



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: May 28, 2024

DATE: May 15, 2024

TO: Board of County Commissioners

FROM: Lindsay Liddell, Deputy District Attorney
(775) 337-5700, lliddell@da.washoecounty.gov

THROUGH: Nathan Edwards, Assistant District Attorney

SUBJECT: Recommendation to authorize Washoe County District Attorney's Office to pursue any and all legally viable claims to obtain declaratory, mandamus, and/or injunctive relief in federal court against the United States Postal Service and its representatives, arising out of the United States Postal Service's plan to relocate Northern Nevada mail processing from Reno, Nevada, to Sacramento, California, and their failure to first seek an advisory opinion from the Postal Regulatory Commission, pursuant to 39 U.S.C. §§ 3661-3664, and if an administrative action occurs before the Postal Regulatory Commission, authorize the Washoe County District Attorney's Office to intervene and to fully participate in any such action, including filing a position statement and attending hearings on behalf of Washoe County as appropriate. If approved, authorize an amount (not to exceed \$25,000) for costs associated with pursuing such claims and/or representing Washoe County before the Postal Regulatory Commission. (All Commission Districts.) FOR POSSIBLE ACTION.

SUMMARY

In April 2024, the United States Postal Service ("USPS") unilaterally announced its decision to move mail processing operations for Northern Nevada mail from Reno, Nevada, to Sacramento, California. This means that when a letter is deposited for mailing in Reno, it would first travel through Donner Pass to Sacramento for initial sorting. If the letter's destination was in Reno, it would then travel back to Reno for further sorting and delivery. Staff anticipates that this will create substantial mail delays, particularly due to winter weather between October and April. Washoe County relies on USPS mail service to distribute election mail, to timely receive mail-in ballots, to deliver administrative notices, and to distribute other vital correspondence to the public.

The Civil Division of the District Attorney's Office serves as Washoe County's in-house legal team. The District Attorney's Office recommends that the Board authorize it to pursue any and all legally viable claims against the USPS and its representatives to obtain declaratory, mandamus, and/or injunctive relief that would require USPS to participate in the advisory opinion process before the Postal Regulatory Commission. The claims would

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serve as an attempt to halt the proposed move to Sacramento and ensure that USPS adheres to requisite procedures, does not exceed its authority, and does not illegally interfere with Washoe County's rights to participate in a proceeding before the Postal Regulatory Commission. If an administrative action occurs before the Postal Regulatory Commission, the District Attorney's Office asks that the Board authorize it to intervene and fully represent Washoe County in any such action.

Washoe County Strategic Objective supported by this item: Economic Impacts

PREVIOUS ACTION

On February 27, 2024, the Board directed staff to submit comments and letters on behalf of Washoe County in opposition to USPS's proposal to convert the existing USPS Reno Processing and Distribution Center to a Local Processing Center and route local area mail through the Sacramento Processing and Distribution Center.

BACKGROUND

In 2021, the USPS announced its "Delivering for America" plan that involves downsizing and consolidating mail service in the name of efficiency. USPS has thus far implemented changes under the Delivering for America plan in phases. The latest phase involves operational changes that centralize processing operations. Transformations are already underway in Richmond, Atlanta, Portland, Boise, Charlotte, Chicago, Houston, Jacksonville, and Indianapolis. Despite USPS's lack of clear data, modeling, and analysis regarding whether those changes improved efficiency, USPS is moving forward with even more downsizing in Wyoming, Washington, Texas, Oregon, and importantly—Reno, Nevada.

On or about April 23, 2024, USPS announced its Decision to Proceed with moving its Northwestern Nevada¹ processing operations to Sacramento, California. Mail originating in Northwestern Nevada will first travel 260 miles roundtrip through Interstate 80's Donner Pass, named after the infamous Donner Party—a wagon train of pioneers stranded who were for weeks during the turbulent winter season of 1846-47 in the Sierra Nevada Mountains.

According CalTrans's "Winter Stats," Donner Pass experiences varying and significant road closures and truck holds, including the following examples:

- During the 2016-2017 winter season, trucks were held on Interstate-80 westbound for over 215 hours and eastbound for over 247 hours.
- During the 2021-2022 winter season, trucks were held westbound for over 81 hours, and eastbound over 89 hours.
- During the 2022-2023 winter season, trucks were held westbound for over 125 hours, and eastbound almost 127 hours.

See **Exhibit 1**.

¹ The Reno USPS Processing and Distribution Center currently processes mail that originates in the Northwestern portion of the State of Nevada, including from Washoe County, Carson City, Lyon County, Storey County, Mineral County, Humboldt County, Pershing County, and Churchill County. **Exhibit 2**.

The District Attorney's Office believes that USPS's approach to implementing this phase of the Delivering For America plan does not comply with at least federal procedural law. Federal law mandates that USPS seek an advisory opinion from the Postal Regulatory Commission when a proposed change in service will generally affect service on a nationwide or substantially nationwide basis. That Commission is a separate and independent regulatory agency with appointed commissioners and expert staff who serve as a check and balance on the USPS. The USPS moved forward with its plan to remove processing facilities, including in Reno, Nevada, without first following the advisory opinion procedures for the Postal Regulatory Commission. If this Board approves, Washoe County may file an action to compel USPS to follow those procedures, and may participate as an interested party in any administrative action before the Postal Regulatory Commission.

The Delivering for America plan threatens Northern Nevada's mail service. The actions being proposed for action in this item could enable the county to mitigate or avoid these impacts.

FISCAL IMPACT

It is anticipated that the expenses for court and administrative proceeding participation will not exceed \$25,000 and the cost will be absorbed in the adopted FY2024 budget.

RECOMMENDATION

It is recommended that the Board of County Commissioners authorize the Washoe County District Attorney's Office to pursue any and all legally viable claims to obtain declaratory, mandamus, and/or injunctive relief in federal court against the United States Postal Service and its representatives, arising out of the United States Postal Service's plan to relocate Northern Nevada mail processing from Reno, Nevada, to Sacramento, California, and their failure to first seek an advisory opinion from the Postal Regulatory Commission, pursuant to 39 U.S.C. §§ 3661-3664, and if an administrative action occurs before the Postal Regulatory Commission, authorize the Washoe County District Attorney's Office to intervene and to fully participate in any such action, including filing a position statement and attending hearings on behalf of Washoe County as appropriate. If approved, authorize an amount (not to exceed \$25,000) for costs associated with pursuing such claims and/or representing Washoe County before the Postal Regulatory Commission.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to (1) authorize the Washoe County District Attorney's Office to pursue any and all legally viable claims to obtain declaratory, mandamus, and/or injunctive relief in federal court against the United States Postal Service and its representatives, arising out of the United States Postal Service's plan to relocate Northern Nevada mail processing from Reno, Nevada, to Sacramento, California, and their failure to first seek an advisory opinion from the Postal Regulatory Commission, pursuant to 39 U.S.C. §§ 3661-3664, and if an administrative action occurs before the Postal Regulatory Commission, authorize the Washoe County District Attorney's Office to intervene and to fully participate in any such action, including filing a position statement and attending hearings on behalf of Washoe

County as appropriate; and (2) authorize an amount (not to exceed \$25,000) for costs associated with pursuing such claims and/or representing Washoe County before the Postal Regulatory Commission.”