Title
Rights & Permissions in Real Life, the UCSD Experience

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Rights & Permissions in Real Life, the UCSD Experience

CRISTELA GARCIA-SPITZ & JOOHEE LEE

KRAEMER COPYRIGHT CONFERENCE

JUNE 7, 2016
2005  DAMS 1.0
PREMIS for Rights

http://www.loc.gov/standards/premis

PREMIS Data Dictionary for Preservation Metadata, Version 1

The PREMIS Data Dictionary and its supporting documentation is a comprehensive, practical resource for implementing preservation metadata in digital archiving systems. The Data Dictionary is built on a data model that defines five entities: Intellectual Entities, Objects, Events, Rights, and Agents. Each semantic unit defined in the Data Dictionary is a property of one of the entities in the data model.

VERSION 1.0

  (PDF: 2.2MB/237pp.)

» Changes to PREMIS Data Dictionary

» PREMIS Schemas, Version 1.1:
  PREMIS Container [PREMIS-v1-0.xsd] | Object entity [Object-v1-1.xsd] | Event entity [Event-v1-1.xsd]
  Agent entity [Agent-v1-1.xsd] | Rights entity [Rights-v1-1.xsd]

» PREMIS Schemas, Version 1.0:
  PREMIS Container [PREMIS-v1-0.xsd] | Object entity [Object-v1-0.xsd] | Event entity [Event-v1-0.xsd]
  Agent entity [Agent-v1-0.xsd] | Rights-v1-0.xsd [Rights-v1-1.xsd]

<< Back to PREMIS Home Page
2005  DAMS 1.0
PREMIS for Rights

2010  DAMS 2.0

• Launch of the Digital Library Collections website
• Incorporated Fair Use Checklist in the Project Proposal Process
Culturally sensitive content: This is an image of a person or persons now deceased. In some Aboriginal Communities, hearing names or seeing images of deceased persons may cause sadness or distress, particularly to the relatives of these people. Please click on the icon to view its content.
2005  DAMS 1.0
PREMIS for Rights

2010  DAMS 2.0

2014  DAMS 4.0

- New Data Model
- Digital Collections Redesign using Hydra Front end
- Take Down Policy & Procedure

http://library.ucsd.edu/dc/
http://rightsstatements.org/

RightsStatements.org provides 11 standardized rights statements for online cultural heritage.

Our rights statements make it easy to see if and how online cultural heritage works can be reused. Find out more about our statements here.

Postcard from Vienna (Luigi Meula) CC-BY-SA
The **Copyright Policies Task Force** was tasked with producing **streamlined processes** of assigning, managing, and utilizing rights metadata for the Library collections. This was in direct alignment with **UC’s growing adoption of Creative Commons licenses** not only for the materials in its collections, but also the works it produces.
DAMS Copyright Policies Task Force Home

Created by Su, Jean, last modified by Lee, Joohoe on Nov 23, 2015

GOALS

- Create simplified policies to allow for the consistent application of copyright statuses
- Integrate Creative Commons licensing into our copyright statuses
- Develop concise boilerplate text for rights statements in the DAMS

See also: Charge

REFERENCES

Rights Use Cases
Links, more information and past work relating to rights
Rights Metadata and Policy Matrix
Licensing Agreement SAMPLES

BEFORE NOVEMBER 23, 2015

Report to the Digital Library Steering Committee

Recently updated

- Rights Metadata and Policy Matrix
  - Nov 23, 2016 • updated by Reser, Gregory • view change
- DAMS Copyright Policies Task Force Home
  - Nov 23, 2015 • updated by Lee, Joohoe • view change
- Rights Metadata and Policy Matrix
  - Nov 23, 2015 • updated by Lee, Joohoe • view change
- Licensing Agreement SAMPLES
  - Nov 20, 2015 • updated by Lee, Joohoe • view change
- Rights Metadata and Policy Matrix
  - Nov 19, 2015 • updated by Hutt, Arwen • view change

Show More
<table>
<thead>
<tr>
<th>Rights Status</th>
<th>Access Availability</th>
<th>What the User Sees</th>
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<td>Public</td>
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<tr>
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</tr>
<tr>
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<td>Public</td>
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</tr>
<tr>
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</tr>
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<td>Public</td>
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</tr>
<tr>
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<td>Public</td>
<td><img src="attribution_noncommercial_noderivatives.png" alt="Attribution-NonCommercial-NoDerivatives" /></td>
</tr>
<tr>
<td>Copyright UC Regents</td>
<td>Public</td>
<td><img src="attribution.png" alt="Attribution" /></td>
</tr>
<tr>
<td>All Rights Reserved and Free (Unrestricted) Access</td>
<td>Public</td>
<td><img src="rights_reserved_free_access.png" alt="Rights Reserved-Free Access" /></td>
</tr>
<tr>
<td>All Rights Reserved and Restricted Access</td>
<td>Campus IP only</td>
<td><img src="rights_reserved_restricted_access.png" alt="Rights Reserved-Restricted Access" /></td>
</tr>
<tr>
<td>Under Copyright and Rights Holder Unknown</td>
<td>Campus IP only</td>
<td><img src="rights_reserved_restricted_access.png" alt="Rights Reserved-Restricted Access" /></td>
</tr>
<tr>
<td>Copyright Status Unknown</td>
<td>Campus IP only</td>
<td><img src="unknown_copyright_status.png" alt="Unknown Copyright Status" /></td>
</tr>
</tbody>
</table>
Copyright

Under copyright (US)

Use: This work is available from the UC San Diego Library. This digital copy of the work is intended to support research, teaching, and private study.

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Rights Holder

- Heirs of Roger M. Keesing

Repository

- Library Digital Collections

Copyright

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Rights holder

- Heirs of Roger M. Keesing

Repository

- Library Digital Collections
STRETCH

Meet Joohee’s cat, Dolly

Photo by: Cristela
Blackburn Audio Project Plan

Created by Garcia-Spitz, Cristela, last modified just a moment ago

Project Plan

Blackburn Tapes Digitization Project

Project Site Navigation

Expand all  " Collapse all

* 2015-05-15 Blackburn Meeting
* 2015-06-11 Blackburn Meeting
* 2015-08-28 Blackburn Meeting
* 2015-11-13 Blackburn Meeting

Project Overview

The archive of the poet, translator, editor and teacher Paul Blackburn (1926-1971) was acquired in 1973 by the UCSD Library for inclusion in the newly created Archive for New Poetry (ANP). Blackburn lived in New York City from the age of 14, and by the 1950s was established within certain poetry communities (e.g., Black Mountain) as a major figure. He hosted dozens of poetry readings by other New York City as well as visiting poets in his apartment, and also acquired other privately-made tapes from friends and other poets: it is the content of these tapes in their original, almost obsolete formats that needs to be preserved digitally for future scholars, other poets, and anyone interested in the avant-garde poetry movement in mid-twentieth century America. The editor of Blackburn’s posthumously published Collected Poems (1985), Edith Jarroll, has called this collection “the most comprehensive oral history of the New York poetry scene between the late 1950s and 1970.” An example of its rarities is the only known recording of an interview by the poet Mina Loy.

Project Objectives

- Preserve the content of the audio portion of the Paul Blackburn Papers in digital format.
- Make the content accessible to the scholarly community and general public to the extent permitted by copyright law.
- Publicize the existence of the digital archive widely within the local and national poetry communities.
  - Following existing standards, consider adding a link from the Blackburn Audio collection page to the finding aid for the Paul Blackburn Papers and vice-versa.
- Organize a campus event, such as a “virtual reading,” to celebrate and exploit the creation of the digital archive.
- Make and implement decisions on the retention and location of original tapes.
The archive of the poet, translator, editor and teacher Paul Blackburn (1926-1971) was acquired in 1973 by the UC San Diego Library Special Collections & Archives for inclusion in the newly created Archive for New Poetry.

Blackburn lived and was established as a central figure within certain poetry communities in New York City. He hosted dozens of poetry readings in his apartment, and also acquired other privately-made tapes from friends and other poets.

It is the content of these tapes in their original, almost obsolete formats that needs to be preserved digitally for future scholars, other poets, and anyone interested in the avant-garde poetry movement in mid-twentieth century America.
The Digital Library Development Program at UC San Diego Library is in the process of digitizing approximately 300 audio recordings from the Paul Blackburn Collection, which consists of readings from over 200 poets.

This session will take a look at the reason the Library decided to take a risk-averse approach to this project, and the process of risk analysis and subsequent rights clearances.
UCSD Digital Library Program

Checklist for Determining Access Options – Version 4

This checklist is a tool to assist you in determining whether you may distribute digital copies of works to the public, to the UCSD campus users only, or limit access to libraries and users within the UCSD Libraries only. When copyright status is unknown, an assessment of fair use must be undertaken. 1

Prepared by: Rob Neilton
Library: Special Collections & Archives
Date Submitted: March 11, 2013

Directions: Please provide requested information and check all boxes that apply. Complete the first three sections of the form if the Copyright Status of the Collection or Single Object is:

- In the Public Domain,
- Held by the UC Regents,
- Or a license has been obtained by the UC Libraries from a 3rd party holding copyright.

Please complete all of the questions on the form if the copyright status is:

- Held by a third party and no license agreement exists,
- Or the copyright is unknown.

Please submit the completed form to the UCSD Digital Library Program at dig@ucsd.edu. If you have questions, please contact dig@ucsd.edu. Thank you.

1. GENERAL INFORMATION ABOUT COLLECTION OR SINGLE OBJECT
   Collection/Object Name:
   Collection/Object Number:
   Portion to be used (e.g., pages, items, etc.):
   Entire (approximately 300 audio tapes in at least 2 formats)

2. DESCRIPTION (please check all that apply)
   □ Single Object
   X Collection of Objects
   Format of Material to-be-made-accessible:
   □ Text
   □ Audio
   □ Data Sets
   □ Video
   Graphic Materials (photographs, posters, slides, drawings, architectural records)

3. COPYRIGHT STATUS (please check boxes that apply)
   □ Public Domain: Please attach evidence indicating collection or object is in the public domain.
   □ UC Regents: Please attach evidence indicating UC Regents hold copyright for collection or object.
   □ 3rd Party holds the copyright & license agreement exists permitting internet distribution. Please attach copy of license agreement.
   □ 3rd Party holds the copyright & license agreement does not permit open internet distribution. If object is in this category, access must be limited as prescribed in license. Please attach copy of the license agreement.
   □ 3rd Party holds the copyright & no license agreement exists. If no license agreement exists, please complete sections 8) – 9) of the checklist in order to complete fair use analysis.
   □ Unknown: If copyright status is unknown, please complete sections 8) – 9) of the checklist in order to complete fair use analysis. If copyright status is in the Public Domain, held by the UC Regents, or a license has been obtained from a 3rd party holding copyright submit the form with the required documentation.

4. OTHER IMPORTANT CONDITIONS TO CONSIDER FOR ACCESS If a collection or object should have restricted public access and be limited to scholarly use alone or other special access conditions need to be provided once digitized, please describe the need in the space below and attach supporting documentation as appropriate. For example, reasons of cultural sensitivity images depicting individuals from non-Western cultures require a warning statement to alert users to what they will see. Some items may need to be restricted based on known risks associated with high profile works.


1. PURPOSE OF THE USE

<table>
<thead>
<tr>
<th>FAVORING FAIR USE</th>
<th>DISTRAVING FAIR USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Teaching (including multiple copies for classroom use)</td>
<td></td>
</tr>
<tr>
<td>Research</td>
<td></td>
</tr>
<tr>
<td>Scholarship</td>
<td></td>
</tr>
<tr>
<td>Criticism</td>
<td></td>
</tr>
<tr>
<td>Comment</td>
<td></td>
</tr>
<tr>
<td>Transformative use (changes the work to serve a new purpose)</td>
<td>Verbatim/Exact copy or use is similar to original</td>
</tr>
<tr>
<td>No fee charged</td>
<td>Profit-generating use</td>
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2. EFFECT ON THE MARKET FOR ORIGINAL

<table>
<thead>
<tr>
<th>FAVORING FAIR USE</th>
<th>DISTRAVING FAIR USE</th>
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</thead>
<tbody>
<tr>
<td>No significant effect on the market or potential market for the copyrighted work</td>
<td>Cumulative effect of copying would be to substitute for purchase or license of the copyrighted work</td>
</tr>
<tr>
<td>One or few copies made and/or distributed</td>
<td>Numerous copies made and/or distributed</td>
</tr>
<tr>
<td>No longer in print; absence of licensing mechanism</td>
<td>Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available, e.g., CCC licensing or off-prints available</td>
</tr>
<tr>
<td>Restricted access (limited to students in a class or other appropriate group)</td>
<td>Will be making it publicly available on the web or using other means of broad dissemination or use limited to class</td>
</tr>
<tr>
<td>One-time use, spontaneous use (no time to obtain permission)</td>
<td>Repeated or long-term use</td>
</tr>
</tbody>
</table>

3. NATURE OF THE COPYRIGHTED MATERIAL

<table>
<thead>
<tr>
<th>FAVORING FAIR USE</th>
<th>DISTRAVING FAIR USE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Factual, nonfiction, news</td>
<td>Creative (art, music, fiction) or consumable work (workbooks, texts)</td>
</tr>
<tr>
<td>Unpublished work</td>
<td></td>
</tr>
</tbody>
</table>

4. AMOUNT COPIED

<table>
<thead>
<tr>
<th>FAVORING FAIR USE</th>
<th>DISTRAVING FAIR USE</th>
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</thead>
<tbody>
<tr>
<td>Small quantity (e.g., a single chapter or journal article or other excerpt consisting of less than 10% of the work)</td>
<td>Large portion or entire work</td>
</tr>
<tr>
<td>Portion used is not central to entire work as a whole</td>
<td>Portion used is central or the “heart” of the work</td>
</tr>
</tbody>
</table>

5. CURATORIAL RECOMMENDATION ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT

<table>
<thead>
<tr>
<th>RECOMMENDATION</th>
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<tr>
<td>Public</td>
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<tr>
<td>Metadata only</td>
<td></td>
</tr>
<tr>
<td>UCS Only</td>
<td>UCS campus only</td>
</tr>
<tr>
<td>UCSID campus only</td>
<td>UCS Library only</td>
</tr>
<tr>
<td>UCS Library only</td>
<td>Curator View only. Restricted cannot be displayed to Public, UCS campus or the UCS Library</td>
</tr>
<tr>
<td>Other (please describe exception and requirements needed)</td>
<td></td>
</tr>
</tbody>
</table>

Please provide a brief written assessment for your recommended access level.

Note to Question 3 (Copyright Status). Each tape has its own authors/rightsholders. There may be over 150 individual poets whose work is represented in the archive as a whole. Thus, the rights issues will vary from tape to tape. Most poets are likely to be very happy to have their work read by their own voice, available for scholars and the public. In a few cases, however, the broader availability of the content could have an effect on the market or potential market for the content (i.e., the reading by poet Allen Ginsberg of an unpublished version of his poem “Howl”) so the...
<table>
<thead>
<tr>
<th>#</th>
<th>Done</th>
<th>Dave's Notes</th>
<th>TITLE</th>
<th>Call Number</th>
<th>Priority</th>
<th>Rights Risk</th>
<th>Risk Notes</th>
<th>Notes by RM</th>
<th>Can post as is</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Poetry reading [sound recording] / Paul Blackburn]</td>
<td>SPB-001</td>
<td>Priority 1</td>
<td>Low</td>
<td>Have support from PB's son and widow</td>
<td>SIDE A: MUSIC, The Friendship (now we can wonder), Brooklyn Narcissus, MUSIC, Married Man, The Misunderstanding, Mestrovic And The</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Conversation between Paul and Sara Blackburn [sound recording]]</td>
<td>SPB-001A</td>
<td>Priority 1</td>
<td>Low</td>
<td>See line 2</td>
<td>SIDE A: MUSIC, Paul Blackburn reading Structural, Tomb for Sister Spring, The Flies, The Poster, Sara Blackburn speaking Attention Paul</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Poetry reading [sound recording] / Paul Blackburn]</td>
<td>SPB-002</td>
<td>Priority 1</td>
<td>Low</td>
<td>See line 2</td>
<td>SIDE A: MUSIC, Paul Blackburn reading Tending the Corn, Free Fall, MUSIC, Visitations I, Wings, Suspension, MUSIC, Hot Afternoons Have Been</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Poetry reading [sound recording] / Paul Blackburn, Julio Cortazar and Nicolás Guillén]</td>
<td>SPB-002A</td>
<td>Priority 1 (PB)</td>
<td>High</td>
<td>See line 2 for PB, but Cortazar may be difficult.</td>
<td>SIDE A: Sara Blackburn and Paul Blackburn talking, Julio Cortázár reading Cronos in Spanish @ 17:04. Paul Blackburn reading</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[San Francisco poets [sound recording] / Allen Ginsberg ... [et al.]]</td>
<td>SPB-003</td>
<td>Priority 3</td>
<td>High</td>
<td>Ginsberg. Other poets (&quot;et al.&quot;) need to be</td>
<td>SIDE A: MUSIC after Robert Duncan reading Sturm und bei Sommer, Eternity. Allan Ginsberg reading excerpts from</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Interview with Allen Ginsberg. Poetry reading [sound recording] / Paul Blackburn and Robert Donat]</td>
<td>SPB-003A</td>
<td>Priority 3</td>
<td>High</td>
<td>Ginsberg</td>
<td>SIDE A: Paul Blackburn reading Mirabeau Bridge in French and English as radio broadcasted on WBAI. Radio broadcast of King Lear, MUSIC,</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Poetry reading [sound recording] / Lawrence Ferlinghetti, Jack Kerouac, and Paul Blackburn. Play of Daniel]</td>
<td>SPB-004</td>
<td>Priority 3</td>
<td>High</td>
<td>Kerouac reading may be bootleg of commercial</td>
<td>SIDE A: MUSIC, sometimes overlapped. Paul Blackburn reading Lawrence Ferlinghetti's &quot;Tentative Description of a Dinner to Promote</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td>reel is dual-mono @ 3-3/4</td>
<td>[Poetry reading [sound recording] / Denise Levertov]</td>
<td>SPB-005</td>
<td>Priority 3</td>
<td>High</td>
<td>Both poets' estates may seek</td>
<td>MUSIC AFTER Robert Creeley's &quot;MY LOVE&quot; Denise Levertov reading &quot;The Departure&quot;</td>
</tr>
</tbody>
</table>
Measuring Fair Use: The Four Factors

Unfortunately, the only way to get a definitive answer on whether a particular use is a fair use is to have it resolved in federal court. Judges use four factors to resolve fair use disputes, as discussed in detail below. It's important to understand that these factors are only guidelines that courts are free to adapt to particular situations on a case-by-case basis. In other words, a judge has a great deal of freedom when making a fair use determination, so the outcome in any given case can be hard to predict.

The four factors judges consider are:

- the purpose and character of your use
- the nature of the copyrighted work
- the amount and substantiality of the portion taken, and
- the effect of the use upon the potential market.
Thought Process:

Transformative?
– No. Using the entire poems as is

Market value?
– Yes and no (e.g. Joel Oppenheimer heirs publishing his collected works)

Licensing available?
– Yes and no. Unidentifiable speakers and hard-to-locate individuals
http://norman.hrc.utexas.edu/watch/

Welcome to WATCH and FOB

Last Name: 
Search the WATCH File

First Name: 
Submit Search Tips

WATCH and FOB are run jointly by the Harry Ransom Center and University of Reading Library.

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- About WATCH
- U.S. Copyright
- U.K. Copyright
- Copyright Resources
- Contact Us
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<th>Find People</th>
<th>Find a Business</th>
<th>Reverse Phone</th>
</tr>
</thead>
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<td>Category or name</td>
<td>Phone number</td>
</tr>
<tr>
<td>City, State or ZIP</td>
<td>City, State or ZIP</td>
<td></td>
</tr>
<tr>
<td>First Name</td>
<td>Last Name</td>
<td>Works</td>
</tr>
<tr>
<td>------------</td>
<td>-----------</td>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Spencer</td>
<td>Holst</td>
<td>Another Imposter, On Hope (the monkey leaped on a man's shoulder), Immortality (the great scientist died), Siamese Cat (once upon a time man sat listening to music), The Course of Love is a line drawn on water, When I am gone it is a matter of white spread over white, A Romance (Prince Val sat astride his horse), The Music Room (in a musical room certain sounds), Intersection (out of the corner of the eye), Allocation (the clerk behind his counter), Shoulder shows, Faction (broke out of confinement), Electrocution (out of the blue), Translation (Your two eyes), Violetry (that which is black), Naturalisation (after 20 summers in the Sierra), The feeling comes after, O Please Sit Down (three weeks after the surrender of Germany), Spook Sheep (I am gloomy), Myrtle (Divine enchantress), Deflacs (remember that old love song), Golden (everything is alive, man free thinker), Untitled (when we meet I will wear a rose), Dianna, Lafayette Park Place, Love Seat (my wife), my previous marriage), Zeal (the husband passed beneath my gaze), To the Moon, The Infinite (before the cassepoir), Last Lost, Xenovia.</td>
</tr>
<tr>
<td>Androw</td>
<td>Hoyem</td>
<td>Cowery</td>
</tr>
<tr>
<td>Will</td>
<td>Inman</td>
<td>Cowery</td>
</tr>
<tr>
<td>Ken</td>
<td>Irby</td>
<td>Go West, For Ed Dorn (This space out of the river and I saw), Untitled (The supper hour), &quot;This flush in the dead time of the year&quot;, The Photograph.</td>
</tr>
<tr>
<td>Don</td>
<td>Jackson</td>
<td>Puss (You can see it now)</td>
</tr>
<tr>
<td>David</td>
<td>Paul</td>
<td>Oblivion, Creature</td>
</tr>
</tbody>
</table>
Reactions

- Surprised/happy/nostalgic
- Wary
- $ and/or copy of audio
- No
LICENSE AGREEMENT

This LICENSE AGREEMENT ("Agreement") is made by and between The Regents of the University of California, a California constitutional corporation, on behalf of the University of California, San Diego Libraries (hereafter "UCSD"), and Sam Abrams (hereafter "Licensor").

In consideration of the following mutual promises, UCSD and the Licensor agree as follows:

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3. EXHIBIT A

1. The Book of Days: as he climbed out of...song by way of a prologue...crazy mixed up...professor throwing knives...I am a much better poet than I ever was...
2. Uprising Children (2nd section)
3. Love on a Flatter (3rd section)
4. Fragments
5. RC Cola
6. Private Speaking
7. Untitled (to escape from category)
8. The Law of ___ (the opposite of fear) (4th section)
9. Epilogue
10. Letters from a Banner #6 (can't do better than Bama)
11. Base Playing Poems (the past spring is the same as coming)
12. Canto of Two Favorite Poets (some say...Alabama bound)
13. City Mouse (I am assaulted)
14. William Carlos Williams Would Have Like the Professor of Ecology
15. White Fang (poets have been)
16. For Fee (subscription)
17. Indifferent As To The Sources (we could and ought to stay down here)
18. Counter Shading (the artist by the skillful use)
19. The finest name of Orpheus (always)
20. Dance for the Summer Solstice
21. After Guillaume Apollinaire (hore enters)
22. Nova Loco
23. Where Has My Boyish Grin Gone (the fast route is also the most scenic)
24. The Committee
25. I'm the first poet American poet broken into pieces
26. The Oath (I will kill by word and by deed)
27. Trivia Poem 11/22/1967 (he's asked everywhere he goes I should have stopped him)
Poetry reading by Paul Blackburn, Jerome Rothenberg, Robert Kelly

Access
- Curator Only

Collection
- Blackburn Audio Collection

Creator
- Blackburn, Paul

Creation Date
- 1970-11-17

Physical Description
- 1 sound tape reel: analog 5 in., 1/2 in. tape

Note
Challenges

• Getting creative commons buy-in
• Need for additional legal support
• Not scalable for all collections/content
• Budgeting for permission fees
Lessons Learned

• Reactions will vary; Don’t presume that rights holders will all agree with your endeavors

• Factor in requests for permission fees, copies, and shipping costs

• Document, document, document (electronic & ink-to-paper)

• Momentum is important; Build in target dates & deliverables
Acknowledgements:

- **Rob Melton**, Curator of the Archive for New Poetry & Project Manager for the Blackburn Project
- **Dave Kesner**, Audio Engineer
- **Additional Blackburn Project Team:**
  Lynda Claassen, Roger Smith, Martha Hruska, Ryan Johnson, Colleen Garcia, Michael Davidson
- **DAMS Copyright Task Force:**
  Lynda Claassen, Cristela Garcia-Spitz, Arwen Hutt, Joohee Lee, Sibyl Schaefer, Ho Jung Yoo
Choose Your Own Adventure

• The Tale of Many Risk Management Strategies
• The Search for the Designated Signature
• A Dive Deeper into Forms & Processes
• A Closer Look at Objects & Rights/Access Metadata
• Joohee’s Storytime: Interactions with the Poets
• Cristela’s Experiences with Other Projects
Rights & Permissions in Real Life, the UCSD Experience

CRISTELA GARCIA-SPITZ & JOOHEE LEE
KRAEMER COPYRIGHT CONFERENCE
JUNE 7, 2016

CGS – intro
2 parts: creative commons task force & Blackburn project
Should plenty of time for questions and discussion afterward
Background on UC San Diego Library, Digital Library Development Program = coordinating body, move to collection services after reorg
Fairly large, engage through committees

Historical context, slow growth of DLDP and bringing on Rights Analyst;
Incorporate standards and best practices (keep up with the trends):
2005 – PREMIS for rights; DAMS 1.0
2010 – Fair Use Checklist > Checklist for Determining Access Options into Project Proposal Process; DAMS 2.0; DAMS PAS soft release
2011 – Data Model Revisions: Normalize & Address Access Restrictions
2013 - Take Down Policy
2014 – Redesign of the Digital Collections website; DAMS 4.0
2015 – Further Data Model Revisions: Linked Data URIs & Creative Commons
DLP – began as Program outside of Libraries, Program Director & Program Analyst
Collaboration between Library and the San Diego Supercomputer Center to create the
DAMS and address digital preservation
DAMS = homegrown system based on RDF, focus on preservation
Fortunate to have first version of PREMIS to utilize for rights and preservation metadata
Largely theoretical at time, so even though it was a standard, we came up with our own
local use, incorporating elements from MODS, METS, PREMIS (RDF not XML)
Between 2005-2010, basically dark archive, no public access system (all through programmers)
Hired my position as Project Manager in 2009 as a part of Libraries’ 2006-2009 strategic plan, approach more project specific
Again leveraged what was already out there; Indiana’s project proposal process, Columbia’s fair use checklist
Try to be balanced in our assessment: respectful of academic fair use in a way that doesn’t infringe on 3rd party copyright, consult with UCOP “libraries” and Digital Library Collections

https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html
http://fairuse.stanford.edu/charts-and-tools/#fair_use
http://copyright.cornell.edu/resources/
Shortly after the release of the Digital Collections website, started to need more granular
Previously not as explicit, separate rights and access statements
Keesing – donor restricted items, Lambert –cultural sensitivity for aboriginal images
Move towards more actionable metadata; normalized it to use boilerplate text
2005 DAMS 1.0
   PREMIS for Rights

2010 DAMS 2.0

2014 DAMS 4.0
   • New Data Model
   • Digital Collections Redesign
     using Hydra Front end
   • Take Down Policy & Procedure

http://library.ucsd.edu/dc/

Digital Collections

UC San Diego

2010-2014 another shift in thinking & many infrastructural changes
Value in community development > Hydra as front end
MODS/METS to ontology that maps to multiple standards
Implement take down policy (also procedure); motivated by risk assessment for certain collections (CME, DMCA)
Align with others in Hydra community and DPLA > Portland Data Model, more closely aligned with DPLA rights work

Timeline – reminder of gradual evolution; sometimes takes a while (idea > practice)

Embedded metadata is crucial going forward. Currently metadata, especially rights metadata disassociated from object upon download. Important to embed metadata as we make our objects available at more places (University of California Libraries Digital Collection (UCLDC), Digital Public Library of America)
Align with other community standards; keep on our watch list and comply with is the rightsstatements.org, which is an initiative between DPLA and Europeana, since we know our content will be travelling we want to make sure it fits elsewhere.

Keeping ours to 3 statements (Public Domain, Undercopyright, Unknown)
The Copyright Policies Task Force was tasked with producing streamlined processes of assigning, managing, and utilizing rights metadata for the Library collections. This was in direct alignment with UC’s growing adoption of Creative Commons licenses not only for the materials in its collections, but also the works it produces.

More relevant as we start to work more with campus and community partners; no longer just dealing with collections already in the library, shift to actively building collections (“living archives” “participatory archives”)

Case study – shows our process (and how long it can take to go from idea > implementation); thought and discussion item for quite a while (Jon Voss keynote at RBMS and SAA in 2012)
LiSN; team of 6 representing different programs: Digital Library Development, Special Collections & Archives, Research Data Curation, and Metadata Services
Charged on August 27, 2015; Convened mid September, Submitted report end of November
Approved by DL Steering Committee on January 25, 2016; waiting on legal for final boilerplate text
Approach rights holder, explaining creative commons initiative
Benefits: wider audience, wider repurpose, generate more creative works
Figuring out the “how” to make it work
If don’t want creative commons, still use standard boilerplate text
Breakdown of the different creative commons licenses
Option for the rights holder
Responsibility of the rights holder to investigate and decided the creative commons license
We also worked to determine the default value or state, so that the metadata is actionable; there can be exceptions, but we found it’s important to have set states and add exceptions. This helps our programmers build a system that is more actionable or efficient.
Under copyright vs. Under copyright with a creative commons license
STRETCH

Meet Joohye’s cat, Dolly  

Photo by: Cristela
Switch gears – look at specific project, i.e. what we do in practice
Project plan – team, flush out the details
Project Manager = Rob Melton, Curator of the Archive for New Poetry & Dave Kesner, Audio Engineer
Purpose: primarily preservation, added value by making collection available online, but want to maintain good relations with poets and publishers; recognize commercial value of work
Idea > practice: creative commons work occurred in parallel with Blackburn project, so we have not been able to incorporate it into this project; still going through all the channels)
The archive of the poet, translator, editor and teacher Paul Blackburn (1926-1971) was acquired in 1973 by the UC San Diego Library Special Collections & Archives for inclusion in the newly created Archive for New Poetry.

Blackburn lived and was established as a central figure within certain poetry communities in New York City. He hosted dozens of poetry readings in his apartment, and also acquired other privately-made tapes from friends and other poets.

It is the content of these tapes in their original, almost obsolete formats that needs to be preserved digitally for future scholars, other poets, and anyone interested in the avant-garde poetry movement in mid-twentieth century America.

Blackburn – best known as Black Mountain poet (Beat Generation, New York School, Greenwich Village in the 50s-60s), “connector” guy with the recorder at many events and hosted readings in his apartment Collection acquired as a part of Library’s Archive for New Poetry in 1973 shortly after his death Primarily reel-to-reel and cassette tapes, aging media, primarily preservation project

At project proposal phase, determined that rights would be an issue for this collection Thought most poets would be happy to have their work out there, also knew that some high profile names and publishers to factor in Planned to move forward with project, limiting access to the recordings then opportunity to hire Rights Analyst allowed us to pursue rights clearance work
The Digital Library Development Program at UC San Diego Library is in the process of digitizing **approximately 300 audio recordings** from the Paul Blackburn Collection, which consists of readings from **over 200 poets**.

This session will take a look at the reason the Library decided to take a **risk-averse approach** to this project, and the process of risk analysis and subsequent rights clearances.

Identified over 200 poets based on labels of the tapes, but several unknowns on the recordings
Risk-adverse approach – educational institutions often given more leeway, but still not the case that everything is still a go because we’re doing this for educational purposes

Specific cases: Blackburn reading public domain works, some may be fair use: portions of poems or interviews/oral histories, mostly in copyright (90%)

Images from Wikipedia or artists websites (no permission)
https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairuse
1. GENERAL INFORMATION ABOUT COLLECTION OR SINGLE OBJECT
   - Collection/Object Name
   - Collection/Object Number
   - Condition (e.g., image, text, etc.)

2. DESCRIPTION (please check that there are:
   - Image (circle)
   - Condition of Object
   - Format of material to be made accessible
   - Text
   - Access
   - Graphic materials (photographs, posters, slides, drawings, architecture records)

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The UC Regents
Years back when first acquired collection; graduate student listened to recordings > created MARC records for original reels
Generated Excel spreadsheet from the MARC export
Notes by Audio Engineer: Dave Kesner, Poetry Curator: Rob Melton, and Rights Analyst (collaborative approach)

JL listened to each recording before seeking out rights holders; also became very familiar with the materials
Evaluating Fair Use with the four factors, we found that it was not a strong fair use argument: using in entirety, may have commercial effect by putting them online, important to ask permission first
Thought Process:

Transformative?
- No. Using the entire poems as is

Market value?
- Yes and no (e.g., Joel Oppenheimer's heirs publishing his collected works)

Licensing available?
- Yes and no. Unidentifiable speakers and hard-to-locate individuals

Does Fair Use Really Work? Kevin Smith (https://www.youtube.com/watch?v=JEWnFnTuZHg)

Thought process using four factors
Kevin Smith YouTube – easy, clear way to incorporating assessment in everyday practice
If we need permission, search Watch list – contact information for rights holder or rights administrators, if they have it
Collaboration between Harry Ransom Center and University of Reading, since 1994
If not, yellow pages! to locate poets
When all else fails, google search to locate

Also, useful to find out who they are and what they’re currently doing

If deceased, may find obituaries, which might list heirs
75 fully executed agreements on file.
2 partially executed agreements on file.
ORANGE 28 unidentified poets/reading/recordings (one poet/2 different recordings, web search yielded nothing as far as the identification of the poets)

RED 3 problems (known difficult estates, complicated rights, e.g. poet with radio broadcast in background)

YELLOW (talked to rights holders, but no signed agreement received, verbal OK but no signed agreement received, recording rights from WBAI)

GREEN (agreements signed by rights holder and need to be fully executed; fully executed agreements on file)

RIGHTS HOLDERS CAN’T BE LOCATED/ CAN’T EVEN FIND OUT IF THEY’RE ALIVE OR DEAD
Reactions

- Surprised/happy/nostalgic
- Wary
- $ and/or copy of audio
- No

(oh my gosh I haven’t thought of those times in YEARS!)
(Yes please!)

(I don’t believe in putting things online, my friends warn me about it)
(It would be great, but I don’t if I can legally sign off on the agreement)
(I don’t want all of them because I don’t’ like the way I sound)
(OMG I can’t even recognize my younger self! But I don’t like the way I sound, can you put __ on, but not the others)

(I can sign this and send it to you right now for $500)
($4k)

No direct denial, but we won’t put up poems represented by difficult estates

(13 incoherent messages)
(wants his poems transcribed & delivered bc his papers are missing)
Example of license agreement
Test examples – showing collection page, open and restricted objects
http://librarytest.ucsd.edu/dc
Keesing example of metadata only view
Thinking about the process & how we can get creative commons buy-in. Ideally, we could set up online forms and develop an efficient workflow for getting license agreements signed and in our DAMS.

No onsite council, advisor is 10% FTE and so the process takes longer.

Scope of work isn’t feasible for all the projects in the pipeline.
Lessons Learned

- Reactions will vary; Don’t presume that rights holders will all agree with your endeavors
- Factor in requests for permission fees, copies, and shipping costs
- Document, document, document (electronic & ink-to-paper)
- Momentum is important; Build in target dates & deliverables
Questions & share your experiences

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Choose your own adventure (if time): forms/process, designated signature, interactions with poets (behind-the-scene stories)
Risk management strategies:
• Attribution & rich metadata
• Stream av media, lower resolution images, disable download feature when relying on fair use
• Fair use assessment for all of our collections online
• Take down policy and procedure
Future wish list:
• Embedded metadata
• Accessibility options (transcripts for audio > added value; supports justification and “transformative” work)

Lost & found
AL BELLOS

Story time:
• poets turned into something else (Lewis MacAdams = Friends of the LA River)
  (Nancy Ellison = world renowned photographer) (Gerald Malanga = Andy Warhol association; famous artist) (Donald Phelps = cartoonist) (Carol Rubenstein = not
active) (Peter Schjeldahl = The New Yorker critic)
• Paul’s personal life (e.g. recording of his phone conversation with his former wife regarding money, talking with friends)
• Panel of poets discussing their works, poetry, writing, etc. at the National Poetry Festival in Allendale MA in 1971).
• Reminiscing about the readings at St. Marks (getting paid 5 cents to help out, how Paul really encouraged Lisa Galt Bond and Al Bellos to read to public, Paul was a great friend and under appreciated and I’m glad UCSD is doing this).

Cristela’s other projects:
AROM – only completely dark collection, too little is known on the origins of the collection
Melanesian Archive – donor restrictions vs. library-imposed restrictions on nudity
Music Collections – UCSD only, disable download, needed Take Down Policy too
Upcoming Collections: Exposing DMCA, Gathering Students Experiences with campus racial events