

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Case No. 4:CV 03-49-BLW

**MEMORANDUM DECISION AND
ORDER RE MOTION TO FILE
AMICUS BRIEF**

MEMORANDUM DECISION

The Court has before it a motion to file amicus brief filed by the United States Postal Service (USPS). The USPS seeks to file an amicus brief concerning the certified mail issue raised by the Ninth Circuit in its limited remand. The USPS argues that their interpretation of what constitutes certified mail is critical to providing nation-wide uniformity.

While the USPS may not have a direct stake in this case, it is a federal entity subject to suit under the FTCA. *See* 39 U.S.C. § 409(c). The USPS takes the same position as the BLM in this case, and both governmental entities would gain if the Court adopted their interpretation. Moreover, the USPS has earlier in this case filed Declarations on behalf of the BLM, and so does not come before this Court as a neutral party.

An amicus is “an impartial individual” rather than an “advocate” trying to persuade the Court that the “cause may be won by one party or another.” *Greater Yellowstone Coalition v. Timchak*, 2008 WL 4911410 (D.Id. November 13, 2008). A proper amicus is the “friend of the

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court, not friend of a party.” *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997) (chambers opinion of Posner, J.).

The USPS’s interests are aligned with the BLM in this case, and the BLM is fully capable of expressing those interests. Accordingly, the motion to file amicus brief will be denied.

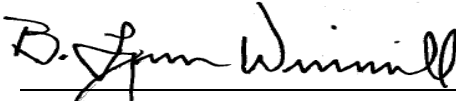
ORDER

In accordance with the Memorandum Decision set forth above,

NOW THEREFORE IT IS HEREBY ORDERED, that the motion to file amicus brief (docket no. 1903) is DENIED.



DATED: **March 8, 2011**



Honorable B. Lynn Winmill
Chief U. S. District Judge