



October 31, 2014

via Certified Mail/Return Receipt Requested and Email

Mr. Reid J. Nelson, Director  
Office of Federal Agency Programs  
The Advisory Council on Historic Preservation  
401 F Street NW, Suite 308  
Washington, D.C. 20001-2637

Re: USPS Response to ACHP Opinion on Finding, Including USPS Final Decision on Finding,  
with Respect to Undertaking Involving the Property Known as the Berkeley Main Post Office  
2000 Allston Way, Berkeley, CA 94704

Dear Mr. Nelson:

The United States Postal Service ("USPS") received your letter dated October 24, 2014 reviewing USPS' finding of no adverse effect with respect to the disposition of the Berkeley Main Post Office (the "Property"), and providing your opinion as to whether the adverse effect criteria have been correctly applied. You stated it is the opinion of the ACHP that the USPS' finding of no adverse effect is not supported by the covenant as presently written, specifically citing the USPS as the identified covenant holder as inappropriate. You believe that the USPS lacks demonstrated experience in holding preservation covenants and does not show an apparent interest in the long term preservation of the Property. We are writing to you today to express our disagreement with your opinion. We have taken your opinion into consideration along with the following:

1. 36 CFR 800.5(a)(2)(vii), a regulation implementing Section 106 of the NHPA, provides the following example of an adverse effect: "the transfer, lease, or sale of property out of federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance."

2. In order to avoid this adverse effect, the USPS proposed a preservation covenant to ensure the long-term preservation of the Property's historical significance. The proposed covenant requires, among other things, that the new owner restore, maintain and preserve the Property in accordance with the recommended approaches of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and that no construction, alteration or rehabilitation be permitted that would affect the historic features of the Property without prior consultation with and approval of the covenant holder. The USPS intends to incorporate the covenant into the deed of conveyance transferring title from the USPS to

another party, and to have the deed and covenant recorded in the land records so that all future owners will be apprised of their obligations.

3. The USPS has consulted with the California State Historic Preservation Officer (SHPO), the City of Berkeley, the National Trust for Historic Preservation and other consulting parties, and has reviewed, and taken into account, the views expressed by the public.

4. In connection with the consultation, the USPS made a substantial number of changes requested by the consulting parties to the preservation covenant form.

5. The Section 106 process does not mandate a particular preservation result. The process is intended to ensure that Federal entities examine and take responsibility for the consequences of any particular Federal undertaking on historic properties. In achieving this goal, the Federal entity is to ensure preservation values are taken into account in the action. The Postal Service has identified preservation values, has taken them into account and has ensured their protection through the use of the preservation covenant.

6. The USPS has reached an impasse with the consulting parties with respect to the preservation covenant primarily over two issues. First, the USPS is not willing to include the use of the property as a retail post office as an historic feature of the Property. Second, the USPS is not willing to commit to operating a retail post office with specific retail services in the Property for a period of 50 years. The USPS believes that the economic use of any property is not a proper consideration under Section 106 and the implementing regulations. The business decision of how the USPS will operate is an economic matter and not a preservation value. It is not the purpose of the Section 106 process to mandate such a business decision. Moreover, the concept of requiring a Federal entity to maintain the same services at the same facility for extended periods of time as a method of preservation flies in the face of another preservation concept, that of adaptive reuse. Adaptive reuse of historic under-utilized buildings promotes both economic growth and encourages respect for historic properties. Perhaps this is why the Federal government has seen fit to provide Federal Historic Preservation Tax Incentives. Requiring the same use be made of a property over a substantial period of time would not allow for adaptive reuse.

7. The ACHP has determined that the USPS does not meet the criteria to hold a preservation covenant, because it does not have "demonstrated experience in protecting historic properties" and an "interest and capability, through its core mission or otherwise, in the long term preservation of the property." We disagree. The USPS complies with Section 106 with respect to its historic properties and has done so on a voluntary basis since 1982 when the Board of Governors adopted a resolution to do so with respect to property of the USPS. The USPS currently owns over 8,500 properties, many of which are historic, and thus has an interest in maintaining and preserving such properties within the limits of the USPS' financial capabilities, which are significantly constrained.

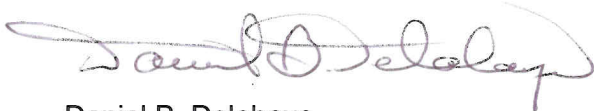
8. While we appreciate the suggestion of the ACHP to find a covenant holder other than the USPS, the USPS has previously asked various entities to hold the preservation covenant, and has either been rejected, as was the case with the California State Historic Preservation Office, or such entities wish to impose pre-conditions that create obstacles to having them hold

the covenant (e.g., high fees and a high volume of covenants being requested or continuous use requirements being proposed (NTHP and Certified Local Government)).

In light of the foregoing, the USPS disagrees with your opinion and finds no reason to revise its finding of no adverse effect for this undertaking.

The submission of this letter to you, the California SHPO and the consulting parties, concludes the Section 106 process.

Sincerely,



Daniel B. Delahaye  
Federal Preservation Officer

cc: State Historic Preservation Officer, Carol Roland-Nawi, PH.D (7012 2920 0002 1172 6228)  
City of Berkeley – Planning & Development Department, Sally Zarnowitz (7012 2920 0002 1172 7072)  
– City Attorney, Zach Cowan (7012 2920 0002 1172 7089)  
California Preservation Foundation, Cindy Heitzman (70122920 0002 1172 7096)  
National Trust for Historic Preservation, Christina Morris (7012 2920 0002 1172 7102)  
Alameda County Parks, Recreation and Historical Commission, Al Minard (7012 2920 0002 1172 7119)  
Berkeley Architectural Heritage Association, Susan D. Cerny (7012 2920 0002 1172 7126)  
Amah Mutsun Tribal Band, Irene Zwielen (7012 2920 0002 1172 7133)  
Jean-Marie Feyling (7012 2920 0002 1172 7140)  
Muwekma Ohlone Indian Tribe of SF Bay Area, Rosemary Cambra (7012 2920 0002 1172 7140)  
Costanoan Rumsen Carmel Tribe, Tony Cerda (7012 2920 0002 1172 7164)  
The Ohlone Indian Tribe, Andrew Galvan (7012 2920 0002 1172 7171)  
Katherine Erolinda Perez (7012 2920 0002 1172 7188)  
Trina Marine Ruano Family, Ramona Garibay (7012 2920 0002 1172 7195)  
Indian Canyon Mutsun Band of Costanoan, Ann Marie Sayers (7012 2920 0002 1172 7201)