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Rights & Permissions in Real Life, the UCSD Experience

CRISTELA GARCIA-SPITZ & JOOHEE LEE

KRAEMER COPYRIGHT CONFERENCE

JUNE 7, 2016

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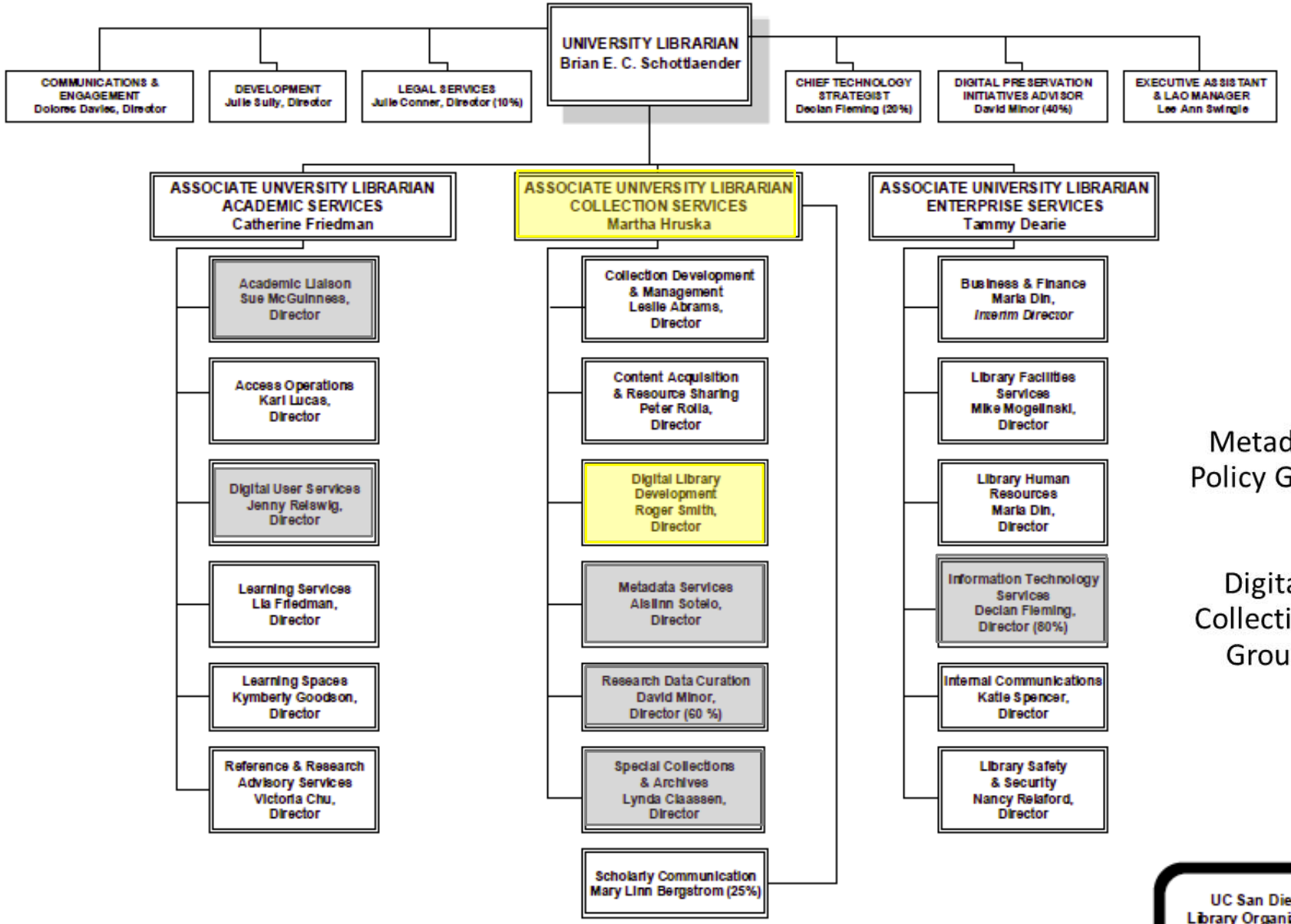

Digital Library Steering Committee

Metadata Policy Group

Digital Collections Group

Digital Library Development Program

Digital Library Operations Group

Digital Library Products Group

Digital Reformatting Group

UC San Diego
Library Organization
September 2015

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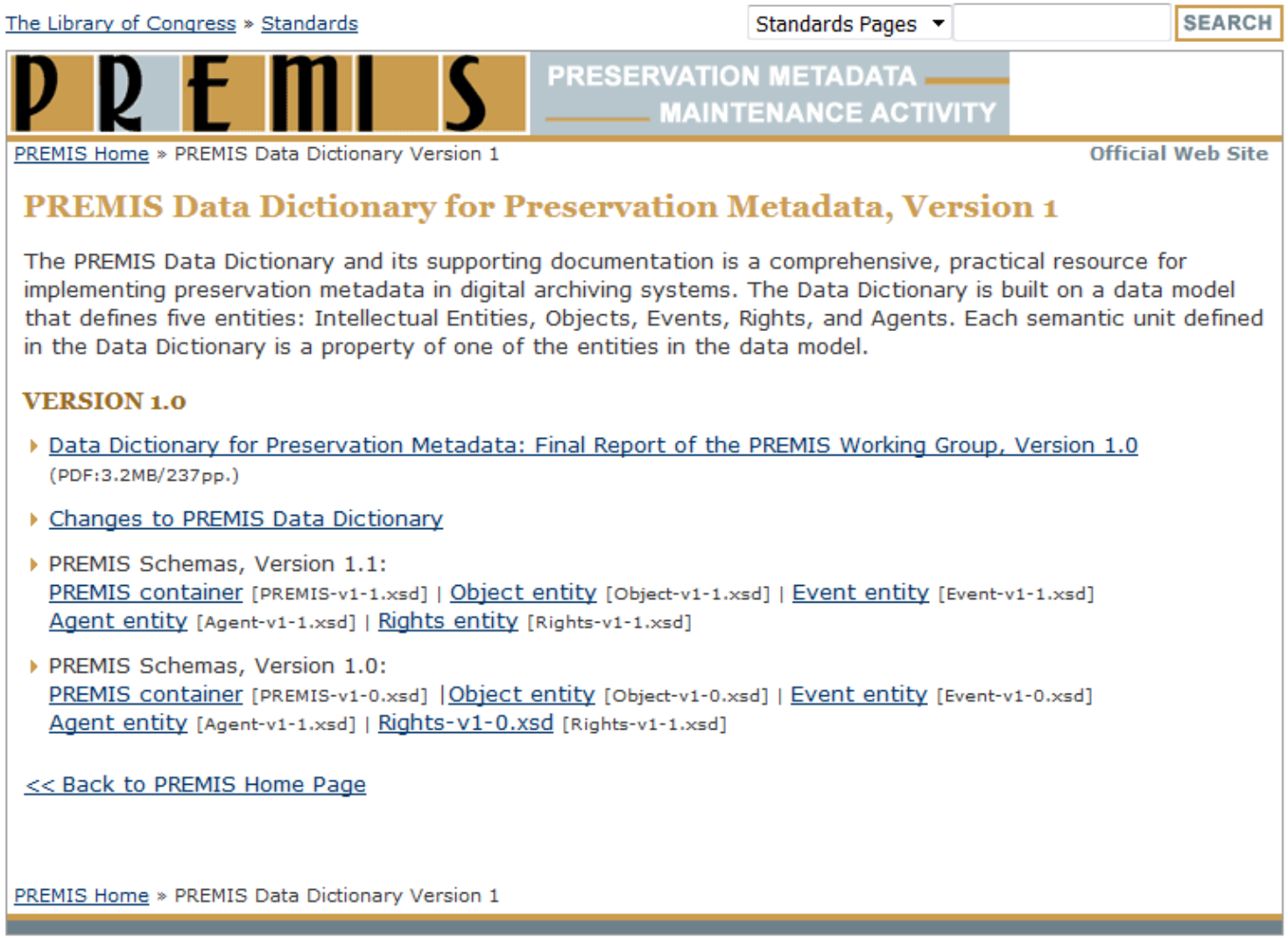
2005 DAMS 1.0

PREMIS for Rights

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



The Library of Congress » Standards

Standards Pages SEARCH

PREMIS PRESERVATION METADATA MAINTENANCE ACTIVITY

PREMIS Home » PREMIS Data Dictionary Version 1 Official Web Site

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

- Data Dictionary for Preservation Metadata: Final Report of the PREMIS Working Group, Version 1.0 (PDF:3.2MB/237pp.)
- Changes to PREMIS Data Dictionary
- PREMIS Schemas, Version 1.1:
  PREMIS container [PREMIS-v1-1.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-v1-1.xsd] | Rights-v1-0.xsd [Rights-v1-1.xsd]

<< Back to PREMIS Home Page

PREMIS Home » PREMIS Data Dictionary Version 1

The Library of Congress » Standards Legal | External Link Disclaimer Contact Us

July 1, 2015

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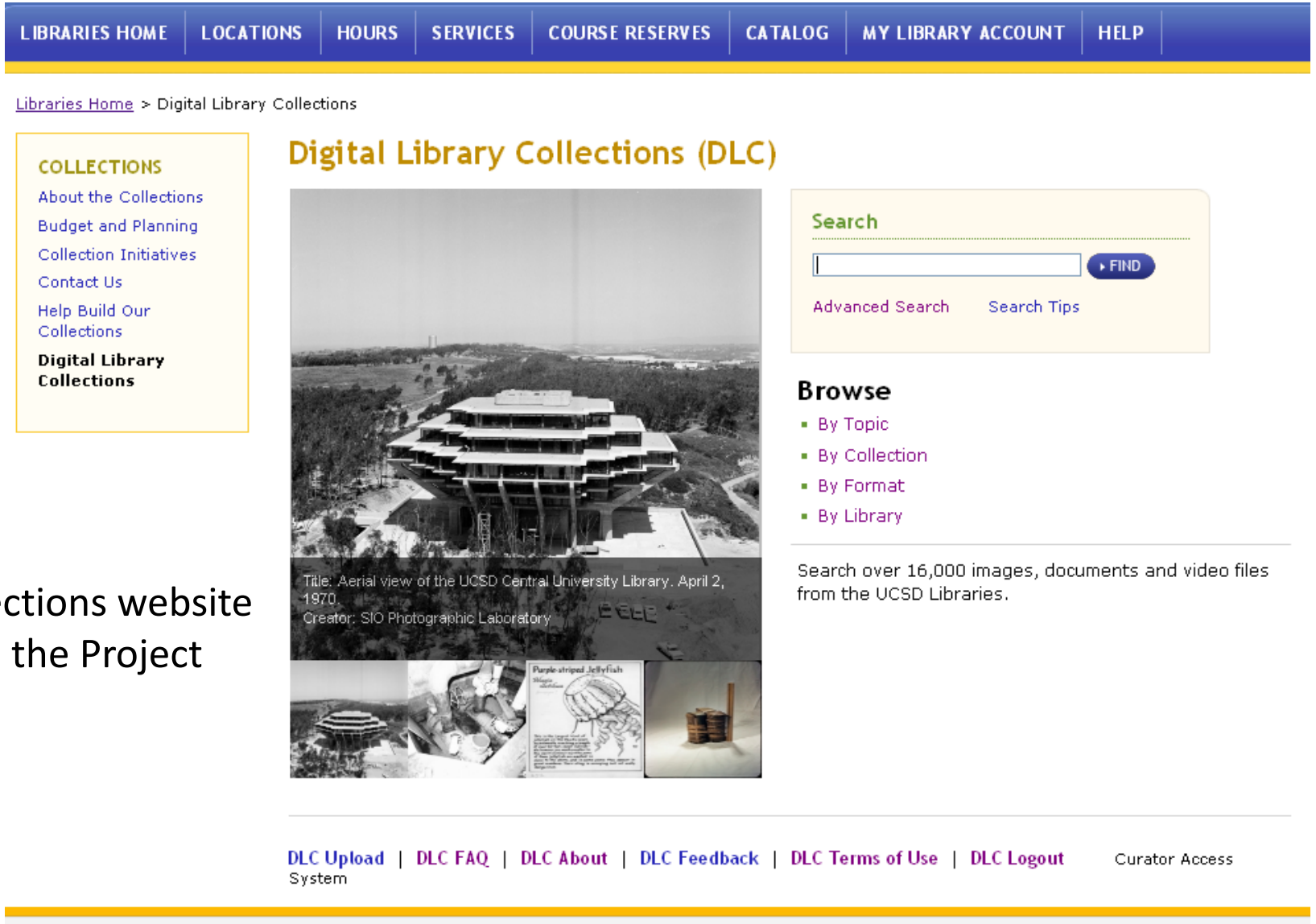
2005 DAMS 1.0
PREMIS for Rights

2010 DAMS 2.0

- Launch of the Digital Library Collections website
- Incorporated Fair Use Checklist in the Project Proposal Process

https://libraries.ucsd.edu/digital/



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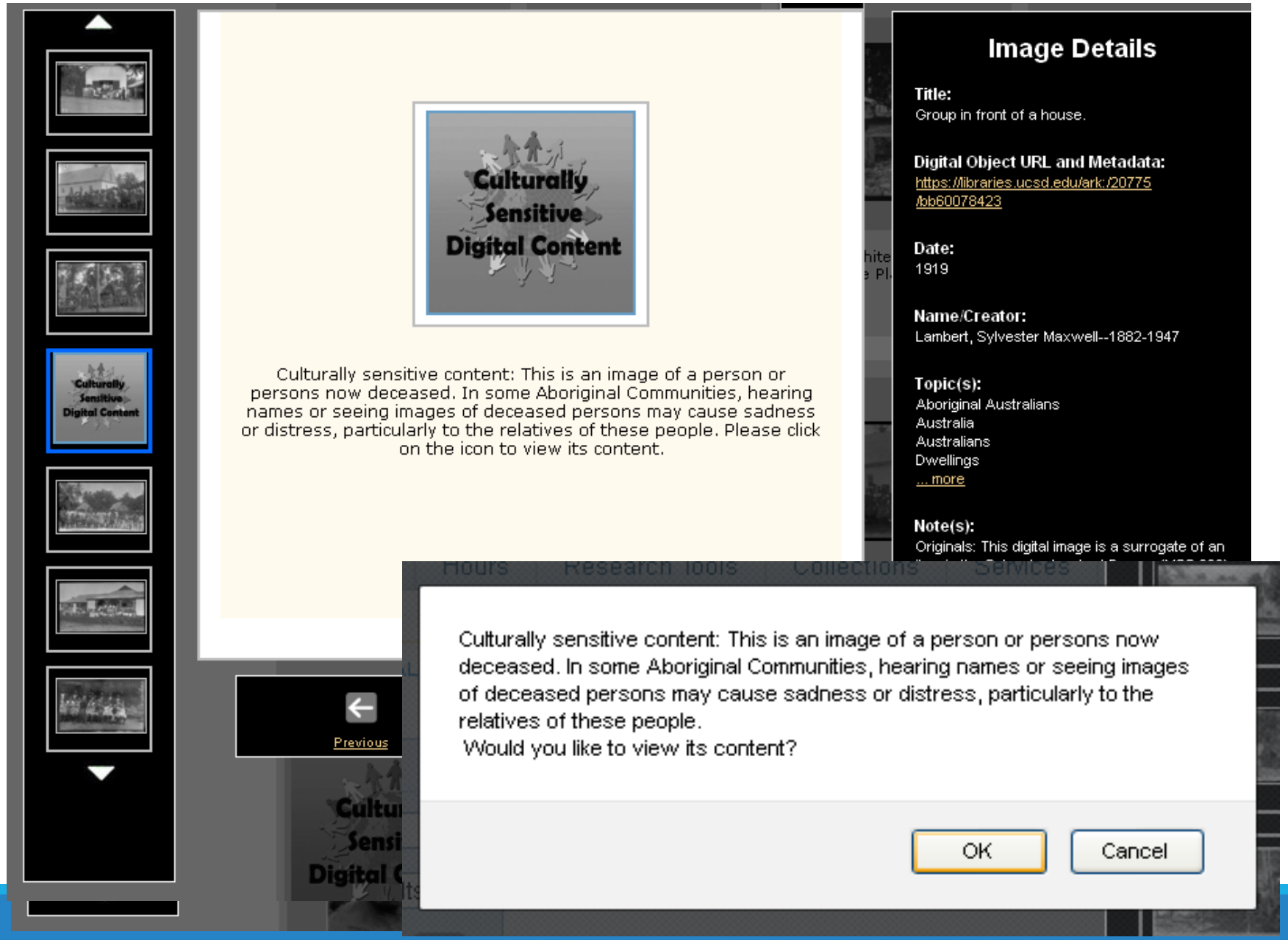
2005 DAMS 1.0
PREMIS for Rights

2010 DAMS 2.0

2011 Rights & Access Management

https://libraries.ucsd.edu/digital/



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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/

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2005 DAMS 1.0
PREMIS for Rights

2010 DAMS 2.0

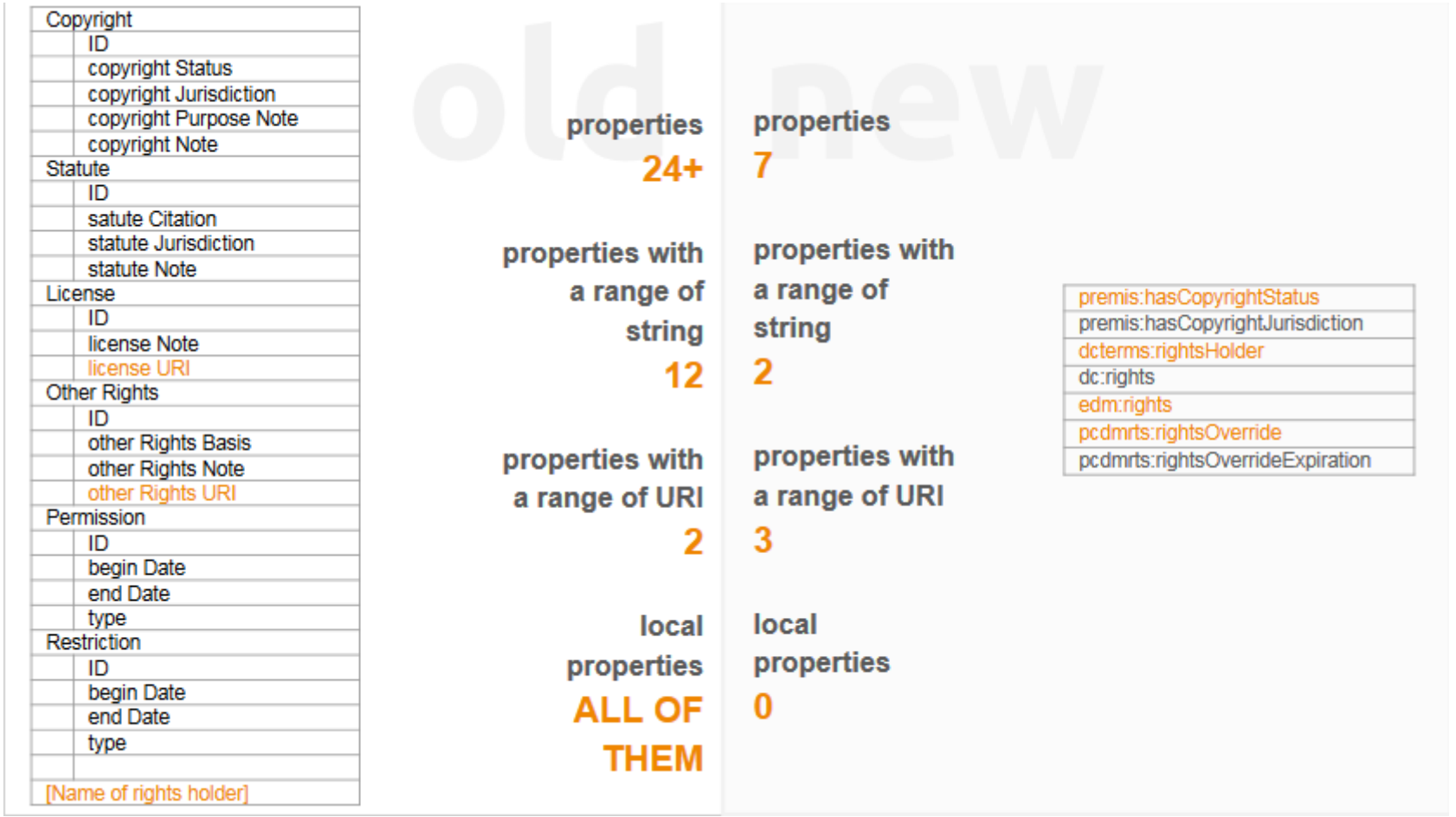
2014 DAMS 4.0

2015 Portland Common Data Model & Fedora 4

Current work for DAMS 5.0:

- Linked Data URIs
- Creative Commons
- Embedded Metadata

http://sched.co/4AOr



Layering Copyright, Rights and Access Metadata in the UC San Diego DAMS: A Simplified Approach for Complex Scenarios, Arwen Hutt, Matt Critchlow, Ryan Johnson, Esme Cowles, UC San Diego Library, Digital Library Federation, Vancouver, October 27, 2015

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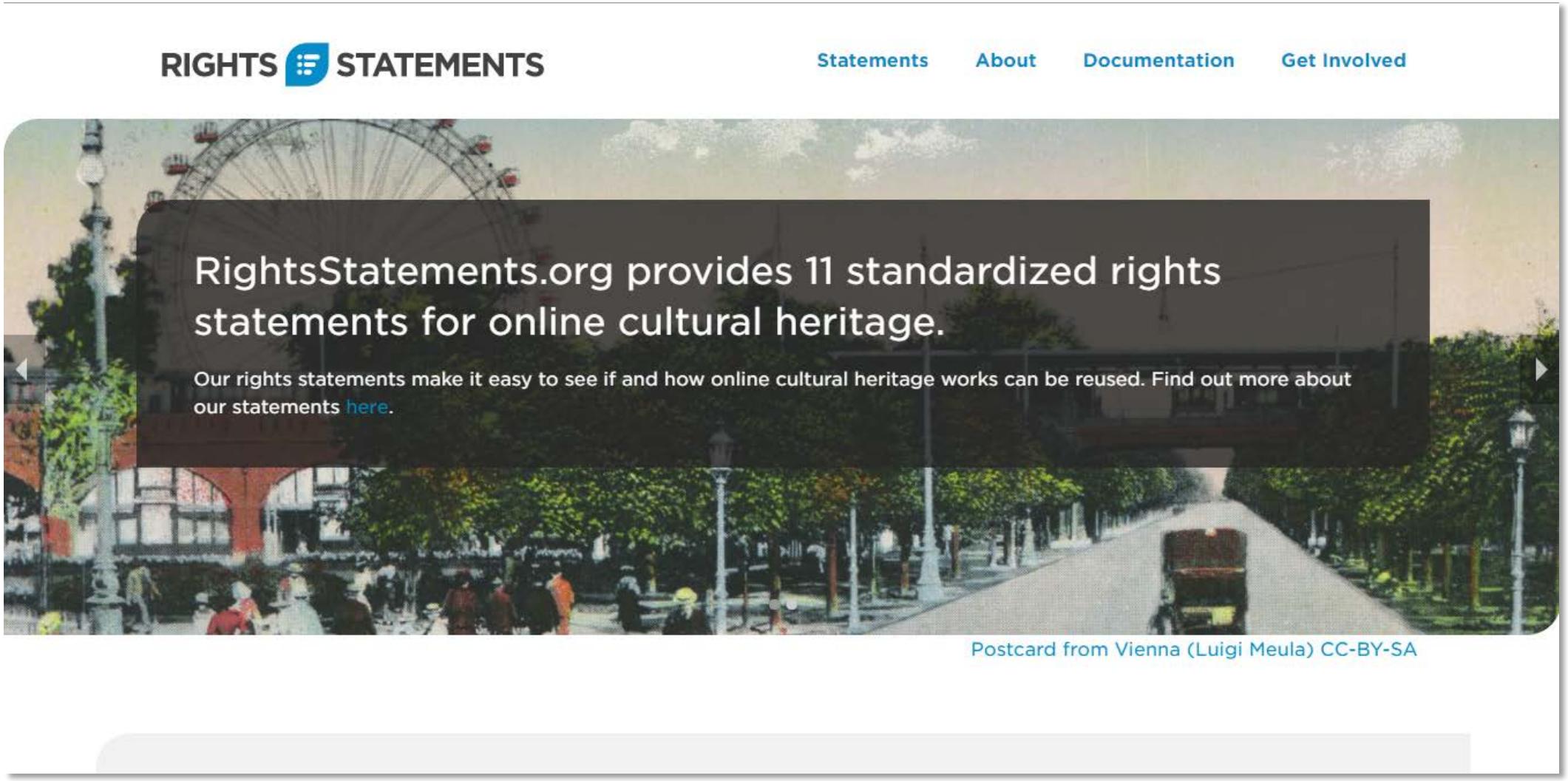
http://rightsstatements.org/



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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.

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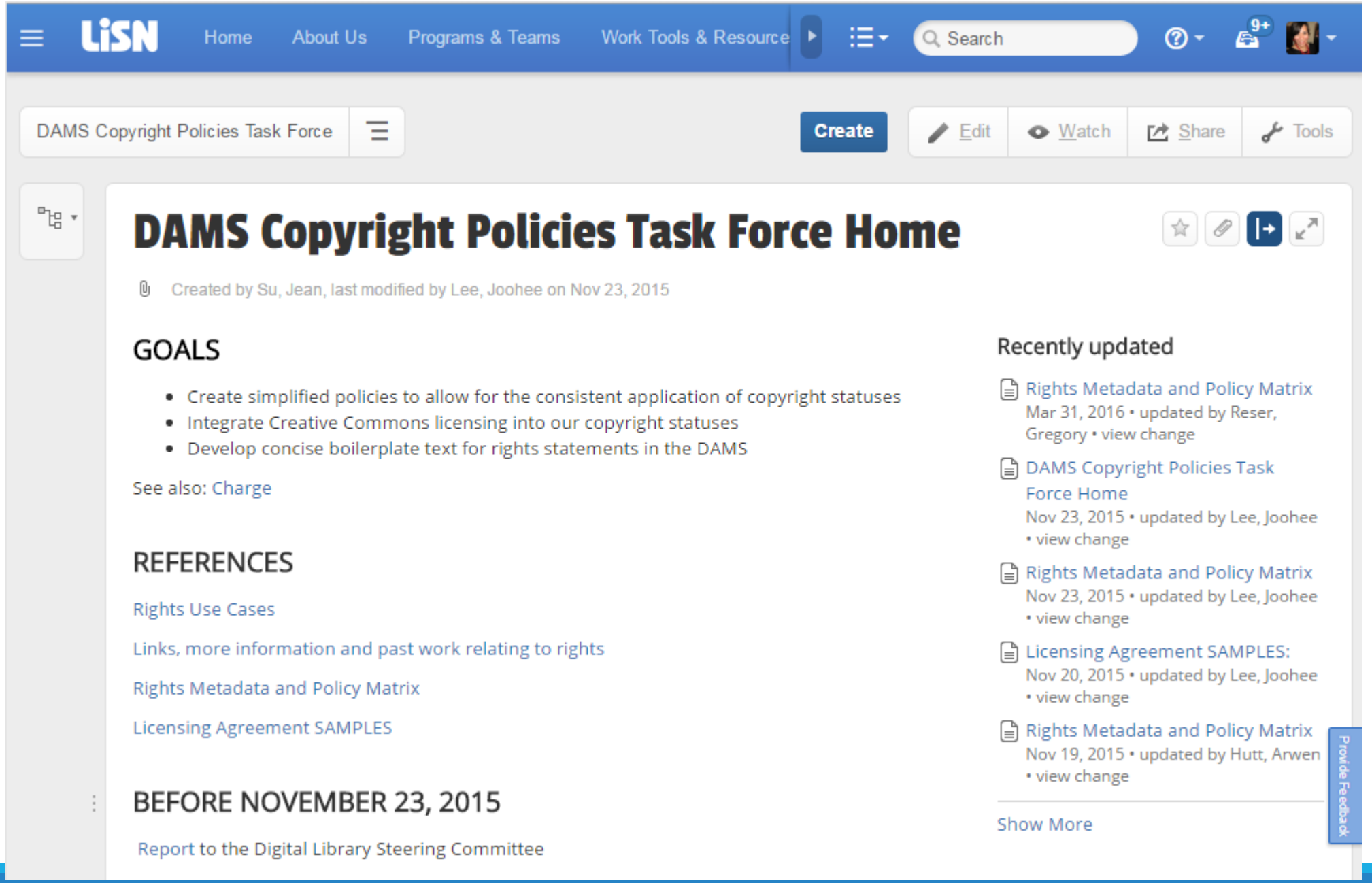

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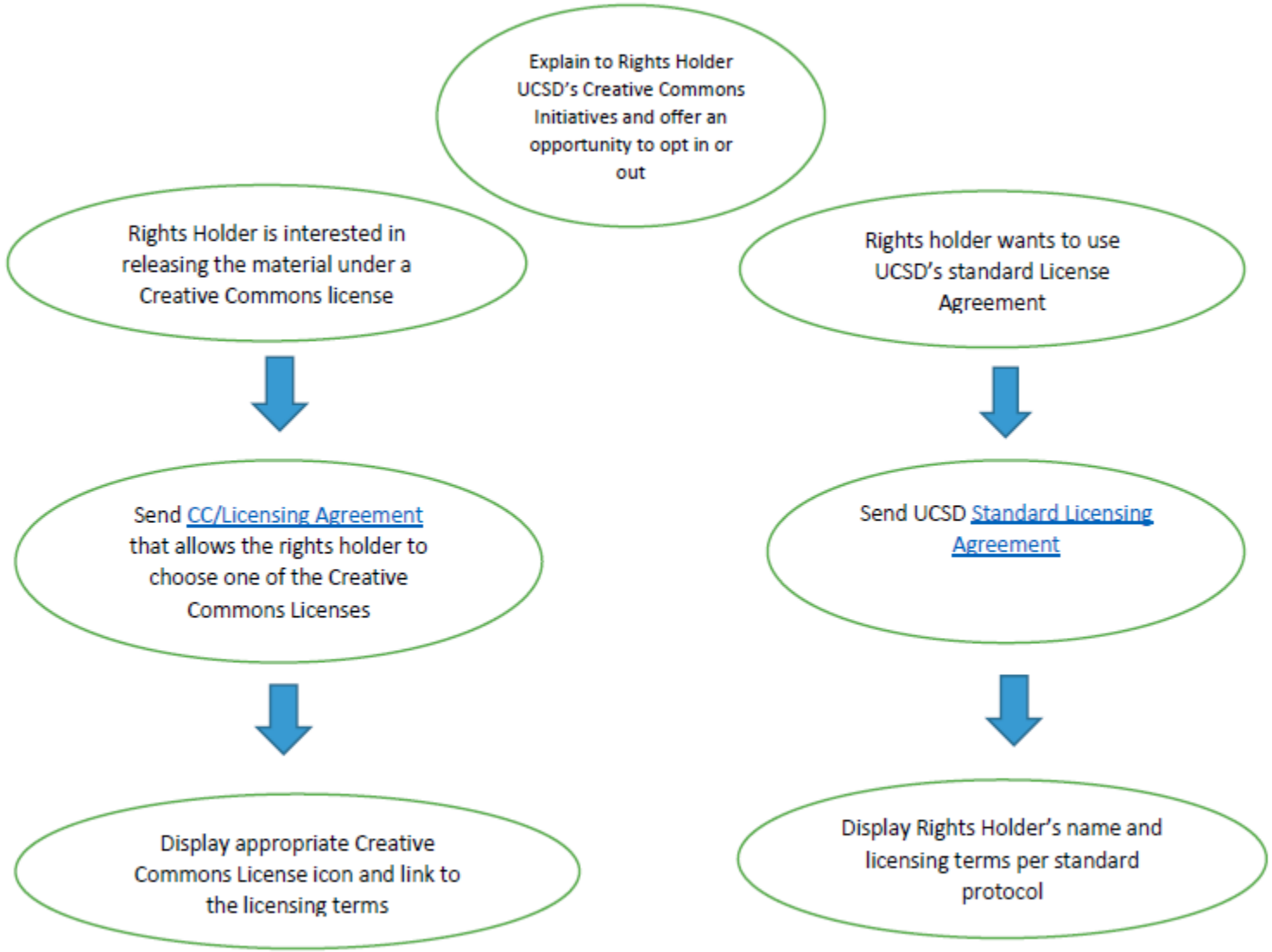

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Rights Status	Access Availability	What the User Sees
Public Domain	Public	Public Domain
CC0 (Public Domain, rights waived by holder)	Public	Public Domain Dedication
CC-BY	Public	Attribution
CC-BY-SA	Public	Attribution-ShareAlike
CC-BY-ND	Public	Attribution-NoDerivatives
CC-BY-NC	Public	Attribution-NonCommercial
CC-BY-NC-SA	Public	Attribution-NonCommercial-ShareAlike
CC-BY-NC-ND	Public	Attribution-NonCommercial-NoDerivatives
Copyright UC Regents	Public	Attribution
All Rights Reserved and Free (Unrestricted) Access	Public	© Rights Reserved-Free Access
All Rights Reserved and Restricted Access	Campus IP only	© Rights Reserved-Restricted Access
Under Copyright and Rights Holder Unknown	Campus IP only	© Rights Reserved-Restricted Access
Copyright Status Unknown	Campus IP only	? Unknown Copyright Status

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Copyright

Under copyright (US)

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Rights Holder

- Heirs of Roger M. Keesing

Repository

- Library Digital Collections

Copyright

Under copyright (US)

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Attribution-NonCommerical

Rights holder

- Heirs of Roger M. Keesing

Repository

- Library Digital Collections

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STRETCH

Meet Joohee's cat, Dolly

Photo by: Cristela

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Blackburn Audio Project Plan

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

Project Plan

Blackburn Tapes Digitization Project

Project Site Navigation

Search

+ Expand all − Collapse all

- 2015-05-15 Blackburn Meeting
- 2015-06-11 Blackburn Meeting
- 2015-09-28 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 Jarolim, 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.

Provide Feedback

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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.

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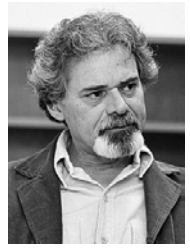
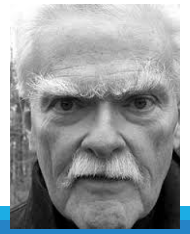
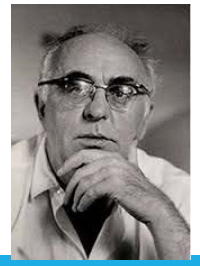
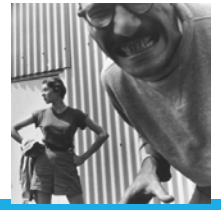
The Digital Library Development Program at UC San Diego Library is in the process of digitizing **approximately 300 audio recordings** from the Paul Blackburn Collection, which consists of readings from **over 200 poets**.



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**.







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https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairuse

Fair Use Checklist
Copyright Advisory Office
Columbia University Libraries
Kenneth D. Crews, Director
http://copyright.columbia.edu

Name: _____

Institution: _____

Project: _____

Date: _____

Prepared by: _____

Purpose

Favoring Fair Use	Opposing Fair Use
☐ Teaching (including multiple copies for classroom use)	☐ Commercial activity
☐ Research	☐ Profiting from the use
☐ Scholarship	☐ Entertainment
☐ Nonprofit educational institution	☐ Bad-faith behavior
☐ Criticism	☐ Denying credit to original author
☐ Comment	
☐ News reporting	
☐ Transformative or productive use (changes the work for new utility)	
☐ Restricted access (to students or other appropriate group)	
☐ Parody	

Nature

Favoring Fair Use	Opposing Fair Use
☐ Published work	☐ Unpublished work
☐ Factual or nonfiction based	☐ Highly creative work (art, music, novels, films, plays)
☐ Important to favored educational objectives	☐ Fiction

Amount

Favoring Fair Use	Opposing Fair Use
☐ Small quantity	☐ Large portion or whole work used
☐ Portion used is not central or significant to entire work	☐ Portion used is central to or "heart of the work"
☐ Amount is appropriate for favored educational purpose	

Effect

Favoring Fair Use	Opposing Fair Use
☐ User owns lawfully purchased or acquired copy of original work	☐ Could replace sale of copyrighted work
☐ One or few copies made	☐ Significantly impairs market or potential market for copyrighted work or derivative
☐ No significant effect on the market or potential market for copyrighted work	☐ Reasonably available licensing mechanism for use of the copyrighted work
☐ No similar product marketed by the copyright holder	☐ Affordable permission available for using work
☐ Lack of licensing mechanism	☐ Numerous copies made
	☐ You made it accessible on the Web or in other public forum
	☐ Repeated or long-term use

Most recent revision: 051408

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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 librarians and users within the UCSD Libraries only. When copyright status is unknown, an assessment of fair use must be undertaken. [1]

Prepared by: Rob Melton

Library: Special Collections & Archives

Date Submitted: March 13, 2015

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 dlp@ucsd.edu. If you have questions, please contact dlp@ucsd.edu. Thank you.

1. GENERAL INFORMATION ABOUT COLLECTION OR SINGLE OBJECT

- Collection/Object Name:

  Blackburn Audio Collection

- Collection/Object Number:

- Portion to be used (e.g. pages, items, etc.):

  Entire (approximately 350 audio tapes in at least 2 formats)

2. DESCRIPTION (please check all that apply)

☐ Single Object

☒ Collection of Objects

Format of Material to-be-made-accessible:

☐ Text ☒ Audio

☐ Data Sets ☐ Video

☐ Graphic Materials (photographs, posters, slides, drawings, architectural records)

[1] In many cases, the UCSD Libraries may have a license to use material. A fair use analysis does not have to be conducted where the desired use is permitted under the terms of an applicable license. Similarly, other provisions of the copyright law cover such matters as library copying, in-class use and distance learning.

UCSD Digital Library Program

Checklist for Determining Access Options – Version 4

☐ Other - Please specify:

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 the 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 (5) – (9) of the checklist in order to complete fair use analysis.**

☐ Unknown. **If copyright status is unknown, please complete sections (5) – (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, for reasons of cultural sensitivity images depicting individuals from aboriginal 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.

Note: UCSD adheres to the practical approach in identifying and resolving rights issues outlined in OCLC's "Well-intentioned practice for putting digitized collections of unpublished materials online" (2010)[2] and the Triangle Research Libraries Network's Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups (2011).[3]

[2] OCLC Research (2010, May 28). "Well-intentioned practice for putting digitized collections of unpublished materials online." Retrieved June 17, 2011 from http://www.oclc.org/research/activities/rights/practice.pdf.

[3] Triangle Research Libraries Network (2011, January). "Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups." Retrieved June 17, 2011 from http://www.trln.org/IPRights.pdf.

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FAIR USE ANALYSIS

5. PURPOSE OF THE USE

Favoring Fair Use	Disfavoring Fair Use
☒ Educational • Teaching (including multiple copies for classroom use) • Research • Scholarship • Criticism • Comment	☐ Promotional, commercial, entertainment or other
☐ Transformative use (changes the work to serve a new purpose)	☒ Verbatim/exact copy or use is similar to original
☒ No fee charged	☐ Profit-generating use

6. NATURE OF THE COPYRIGHTED MATERIAL

Favoring Fair Use	Disfavoring Fair Use
☐ Factual, nonfiction, news	☒ Creative (art, music, fiction) or consumable work (workbooks, tests)
	☒ Unpublished work

7. AMOUNT COPIED

Favoring Fair Use	Disfavoring Fair Use
☐ Small quantity (e.g. a single chapter or journal article or other excerpt consisting of less than 10% of the work)	☒ Large portion or entire work
☐ Portion used is not central to entire work as a whole	☒ Portion used is central or the "heart" of the work

☒ Amount is appropriate to education purpose	☐ Includes more than necessary for education purpose

8. EFFECT ON THE MARKET FOR ORIGINAL

Favoring Fair Use	Disfavoring Fair Use
☒ No significant effect on the market or potential market for the copyrighted work	☐ Cumulative effect on copying would be to substitute for purchase or license of the copyrighted work
☒ One or few copies made and/or distributed	☐ Numerous copies made and/or distributed
☒ No longer in print; absence of licensing mechanism	☐ Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available, e.g. CCC licensing or off-prints available
☐ Restricted access (limited to students in a class or other appropriate group)	☒ Will be making it publicly available on the Web or using other means of broad dissemination or less limited access
☐ One-time use, spontaneous use (no time to obtain permission)	☒ Repeated or long-term use

9. CURATORIAL RECOMMENDATON ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT

- ☐ **Public**
  - ☐ **Metadata only**
- ☐ **UC only**
- ☐ **UCSD campus only**
- ☒ **UCSD Library only**
- ☐ **Curator View only. Restricted cannot be displayed to Public, UCSD campus or the UCSD Library**
- ☐ **Other** (please describe exception and requirements needed)

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

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1	Done	Dave's Notes	TITLE	Call Number - to sort	Priority (1=High, 2=Med, 3=Low(	Rights Risk by RM	Risk Notes by RM	Notes by JL	Can post as is
2	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn]	SPB-001	Priority 1	Low	Have **support** from PB's son and widow	**SIDE A:** MUSIC, The Friendship (now we can wonder), Brooklyn Narcissus, MUSIC, Married Man, The Misunderstanding, Mestrovic And The	
3	X	reel is dual-mono @ 3-3/4	[Conversation between Paul and Sara Blackburn [sound recording]	SPB-001A	Priority 1	Low	See line 2	**SIDE A:** MUSIC, **Paul Blackburn** reading Structural, Tomb for Sister Spring, The Flies, The Poster, **Sara Blackburn** speaking Attention Paul	
4	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn]	SPB-002	Priority 1	Low	See line 2	**SIDE A:** MUSIC, **Paul Blackburn** reading Tending the Corn, Free Fall, MUSIC, Visitation I, Wings, Suspension, MUSIC, Hot Afternoons Have Been	
5	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn, Julio CortÃ¡zar and NicolÃ¡s GuillÃ©n]	SPB-002A	Priority 1 (PB)	High	See line 2 for PB, but Cortazar may be difficult.	**SIDE A: Sara Blackburn and Paul Blackburn** talking. **Julio Cortázar** reading Cronos in Spanish @ 17:04. **Paul Blackburn** reading	
6	X	reel is dual-mono @ 3-3/4	[San Francisco poets [sound recording] / Allen Ginsberg ... [et al.]	SPB-003	Priority 3	High	Ginsberg. Other poets ("et al.") need to be	**SIDE A:** MUSIC after **Robert Duncan** reading Structure of Rime VI and Sometime During Eternity. **Allan Ginsberg** reading excerpts from	
7	X	reel is dual-mono @ 3-3/4	[Interview with Allen Ginsberg. Poetry reading [sound recording] / Paul Blackburn and Robert Donat	SPB-003A	Priority 3	High	Ginsberg	**SIDE A: Paul Blackburn** reading Mirabeau Bridge in French and English as radio broadcasted on WBAI. Radio broadcast of King Lear, MUSIC,	
8	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Lawrence Ferlinghetti, Jack Kerouac, and Paul Blackburn. Play of Daniel	SPB-004	Priority 3	High	Kerouac reading may be bootleg of commercial	**SIDE A:** MUSIC, sometimes overlapped. **Paul Blackburn** reading **Lawrence Ferlinghetti**'s "Tentative Description of a Dinner to Promote	
	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Denise	SPB-005	Priority 3	High	Both poets' estates may seek	**MUSIC AFTER Robert Creeley's** "MY LOVE" **Denise Levertov** reading "The Departure"	

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http://fairuse.stanford.edu/overview/fair-use/four-factors/

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HOME | RESOURCES | OVERVIEW | LAW | OUR BLOG | ABOUT US

Home » Overview Sections » Fair Use » **Measuring Fair Use: The Four Factors**

« Previous Page | Next Page »

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.

Contents

On January 28, 2014, Stanford's Program in Law, Science & Technology hosted the discussion, "Congratulations, you have an app – now what? App Development and Marketing from A-Z." The discussion featured a panel of high level, experienced practitioner who provide tips, checklists and a road map for addressing legal considerations relating to mobile apps, including best practices for mobile TOU and Privacy Policies, platform considerations and much

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Thought Process:

Transformative?

– No. Using the entire poems as is

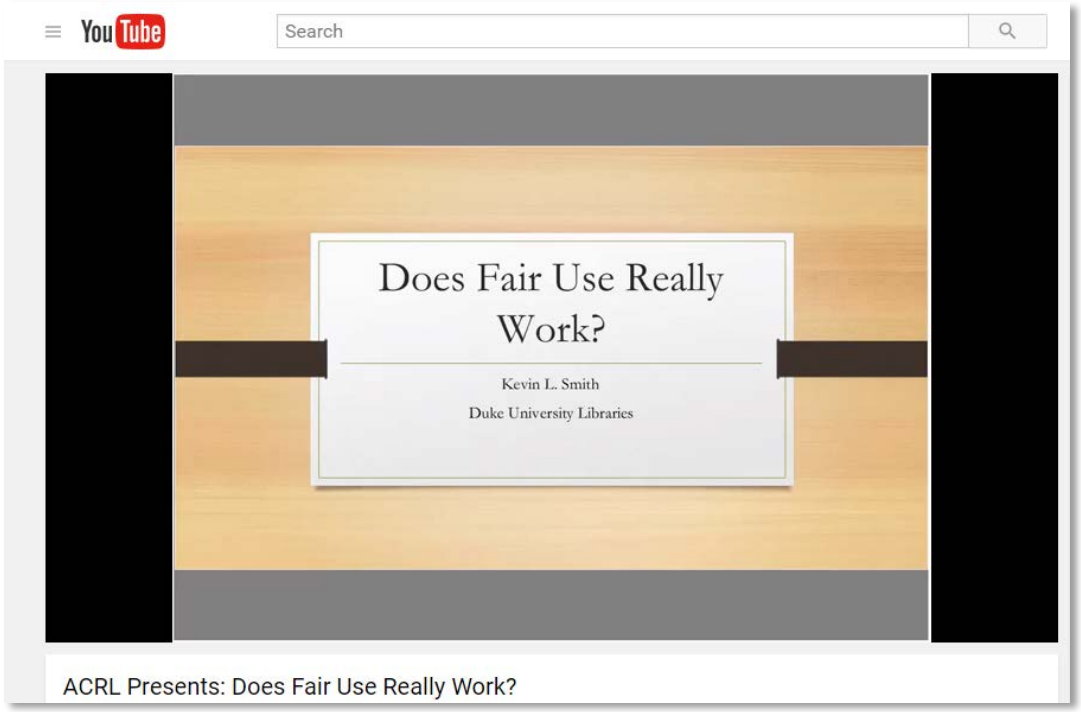
Market value?

– yes and no (e.g. Joel Oppenheimer heirs publishing his collected works)

Licensing available?

– Yes and no. Unidentifiable speakers and hard-to-locate individuals

Does Fair Use Really Work? Kevin Smith (https://www.youtube.com/watch?v=JEWnFnTu2Hg)



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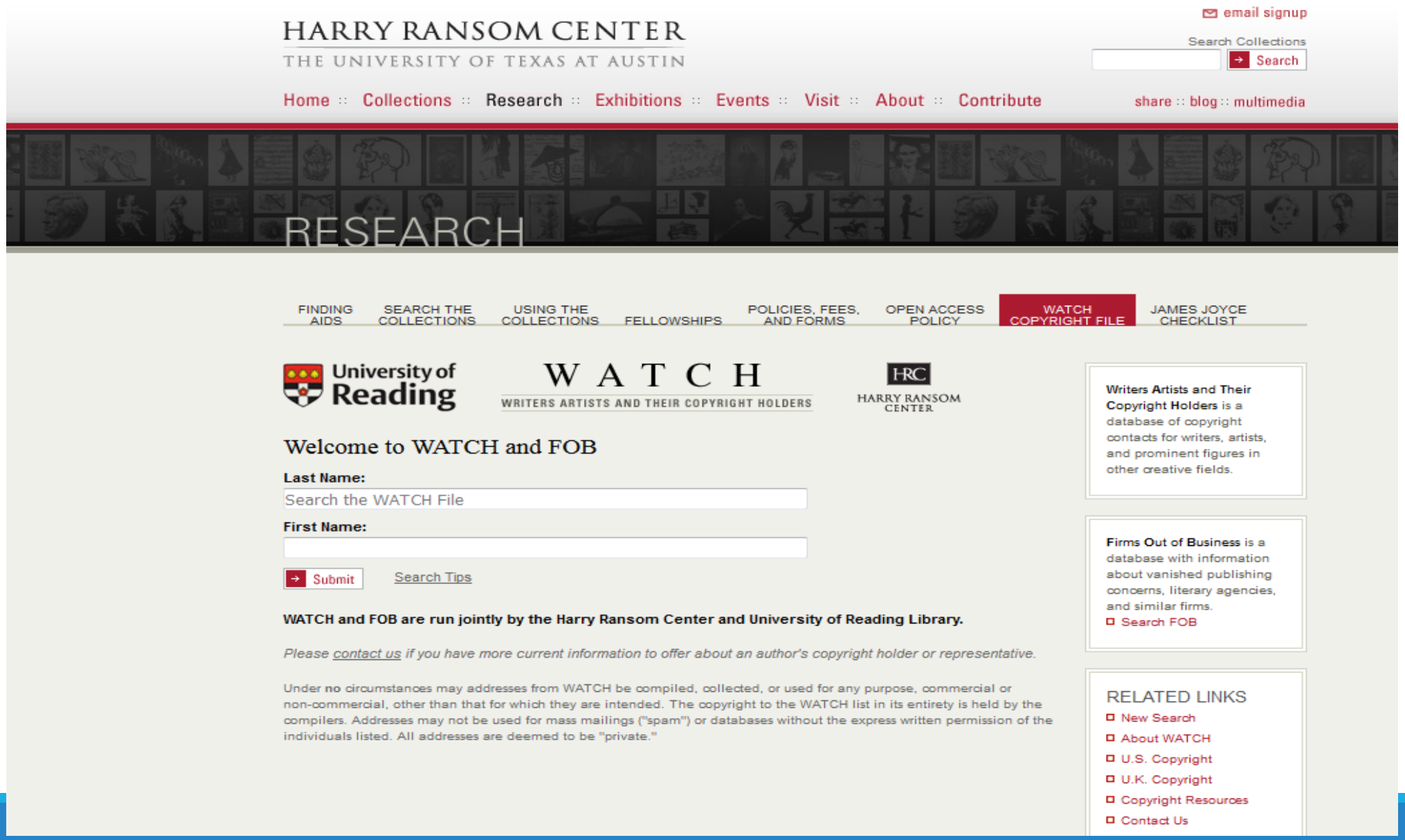
http://norman.hrc.utexas.edu/watch/



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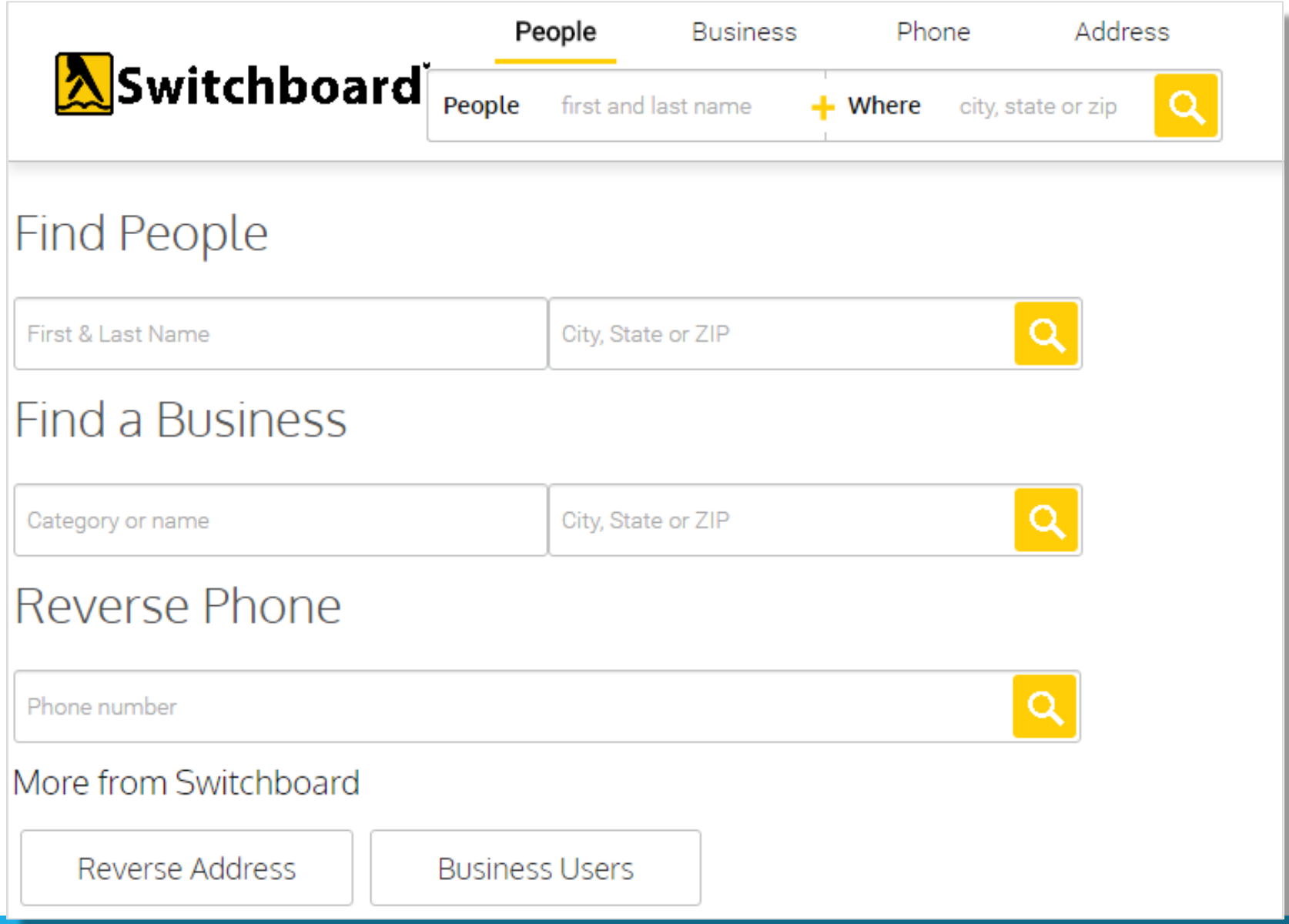
http://switchboard.com/



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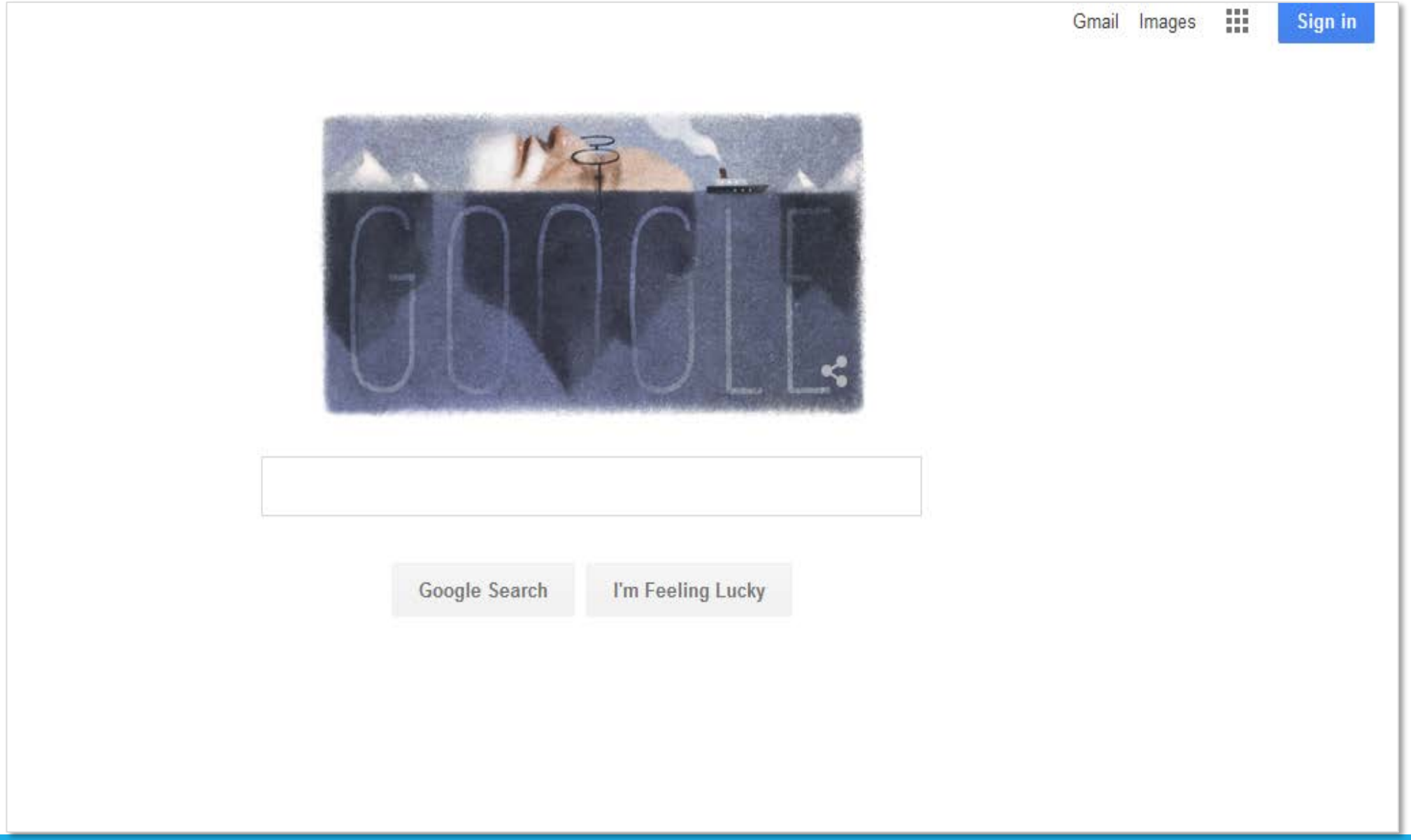

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1		Permission Denied/Problem									
2		Research Needed									
3		Request Sent/Pending									
4		Permission Received/OK to post									
5	TOTAL FEE	$ 4,600.00									
6	First Name	Last Name	Works	Count	Alive (Y/N/Unknown)	Contact	PermY/N	Perm $	Credit Line	Copy of Audio	
128	Spencer	Holst	Another Impostor, On Hope (the monkey leaped on a man's shoulder), Immortality (the great scientist died), Siamese Cat (once upon a time a man sat listeing to music).	3	N		Y	0	Used by permission of the estate of Spencer Holst	0	
129	Andrew	Hoyem	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, Ration (broke out of confinement), Electrocution (out of the blue), Translation (Your two eyes), Violation (that which is black), Naturalization (after 20 summers in the Sierra), The feeling comes after, O Please Sit Down (three weeks afte the surrender of Germany), Spook Sheep (I am gloomy), Myrtho (Divine enchantress), Delfica (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 seashore), Last Lost, Xenovale.	27	Y		Y	0	Used with permission of Andrew Hoyer	1	
130	Will	Inman	Cowery	1	N						
131	Ken	Irby	Go West, For Ed Dorn (This space out of the riverland I saw), Untitled (The supper hour), "This slush in the dead time of the year", The Photograph.	5	N		Y	0	Used with permission of the Literary Estate of Ken Irby	0	
132	Don	Jackson	Puss (O you can see it now)	1	U						
133	David Paul	Jacobs	Oblivion, Creature	2	U						

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Reactions

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

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LICENSOR:
Signature _____
Name (please print or type)_____
Date _____

UCSD:
Signatur
Name _
Date _

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 lover
2. Liking Children (2nd section)
3. Love on a Platter (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 Poem (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. Willam Carlos Williams Would Have Like the Professor of Ecology
15. White Fang (poets have been)
16. For Fee (dull days like this)
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 (here esters)
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 post 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)

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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

Editor Tools

- RDF View
- RDF N-Triples View
- RDF Turtle View
- Data View
- DAMS 4.2 Preview
- Mint DOI
- Push to OSF

Edit

© THE

Challenges

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

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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

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Questions?

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

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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

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Rights & Permissions in Real Life, the UCSD Experience

CRISTELA GARCIA-SPITZ & JOOHEE LEE

KRAEMER COPYRIGHT CONFERENCE

JUNE 7, 2016

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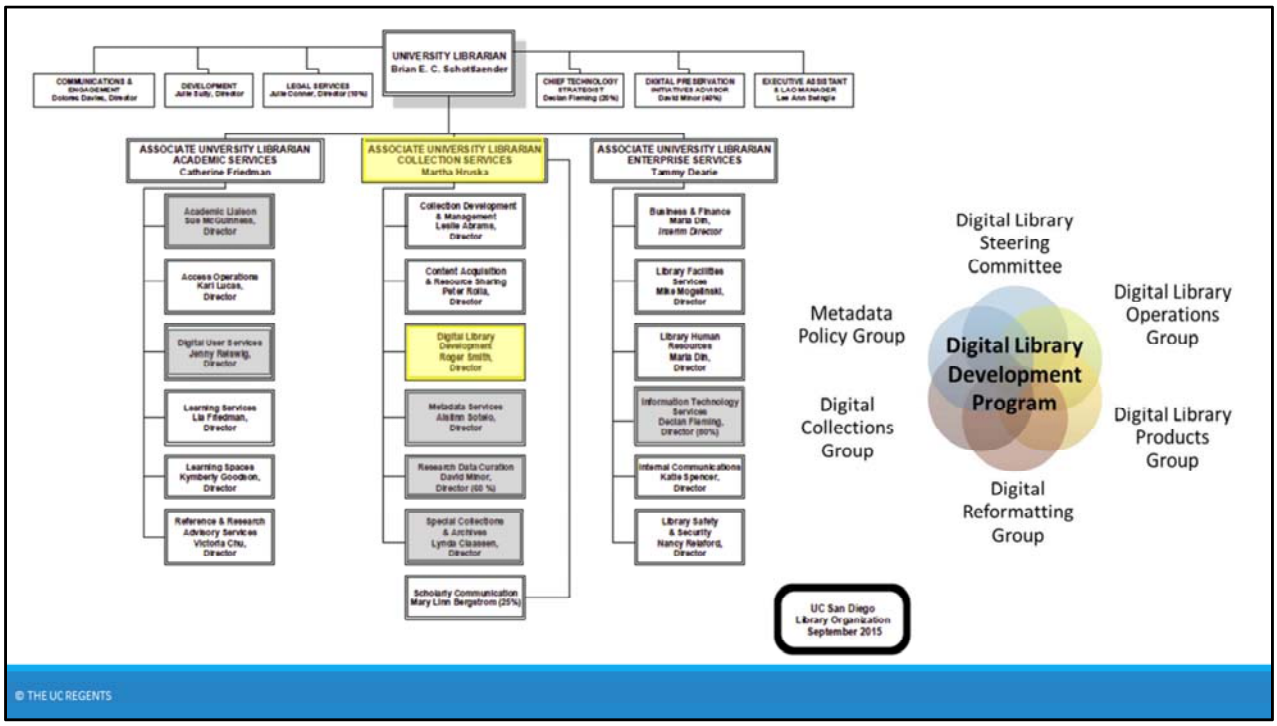
CGS – intro
2 parts: creative commons task force & Blackburn project
Should plenty of time for questions and discussion afterward



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

2005 DAMS 1.0
PREMIS for Rights

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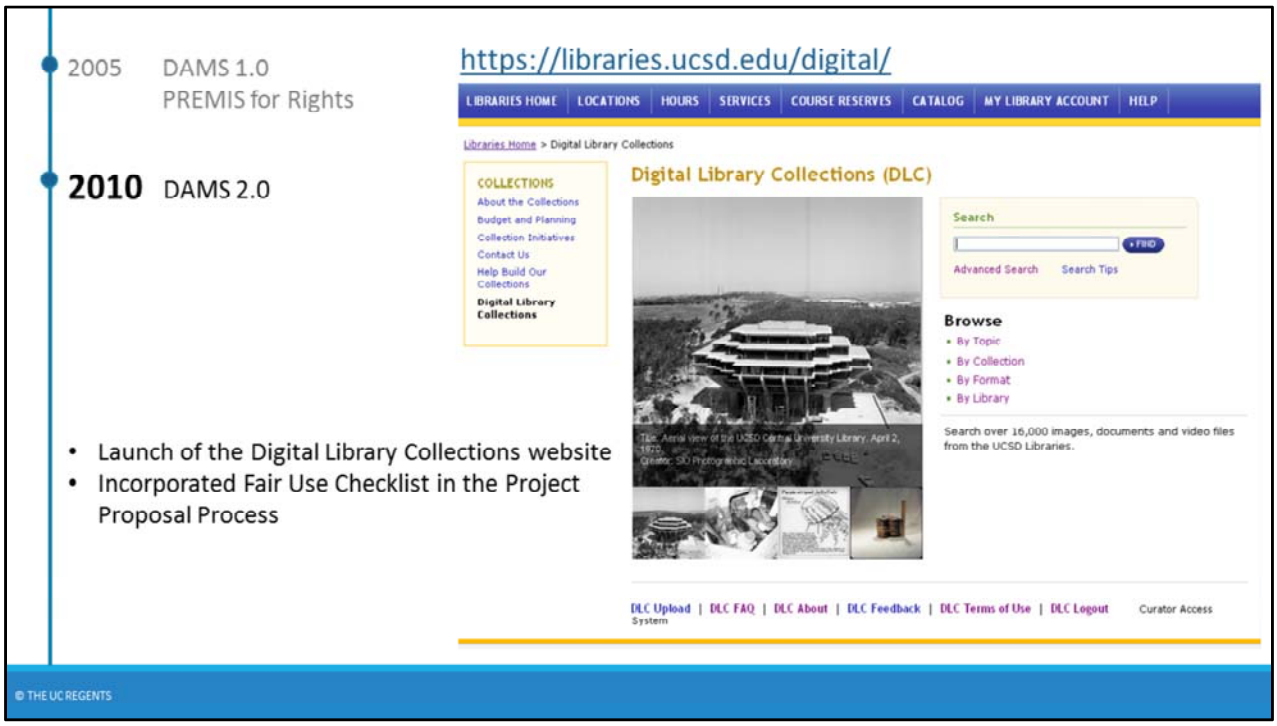
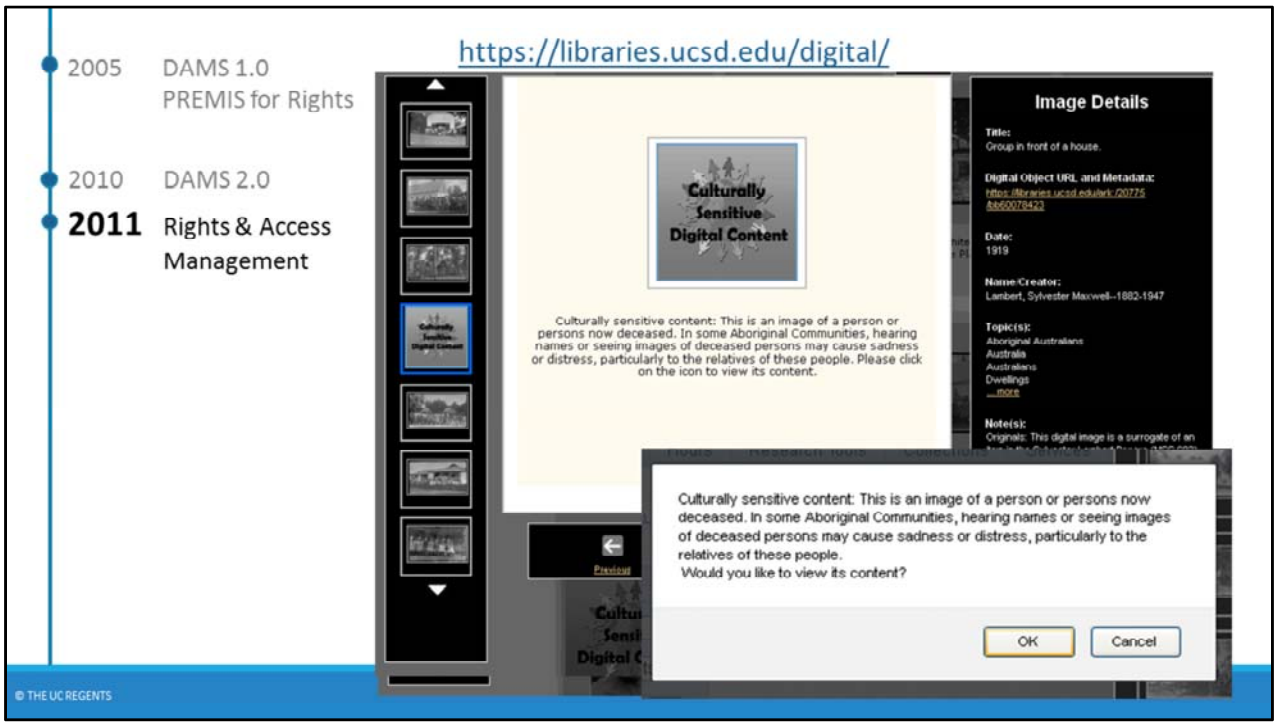
DLP – began as Program outside of Libraries, Program Director & Program Analyst
Collaboration between Library and the San Diego Supercomputer Center to create the DAMS and address digital preservation
DAMS = homegrown system based on RDF, focus on preservation
Fortunate to have first version of PREMIS 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)

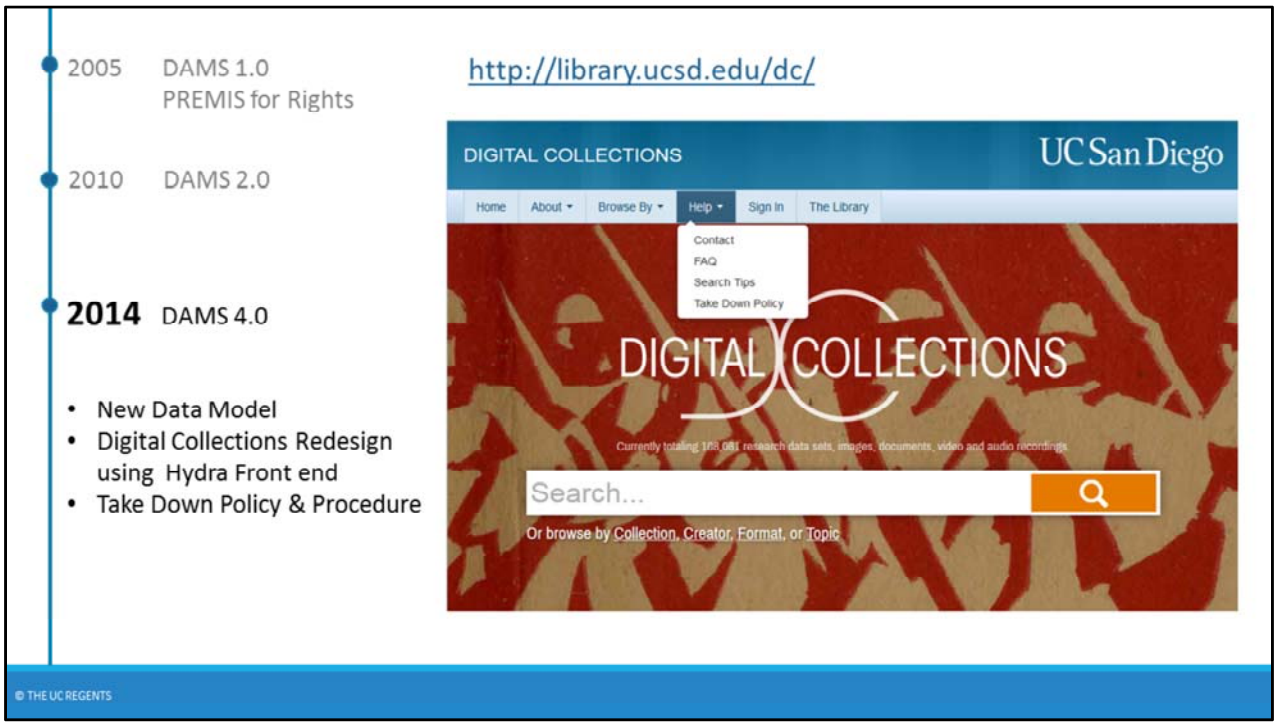


Between 2005-2010, basically dark archive, no public access system (all through programmers)
Hired my position as Project Manager in 2009 as a part of Libraries' 2006-2009 strategic plan, approach more project specific
Again leveraged what was already out there; Indiana's project proposal process, Columbia's 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

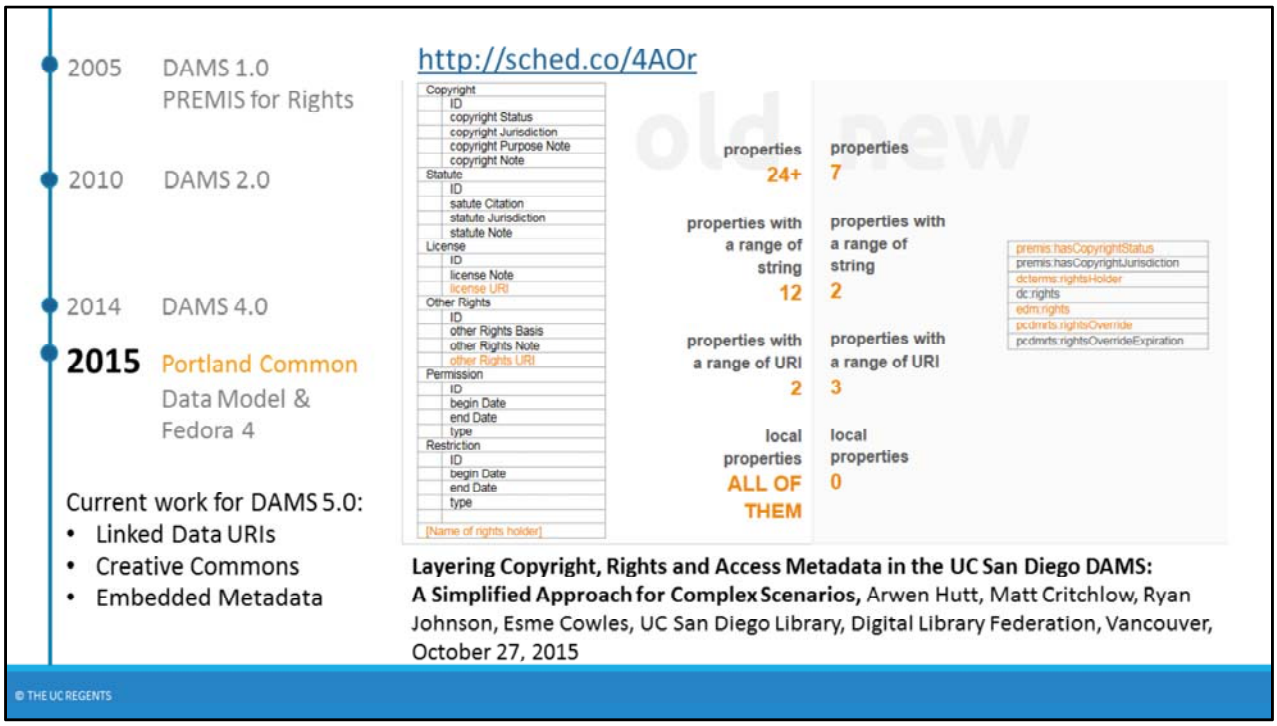
https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html
http://fairuse.stanford.edu/charts-and-tools/#fair_use
http://copyright.cornell.edu/resources/



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



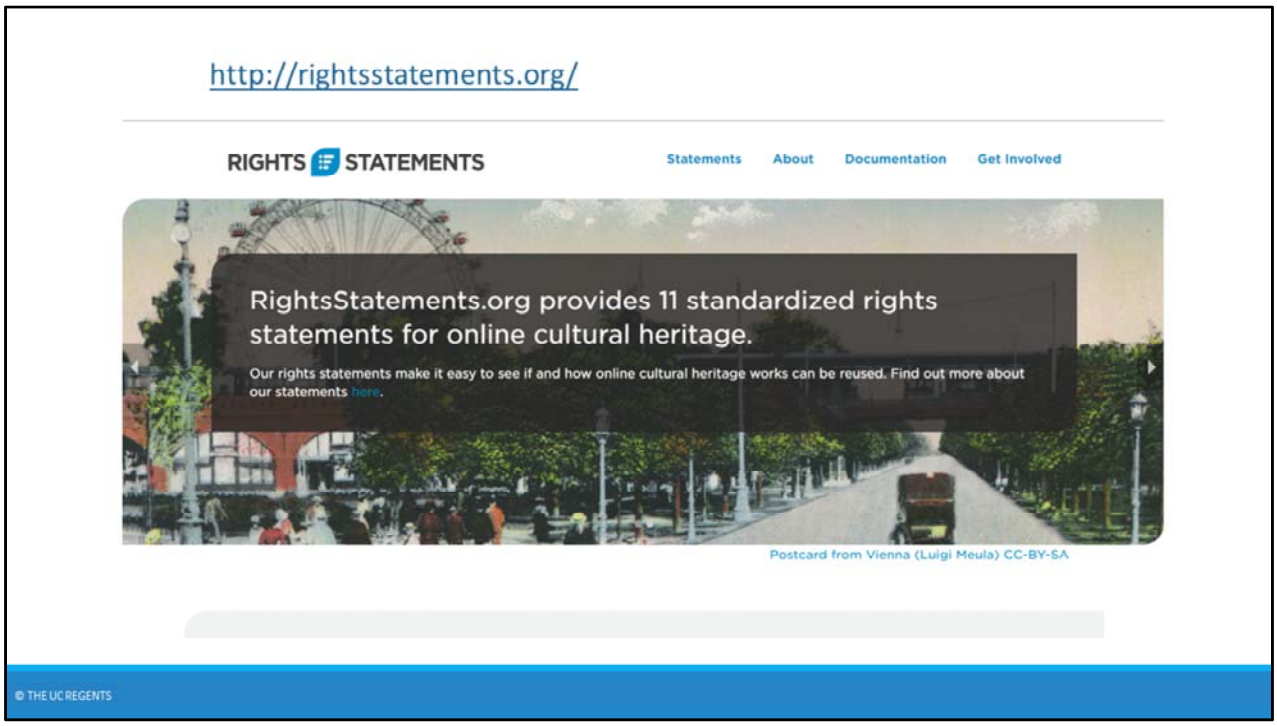
2010-2014 another shift in thinking & many infrastructural changes
Value in community development > Hydra as front end
MODS/METS to ontology that maps to multiple standards
Implement take down policy (also procedure); motivated by risk assessment for certain collections (CME, DMCA)



Align with others in Hydra community and DPLA > Portland Data Model, more closely aligned with DPLA rights work

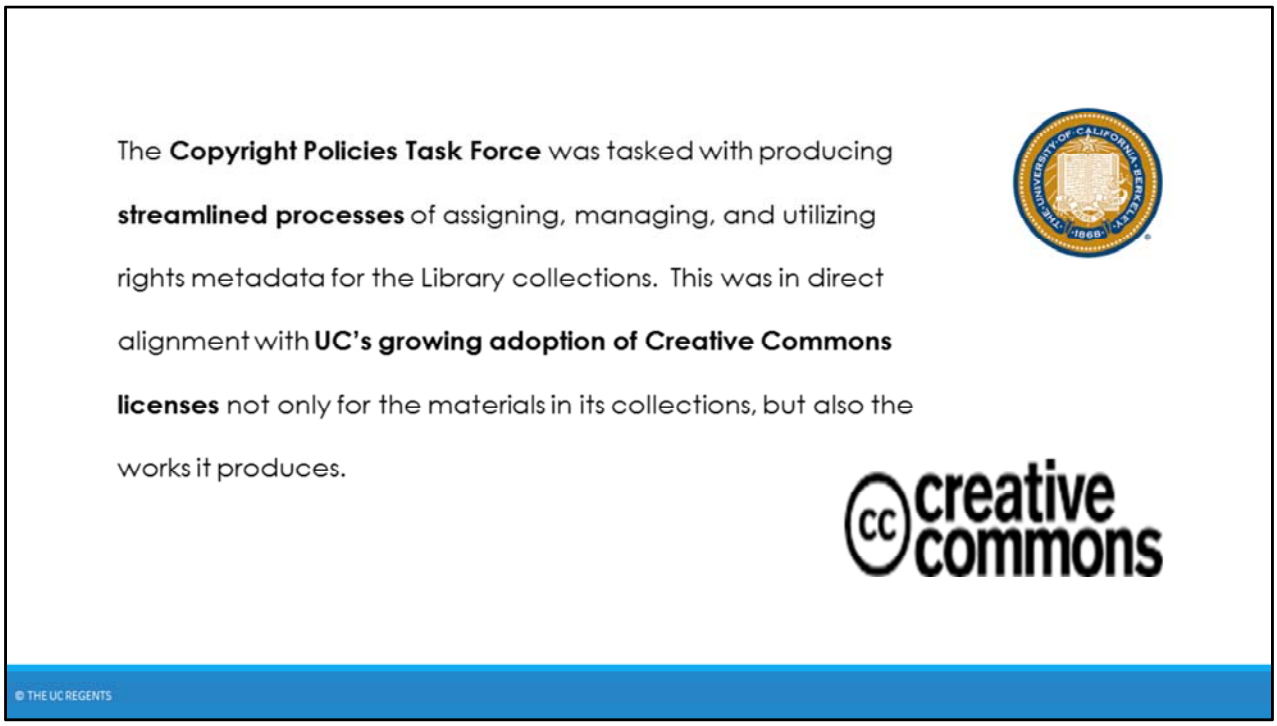
Timeline – reminder of gradual evolution; sometimes takes a while (idea > practice)

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)



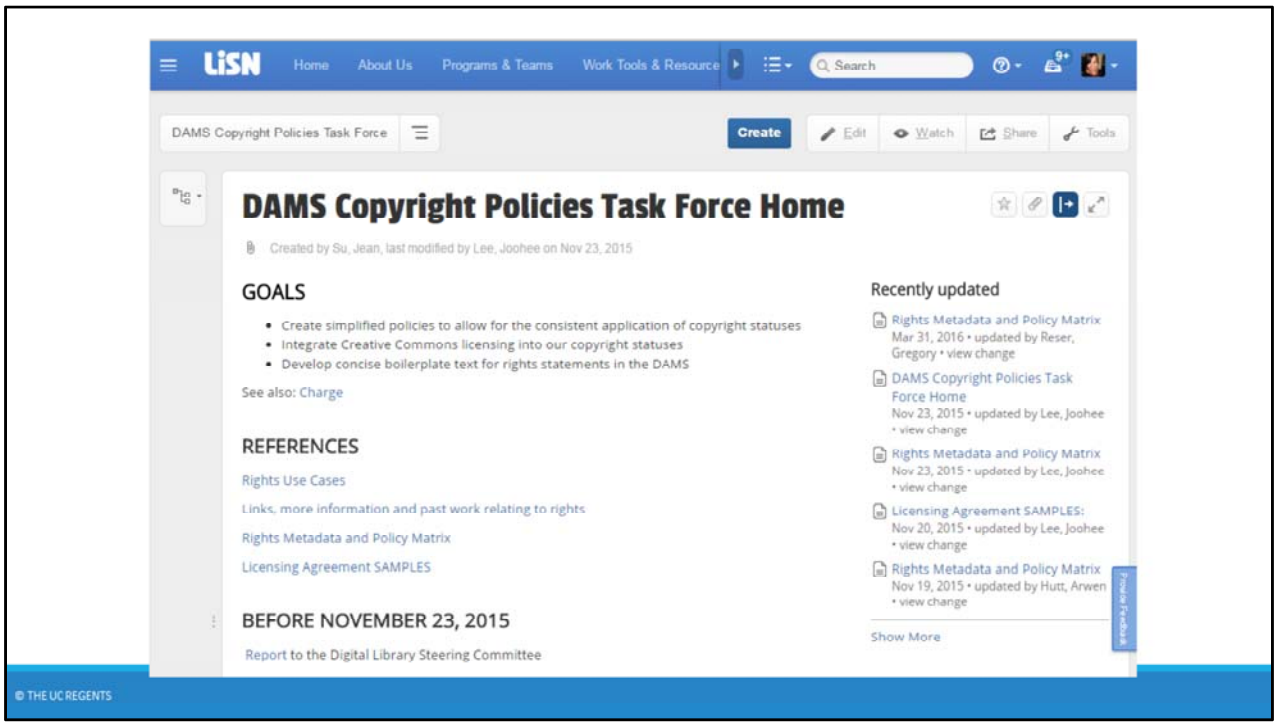
Align with other community standards; keep on our watch list and comply with is the rightsstaements.org, which is an initiative between DPLA and Europeana, since we know our content will be travelling we want to make sure it fits elsewhere.

Keeping ours to 3 statements (Public Domain, Undercopyright, Unknown)

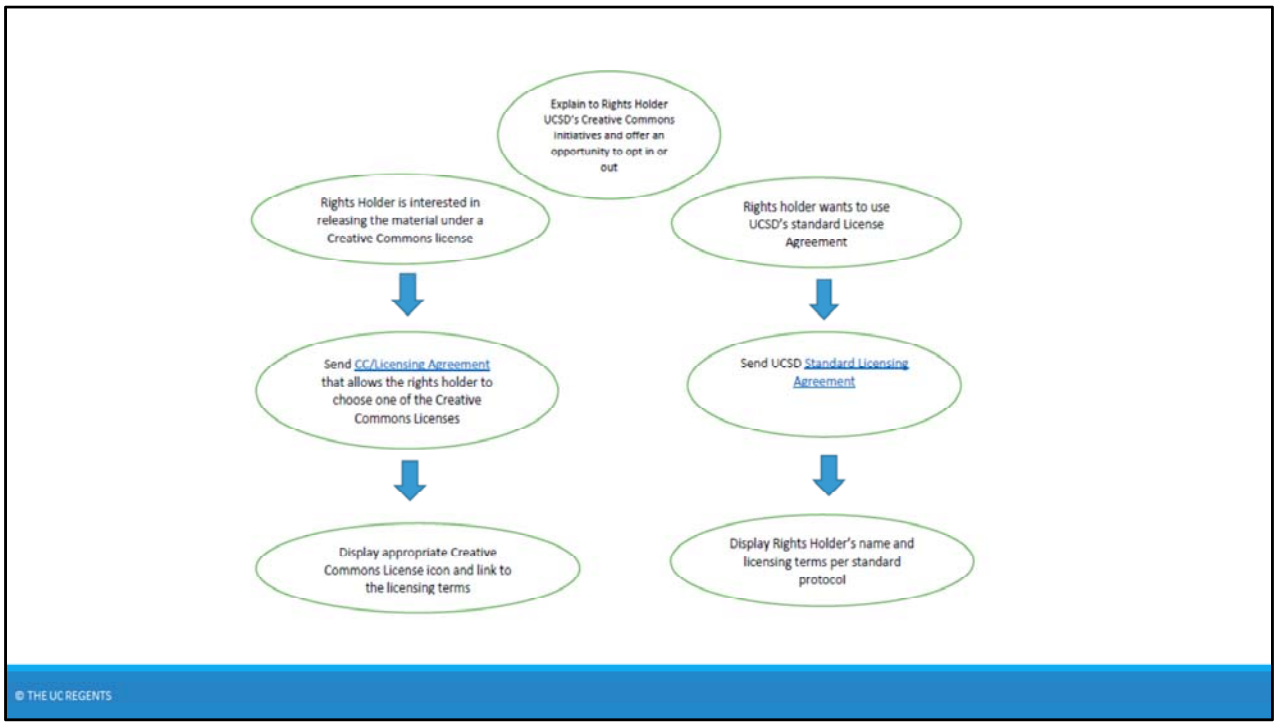


More relevant as we start to work more with campus and community partners; no longer just dealing with collections already in the library, shift to actively building collections ("living archives" "participatory archives")

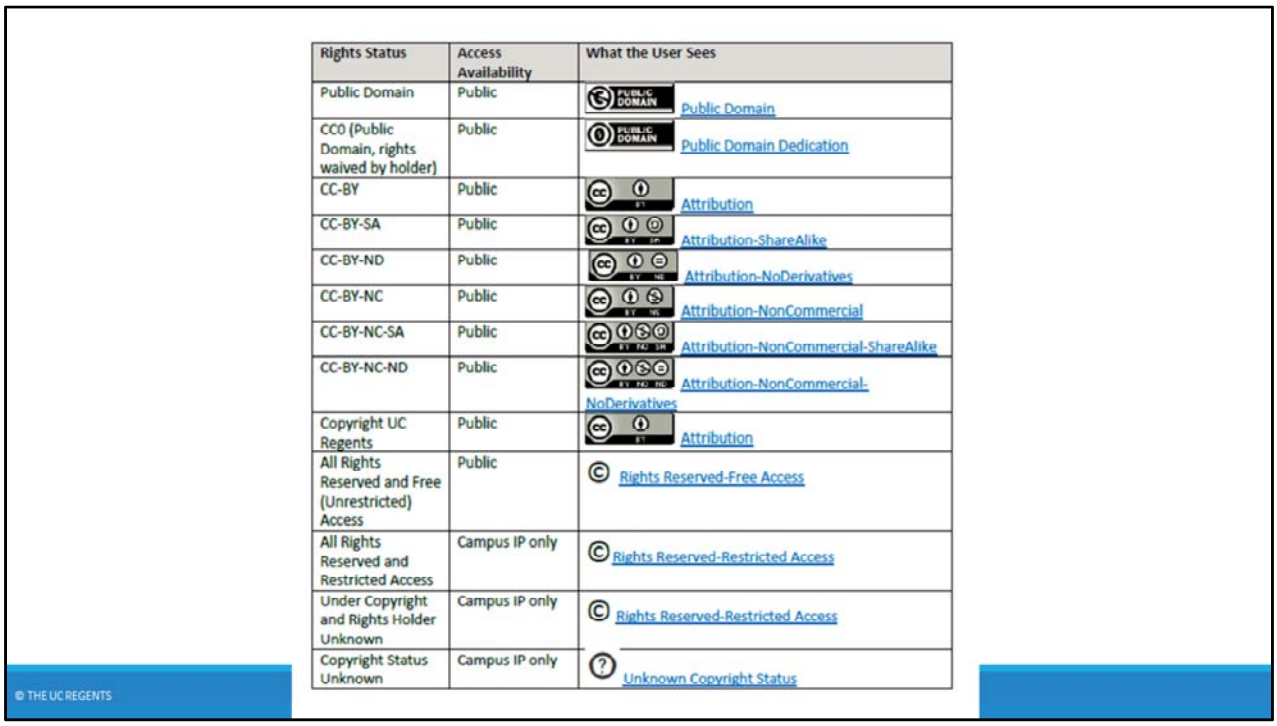
Case study – shows our process (and how long it can take to go from idea > implementation); thought and discussion item for quite a while (Jon Voss keynote at RBMS and SAA in 2012)



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



Rights Status	Access Availability	What the User Sees
Public Domain	Public	Public Domain
CC0 (Public Domain, rights waived by holder)	Public	Public Domain Dedication
CC-BY	Public	Attribution
CC-BY-SA	Public	Attribution-ShareAlike
CC-BY-ND	Public	Attribution-NoDerivatives
CC-BY-NC	Public	Attribution-NonCommercial
CC-BY-NC-SA	Public	Attribution-NonCommercial-ShareAlike
CC-BY-NC-ND	Public	Attribution-NonCommercial-NoDerivatives
Copyright UC Regents	Public	Attribution
All Rights Reserved and Free (Unrestricted) Access	Public	Rights Reserved-Free Access
All Rights Reserved and Restricted Access	Campus IP only	Rights Reserved-Restricted Access
Under Copyright and Rights Holder Unknown	Campus IP only	Rights Reserved-Restricted Access
Copyright Status Unknown	Campus IP only	Unknown Copyright Status

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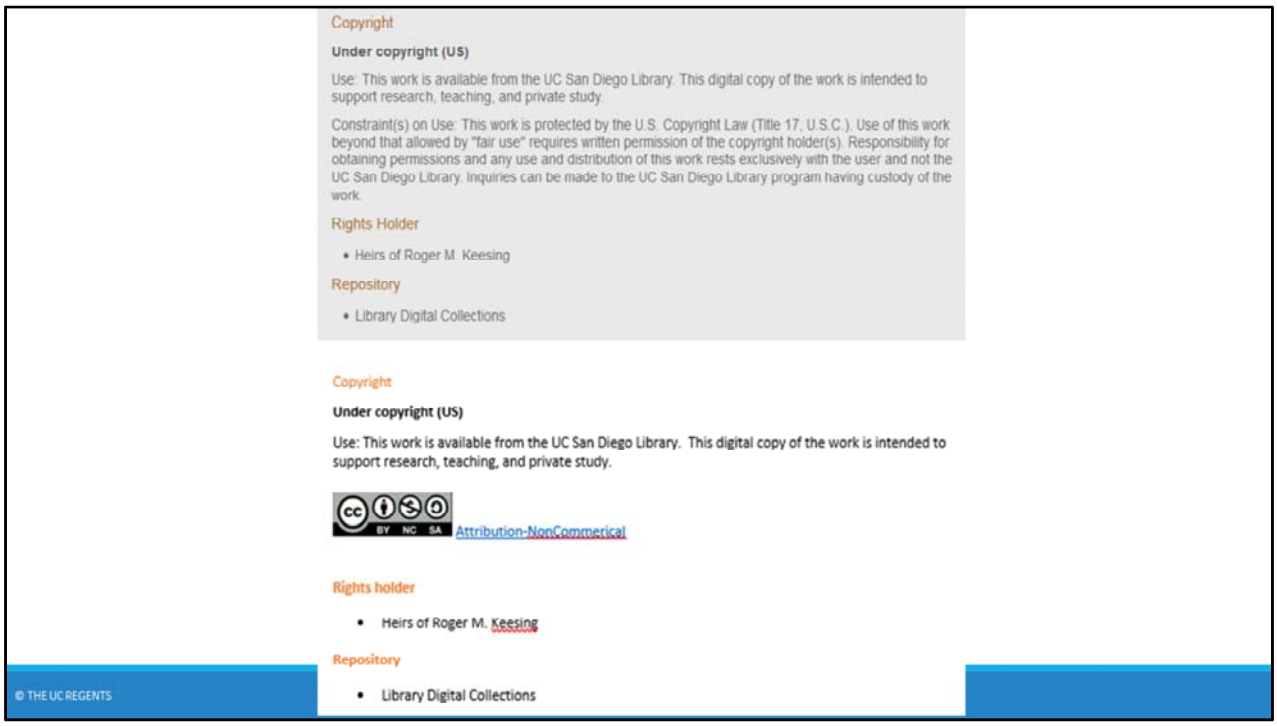
Breakdown of the different creative commons licenses
Option for the rights holder
Responsibility of the rights holder to investigate and decided the creative commons license
We also worked to determine the default value or state, so that the metadata is actionable; there can be exceptions, but we found 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 Joohee's cat, Dolly Photo by: Cristela

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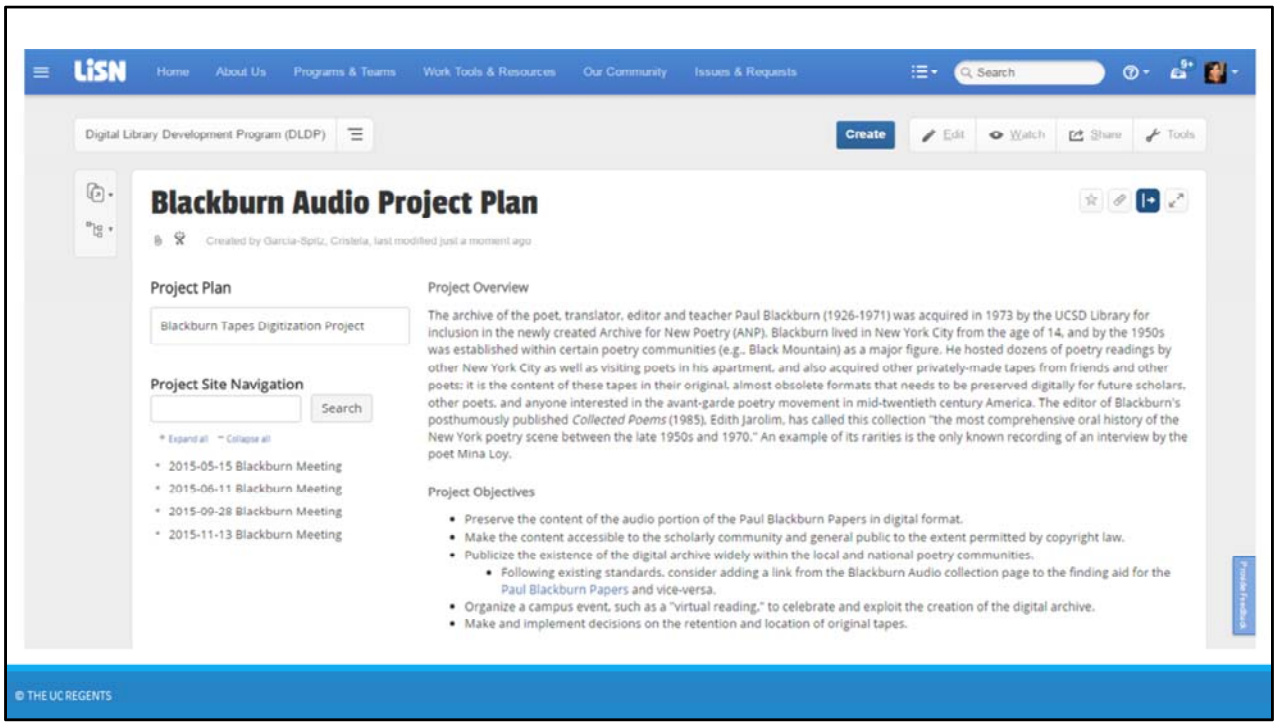

Switch gears – look at specific project, i.e. what we do in practice
Project plan – team, flush out the details
Project Manager = Rob Melton, Curator of the Archive for New Poetry & Dave Kesner, Audio Engineer
Purpose: primarily preservation, added value by making collection available online, but want 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.

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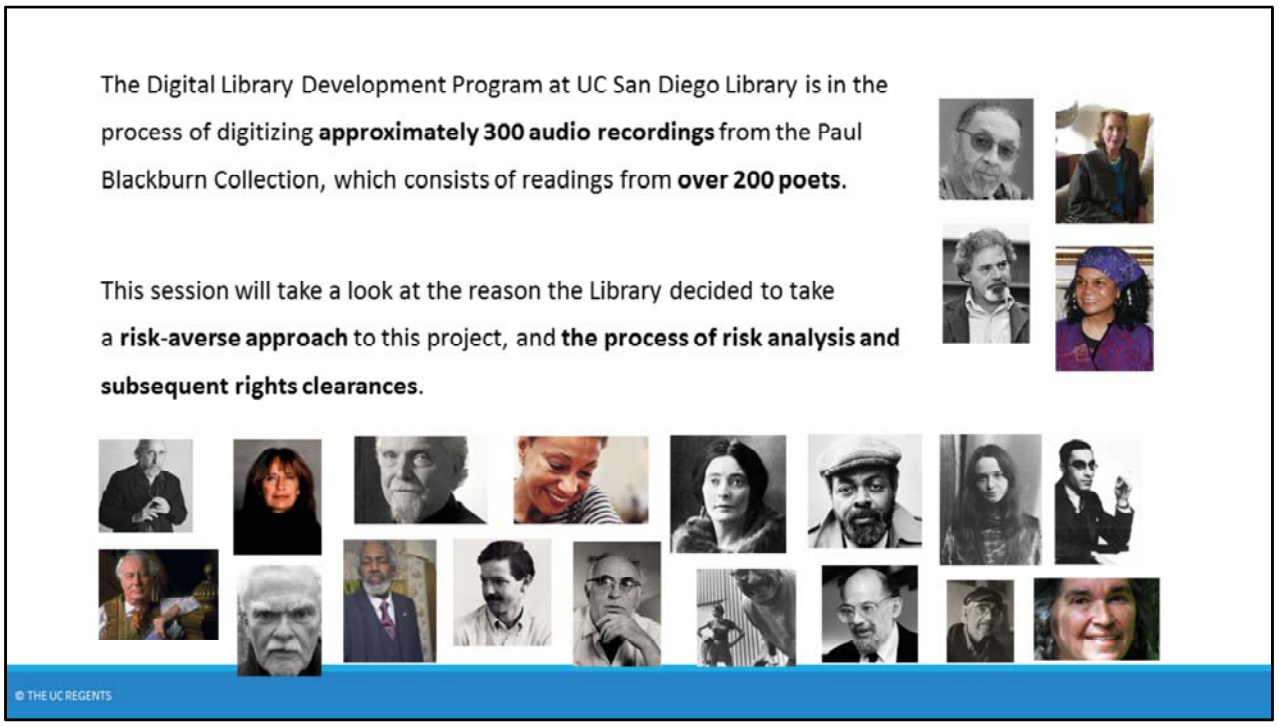
Blackburn – best known as Black Mountain poet (Beat Generation, New York School, Greenwich Village in the 50s-60s), "connector" guy with the recorder at many events and hosted readings in his apartment
Collection acquired as a part of Library's Archive for New Poetry in 1973 shortly after his death
Primarily 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



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)

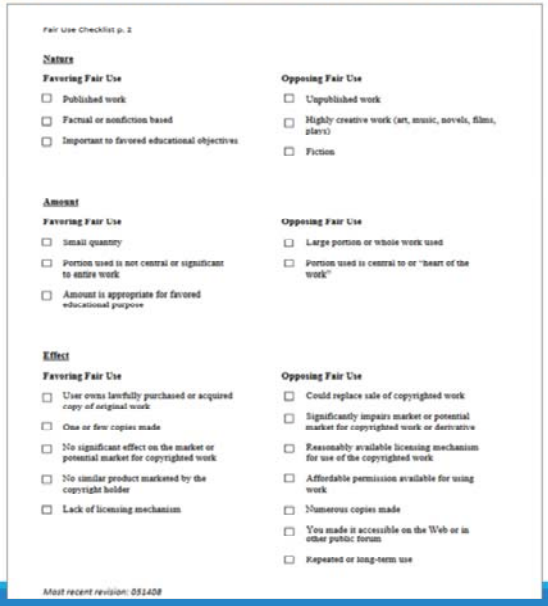
https://copyright.columbia.edu/content/dam/copyright/Precedent%20Docs/fairuse

Fair Use Checklist
Copyright Advisory Office
Columbia University Libraries
Kenneth D. Crews, Director
http://copyright.columbia.edu

Name: _____
Institution: _____
Project: _____
Date: _____
Prepared by: _____

Purpose

Favoring Fair Use	Opposing Fair Use
☐ Teaching (including multiple copies for classroom use)	☐ Commercial activity
☐ Research	☐ Profiting from the use
☐ Scholarship	☐ Entertainment
☐ Nonprofit educational institution	☐ Bad-faith behavior
☐ Criticism	☐ Denying credit to original author
☐ Comment	
☐ News reporting	
☐ Transformative or productive use (changes the work for new utility)	
☐ Restricted access (to students or other appropriate group)	
☐ Parody	



Fair Use Checklist p. 2

Nature

Favoring Fair Use	Opposing Fair Use
☐ Published work	☐ Unpublished work
☐ Factual or nonfiction based	☐ Highly creative work (art, music, novels, films, plays)
☐ Important to favored educational objectives	☐ Fiction

Amount

Favoring Fair Use	Opposing Fair Use
☐ Small quantity	☐ Large portion or whole work used
☐ Portion used is not central or significant to entire work	☐ Portion used is central to or "heart of the work"
☐ Amount is appropriate for favored educational purpose	

Effect

Favoring Fair Use	Opposing Fair Use
☐ User owns lawfully purchased or acquired copy of original work	☐ Could replace sale of copyrighted work
☐ One or few copies made	☐ Significantly impairs market or potential market for copyrighted work or derivative
☐ No significant effect on the market or potential market for copyrighted work	☐ Reasonably available licensing mechanism for use of the copyrighted work
☐ No similar product marketed by the copyright holder	☐ Affordable permission available for using work
☐ Lack of licensing mechanism	☐ Numerous copies made
	☐ You made it accessible on the Web or in other public forum
	☐ Repeated or long-term use

Most recent revision: 051408

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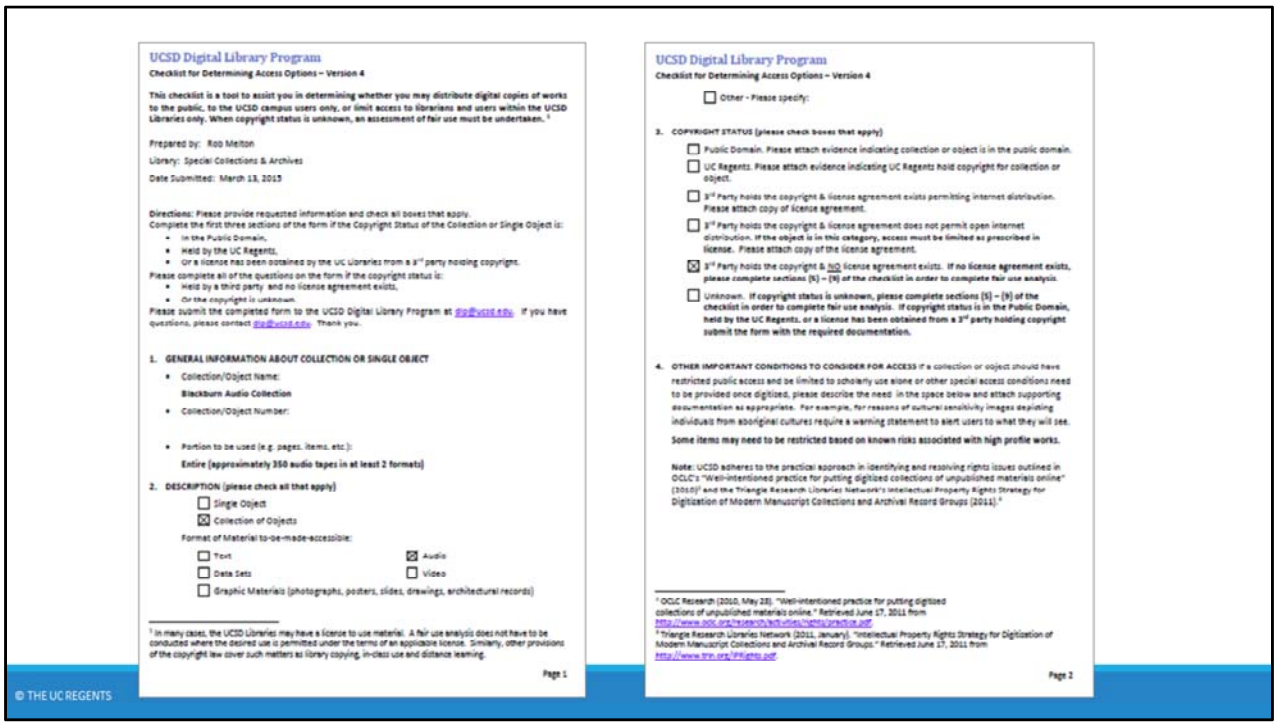

UCSD Digital Library Program

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 librarians and users within the UCSD Libraries only. When copyright status is unknown, an assessment of fair use must be undertaken. [1]

Prepared by: Rob Melton

Library: Special Collections & Archives

Date Submitted: March 13, 2015

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 dlp@ucsd.edu. If you have questions, please contact dlp@ucsd.edu. Thank you.

1. GENERAL INFORMATION ABOUT COLLECTION OR SINGLE OBJECT

- Collection/Object Name:

  Blackburn Audio Collection

- Collection/Object Number:

- Portion to be used (e.g. pages, items, etc.):

  Entire (approximately 350 audio tapes in at least 2 formats)

2. DESCRIPTION (please check all that apply)

☐ Single Object
☒ Collection of Objects

Format of Material to-be-made-accessible:

☐ Text
☐ Data Sets
☐ Graphic Materials (photographs, posters, slides, drawings, architectural records)
☒ Audio
☐ Video

[1] In many cases, the UCSD Libraries may have a license to use material. A fair use analysis does not have to be conducted where the desired use is permitted under the terms of an applicable license. Similarly, other provisions of the copyright law cover such matters as library copying, in-class use and distance learning.

Page 1

UCSD Digital Library Program

Checklist for Determining Access Options – Version 4

☐ Other – Please specify:

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 the 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 (5) – (9) of the checklist in order to complete fair use analysis.
☐ Unknown. If copyright status is unknown, please complete sections (5) – (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, for reasons of cultural sensitivity images depicting individuals from aboriginal 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.

Note: UCSD adheres to the practical approach in identifying and resolving rights issues outlined in OCLC's "Well-intentioned practice for putting digitized collections of unpublished materials online" (2010)[2] and the Triangle Research Libraries Network's Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups (2011).[3]

[2] OCLC Research (2010, May 28). "Well-intentioned practice for putting digitized collections of unpublished materials online." Retrieved June 17, 2011 from http://www.oclc.org/research/activities/rights/practice.pdf.
[3] Triangle Research Libraries Network (2011, January). "Intellectual Property Rights Strategy for Digitization of Modern Manuscript Collections and Archival Record Groups." Retrieved June 17, 2011 from http://www.trln.org/IPRights.pdf.

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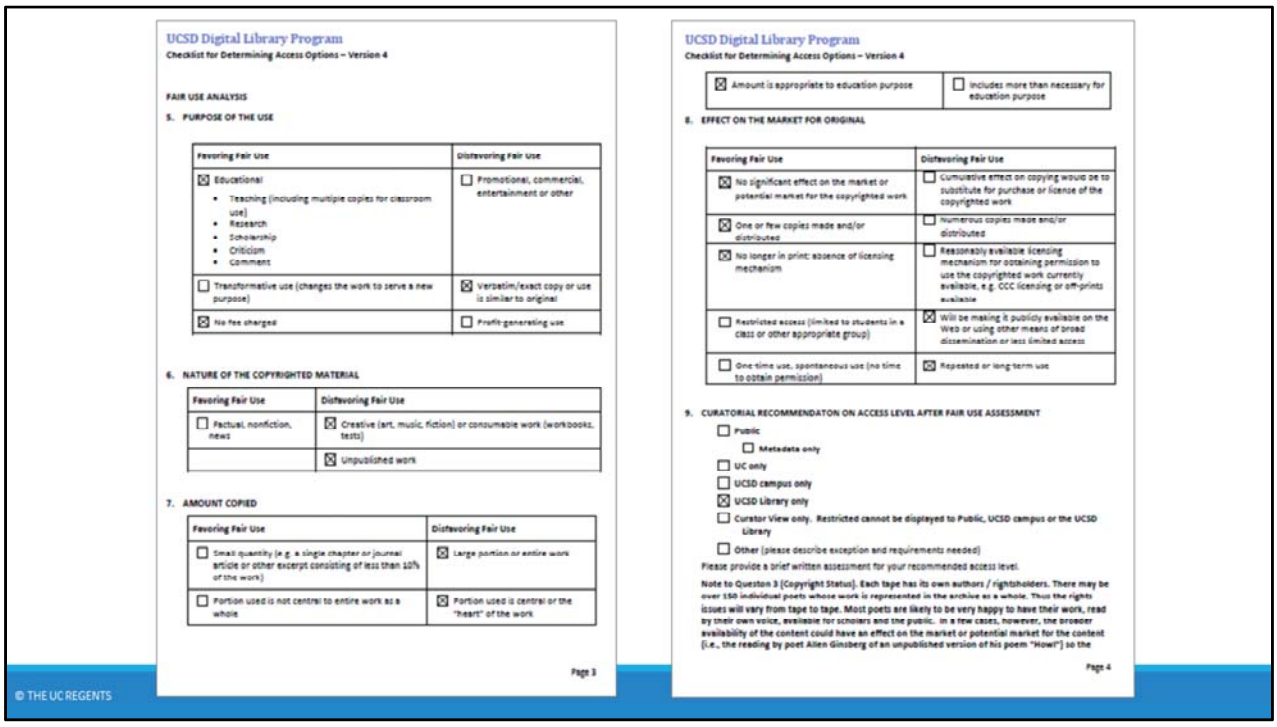

UCSD Digital Library Program

Checklist for Determining Access Options – Version 4

FAIR USE ANALYSIS

5. PURPOSE OF THE USE

Favoring Fair Use	Disfavoring Fair Use
☒ Educational • Teaching (including multiple copies for classroom use) • Research • Scholarship • Criticism • Comment	☐ Promotional, commercial, entertainment or other
☐ Transformative use (changes the work to serve a new purpose)	☒ Verbatim/exact copy or use is similar to original
☒ No fee charged	☐ Profit-generating use

6. NATURE OF THE COPYRIGHTED MATERIAL

Favoring Fair Use	Disfavoring Fair Use
☐ Factual, nonfiction, news	☒ Creative (art, music, fiction) or consumable work (workbooks, tests)
	☒ Unpublished work

7. AMOUNT COPIED

Favoring Fair Use	Disfavoring Fair Use
☐ Small quantity (e.g. a single chapter or journal article or other excerpt consisting of less than 10% of the work)	☒ Large portion or entire work
☐ Portion used is not central to entire work as a whole	☒ Portion used is central or the "heart" of the work

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UCSD Digital Library Program

Checklist for Determining Access Options – Version 4

☒ Amount is appropriate to education purpose	☐ Includes more than necessary for education purpose

8. EFFECT ON THE MARKET FOR ORIGINAL

Favoring Fair Use	Disfavoring Fair Use
☒ No significant effect on the market or potential market for the copyrighted work	☐ Cumulative effect on copying would be to substitute for purchase or license of the copyrighted work
☒ One or few copies made and/or distributed	☐ Numerous copies made and/or distributed
☒ No longer in print: absence of licensing mechanism	☐ Reasonably available licensing mechanism for obtaining permission to use the copyrighted work currently available, e.g. CCC licensing or off-prints available
☐ Restricted access (limited to students in a class or other appropriate group)	☒ Will be making it publicly available on the Web or using other means of broad dissemination or less limited access
☐ One-time use, spontaneous use (no time to obtain permission)	☒ Repeated or long-term use

9. CURATORIAL RECOMMENDATON ON ACCESS LEVEL AFTER FAIR USE ASSESSMENT

- ☐ Public
  - ☐ Metadata only
- ☐ UC only
- ☐ UCSD campus only
- ☒ UCSD Library only
- ☐ Curator View only. Restricted cannot be displayed to Public, UCSD campus or the UCSD Library
- ☐ Other (please describe exception and requirements needed)

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

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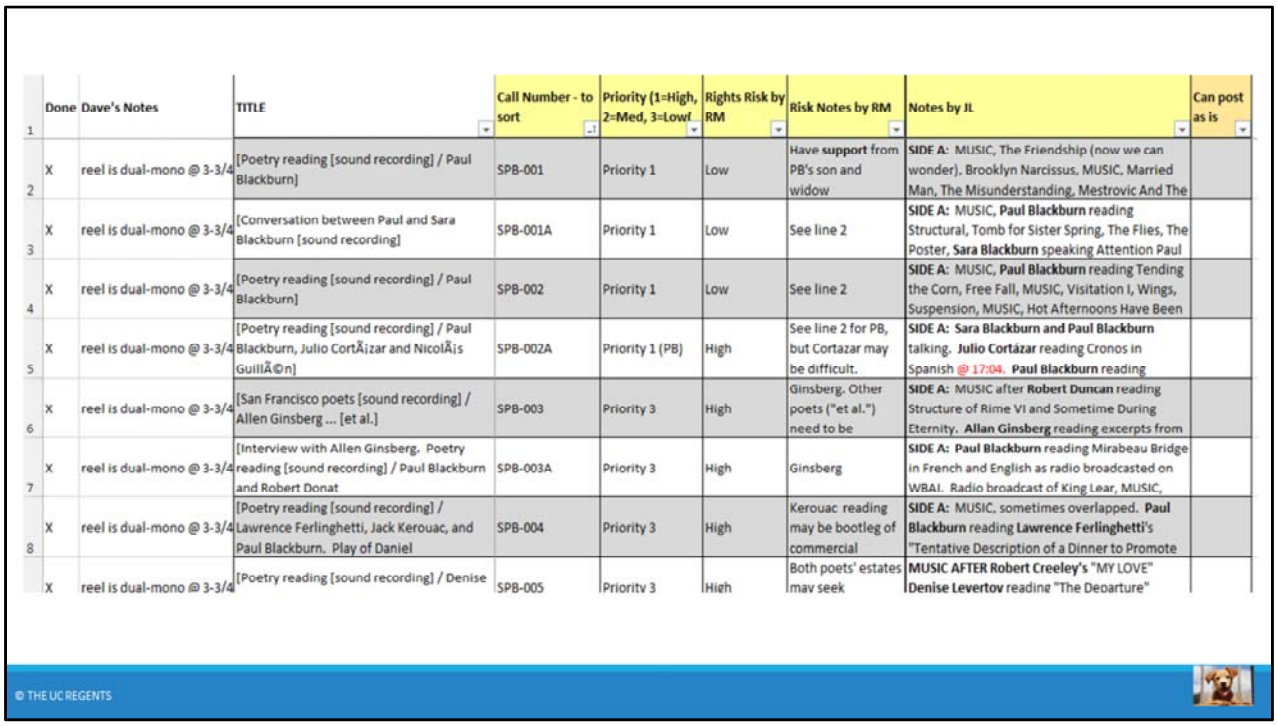

	Done	Dave's Notes	TITLE	Call Number - to sort	Priority (1=High, 2=Med, 3=Low	Rights Risk by RM	Risk Notes by RM	Notes by JL	Can post as is
2	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn]	SPB-001	Priority 1	Low	Have support from PB's son and widow	**SIDE A:** MUSIC, The Friendship (now we can wonder). Brooklyn Narcissus. MUSIC. Married Man, The Misunderstanding, Mestrovic And The	
3	X	reel is dual-mono @ 3-3/4	[Conversation between Paul and Sara Blackburn [sound recording]	SPB-001A	Priority 1	Low	See line 2	**SIDE A:** MUSIC, **Paul Blackburn** reading Structural, Tomb for Sister Spring, The Flies, The Poster, **Sara Blackburn** speaking Attention Paul	
4	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn]	SPB-002	Priority 1	Low	See line 2	**SIDE A:** MUSIC, **Paul Blackburn** reading Tending the Corn, Free Fall, MUSIC, Visitation I, Wings, Suspension, MUSIC, Hot Afternoons Have Been	
5	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Paul Blackburn, Julio CortÃ¡zar and NicolÃ¡s GuillÃ©n]	SPB-002A	Priority 1 (PB)	High	See line 2 for PB, but Cortazar may be difficult.	**SIDE A: Sara Blackburn and Paul Blackburn** talking. **Julio Cortázar** reading Cronos in Spanish @ 17:04. **Paul Blackburn** reading	
6	X	reel is dual-mono @ 3-3/4	[San Francisco poets [sound recording] / Allen Ginsberg ... [et al.]	SPB-003	Priority 3	High	Ginsberg. Other poets ("et al.") need to be	**SIDE A:** MUSIC after **Robert Duncan** reading Structure of Rime VI and Sometime During Eternity. **Allan Ginsberg** reading excerpts from	
7	X	reel is dual-mono @ 3-3/4	[Interview with Allen Ginsberg. Poetry reading [sound recording] / Paul Blackburn and Robert Donat	SPB-003A	Priority 3	High	Ginsberg	**SIDE A: Paul Blackburn** reading Mirabeau Bridge in French and English as radio broadcasted on WBAI. Radio broadcast of King Lear, MUSIC,	
8	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Lawrence Ferlinghetti, Jack Kerouac, and Paul Blackburn. Play of Daniel	SPB-004	Priority 3	High	Kerouac reading may be bootleg of commercial	**SIDE A:** MUSIC, sometimes overlapped. **Paul Blackburn** reading **Lawrence Ferlinghetti**'s "Tentative Description of a Dinner to Promote	
	X	reel is dual-mono @ 3-3/4	[Poetry reading [sound recording] / Denise	SPB-005	Priority 3	High	Both poets' estates may seek	**MUSIC AFTER Robert Creeley's** "MY LOVE" **Denise Levertov** reading "The Departure"	

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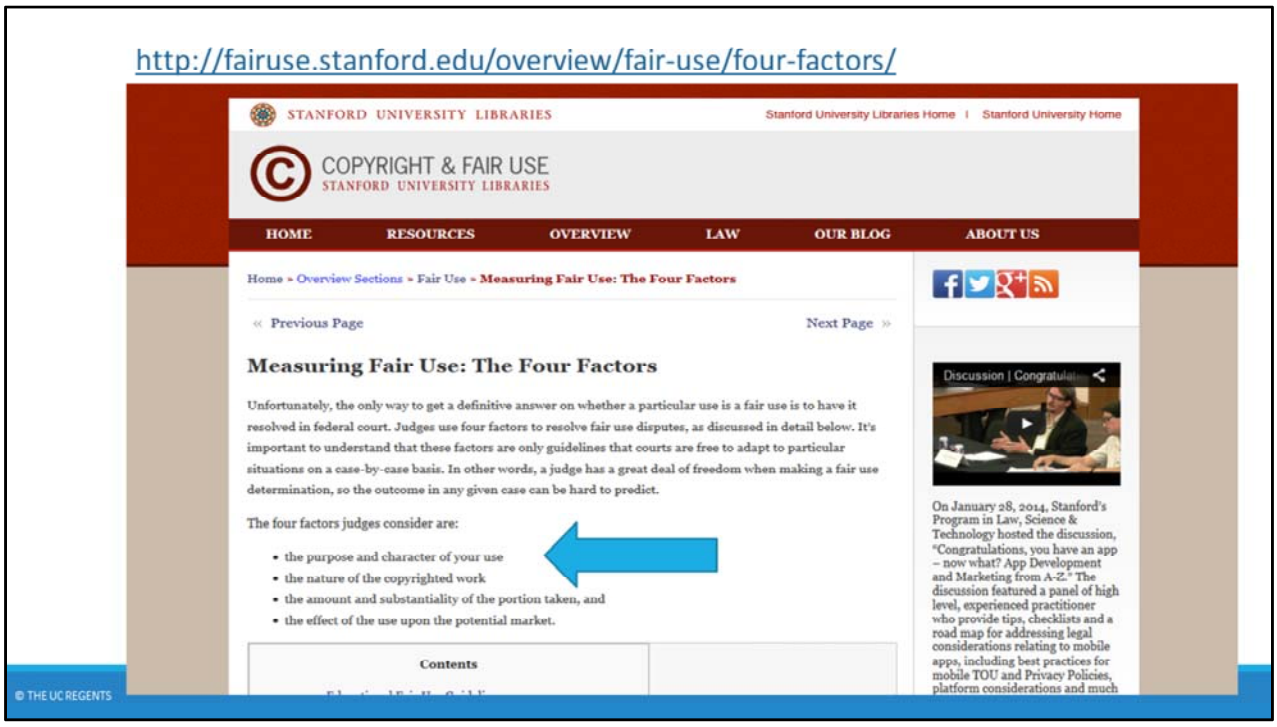
Years back when first acquired collection; graduate student listened to recordings > created MARC records for original reels
Generated Excel spreadsheet from the MARC export
Notes by Audio Engineer: Dave Kesner, Poetry Curator: Rob Melton, and Rights Analyst (collaborative approach)

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 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=JEWnFnTu2Hg)

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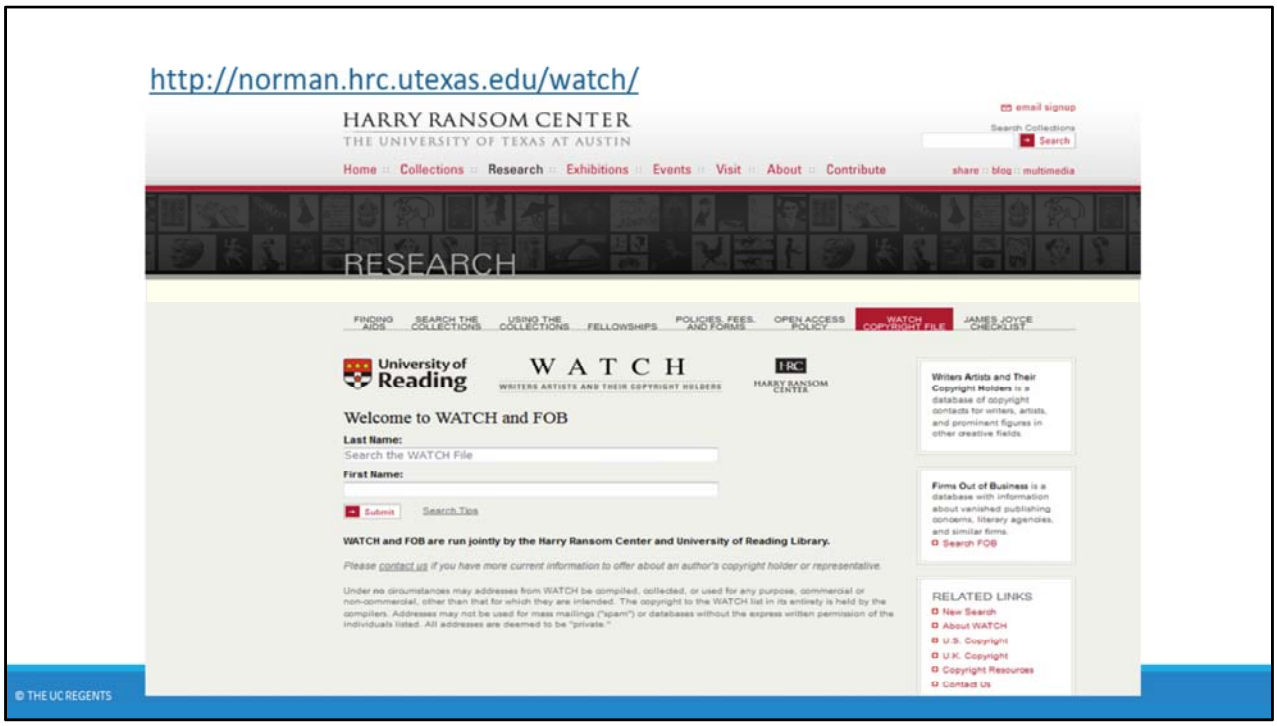
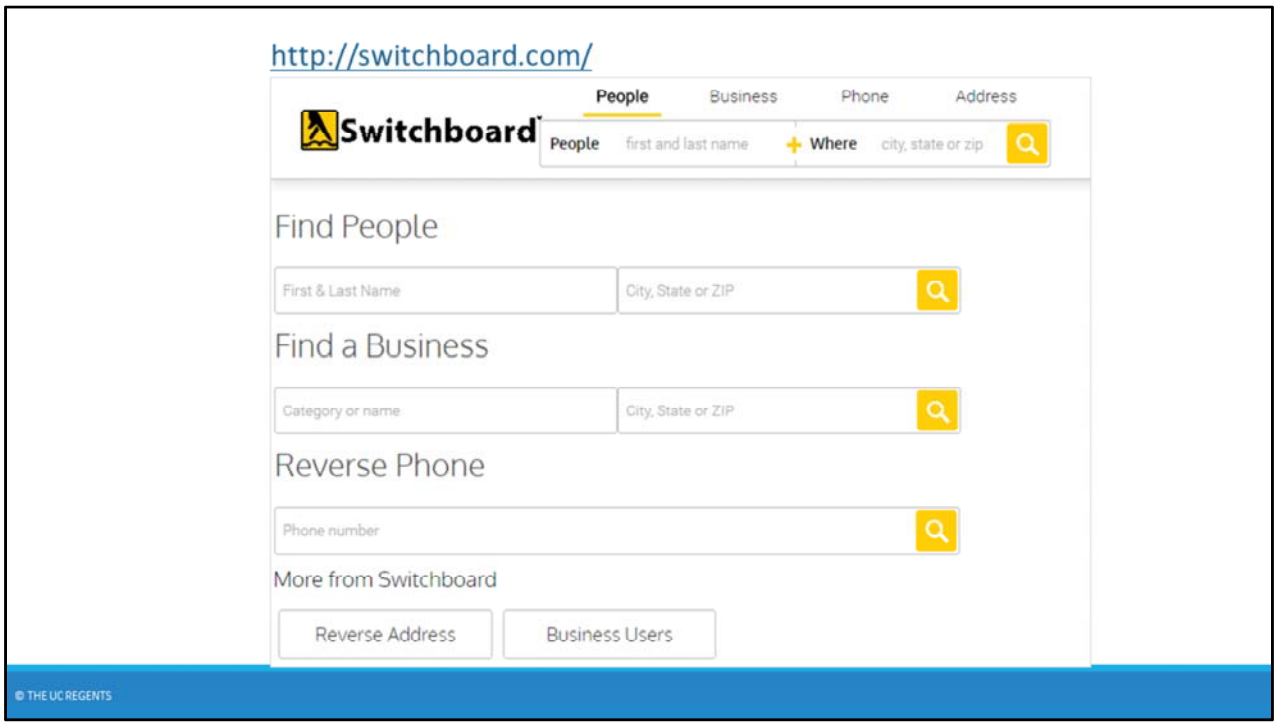
Thought process using four factors
Kevin Smith YouTube – easy, clear way to incorporating assessment in everyday practice

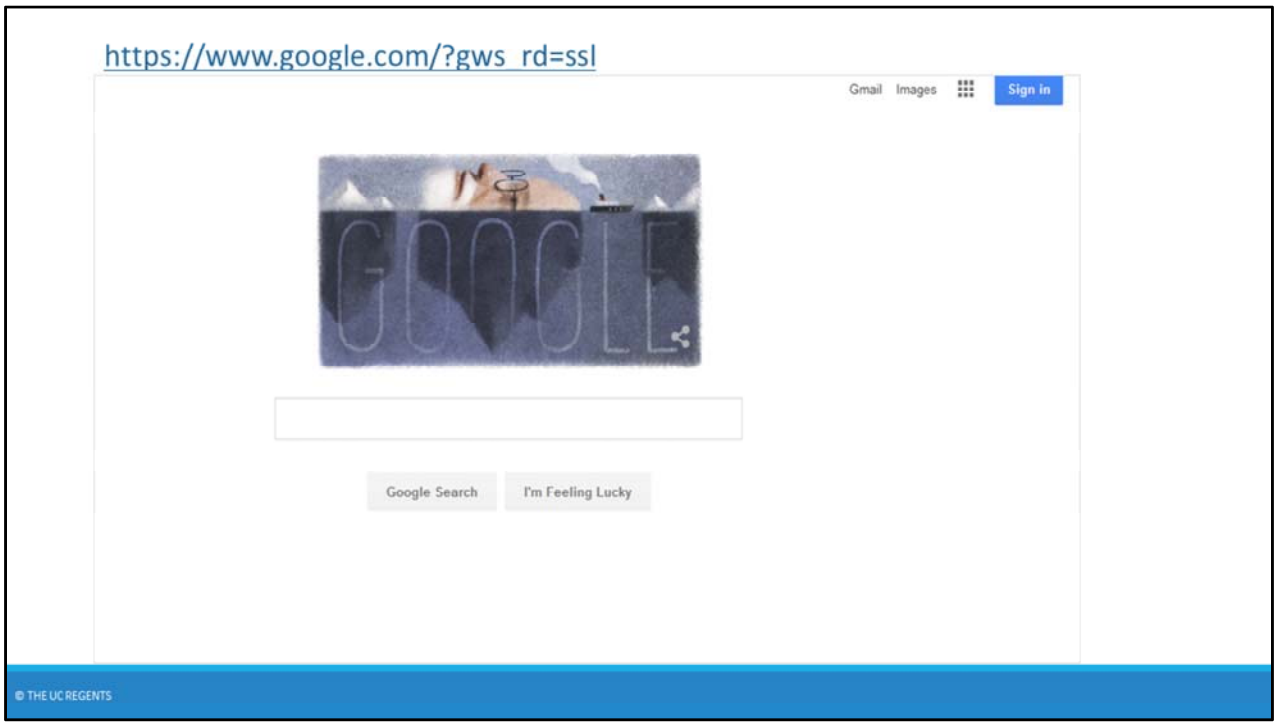


If we need permission, search Watch list – contact information for rights holder or rights administrators, if they have it

Collaboration between Harry Ransom Center and University of Reading, since 1994



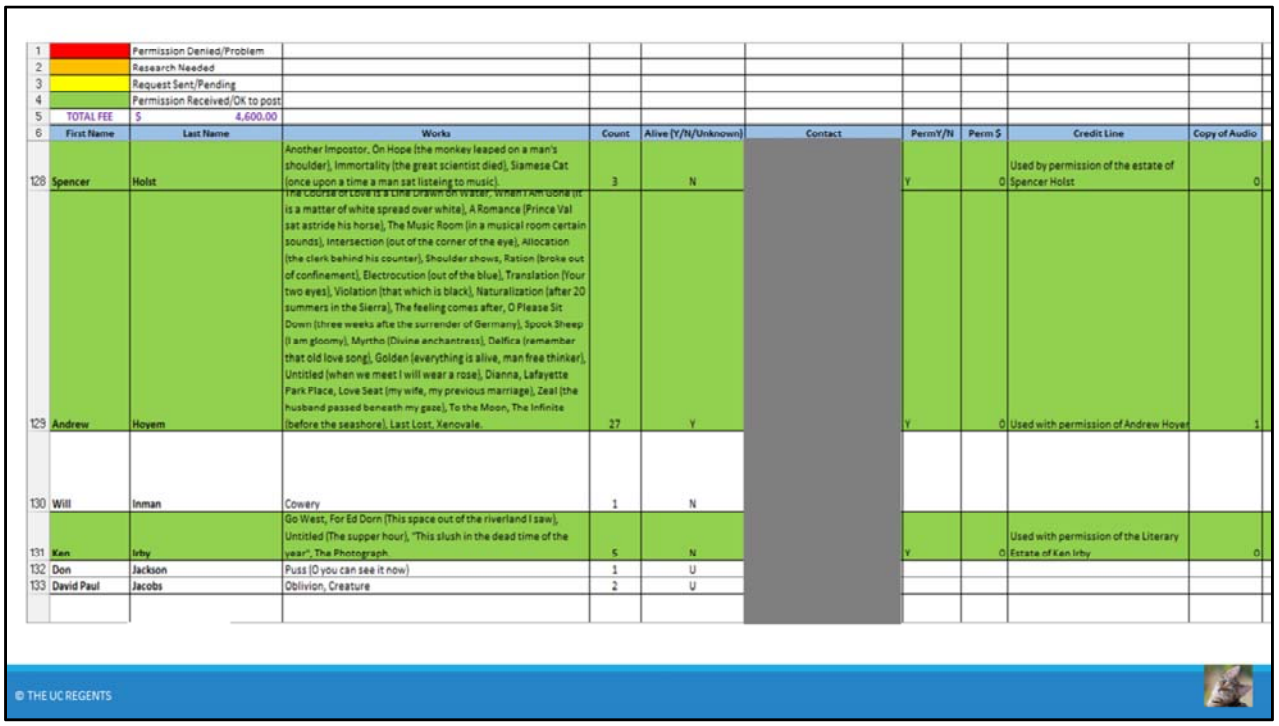
If not, yellow pages! to locate poets



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



1		Permission Denied/Problem									
2		Research Needed									
3		Request Sent/Pending									
4		Permission Received/OK to post									
5	TOTAL FEE	$ 4,600.00									
6	First Name	Last Name	Works	Count	Alive (Y/N/Unknown)	Contact	PermY/N	Perm $	Credit Line	Copy of Audio	
128	Spencer	Holst	Another Impostor, On Hope (the monkey leaped on a man's shoulder), Immortality (the great scientist died), Siamese Cat (once upon a time a man sat listening to music).	3	N		Y	0	Used by permission of the estate of Spencer Holst	0	
129	Andrew	Hoyem	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, Ration (broke out of confinement), Electrocution (out of the blue), Translation (Your two eyes), Violation (that which is black), Naturalization (after 20 summers in the Sierra), The feeling comes after, O Please Sit Down (three weeks afte the surrender of Germany), Spook Sheep (I am gloomy), Myrtho (Divine enchantress), Delfica (remamber 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 seashore), Last Lost, Xenovale.	27	Y		Y	0	Used with permission of Andrew Hoyer	1	
130	Will	Inman	Cowery	1	N						
131	Ken	Irby	Go West, For Ed Dorn (This space out of the riverland I saw), Untitled (The supper hour), "This slush in the dead time of the year", The Photograph	5	N		Y	0	Used with permission of the Literary Estate of Ken Irby	0	
132	Don	Jackson	Puss (O you can see it now)	1	U						
133	David Paul	Jacobs	Oblivion, Creature	2	U						

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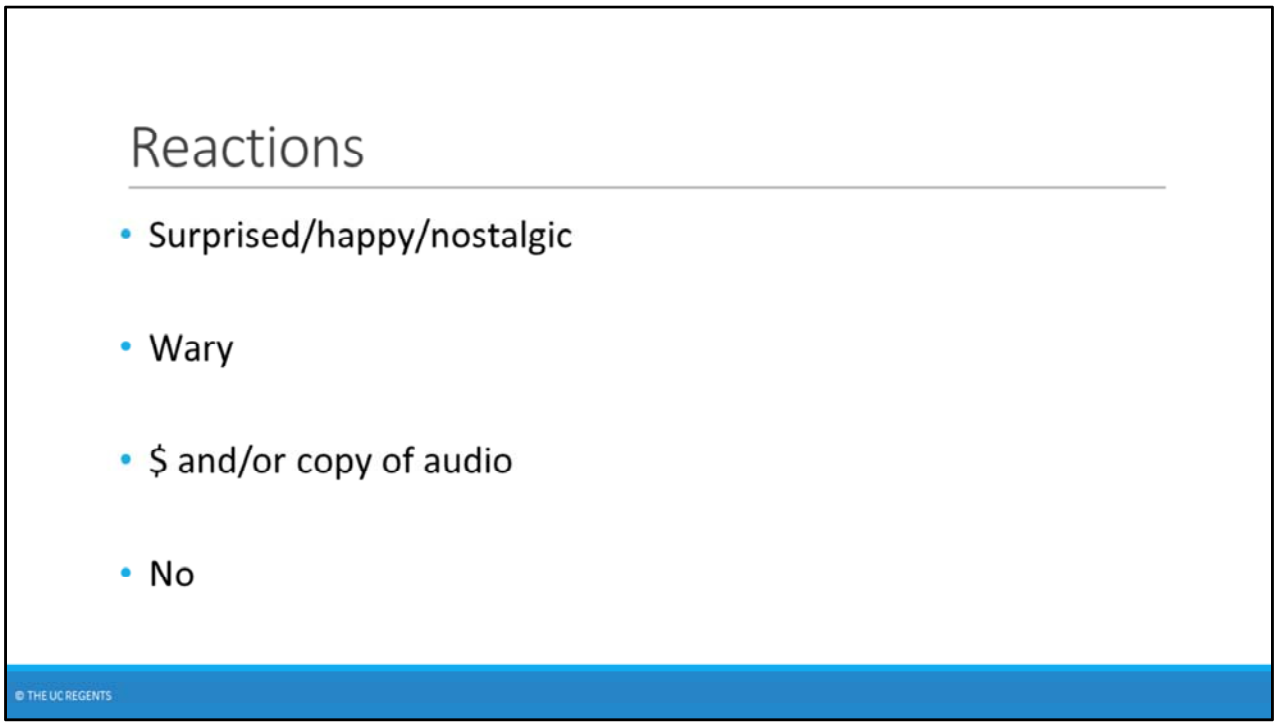
75 fully executed agreements on file.
2 partially executed agreements on file.
ORANGE 28 unidentified poets/reading/recordings (one poet/2 different recordings, web search yielded nothing as far as the identification of the poets)

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



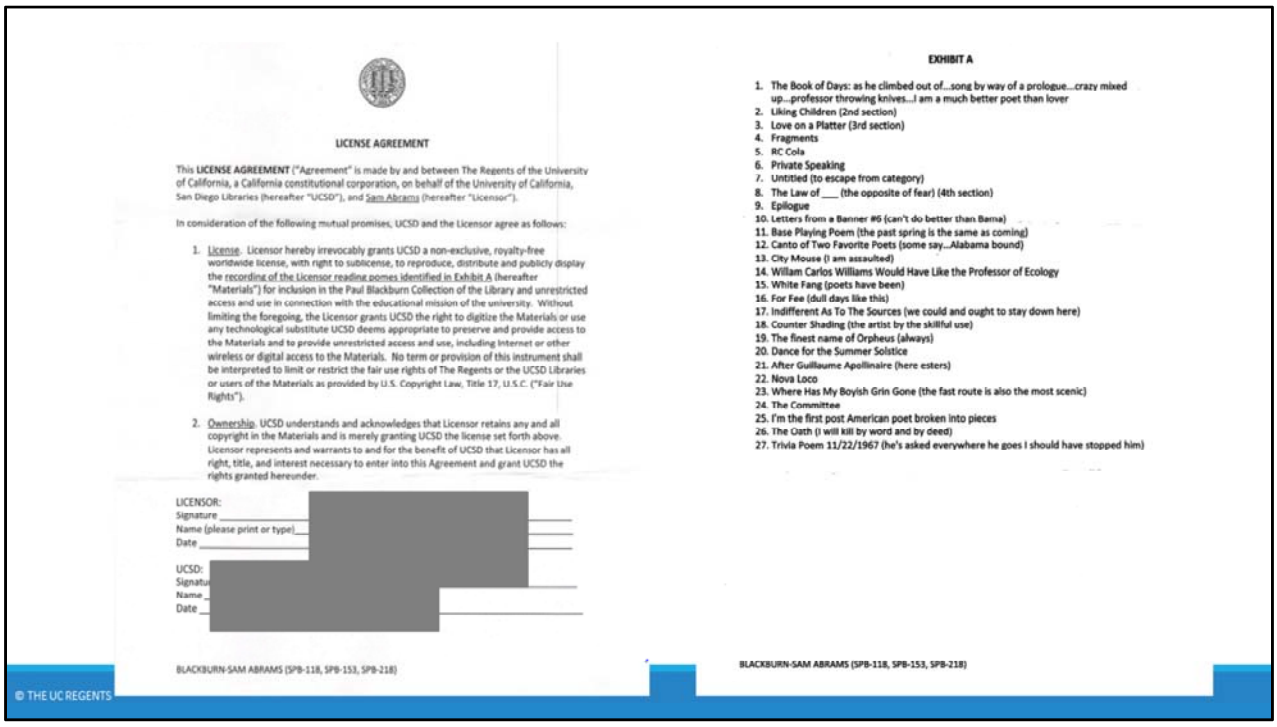
(oh my gosh I haven't thought of those times in YEARS!)
(Yes please!)

(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)



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:

1. License. Licensor hereby irrevocably grants UCSD a non-exclusive, royalty-free worldwide license, with right to sublicense, to reproduce, distribute and publicly display the recording of the Licensor reading pomes identified in Exhibit A (hereafter "Materials") for inclusion in the Paul Blackburn Collection of the Library and unrestricted access and use in connection with the educational mission of the university. Without limiting the foregoing, the Licensor grants UCSD the right to digitize the Materials or use any technological substitute UCSD deems appropriate to preserve and provide access to the Materials and to provide unrestricted access and use, including Internet or other wireless or digital access to the Materials. No term or provision of this instrument shall be interpreted to limit or restrict the fair use rights of The Regents or the UCSD Libraries or users of the Materials as provided by U.S. Copyright Law, Title 17, U.S.C. ("Fair Use Rights").

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LICENSOR:
Signature _____
Name (please print or type) _____
Date _____

UCSD:
Signatu
Name _
Date _

BLACKBURN-SAM ABRAMS (SPB-118, SPB-153, SPB-218)

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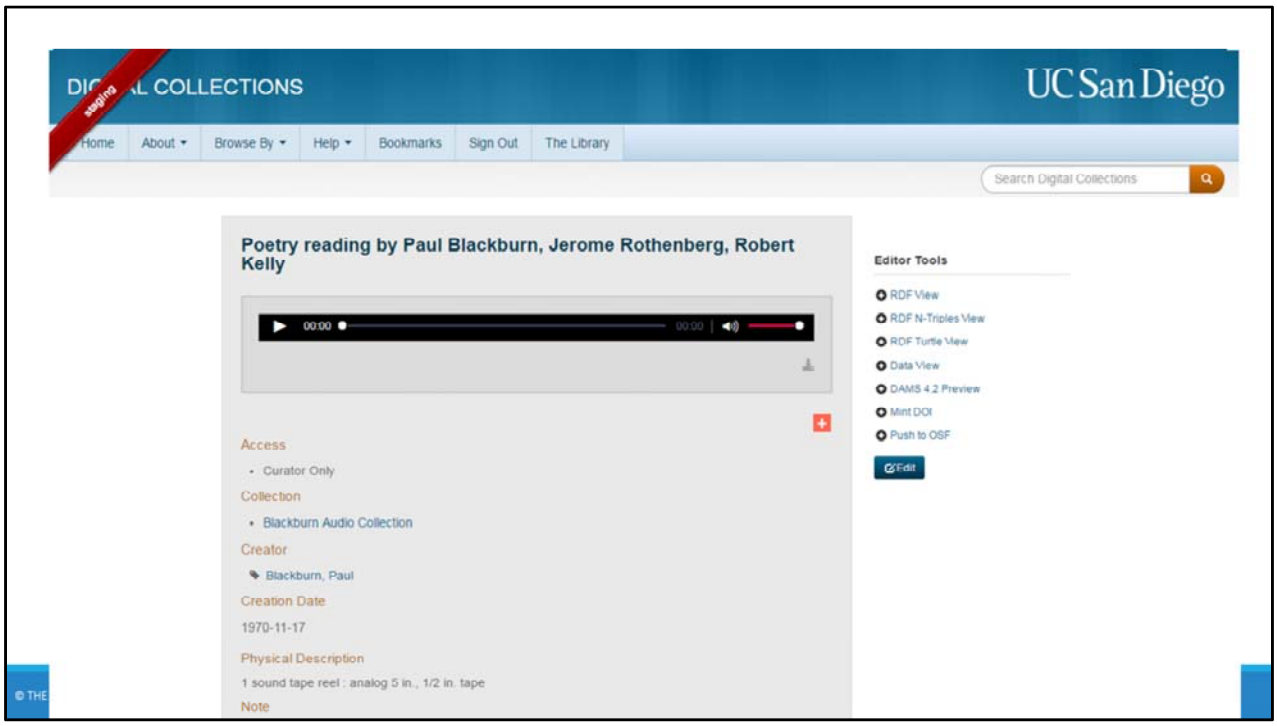
EXHIBIT A

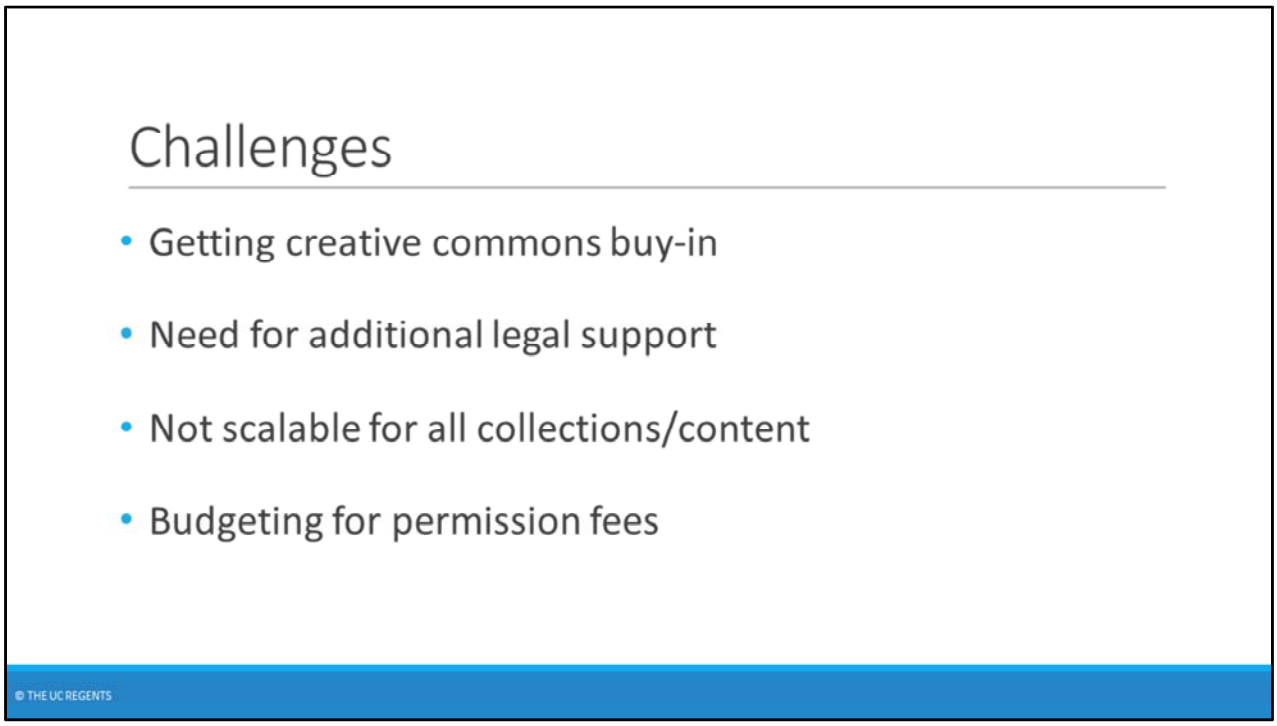
1. The Book of Days: as he climbed out of...song by way of a prologue...crazy mixed up...professor throwing knives...I am a much better poet than lover
2. Liking Children (2nd section)
3. Love on a Platter (3rd section)
4. Fragments
5. RC Cola
6. Private Speaking
7. Untitled (to escape from category)
8. The Law of ___ (the opposite of fear) (4th section)
9. Epilogue
10. Letters from a Banner #6 (can't do better than Barna)
11. Base Playing Poem (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. Willam Carlos Williams Would Have Like the Professor of Ecology
15. White Fang (poets have been)
16. For Fee (dull days like this)
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 (here esters)
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 post 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)

BLACKBURN-SAM ABRAMS (SPB-118, SPB-153, SPB-218)

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

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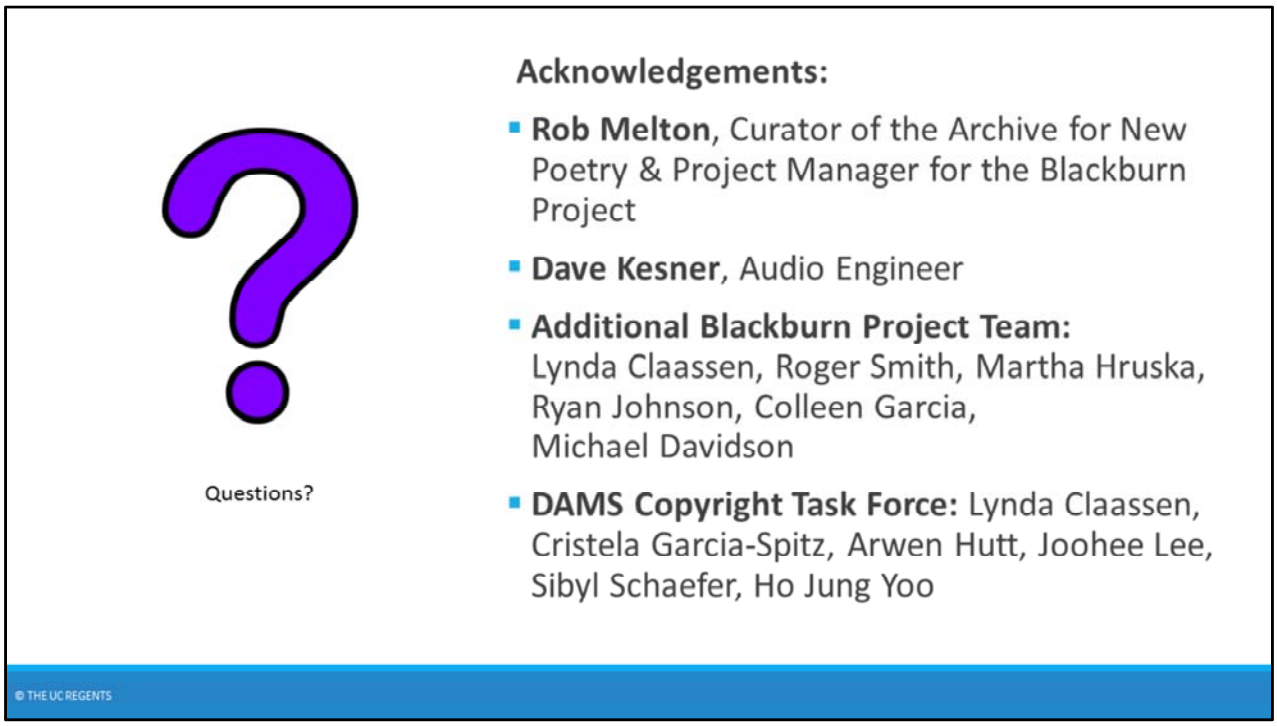
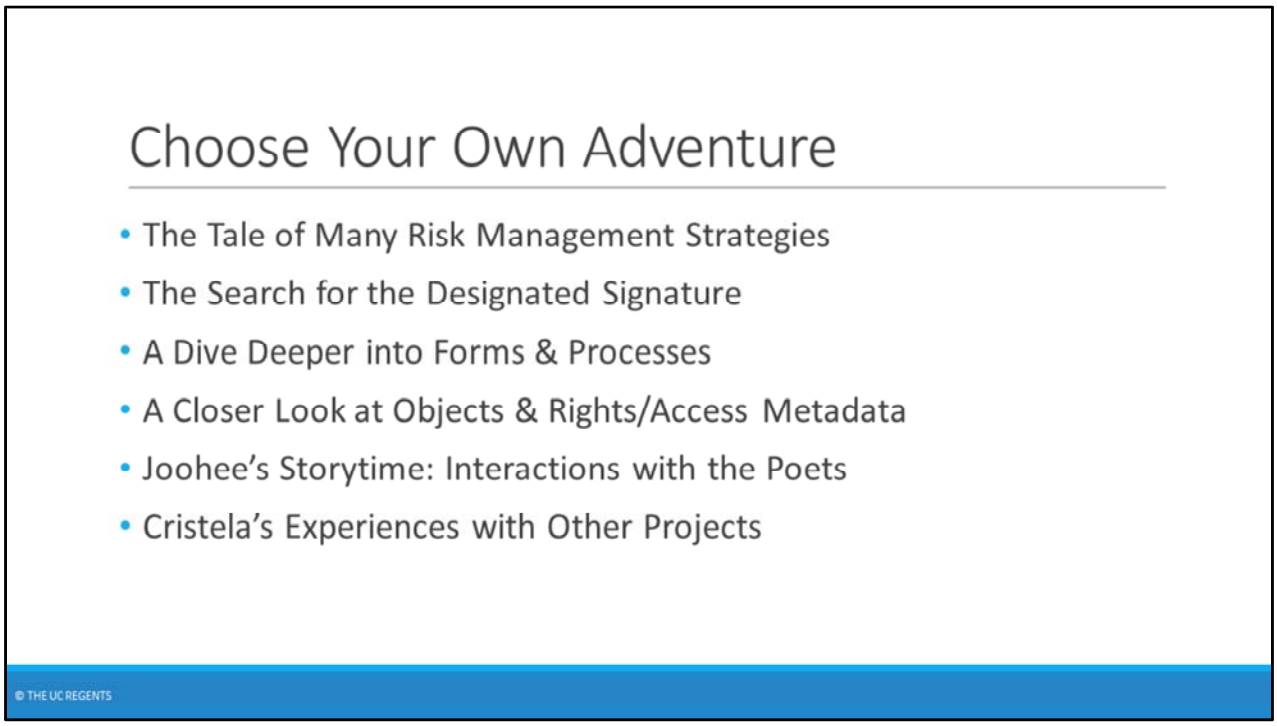


Questions & share your experiences



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