clear implication that the Nooksack post office will no longer be open after May 27, 2011, it appears that the May 2, 2011 letter serves as notice as to the Postal Service’s determination to close the Nooksack post office.

**The Nooksack post office is a post office as contemplated by 39 U.S.C. §404(d)(5).**

The Nooksack post office, despite being previously referred as a classified station by the Postal Service, is a post office as the term is ordinarily used, and meets the definition of a “post office” that the Postal Regulatory Commission used in orders concerning appeals of post office closings. (Docket No. A2006-1, *In re Observatory Finance Station*, Order Denying Motion to Dismiss and Remand for Further Consideration (September 29, 2006); Docket No. A83-30, *In re Knob Fork, WV*, Comm’n Op. Remanding Determination for Further Consideration – 39 U.S.C. section 404(b)(5) (January 19, 1984)). The Nooksack post office is a retail facility where customers may purchase postal services, and dispatch and receive mail. It is the only such postal facility located within the City of Nooksack and closure of the Nooksack post office will leave the City of Nooksack without a post office.

**Determination to Close the Nooksack Post Office.**

The determination by the Postal Service to close the Nooksack post office is not merely a rearrangement of a retail postal facility in the community and is not part of an

enhancement of services. The City of Nooksack has been provided no information to the effect that the Postal Service is proposing to open a similar post office at another location within the City of Nooksack. The citizens of the City of Nooksack have been advised by the Postal Service that there are a sufficient number of post office boxes available in the nearby community of Everson for them to rent at the Everson post office. In this regard the customers of the Nooksack post office are being advised that no alternative is being opened in the City of Nooksack and that they are to use the post office located in a different municipality. The present situation differs from the rearrangement of retail facilities that the Postal Regulatory Commission has considered to be outside its jurisdiction under 39 U.S.C. §404(d). (Docket No. A2007-1, *In re Ecorse Classified Branch, MI*, Order Dismissing Appeal on Jurisdictional Grounds (October 9, 2007); Docket No. A82-10, *In re Oceana Station Virginia Beach, VA* Order No. 436 (June 25, 1982)). The closure that is the subject of this appeal is the closure of a post office as opposed to a mere rearrangement of retail postal facilities.

**Designation of Errors.**

- 1. The Postal Service did not follow the procedural requirements of 39 U.S.C. §404(d) and 39 C.F.R. §241.3 in its determination to close the Nooksack post office.**

Attached as Exhibit "B" is a copy of the notice which was posted at the Nooksack post office on April 1, 2011. The notice does not indicate that the Nooksack post office was being considered for closing but rather indicates the Postal Service is considering a possible change in the way postal services are provided. Also dated April 1, 2011 is a letter sent by the Postal Service to the private landlord of the building where the post

office is located indicating that the post office will no longer be renewing its lease for the Nooksack post office. A copy of the April 1, 2011 letter terminating the lease is attached as Exhibit "C".

On April 7, 2011 with less than one week's advance notice a public meeting was held. Comments were given by the public and the Postal Service, representative present invited the public to submit comment letters regarding the possible closing of the Nooksack post office to the Post Master General and the Seattle Regional Office.

Without any additional correspondence from the Postal Service the May 2, 2011 letter was received by the citizens of Nooksack as well as the City indicating that effective May 27, 2011 the Nooksack post office will be vacated and effectively closed. As indicated above the May 2, 2011 letter is attached as Exhibit "A".

The process under which the Postal Service closed the Nooksack post office does not meet the procedural requirements as set forth in both 39 U.S.C. §404(d) and 39 C.F.R. §241.3. Of significance is that a total of less than 60 days elapsed from the initial posting regarding a change in the way postal services are provided and the date upon which the post office is designated to be closed. Pursuant to 39 U.S.C. §404(d)(1) the Postal Service must provide at least 60 days notice prior to the proposed date of such closing such that persons who are served by such post office will have an opportunity to present their views. Further pursuant to 39 U.S.C. §404(d)(4) the Postal Service shall take no action to close or consolidate a post office until 60 days after its written determination is made available to persons served by such post office. As such the

United States Code requires a minimum 120 days from the date notice is first given of the Postal Service's proposed action to close a post office.

Further, the May 2, 2011 letter does not include findings with respect to certain considerations required to be made under 39 U.S.C. §404(d)(2) and (3) including the effect of the closing on the community served by such post office; the effect of the closing on employees of the post office; whether the closing is consistent with the policy of the government as set forth in 39 U.S.C. §101(b) and the economic savings to the Postal Service resulting from the closing. The May 2, 2011 letter did not include any findings about numerous effects of the closure on the community that were specifically pointed out by persons served by the post office in their written comments and in comments at the April 7, 2011 public meeting. Finally, the Postal Service failed to make a copy of the completed record concerning the closure available for public inspection during normal business hours at the Nooksack post office and failed to state in its May 2, 2011 letter that copies of all materials on which the determination was based would be available for public inspection. Further the letter did not notify the recipient that the determination to close the Nooksack post office could be appealed. These omissions are all contrary to the requirements set forth in both 39 C.F.R. §241.3 and U.S.C. §404(d)(3).

**2. Negative impacts caused by closing the Nooksack post office.**

Pursuant to 39 U.S.C. §404(d)(2) one of the factors the Postal Service must consider in determining whether to close any particular post office is the effect of such closing on the community served by such post office including whether such closing is consistent with the policy of the government in 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. The citizens of Nooksack have been receiving mail at the Nooksack post office under the ZIP code 98276 for generations. The Postal Service's determination is to close the Nooksack post office and move the Nooksack post office boxes to the nearby municipality of Everson and maintain the Nooksack post office boxes there under the Nooksack 98276 ZIP code and contemporaneously add rural delivery to locations within the City of Nooksack under the Everson ZIP code, but identified as "Nooksack 98247". The negative impacts to the community of Nooksack from this proposal are many, not the least of which is the negative impact on community identity that will result from residents of the incorporated City of Nooksack receiving mail under the primary ZIP code of the neighboring incorporated City of Everson. The additional negative impacts on the local community caused by the closure of the Nooksack post office are as follows:

a. Loss of an important social gathering place where residents see and relate to one another on a daily basis.

b. Loss of convenience, especially for the many senior citizens, young families and other persons who out of both choice and necessity need access to postal services without driving.

c. Loss of physical activity at a time when our country is working hard to get people walking and keep them out of their cars.

The closure of the Nooksack post office will also cause negative impacts unique to the appellant, the City of Nooksack. The Nooksack post office closure results in the following problems for the City of Nooksack:

d. Inefficient use of City staff resources when staff must devote extra time to driving to the post office if it is located in Everson.

e. Additional expense for gas and related transportation costs as well as increased emissions in the air due to increased vehicle use.

f. Loss of utility and sales tax revenue when destination-based taxes are incorrectly credited to Everson due to the use of the 98247 ZIP code.

g. Public confusion based on the City of Nooksack and Nooksack City Hall having two different addresses: one address under Nooksack 98276 for mail delivery to the City's post office box, now located actually in the City of Everson, and a second address for the actual physical location of City Hall under Nooksack 98247 (using the City of Everson's ZIP code).

**3. The Postal Service is estopped from closing the Nooksack post office due to the 1992 Commissioner opinion affirming decision under 39 U.S.C. §404(b) In the matter of: Nooksack, Washington 98276 Docket No. A92-7.**

Attached as Exhibit "D" and "E" is the Postal Service final determination to consolidate the Nooksack, Washington post office and establish a classified station and the Postal Rate Commission opinion affirming the determination to consolidate. Significant in the determination to consolidate is that the creation of a classified station will continue to provide the same retail window hours and services as the Nooksack post

office and that customers will not have to travel to another post office. The Postal Service in its final determination made findings to the effect that the Nooksack classified station will maintain a postal facility and retail outlet in the community of Nooksack. Further the community name and ZIP code of Nooksack will be retained. Of significance is that the classified station cannot be closed without proper justification and that approval must be obtained from the Senior Assistant Postmaster General for any such closure. In this fashion the Postal Service repeatedly assured the citizens of Nooksack that the creation of the Nooksack classified station will continue to provide the same retail services as the Nooksack post office.

The Postal Rate Commission affirmed the decision to consolidate and create a classified station at Nooksack to be under the administrative responsibility of the post office in Everson. Significant in the Commission's decision to affirm the consolidation was that the classified station will be staffed by carrier postal employees and provide services and hours identical to those currently offered by the Nooksack post office. Further the Commission found that by creating a classified station the community name and current ZIP code for Nooksack will be preserved. The Commission found that because the physical facility, its hours and the services it offers will remain the same following the consolidation, the adequacy of postal services and effect on the community of Nooksack would remain unchanged by the consolidation.

Because the rationale given by the Postal Service to consolidate the Nooksack post office with the Everson post office and create a classified station was that the classified station would result in no change in services and the Commission by adopting this

rationale and affirming the consolidation the Postal Service is now estopped from closing the classified station. At the time the appeal of the consolidation was argued the decision issued by the Commission would have been different if it was revealed by the Postal Service that the classified station would be subsequently closed. Because the Postal Service relied almost exclusively on the services offered by the classified station as a justification to consolidate the Nooksack and Everson post offices it is, as indicated above barred from closing the classified station based on the doctrine of estoppel. This is particularly true in light of the fact that there appear to be no changed circumstances regarding the demands placed on the classified station/Nooksack post office at the time of its current closure.

The City of Nooksack intends to supplement this summary in its responses that will be submitted on Postal Regulatory Commission form 61 or in the form of a brief and the City may provide additional argument as to how the determination to close the Nooksack post office is inconsistent with 39 U.S.C. §404(d) or other federal statutes.

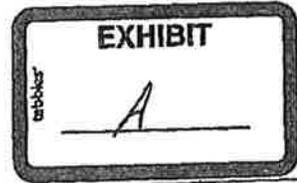
Respectfully submitted this 12<sup>th</sup> day of May, 2011.

Very truly yours,



JAMES ACKERMAN  
Mayor, City of Nooksack

Seattle District



Dear Postal Customer:

As you are aware, the Postal Service has been studying operations at the Nooksack Post Office. The Nooksack Post Office will be vacated after May 27, 2011. In order to provide you the service that would best suit your needs, we are asking that you respond to this questionnaire no later than Friday, May 6, 2011.

The type of mail delivery you receive will depend on the decision you make. There are currently a sufficient number of Post Office boxes available for rent at the Everson Main Post Office to accommodate each resident. Should you choose this option, your last line of address will remain Nooksack, WA 98276. For your convenience, a copy of the current schedule of fees has been included. The other alternative is to receive delivery by a postal carrier to a designated curbside mailbox located at or near your home. This option will only require that the last line of your address change to Nooksack, WA 98247. Either way, we are committed to providing uninterrupted to service to all of our customers.

I will be renting a Post Office box at the Everson Main Post Office.

I will be receiving mail at a curbside box that I will install.

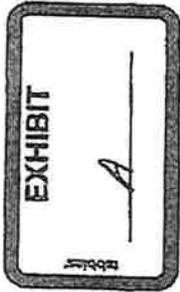
Name: (please print) \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ ZIP Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

RECEIVED  
MAY 02 2011  
CITY OF NOOKSACK



 **UNITED STATES  
POSTAL SERVICE**

Address Management Systems  
PO Box 60384  
Seattle, WA 98165-0384



First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

RECEIVED  
MAY 02 2011  
CITY OF WOODSACK

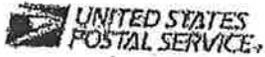
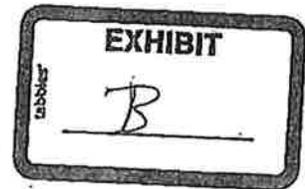
POSTAL CUSTOMER  
NOOKSACK BRANCH  
NOOKSACK WA 98276

 **UNITED STATES  
POSTAL SERVICE**

First-Class Mail  
Postage & Fees Paid  
USPS  
Permit No. G-10

Address Management Systems  
PO Box 60384  
Seattle, WA 98165-0384

Stack# 1440123 - 98247  
Item # 26  
Page Nbr. 1



04/01/2011

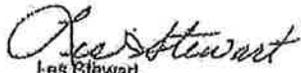
As the Postal Service manager responsible for all Post Offices in your area, I would like your opinion concerning a possible change in the way postal services are provided. Our tentative plans will only lead to a formal proposal if we are satisfied that a maximum degree of regular and effective service can be provided.

If you would like an opportunity to discuss alternatives with us, a postal representative will be at Nooksack Valley Reformed Church 602 East 2nd Street on 04/07/2011 from 6:00 PM to 8:00 PM to answer questions and provide information about our service.

If you have any questions, you may contact William Todd at (206) 470-3397.

Thank you for your assistance.

Sincerely,

  
Les Stewart  
Manager, Post Office Operations



**Landlord's Notice of Termination**



CERTIFIED MAIL # 70060100000125407069  
Return Receipt Requested

Date 04/01/2011

JONATHAN & ANNE BLAIR  
& BEN & ELODIA RAMIREZ & KD DEKRIEK & NR DEKRIEK 8367 NOOKSACK RD  
EVERSON, WA 98247-9280

SUBJECT: Notice of Termination  
Facility Name/Location: EVERSON - NOOKSACK BR (542786-002)  
605 NOOKSACK AVE, NOOKSACK, WA 98247-9317

Dear JONATHAN & ANNE BLAIR

In accordance with the terms of the Lease under which the Postal Service leases from you the above postal quarters, please be advised:

that the Lease will terminate upon its expiration date, 05/31/2011.

The Postmaster will arrange to have the meters read and the utilities disconnected. All postal equipment will be removed by the above date, and the keys will be mailed or delivered to you. If you prefer to make specific arrangements for the keys, please contact the Postmaster.

The Postal Service wishes to express its appreciation for your cooperation in providing the leased premises for its use. If you have any questions concerning this termination notice, please contact this office.

Sincerely,

Candace S Kinne  
Contracting Officer  
Western FSO  
160 INVERNESS DRIVE WEST SUITE 400  
ENGLEWOOD, CO 80112-5005  
Phone: (303) 220 - 6556

cc: District  
Postmaster  
Nearest Inspection Service office (if applicable—keys, Streich observation units, etc.)  
Fed Ex Coord.  
RES

EXHIBIT  
D



DATE OF POSTING: 12.27.91

DATE OF REMOVAL: \_\_\_\_\_

FINAL DETERMINATION TO CONSOLIDATE  
THE NOOKSACK, WA POST OFFICE  
AND ESTABLISH  
A CLASSIFIED STATION

DOCKET NUMBER 98276

- 1 -

**I. RESPONSIVENESS TO COMMUNITY POSTAL NEEDS**

The Postal Service has determined to consolidate the Nooksack, WA Post Office and provide service by establishing a classified station under the administrative responsibility of the Everson, WA Post Office, located 1.7 miles away. The Postal Service feels that a maximum of regular and effective service will be provided through a classified station. A classified station is operated by career postal employees and will provide the same services as an independent post office, including the setting of postage meters and the acceptance of permit mailings.

The Nooksack postmaster was promoted to the postmaster position at the Everson Post Office on February 11, 1989. A career clerk from a neighboring post office was installed as the temporary officer-in-charge (OIC) at the Nooksack Post Office.

The Nooksack Post Office, an EAS-13 level office, provides service from 8:00 to 10:30 a.m. and 12:30 to 5:00 p.m., Monday through Friday, and is closed on Saturday to 300 post office boxes, and 2 general delivery customers. Retail services available are: the sale of stamps, stamped paper, and money orders; special services such as registered, certified, insured, COD and Express Mail; and the acceptance and dispatch of all classes of mail. Daily retail window transactions average 27. Office receipts for the last three years were: \$40,065.00 (173 revenue units) in 1989, \$33,460.00 (144 revenue units) in 1990 and \$39,988.00 (162 revenue units) in 1991. There are two permit mailers and one postage meter customer.

The classified station will continue to provide the same hours and services as the Nooksack Post Office. Retail service is also available at the Everson Post Office, an EAS-18 level office. Service hours at Everson are from 8:30 a.m. to 5:00 p.m., Monday through Friday, and is closed on Saturday. Nooksack and Everson Post Offices provide the 24-hour lobby service for customer convenience.

On May 4, 1990, questionnaires were sent to the Nooksack postal customers. Eighty-five questionnaires were returned. Nineteen responses were favorable, 47 unfavorable and 19 expressed no opinion regarding the proposed alternate service.

On May 23, 1990, representatives from the Postal Service were available at Nooksack to answer questions and provide information to customers. Thirty-four customers attended the meeting.

The following postal concerns were expressed on the returned questionnaires and at the community meeting:

1. Concern: Customers said they would miss the special attention and assistance provided by the Nooksack Post Office.

Response: The classified station postal employees will continue to provide courteous and helpful service to our customers. Special assistance will be provided as needed.

2. Concern: Customers were concerned about the window hours and services that would be provided by the classified station.

Response: The classified station will continue to provide the same retail window hours and services as the Nooksack Post Office.

3. Concern: Customers were concerned about obtaining accountable mail and large parcels.

Response: There will be no change in the method in which customers receive accountable mail and parcels that are too large to fit in the customer's post office box. The accountable mail and parcels will continue to be available at the classified station.

4. Concern: Customers were concerned about senior citizens.

Response: The classified station will continue to provide the same services as the Nooksack Post Office, and special assistance will be provided as needed.

5. Concern: Customers questioned the economic savings of the proposed discontinuance.

Response: The economic savings is only one factor to consider when discontinuing a post office within a community. The Postal Service estimates an annual savings of approximately \$7,825.00.

6. Concern: Customers were concerned about having to travel to another post office for service.

Response: Services that are currently provided at the Nooksack Post Office will continue to be available from the classified station. Customers will not have to travel to another post office.

7. Concern: Customers were concerned that the Everson's Postmaster would have control and make decisions for the customers of Nooksack.

Response: When the final determination is implemented the Nooksack Classified Station will continue to be maintained according to the postal regulations and policy. The former Postmaster of Nooksack has been promoted as the Postmaster of Everson and will continue to make postal decisions on what is best for the community of Nooksack.

8. Concern: Customers were concerned that the classified station would later be officially closed.

Response: A classified station cannot be closed without proper justification. Approval must be obtained from the Senior Assistant Postmaster General, Operations Support Group, Postal Service Headquarters.

9. Concern: Customers inquired about the location of the classified station.

Response: The classified station will be located in the same facility as the present Nooksack Post Office.

Some advantages of the final determination are:

1. The classified station will maintain a postal facility and a retail outlet in the community. The community name and ZIP Code of Nooksack will be retained.
2. There will be no change in address. Customers will continue to use their same mailing address.
3. The classified station will continue to provide nonpostal services, a community gathering place and information center.
4. The classified station will continue to provide the same retail services as the Nooksack Post Office.
5. A savings for the Postal Service, which results in savings for customers in terms of stable postage rates.

Some disadvantages of the final determination are:

1. Loss of an independent post office within the community.
2. To some customers the loss of a postmaster position.

The proposal to consolidate the Nooksack Post Office was posted with an invitation for public comment at the Nooksack and Everson Post Offices from August 10, 1990, through October 12, 1990. Ten comments were received. All the comments were unfavorable. The following concerns were expressed:

1. Concern: Customers questioned the economic savings of the proposed discontinuance.

Response: The economic savings is only one factor considered when discontinuing a post office. The Postal Service estimates an annual savings of approximately \$7,825.00.

2. Concern: Customers inquired about using their same post office box number and keeping their same address.

Response: The Nooksack customers will continue to use their same post office box numbers and there will be no address changes.

3. Concern: Customers said they would miss the special attention and assistance provided by the post office.

Response: The classified station employees will continue to provide courteous and helpful service. Special assistance will be provided as needed.

4. Concern: Customers inquired about what hours and services would be provided by the classified station.

Response: The classified station will continue to provide the same hours and services as the Nooksack Post Office.

5. Concern: Customers were concerned about having to travel to another post office for service.

Response: Services that are currently provided at the Nooksack Post Office will continue to be available from the classified station. Customers will not have to travel to another post office.

6. Concern: Customers were concerned about growth in the community.

Response: The classified station will maintain a postal presence in the community and will accommodate future growth.

7. Concern: Customers were concerned about the loss of a gathering place and information center.

Response: The classified station will maintain a facility in the community and will continue to serve as a convenient gathering place and information center.

8. Concern: Customers expressed concern for loss of community identity.

Response: The community identity will be preserved through the retention of the town name and ZIP Code. It will continue to be listed in the National Five-Digit ZIP Code and Post Office Directory.

Taking all available information into consideration, the Postal Service believes this final determination will continue to provide effective and regular service to the community.

## II. EFFECT ON COMMUNITY

Nooksack is an incorporated rural community located in Whatcom County. The community is administered politically by a mayor and city council. Police protection is provided by the City of Everson. The local fire district provides fire protection. The community is comprised of retired people, farmers, loggers, and those who commute to work at nearby communities.

There are three churches and one elementary school in the community. Businesses include a truck repair shop, saw mill, auto body shop, welding shop, refrigeration repair, food processing plant, cabinet shop, restaurant and two convenience stores that sell gasoline. Residents travel to nearby communities for other supplies and services.

Nonpostal services provided at the Nooksack Post Office will be available at the classified station.

The following nonpostal concerns were expressed on the returned questionnaires and at the community meeting:

1. Concern: Customers were concerned about the loss of a gathering place and information center.

Response: The classified station will maintain a facility in the community and will continue to serve as a convenient gathering place and information center.

2. Concern: Customers were concerned about growth in the community.

Response: The classified station will maintain a postal presence in the community and will be able to accommodate future growth.

3. Concern: Customers expressed concern for loss of community identity.

Response: Community identity will be preserved through the retention of the town name and ZIP Code. It will continue to be listed in the National Five-Digit ZIP Code and Post Office Directory.

- 6 -

Based on the information obtained, the Postal Service believes this final determination will not adversely affect the community.

### III. EFFECT ON EMPLOYEES

The postmaster was promoted on February 11, 1989. The career OIC from a neighboring office will return to his regular position once this final determination is implemented. The noncareer clerk will become a casual employee of the Everson Post Office. No other career employee will be adversely affected.

### IV. ECONOMIC SAVINGS

The Postal Service estimates an annual savings of approximately \$7,825.00 with a breakdown as follows:

Postmaster's Salary (EAS-13, Step 1, No COLA)	\$27,068.00
Fringe Benefits @33.5%	9,068.00
Total Annual Costs	\$36,136.00
Less Cost of Replacement Service	
Level-5, Step 1, No COLA	21,364.00
Fringe Benefits @33.5%	6,947.00
Total Annual Savings	\$ 7,825.00

### V. OTHER FACTORS

Petitions and congressional inquiry's were received on July 17, 1990, September 17, 1990, and on April 17, 1991. The following concerns were expressed:

1. Concern: Customers questioned the economic savings of the proposed discontinuance.

Response: The economic savings is only one factor considered when discontinuing a post office. The Postal Service estimates an annual savings of approximately \$7,825.00.

2. Concern: Customers expressed concern for loss of community identity.

Response: Community identity will be preserved through the retention of the town name and ZIP Code. It will continue to be listed in the National Five-Digit ZIP Code and Post Office Directory.

3. Concern: Customers said they would miss the special attention and assistance provided by the post office. They felt the hours of service would be reduced at the classified station.

Response: The classified station will continue to provide courteous and helpful service. Special assistance will be provided as needed. Hours of service will remain the same as the Nooksack Post Office.

4. Concern: Customers did not want to become a branch of the Everson Post Office.

Response: The Nooksack Classified Station will continue to use the community name and ZIP Code. There will be no loss of identity to the community of Nooksack.

#### VI. SUMMARY

The Postal Service has determined to consolidate the Nooksack Post Office and provide service by establishing a classified station under the administrative responsibility of the Everson Post Office, located 1.7 miles away.

The postmaster was promoted on February 11, 1989. The career OIC from a neighboring post office will return to his regular position once this final determination is implemented. The noncareer clerk will become a casual employee of the Everson Post Office. No other career employee will be adversely affected.

The Nooksack Post Office provides service 35 hours per week to 302 customers. Daily retail window transactions average 27.

A classified station will continue to provide the same services as the Nooksack Post Office. The community identity will be preserved through the retention of the town name and ZIP Code. Customers will experience no change in their addresses.

Taking all available information into consideration, the Postal Service has determined that the advantages outweigh the disadvantages and that this final determination is warranted.

#### VII. NOTICES

- A. Support Materials. Copies of all materials upon which this final determination is based are available for public inspection at the Nooksack and Everson Post Offices during normal office hours.
- B. Appeal Rights. This final determination to consolidate the Nooksack Post Office may be appealed by any person served by that office to the Postal Rate Commission at 1333 H Street NW, Suite 300, Washington, DC 20268-0001. Appeals must be received by the Commission within 30 days

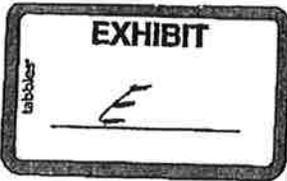
of the date this final determination is posted. Detailed information about the Commission appeal procedures may be found in 39 CFR 3001.110-.116, or obtained by writing to the Secretary of the Commission at the above address. If an appeal is filed, copies of appeal documents prepared by the Postal Rate Commission or the parties to the appeal will be made available for public inspection at the Nooksack and Everson Post Offices during normal office hours.



William R. Cummings  
Senior Assistant Postmaster General  
Operations Support Group

DEC 18 1991

Date



UNITED STATES OF AMERICA  
POSTAL RATE COMMISSION  
WASHINGTON, D.C. 20268-0001

Before

Chairman Haley, Vice-Chairman Folsom  
Commissioners Crutcher, LeBlanc and Quick

In the Matter of:

Nooksack, Washington 98276  
(Barbara Burke, Petitioner)

:  
:

Docket No. A92-7



COMMISSION OPINION AFFIRMING DECISION  
UNDER 39 U.S.C. § 404(b)

Washington, D.C. 20268-0001  
May 19, 1992

## I. Introduction and Summary

In this opinion we affirm the Postal Service's determination to consolidate the post office at Nooksack, Washington 98276 with the post office at Everson, Washington. Petitioner Barbara Burke filed this appeal and a petition signed by numerous local residents on January 27, 1992, and a Participant Statement on February 14, 1992. The Postal Service filed Comments on March 23, 1992.

**The affected facility.** The Postal Service has decided to establish a classified station at Nooksack, to be under the administrative responsibility of the post office at Everson. According to the Final Determination, it will be staffed by career postal employees and provide services and hours identical to those currently offered by the Nooksack post office.<sup>1</sup> The community name and the current ZIP code will be preserved.

Nooksack, according to the Service's findings (Final Determination at 5) is an incorporated rural community with a formal town government, some services being provided by the City of Everson or the local Fire District. It is situated approximately 1.7 miles from Everson. There are three churches, an elementary school, and ten business establishments.

**Postal Service proceedings.** The Postal Service sent questionnaires to the (approximately 300) Nooksack postal patrons on May 4, 1990. Eighty-five replies (19 for, 47 against, and 19 no-opinion) were received. Postal Service representatives were present in Nooksack to answer questions on May 23, 1990, and 34 residents attended the meeting.

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<sup>1</sup> Final Determination at 1. The office is open from 8 to 10:30 a.m. and from 12:30 to 5 p.m. Monday through Friday. It sells stamps, stamped paper, and money orders; provides special services, accepts and dispatches all classes of mail, and accommodates permit mailings and meter-setting customers.

## II. Commission Review

### A. Procedures followed

Neither the appeal letter nor the Participant Statement raises issues concerning the adequacy of the procedural steps followed by the Service, and no such issues appear from our review of the record. We therefore turn to the substantive questions petitioner has raised.

### B. Adequacy of postal services [39 U.S.C. § 404(b)(2)(C)]

The service issues raised in the appeal letter and the Participant Statement focus on the general quality of service to be furnished after consolidation, rather than on hours of operation, availability of particular services, and the like. As noted previously, and as the Service points out in its Comments at page 3, the latter will not change. Petitioner's Participant Statement, for example, argues:

(4) Although it is probably unfair to suggest the security and privacy of the mails will be lessened in a community post office or a contract station, it is believed that the strict standards governing Post Offices are much more desirable, when staffed by career postal employees, than by contracted non-career personnel.

(5) . . . we . . . have voiced, overwhelmingly, by petition and other correspondence, that we want our Post Office, with a Postmaster who will be personally interested in providing excellent mail service that has always been promised every American community.

To some extent, this argument rests on the mistaken premise that the classified station proposed for Nooksack would be staffed by contractors or noncareer personnel. The Final Determination indicates, however, that the facility would be staffed by career employees.<sup>2</sup> It is true that Nooksack would no

<sup>2</sup>

. . . A classified station is operated by career postal employees and will provide the same services as an independent post office. . . .

longer have a postmaster concerned only with its facility - a point raised in questionnaire responses and at the community meeting<sup>3</sup> - but it remains true that the Everson postmaster will be responsible, in the same way, for quality of service in Nooksack. Under the circumstances described, accordingly, we believe the Service's determination on the adequacy of service issue is rational and well supported.

C. Effect on the community of Nooksack [39 U.S.C.  
§ 404 (b) (2) (A)]

The arguments we consider under this heading are related to those just discussed, in that they concern the difference between an independent post office and a subordinate facility. The Participant Statement urges that

. . . . With Rural America's morale and influence being diluted with the many closing[s] or consolidations of economic, civic, and social entities, a change in status of the Post Office would be a depressing action. A contract station or community post office just doesn't properly "identify" a progressive town like Nooksack.

In part, this argument is directed toward an action the Service has not taken: the Nooksack facility would not be a contract station or a community post office, but a classified facility operated by career employees. Insofar as the choice of a classified facility indicates a higher level of Postal Service involvement in the community, as well as a more complete range of postal services (Final Determination at 1; Postal Service Comments at 5), it makes the Petitioner's argument inapplicable. Moreover, the Service's determination indicates that it has given proper consideration to the broader issues of community effect. It notes that the classified station will be able to handle

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Final Determination at 1.

<sup>3</sup> Admin. Record Items 6 and 125; and see Final Determination at 2-3.

future growth (Final Determination at 5); and that since all postal "identifiers" including the ZIP code will remain unchanged, the community will not suffer loss of identity (ibid.).

We conclude that the Postal Service has adequately considered and properly resolved the questions concerning effect on the Nooksack community.

D. The economics of the consolidation [39 U.S.C. § 404(b)(2)(D)]

The Final Determination, at page 6, presents the following estimate of savings:

Postmaster's salary (EAS-13, step 1, no COLA)	\$27,068
Fringe benefits @ 33.5%	<u>9,068</u>
Total annual cost	36,136
Cost of replacement:	
Level 5, step 1, no COLA	(21,364)
Fringe benefits @ 33.5%	<u>(6,947)</u>
Total annual savings	7,825

The Petitioner does not dispute the calculation, but argues in her Participant Statement that the \$7,825 is a "loss" that would quickly be made up by increased volume and receipts.<sup>4</sup> It appears that there has been revenue growth, at least between 1990 and 1991. Receipts were \$40,065 (173 revenue units) in 1989, \$33,460 (144 revenue units) in 1990, and \$39,988 (162 revenue units) in 1991. Final Determination at 1.

The Service responds (Comments at 6) that Petitioner has mistaken the significance of the \$7,825, and that it is not one-time "loss" but a saving to be achieved every year. Impliedly,

<sup>4</sup> In the appeal letter, it is referred to as a saving, but the argument - that revenue growth will make it insignificant - is fundamentally the same.

therefore, it will not be overbalanced by future years' growth in revenues.

We think the Postal Service position is fundamentally correct. Since the physical facility, its hours, and the services it offers will remain as they are, there is no reason to expect the consolidation to reduce receipts at the Nooksack facility. That the consolidation will make these services available at lower total cost is a legitimate consideration under § 404(b).

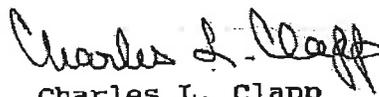
**E. Other matters**

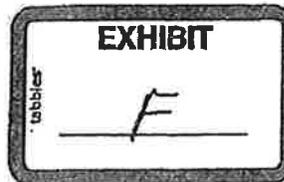
No issues are raised concerning effect on employees [39 U.S.C. § 404(b)(2)(B)], nor does our review of the record reveal any other matters requiring resolution.

**III. Conclusion**

On consideration of the arguments made by Petitioner, as well as the Final Determination and the record, we find that the Postal Service's Final Determination (i) is neither arbitrary, capricious, nor an abuse of discretion; (ii) is supported by substantial evidence; and (iii) was reached with due observance of procedural requirements and is otherwise in accordance with law. It is therefore affirmed.

By the Commission.  
(S E A L)

  
Charles L. Clapp  
Secretary



**Virginia Radder**

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**From:** Anne Blair [REDACTED]  
**Sent:** Tuesday, April 12, 2011 2:16 PM  
**To:** Virginia Radder  
**Subject:** VIRGINIA RENT Month to Month

I, Anne Blair, with consent of JON Blair, Nick DeKriek, and Kris Dekriek, (BEN Ramirez-deceased no longer owner -Elodia Ramirez bought out (quit claimed) no longer owner), agree to RENT MONTH TO MONTH to the USPS, when lease expires, MAY 31, 2011.

THANKS

Anne Blair

[REDACTED] 1  
[REDACTED] 7  
[REDACTED] 3  
[REDACTED] 2

APRIL 12, 2011

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presentation of the City's appeal, the Postal Regulatory Commission reverses the Postal Service's determination to close the post office.

5. Additionally business checks, letterhead and pre-printed checks will need to be changed not only for the City of Nooksack but for individuals and other businesses located within the City. This will also cause irreparable harm if the post office is allowed to close during the pendency of the appeal.

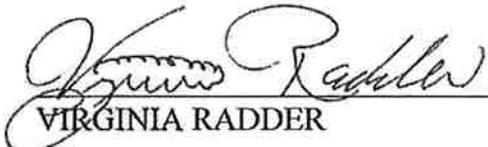
6. Pursuant to a Nooksack City Ordinance the Nooksack City post office is a designated location for official posting for Nooksack City notices. The City of Nooksack does not have sufficient time to advertise a public meeting, hold the meeting and then change the ordinance regarding the posting of notices prior to the date planned for closing of the Nooksack post office. The closure of the post office without adequate time for the City to locate a new public locale for the posting of notices will also cause an irreparable injury to the City and its citizens.

7. Also, if the post office is allowed to close confusion as to addresses will likely occur because if citizens of the City of Nooksack elect to have curbside delivery they will be required to use a 98247 zip code. This zip code is the same as is used in the City of Everson, Washington. Because of similar street names and addresses, the misdelivery of mail is quite likely. Additionally it is problematic for people, myself included, to put up a mail box only to have to possibly remove it in the event if the decision is reversed.

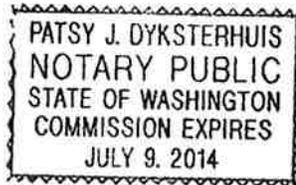
8. As indicated in the attached letter from the current landlord of the Nooksack post office the landlord is willing to rent to the Postal Service on a month to

month basis. Thus there does not appear to be any likelihood of a substantial injury to other parties by requiring the Nooksack post office to remain open during the pendency of the appeal. Further, I do not believe the City of Nooksack will be allowed an effective appeal process if the post office is allowed to close during its pendency.

9. For these reasons, it is respectfully requested that the Postal Regulatory Commission grant the City of Nooksack's application for suspension of closure during the pendency of the appeal regarding the closure of the Nooksack post office.

  
VIRGINIA RADDER

SUBSCRIBED and SWORN to before me this 12<sup>th</sup> day of May, 2011.



  
NOTARY PUBLIC in and for the State  
Washington: Residing at Everson  
My Commission Expires: July 9, 2014

May 12, 2011  
James Ackerman, Mayor  
City of Nooksack  
103 W Madison Street  
P.O. Box 4265  
Nooksack, WA 98276

Postal Regulatory Commission  
Office of the Chief Admin. Officer

MAY 16 2011

Secretary of the Commission  
Postal Regulatory Commission  
901 New York Avenue NW, Suite 200  
Washington, D.C. 20268-0001

**Re: Application for Suspension of Closure of the Nooksack Post Office,  
Nooksack, Washington 98276.**

Dear Sir/Madam:

Please accept this letter as Appellant, the City of Nooksack's application for suspension of the determination of the Postal Service to close the Nooksack post office pending the outcome of the appeal to the Postal Regulatory Commission.

The City of Nooksack, Washington has submitted a Petition for Review of the United States Postal Service's determination to close the Nooksack post office located at 605 Nooksack Avenue, Nooksack, WA 98276. The Nooksack post office is currently scheduled to be open until May 27, 2011 and will be vacated and thus closed after that date.

In connection with the Petition, the City of Nooksack is submitting the present application for suspension of the closure of the Nooksack post office pending the outcome of the appeal, as allowed under 39 C.F.R. §3001.114.

The City of Nooksack desires to prevent a situation in which the post office closure has been put on an irreversible course prior to the Postal Regulatory

Commission's decision whether to reverse the decision of the U.S. Postal Service. The City believes it will suffer an irreparable injury if the Regulatory Commission allows for the post office to close during the pendency of the appeal. The City also wants to avoid a situation in which some of the current post office box holders at the Nooksack post office change their address to home delivery and put up mail boxes unnecessarily in the event the Regulatory Commission requires the Postal Service to keep the Nooksack post office open. Again, the City of Nooksack believes an irreparable injury will occur if the Regulatory Commission allows the Postal Service to close the post office during the pendency of the appeal.

The City of Nooksack also believes that the public interest would be served by granting the City of Nooksack's suspension application. If the Postal Service were allowed to irreversibly close post offices while appeals were pending to overturn those closures, the statute providing appeal rights to users of those post offices would be rendered meaningless.

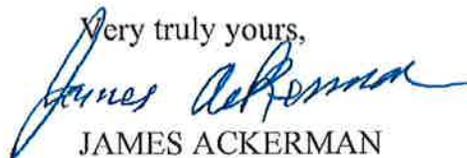
Although the Postal Service has given its notice to the private landlord of the Nooksack post office attached as Exhibit "F" is a letter sent by the landlord to Virginia Radder, Nooksack City Clerk. The letter sets forth that the landlord is willing to rent to the U.S. Postal Service the space currently occupied by the Nooksack post office on a month-to-month basis during the pendency of the appeal. As such, given the landlord's willingness to continue to rent to the U.S. Postal Service, there does not appear to be any substantial injury to other parties.

The appeal process could take about 4 months with a decision being made by the Postal Regulatory Commission during early September, 2011. This is based on the 120 day time period from receipt of the appeal that is set forth in 39 U.S.C. §404(d)(5). Upon the passage of 4 months, the proposed closure of the Nooksack post office might be irreversible even if the Postal Regulatory Commission reversed or remanded the closure to the Postal Service and even if the Postal Service's further consideration would have led to a decision to keep the post office open. If the post office is allowed to be closed pending the appeal there is every reason to believe that were this matter remanded to the Postal Service for further consideration the post office being closed during the appeal would undoubtedly affect any further consideration the Postal Service might conduct.

As to the citizens of Nooksack they are being asked to make an election by the Postal Service as to whether they want to install a curb side box or rent a new post office box at the nearby municipality of Everson. These post office box holders should not need to make these arrangements until it is determined with finality the fate of the Nooksack post office.

A notarized statement from Virginia Radder, City Clerk of the City of Nooksack, in support of this application is attached as Exhibit "G".

Respectfully submitted this 12<sup>th</sup> day of May, 2011.

Very truly yours,  
  
JAMES ACKERMAN  
Mayor, City of Nooksack