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15 NATIONAL TRUST FOR HISTORIC PRESERVATION IN THE UNITED STATES

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 NATIONAL TRUST FOR HISTORIC
20 PRESERVATION IN THE UNITED STATES,

21 Plaintiff,

22 vs.

23 UNITED STATES POSTAL SERVICE;
24 PATRICK R. DONAHOE AS POSTMASTER
25 GENERAL OF THE UNITED STATES
26 POSTAL SERVICE; TOM A. SAMRA,
27 VICE PRESIDENT-FACILITIES
28 OF THE UNITED STATES POSTAL
SERVICE; DIANA ALVARADO, DIRECTOR,
REAL ESTATE, USPS PACIFIC REGION;

Defendants.

NO:

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

INTRODUCTION

1
2 1. This is an action to compel Defendants (hereinafter collectively referred to as U.S.
3 Postal Service or USPS) to comply with the National Historic Preservation Act and the National
4 Environmental Policy Act prior to making a decision to relocate and sell the historic Berkeley
5 Main Post Office located at 2000 Allston Way, Berkeley, California. The Berkeley Main Post
6 Office is a valued community asset in the civic core of downtown and has been an integral part
7 of the federal government's presence in Berkeley for 100 years.

8 2. Construction of the Berkeley Main Post Office was completed in 1914 for \$130,000
9 with funds provided by the Department of the Treasury. In 1932 the Postal Service added a rear
10 annex at a cost of \$200,000. The building was improved by New Deal artwork in 1937, including
11 two murals in the interior lobby and a bas-relief sculpture in the exterior loggia.

12 3. The Berkeley Main Post Office contains an Indiana limestone foundation, granite
13 steps and Kasota marble columns supporting vaulted arches over a main entrance loggia, which
14 extends across the front facade. Its exterior contains cement stucco with terra cotta trimmings of
15 a sanded-cream finish, the first time this decorative technique was employed on the Pacific coast.
16 The interior finish in the public lobby is oak and marble with ornamental bronze and plaster. It
17 has a Spanish clay tile hipped roof which overhangs a frieze featuring decorative classical
18 motifs.

19 4. The Berkeley Main Post Office is a recognized historic building at the local and
20 national level. It was listed as a Berkeley City Landmark in 1980 and placed on the National
21 Register of Historic Places individually in 1981 and as a contributing structure to the Berkeley
22 Civic Center Historic District in 1998.

23 5. In 2012 the National Trust for Historic Preservation included the Nation's historic
24 post office buildings on the list of America's 11 Most Endangered Historic Places, and
25 designated historic post offices as a National Treasure. The National Trust is adversely affected
26 by the increasing frequency at which federally-owned historic post office buildings are being
27 sold to private owners without adequate consideration of alternatives to sale, and without
28 adequate measures to ensure long-term preservation of these historic properties. Protection of the

1 Berkeley Main Post Office has been a central focal point of the National Trust's ongoing
2 National Treasures campaign.

3
4 **JURISDICTION AND VENUE**

5 6. This action arises under the National Historic Preservation Act (NHPA), including
6 Section 111, 16 U.S.C. § 470h-3, and Section 106, *id.* § 470f, and the Section 106 implementing
7 regulations, 36 C.F.R. Part 800; and under the National Environmental Policy Act (NEPA), 42
8 U.S.C. § 4332(2)(C), and its implementing regulations, issued by the Council on Environmental
9 Quality, 40 C.F.R. Parts 1500-1508. Plaintiff seeks judicial review pursuant to Chapter 7 of the
10 Administrative Procedure Act (APA), 5 U.S.C. §§ 701-706, and Section 305 of the NHPA, 16
11 U.S.C. § 470w-4.

12 7. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1361.

13 8. This Court may grant declaratory judgment and further relief pursuant to 28 U.S.C.
14 §§ 2201 and 2202.

15 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) and 5 U.S.C. § 703
16 because a defendant in this action resides in this judicial district and a substantial part of the
17 events or omissions giving rise to the claims occurred in this district.

18
19 **PARTIES**

20 10. Plaintiff, the National Trust for Historic Preservation in the United States (National
21 Trust) is a private, nonprofit organization chartered by Congress in 1949 to facilitate public
22 participation in the preservation of our nation's heritage, and to further the historic preservation
23 policy of the United States. 16 U.S.C. §§ 461, 468. With the strong support of its members
24 across the nation, the National Trust works to protect significant historic sites and to advocate
25 historic preservation as a fundamental value in programs and policies at all levels of government.
26 The National Trust's members use and enjoy the Berkeley Main Post Office as a community
27 resource and admire the building as a unique architectural and artistic icon of the Berkeley Civic
28 Center Historic District. The National Trust commented in writing on the proposed relocation of

1 retail services from the Berkeley Main Post Office in September, 2012, and was granted
2 consulting party status for the purposes of reviewing the action under Section 106 of the National
3 Historic Preservation Act, 16 U.S.C. § 470f; 36 C.F.R. §§ 800.2(c)(5), 800.3(f)(3), which only
4 began after the USPS made its final decision to relocate operations in September, 2013. The
5 National Trust has also met on multiple occasions with members of the USPS staff to urge
6 compliance with Section 106 of the NHPA through the implementation of a strong and
7 enforceable preservation covenant for the Berkeley Main Post Office, which would ensure the
8 long-term protection of the building's significant architectural and cultural features.

9 11. Defendant U.S. Postal Service (USPS), owner of the Berkeley Main Post Office, is an
10 independent establishment of the executive branch of the Government of the United States, with
11 power to be sued in its official name. 39 U.S.C. §§ 201, 401(1).

12 12. Defendant Patrick R. Donahoe is the Postmaster General and chief executive officer
13 of the U.S. Postal Service, an instrumentality of the Government of the United States. Defendant
14 Donahoe is named here in his official capacity as Postmaster General.

15 13. Defendant Tom A. Samra is the Vice President of Facilities for the U.S. Postal
16 Service, with decision-making authority to sell the Post Office. Defendant Samra is named here
17 in his official capacity.

18 14. Defendant Diana Alvarado is the Director of Real Estate-Facilities Implementation
19 for the Pacific Region of the U.S. Postal Service, with decision-making authority to implement
20 the sale of the Post Office. Defendant Alvarado is named here in her official capacity.

21
22 **SALE OF THE BERKELEY MAIN POST OFFICE**

23 15. The U.S. Postal Service has entered into a contract to sell the Berkeley Main Post
24 Office to a private party without adequate and legally enforceable restrictions to assure its long-
25 term preservation. Defendants began the process in the summer of 2012 when they announced
26 that USPS was pursuing a process to relocate operations, and released a due diligence report. On
27 September 28, 2012 Plaintiff National Trust wrote to USPS expressing concern that the decision
28 to relocate required compliance with Section 106 and 111 of the NHPA because the removal of

1 services was an undertaking that had the potential to adversely affect the historic building. The
2 National Trust requested consulting party status under Section 106, as a party with a
3 demonstrated interest in assuring the building's protection. In addition, the National Trust urged
4 the USPS to look at alternatives to sale such as historic leasing. On October 22, 2012 USPS
5 responded that the National Trust's "request to be a consulting party is premature."

6 16. On February 26, 2013 USPS held a public hearing at Berkeley City Hall. The
7 National Trust testified at the hearing, expressing concern about the impacts to the building that
8 would result from the relocation of operations. The National Trust urged USPS to comply with
9 the NHPA prior to making the consequential decision to vacate the facility. The National Trust
10 followed up with a letter to USPS senior staff on March 12, 2013.

11 17. On April 19, 2013, the USPS announced its decision to relocate its operations in
12 Berkeley, and indicated in a press release that it planned to sell the building after the operations
13 are relocated, though it did not establish a date or schedule for the move. The National Trust
14 along with a broad coalition of partners, including the City of Berkeley, requested
15 reconsideration of that decision. The USPS announced its relocation decision as final on July 18,
16 2013. The Mayor of Berkeley then requested a review of the relocation decision by the Postal
17 Regulatory Commission. On August 27, 2013 the Commission found that the Mayor's appeal
18 was premature because USPS had not yet identified a site to relocate to, and the appeal was
19 dismissed without prejudice. In a concurring opinion Commission Chairman Ruth Y. Goldway
20 wrote:

21 Decisions to relocate a post office can be wrenching on a community. The Postal Service
22 should undertake a thorough and balanced review, particularly when the building is
23 historic and part of the civic fabric of the community. A decision to sell a building prior
24 to identifying a relocation site bifurcates the community input and significantly reduces
25 the ability of the Service and the community to evaluate the impact of relocation.

26 18. After it made the decision to cease operations at the Berkeley Main Post Office, the
27 USPS formally initiated consultation with the California State Historic Preservation Officer
28 (SHPO) under Section 106 of the NHPA. In its letter of September 3, 2013 the USPS stated that
it "is considering selling" the property. The correspondence included a draft preservation

1 covenant, calling for enforcement by the SHPO, and a determination by the USPS that the
2 transfer would have “no adverse effect.” The letter also identified the City of Berkeley, the
3 California Preservation Foundation, the National Trust, Berkeley Architectural Heritage, and the
4 Alameda County Parks, Recreation, and Historical Commission as interested consulting parties.
5 On October 5, 2013 the USPSPropertiesforsale.com website, hosted by USPS realtor CBRE
6 Group indicated that the Berkeley Main Post Office was “for sale.”

7 19. The USPS rejected requests from Citizens to Save the Berkeley Post Office and the
8 National Post Office Collaborate to participate as consulting parties. The groups raised
9 objections about this decision to the Advisory Council on Historic Preservation (ACHP), an
10 independent federal agency with oversight over the NHPA process. 16 U.S.C. §§ 470i, 470s. In a
11 letter dated November 8, 2103 the ACHP expressed alarm that that USPS “provided no
12 explanation” for its refusal to include these groups in the consultation and encouraged USPS to
13 include all interested parties in the consultation.

14 20. All consulting parties identified, including the SHPO, City of Berkeley, and the
15 National Trust, disputed the USPS finding of “no adverse effect” in written comments in the fall
16 of 2013. A central issue of contention was whether the removal of the use for which the building
17 was originally designed constituted an adverse effect. If so, the USPS would be required to “take
18 into account” that adverse effect through consultation, “prior to” making the final decision to
19 relocate services. 16 U.S.C. § 470f. Another central issue was the failure of the USPS to identify
20 a qualified party to accept the duties of monitoring and enforcing a covenant to ensure that
21 successive owners would preserve the building’s significant architectural features.

22 21. On September 24, 2014, without notice to the consulting parties, the USPS wrote to
23 the ACHP seeking a review of its “no adverse effect” determination, pursuant to 36 C.F.R. §
24 800.5(c)(2)-(3), indicating disagreement with the consulting parties over whether the criteria of
25 adverse effect had been correctly applied. The USPS forwarded a draft covenant that had never
26 previously been shared with the consulting parties and proposed that USPS itself have the
27 responsibility to enforce the covenant against successive owners.
28

1 effect would occur to the Property as a result of its change in use.

2 e. The Defendants made an arbitrary and capricious determination that no adverse
3 effect would occur to the Property by failing to ensure that a sale would be subject to adequate
4 and legally enforceable restrictions or conditions to ensure long-term preservation of the
5 Property's historic significance.

6 f. The Defendants improperly segmented the decision to relocate postal services
7 from the decision to sell the Property in order to avoid a thorough review under NEPA.

8 g. The Defendants improperly categorically excluded sale of the Property from
9 review under NEPA by failing to consider the extraordinary circumstances that would result
10 from the sale.

11
12 **COUNT I**

13 Violation of National Historic Preservation Act, Section 111(a)
14 Failure to Consider Alternatives to Sale Including Leasing

15 26. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-25
16 above.

17 27. Congress enacted the National Historic Preservation Act (NHPA), 16 U.S.C. § 470 et
18 seq., in 1966 to preserve America's historic and cultural heritage. Congress specifically declared
19 that "the historical and cultural foundations of the Nation should be preserved as a living part of
20 our community life and development in order to give a sense of orientation to the American
21 people;" and that "the preservation of [our] irreplaceable heritage is in the public interest so that
22 its vital legacy of cultural, educational, esthetic, inspirational, economic, and energy benefits will
23 be maintained and enriched for future generations of Americans." *Id.* § 470(b)(2), (4).

24 28. Section 111 of the NHPA requires that all federal agencies shall "establish and
25 implement alternatives for historic properties, including adaptive reuse, that are not needed for
26 current or projected agency purposes, and may lease an historic property owned by the
27 agency..." 16 U.S.C. § 470h-3(a).

28 29. Under NHPA Section 111 the USPS must investigate alternatives to sale including

1 adaptive reuse or leasing. Defendants failed to do either, initiating relocation procedures and
2 subsequently listing the Berkeley Main Post Office for sale without first evaluating and
3 implementing other alternatives that would preserve federal ownership and keep the Property
4 under the protection of federal historic preservation law.

5
6 **COUNT II**

7 Violation of National Historic Preservation Act, Section 106
8 Failure to Complete Section 106 Consultation
9 "Prior to" Relocating Services from the Berkeley Main Post Office

10 30. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-29
11 above.

12 31. Section 106 of the NHPA requires all federal agencies to "take into account" the
13 impact of their actions on historic properties, including sites listed on and eligible for the
14 National Register of Historic Places, and to do so "prior to" approving the action. 16 U.S.C. §
15 470f. Section 106 also requires that the agency afford the Advisory Council on Historic
16 Preservation "a reasonable opportunity to comment" on the project. *Id.*

17 32. The ACHP has promulgated regulations implementing Section 106, which are
18 binding on all federal agencies. 16 U.S.C. § 470s; 36 C.F.R. Part 800. The Section 106
19 regulations require the agency to engage in a consultation process that involves the State Historic
20 Preservation Office, ACHP, Native American tribes, consulting parties, and interested members
21 of the public. 36 C.F.R. §§ 800.1(a), 800.2.

22 33. According to the Section 106 regulations, an adverse effect occurs when an
23 undertaking:

24 "may alter, directly or indirectly, any of the characteristics of a historic property that
25 qualify the property for inclusion in the National Register in a manner that would
26 diminish the integrity of the property's location, design, setting, materials, workmanship,
27 feeling, or association. . . . Adverse effect may include reasonably foreseeable effects
28 caused by the undertaking that may occur later in time, be farther removed in distance or
be cumulative."

36 C.F.R. § 800.5(a)(1). Examples of adverse effects in the Section 106 regulations include:

1 “[c]hange of the character of the property’s use . . . that contribute[s] to its historic significance,”
2 *id.* § 800.5(a)(2)(iv).

3 34. When an undertaking will adversely affect one or more historic properties, the federal
4 agency must engage in consultation to “develop and evaluate alternatives or modifications to the
5 undertaking that could avoid, minimize or mitigate [those] adverse effects,” 36 C.F.R. §
6 800.6(a). If the agency, the ACHP, and the SHPO are able to reach consensus on ways to resolve
7 the adverse effects, that consensus is reflected in a written Memorandum of Agreement (MOA),
8 which documents how the agency will avoid, minimize or mitigate adverse effects, through
9 consultation with all consulting parties. *Id.* § 800.6. The agency must fulfill its Section 106
10 responsibilities “prior to” approving the project.

11 35. The Section 106 regulations stress the importance of considering the effects of a
12 federal project at the earliest possible time during project planning, “so that a broad range of
13 alternatives may be considered during the planning process for the undertaking.” 36 C.F.R. §
14 800.1(c). The regulations reiterate the statutory requirement that Section 106 review must be
15 completed “prior to” the approval of any expenditure of federal funds on the project, and prohibit
16 actions that may “restrict the subsequent consideration of alternatives to avoid, minimize or
17 mitigate” the project’s adverse effects on historic properties. *Id.*

18 36. The USPS ignored its mandate to comply with Section 106 of the NHPA when it took
19 definitive action to relocate operations from the Property without having completed the Section
20 106 process.

21 37. When USPS Vice President Tom A. Samra issued a “final determination” on its
22 relocation decision on July 18, 2013 the USPS had not initiated consultation under Section 106.
23 However, as Plaintiff expressed to the USPS as early as September 28, 2012, the decision to
24 move a post office function out of a historic post office is an undertaking with the potential to
25 affect historic properties, which thus requires compliance with the NHPA. The Section 106
26 regulations state that a “[c]hange of the character of the property’s use . . . that contribute[s] to its
27 historic significance” is an adverse effect. 36 C.F.R. § 800.5(a)(2)(iv). The decision to relocate,
28

1 without prior Section 106 compliance, thus foreclosed alternatives that could otherwise protect
2 the property, such as leasing or adaptive reuse.

3 **COUNT III**

4 Violation of National Historic Preservation Act, Section 106
5 Failure to Complete Section 106 Consultation
6 “Prior to” Selling the Berkeley Main Post Office

7 38. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-37
8 above.

9 39. When USPS announced via its USPSPropertiesforsale.com website that the Berkeley
10 Main Post Office was “in contract,” it had not completed the process outlined in the Section 106
11 regulations to “take into account” the effect of the undertaking on the historic property.

12 40. The regulations implementing Section 106 establish a process by which a federal
13 agency that disputes the nature of the effect can seek to resolve its disagreement through the
14 ACHP, pursuant to 36 C.F.R. § 800.5(c)(2)-(3). The regulations make it clear that the agency’s
15 responsibilities under Section 106 are not fulfilled until after the agency official has “prepare[d]
16 a summary of the decision that contains the rationale for the decision and evidence of
17 consideration of the Council’s opinion, and provide[d] it to the Council, the SHPO/THPO, and
18 the consulting parties.” *Id.* § 800.5(c)(3)(ii)(B).

19 41. The Defendants failed to prepare a summary of the decision that contains the
20 rationale for the decision and evidence of consideration of the ACHP’s opinion, and provide it to
21 the ACHP, SHPO, and consulting parties, “prior to” entering into a contract for the sale of the
22 Berkeley Main Post Office, as required by 36 C.F.R. § 800.5(c)(3)(ii)(B). In fact, the Defendants
23 entered into the contract for sale without even waiting for the ACHP’s response to the USPS
24 letter dated September 24, 2014 requesting the ACHP’s views.

25 **COUNT IV**

26 Violation of National Historic Preservation Act, Section 106
27 Defendants Arbitrarily and Capriciously Determined That “No Adverse Effect”
28 Would Occur to the Property as a Result of its Change in Use.

1 42. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-41
2 above.

3 43. The USPS ignored the plain language of the regulations implementing Section 106 of
4 the NHPA when it determined that moving retail services out of the Berkeley Main Post Office
5 would cause no adverse effect, notwithstanding the objections of all other consulting parties.
6 When a historic building was designed specifically for use as a post office, and the words "POST
7 OFFICE" are prominently labeled on the front of the building, and it has been used as a post
8 office since its construction, as is the case in Berkeley, the "[c]hange of the character of the
9 property's use" that is the direct result of the relocation decision by the USPS clearly has the
10 potential to adversely affect the historic property, and requires compliance with Section 106 prior
11 to the agency's action. 36 C.F.R. § 800.5(a)(2)(iv). However, USPS has simply ignored the plain
12 language of the regulations in its decision to segment the decision to relocate postal services out
13 of the Property from the decision to sell the Property.

14
15 **COUNT V**

16 Violation of National Historic Preservation Act, Section 106
17 Defendants' Determination That Their Proposed Preservation Covenant
18 Would Have No Adverse Effect on the Historic Post Office,
Notwithstanding the Objections of the ACHP, was Arbitrary and Capricious

19 44. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-43
20 above.

21 45. In a last minute effort to establish long-term protections on the Berkeley Main Post
22 Office, the USPS sent to the ACHP a draft covenant, which proposed that the USPS itself would
23 act as the holder and enforcer of the covenant. The terms of this covenant do not ensure the long-
24 term preservation of the Property. The Covenant is flawed for three key reasons: (1) USPS has
25 no experience administering, monitoring or enforcing covenants; (2) The Covenant allows
26 demolition of the property, and provides for automatic approval of changes to the Property if the
27 USPS fails or declines to respond to requests from the property owner; and (3) The Covenant
28 invokes both the Section 106 process and the use of the Secretary of the Interior's Standards for

1 the Treatment of Historic Properties in a way that will create confusion and ambiguity in the
2 Covenant's interpretation or administration.

3 46. These concerns were substantiated by the ACHP, the federal agency with the greatest
4 degree of expertise in the subject of historic preservation, who expressed concern that the
5 Covenant grants USPS the "unfettered authority to approve adverse effects to the property
6 (including demolition) while having neither the demonstrated experience in holding preservation
7 covenants nor an apparent interest in the long term preservation of the property."

8 47. The determination by the USPS that the sale of the Berkeley Main Post Office would
9 have "no adverse effect" on the historic property, over the objections of the ACHP and all other
10 consulting parties, was arbitrary, capricious, an abuse of discretion, and otherwise contrary to
11 law.

12
13 **COUNT VI**

14 Violation of National Environmental Policy Act
15 Defendants Improperly Segmented the Decision to Relocate Postal Services
16 from the Decision to Sell the Building

17 48. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-47
18 above.

19 49. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C), requires
20 federal officials to prepare environmental impact statements (EISs) on proposals for "major
21 Federal actions significantly affecting the quality of the human environment." Essentially NEPA
22 and its "action-forcing" provisions require Federal agencies to look before they leap so that
23 harmful environmental impacts can be avoided.

24 50. NEPA establishes a national policy to "prevent or eliminate damage to the
25 environment and biosphere." 42 U.S.C. § 4321. The Act recognizes "the critical importance of
26 restoring and maintaining environmental quality," declares that the Federal government has a
27 continuing responsibility to use "all practicable means" to minimize environmental degradations,
28 and directs that "to the fullest extent possible . . . the policies, regulations, and public laws of the

1 United States shall be interpreted and administered in accordance with the policies set forth in
2 this Act.” *Id.* §§ 4331(a), 4332(1). The Act further recognizes the right of each person to enjoy a
3 healthful environment. *Id.* § 4331(c).

4 51. NEPA specifically recognizes that it is “the continuing responsibility of the Federal
5 Government to use all practicable means . . . to the end that the Nation may . . . preserve
6 important historic, cultural, and natural aspects of our national heritage” 42 U.S.C. §
7 4331(b)(4). NEPA requires agencies to examine the impacts of Federal actions on the “human
8 environment.” *Id.* § 4332(2)(C). All agencies of the Federal Government are to “utilize a
9 systematic, interdisciplinary approach which will ensure the integrated use of the natural and
10 social sciences and the environmental design arts in planning and in decisionmaking which may
11 have an impact on man’s environment; . . .” *Id.* § 4332(2)(A). The environmental impacts which
12 must be studied include historic, cultural, and social impacts. 40 C.F.R. § 1508.8(b).

13 52. The USPS improperly segmented its decision to relocate services from the building
14 from its decision to sell the building, both interrelated actions that should be evaluated together
15 under NEPA. The relocation of services is an essential step that foretells an ultimate sale.
16 Similarly, both have impacts on the social and cultural environment in Berkeley, as well as
17 potential harmful environmental consequences, which NEPA requires USPS to consider.

18
19 **COUNT VII**

20 Violation of National Environmental Policy Act
21 Defendants Improperly Determined that the Sale of the Berkeley Post Office was
22 Categorically Excluded from NEPA
23 by Failing to Consider Extraordinary Circumstances
24 Due to Changed Ownership and Use

25 53. Plaintiff repeats and incorporates all the allegations contained in paragraphs 1-52
26 above.

27 54. The USPS improperly acted as though the sale of the Berkeley Main Post Office was
28 categorically excluded to avoid preparation of an EIS. The sale of the landmark building,
however, represents an “extraordinary circumstance” that the USPS did not properly

1 acknowledge in making this determination. The Berkeley Main Post Office is indisputably
2 historic, but was treated like any other property for the purposes of NEPA. The building's
3 historic significance should cause the agency to give added consideration to the issue of whether
4 sale will result in harm. Because a major change in use can be expected from sale, the USPS
5 should anticipate pressure by the new owner to alter sensitive historic fabric to meet new uses.
6 The categorical exclusion was improper and had the effect of completely precluding public
7 review of this important decision in violation of NEPA.

8
9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for declaratory and injunctive relief against Defendants as
11 follows, requesting that this Court:

12 1. Adjudge and declare that the Defendants' determination—that the sale of the
13 Berkeley Main Post Office and relocation of services would have “no adverse effect” on the
14 historic property—was arbitrary, capricious, an abuse of discretion, and otherwise contrary to
15 law.

16 2. Adjudge and declare that Defendants cannot proceed with the sale of the Berkeley
17 Main Post Office unless and until the USPS has fully complied with Section 106 and Section 111
18 of the NHPA.

19 3. Adjudge and declare that Defendants cannot proceed with the sale of the Berkeley
20 Main Post Office unless and until the USPS has fully complied with the requirements of NEPA,
21 including the preparation of an Environmental Assessment or EIS.

22 4. Grant an injunction against Defendants proceeding with the sale of the Berkeley Main
23 Post Office unless and until the USPS has fully complied with the requirements of the NHPA.

24 5. Grant an injunction against Defendants proceeding with the sale of the Berkeley Main
25 Post Office unless and until the USPS has fully complied with the requirements of NEPA,
26 including the preparation of an EA or EIS.

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6. Award Plaintiff's costs and attorneys' fees pursuant to Section 305 of the NHPA, 16 U.S.C. § 470w-4, the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable provisions of law or equity.

7. Issue any additional relief that the Court deems just and proper.

DATED: November 24, 2014

Respectfully submitted,

BRIAN R. TURNER, Attorney (SBN 251687)
National Trust for Historic Preservation

By: /S/ Brian R. Turner
Brian R. Turner

ELIZABETH S. MERRITT, Deputy General Counsel
National Trust for Historic Preservation

By: /S/ Elizabeth S. Merritt
Elizabeth S. Merritt