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Obscenity: Andres Serrano Controversy (1989)

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1989

## Obscenity: Andres Serrano Controversy (1989): Report 03

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Initiate the study, however the significant portion of the study is to be placed in fiscal year 1990. Funding the amount of \$90,000 is necessary to ensure that the study process make timely progress toward its 3-year deadline.

Hanford Reach is a 51-mile segment of the Columbia River north of and WA. It provides a crucial nesting site that has contributed significantly to the dramatic increase in salmon runs on the river. It also provides habitat for a diverse range of plants and birds, as well as a variety of ants, including some that have been proposed for protection by State and Federal agencies. The Reach area contains many cultural and burial sites of great significance to the Hanford and Wanapum Indians.

I would urge the chairman to consider a proposal to make available \$90,000 from funds appropriated for the National Flight Interpretive Center, Everett, WA, for this river restoration study. I would now like to yield the floor to my colleague from Washington State, Senator Adams.

ADAMS. I thank the Senator. President, I was involved in the initiation and passage of the authorization legislation for the Hanford Reach. We are discussing, I too strongly believe that \$90,000 be made available from funds appropriated for fiscal year 1990 to the National Park Service, redirected from funds for the National Flight Interpretive Center for the purpose of furthering this river restoration study. The Public Law 101-505 aimed to produce a study that identified and evaluated the outstanding features of the river segment, including fish and wildlife, recreational, natural, historical, cultural values, and examine alternatives for their preservation. The Secretary of the Interior is required to consult with State, local, and tribal governments with respect to the study and provide the public with an opportunity to comment.

The National Park Service not make available to pursue this critical 3-year portion of the study. I am concerned that the study process will not be completed in the third year of a 3-year deadline. To be successful, the study process must include input from many diverse groups with an interest in the Hanford Reach segment of the Columbia River. The process of gathering information, building consensus, and compiling the documentation to select the best long-range action alternative should be a careful and thorough process.

McCLURE. Mr. President, I would like to ask the Senator from Washington to clarify a point. Is it correct that the Senators from Washington are not asking for additional funding of \$90,000 for this study?

GORTON. The Senator from Washington is correct. I appreciate the point raised. This is not a request for additional funding, but rather that the

National Park Service allocate \$90,000 from a project located in Washington State which is funded in this legislation, the National Flight Interpretive Center.

Mr. McCLURE. I thank the Senator from Washington for that clarification. I will assure consideration of this request in House and Senate conference on Interior appropriations.

Mr. BYRD. I have reviewed the item raised by the two Senators from Washington. I agree that the National Park Service should make available \$90,000 for the Comprehensive River Conservation Study of the Hanford Reach. I can assure the Senators that this item will be considered in the conference on the Interior appropriations legislation.

Mr. GORTON. Senator Adams and I thank the chairman and ranking minority member for those assurances and for your assistance in this effort. Their consideration of our request is deeply appreciated.

#### SOUTHEASTERN CENTER FOR CONTEMPORARY ART

Mr. SANFORD. Mr. President, I would like to engage the manager of the bill, the distinguished Senator from West Virginia, in a brief colloquy. I would like to ask the Senator from West Virginia about language in the Interior appropriations bill that refers to the Southeastern Center for Contemporary Art [SECCA]. As I understand it, on page 86, lines 21-24, the bill bars the National Endowment of the Arts from providing direct grants to SECCA for a period of 5 years. Is this the proper reading of the language?

Mr. BYRD. The Senator from North Carolina is correct.

Mr. SANFORD. Is this language intended to punish SECCA for its involvement in the recent controversy over the artwork of Andres Serrano?

Mr. BYRD. That is correct.

Mr. SANFORD. I certainly object to the tasteless artwork of Andres Serrano, and I do not believe that taxpayers' money should be spent on artwork that is offensive to most of us. However, I do not believe that SECCA should be punished for their indirect involvement in the recent controversy. For the record, I would like to clarify this incident to show that SECCA was not directly involved in selecting the work of Andres Serrano and as such does not deserve to be punished for its work in connection with artwork in question.

The Southeastern Center for Contemporary Art was founded in 1956 by a group of local artists and interested citizens. It was established to support and exhibit the works of artists of four States contiguous to North Carolina, and was expanded to its present 11 southeastern States in 1967. Over the years, SECCA has worked to exhibit the Southeast's major artists of exceptional talent and to present education, programs for children and adults. The organization has long been affiliated with one of North Carolina's

most prominent families, the Hanes family of Winston-Salem, whose support of the arts community is legendary.

The National Endowment of the Arts provided a \$75,000 grant to SECCA to help support a program called "Awards in the Visual Arts Program 7." In this program, SECCA convened a jury of 5 art experts to select 10 artists who would then receive fellowships in the amount of \$15,000. The five judges that SECCA selected included Ned Rifkin, chief curator of exhibitions, Hirshhorn Museum and Sculpture Garden, Washington, DC; Thomas Sokolowski, director, Grey Art Gallery and Study Center, New York University, New York, NY; Howard Fox, curator of contemporary art, Los Angeles County Museum of Art, Los Angeles, CA; Dr. Donald Kuspit, critic and professor, New York, NY; and Howardena Pindell, artist and professor, New York, NY. These individuals are all distinguished experts in contemporary art.

The five judges selected Andres Serrano as 1 of 10 artists who would be featured in the Awards in the Visual Arts 7 program. SECCA's only involvement in the selection of Andres Serrano was its selection of five distinguished jurors.

Given these facts, I believe that the language in the bill prohibits the NEA from providing grants to SECCA because SECCA chose five distinguished art critics. It was these judges, not SECCA, who subsequently made what I regard as a bad decision to select Andres Serrano as one of the 10 finalists. Is my interpretation accurate?

Mr. BYRD. The interpretation of the Senator from North Carolina is correct.

Mr. SANFORD. Am I correct that the committee came to the determination, which I support, that the Congress cannot, and should not, substitute its judgment for that of the NEA or its grantees regarding specific works of art? Rather, the committee came to the conclusion that there may be problems with the peer review process and the degree of accountability to which the NEA is held for the work of its grantees.

Mr. BYRD. The Senator from North Carolina is correct.

Mr. SANFORD. I also understand that the committee has provided funds for the National Endowment of the Arts to obtain an outside party to conduct a review of the Endowment's process for providing grants, and I heartily endorse that idea. Is the intent of this appropriation to help the National Endowment of the Arts improve its use of taxpayer dollars and to ensure that adequate accountability exists?

Mr. BYRD. The Senator from North Carolina is correct.

Mr. SANFORD. While this effort to examine the review process and accountability of the NEA is appropri-

ate. I do not believe that SECCA should be censured for its indirect connection to the artwork of Andres Serrano. I hope that in conference the language prohibiting NEA from providing grants to SECCA can be deleted.

Mr. BYRD. I thank Senator SANFORD for this information. The House has no such provision and I will keep an open mind on these concerns when the issue is discussed in conference.

#### LIABILITY INSURANCE FOR INDIAN TRIBES

Mr. INOUE. Mr. President, I have discussed with my colleague, Mr. BYRN, a matter of great importance to tribes maintaining self-determination contracts, that of securing liability insurance or equivalent coverage for Indian tribes or organizations carrying out contracts or agreements pursuant to Public Law 93-638 and Public Law 100-472. We are concerned that the committee bill as reported only extends coverage to Bureau of Indian Affairs (BIA) contract activities under the narrow Federal Tort Claims Act, which provides only limited recovery for wrongful death and personal injury. Not covered are property, vehicular, casualty and other general liability claims. The reported bill also leaves uncovered all activities under Indian Health Service (IHS) contracts or agreements except for medical malpractice claims. In accordance with the provisions of the Self-Determination Act as amended last year in Public Law 100-472, the Federal Government is required to provide this liability coverage.

The administration's fiscal year 1990 budget request contained no provision to fulfill this obligation. Neither the BIA or IHS has stated how much coverage must be obtained and at what cost. There is a critical lack of data upon which to make sound appropriations decisions. To remedy this before the next appropriations cycle, the BIA and IHS should collect liability exposure data on tribal contracting activities to provide the Congress with a cost-benefit and policy analysis of what type of cost-effective coverage should be provided. We recommend that the agencies be allowed to work with Double Eagle Risk Management, Inc., a nonprofit risk management self-insurance pool of contracting tribes with a board of directors representing each of the 12 BIA Service Areas.

Mr. BYRD. Mr. President, I have no objection to this recommendation. We will need to work with our House colleagues in conference to address this vital need of tribal governments.

Mr. INOUE. I thank my distinguished colleague from West Virginia [Mr. BYRD].

#### TRAIL PROJECTS IN COLORADO

Mr. WIRTH. Would the Senator from West Virginia yield to me for the purpose of my engaging him in a colloquy to clear up a matter referred to in the committee report?

Mr. BYRD. I would be pleased to yield to the Senator from Colorado for that purpose.

Mr. WIRTH. I wanted to ask the Senator from West Virginia about the reference in the committee report to funding for the U.S. Forest Service to pursue design and construction of bike trails in Arapahoe National Forest. I believe that the committee's intent was to fund two trail projects in the National Forests in Colorado which the Senator from West Virginia and I have discussed, but I wished to note that one of those projects is a bike trail in the White River National Forest and one a foot trail in the Routt National Forest. Am I correct that those were the projects the committee intended to single out?

Mr. BYRD. Yes, that was the intent of the committee.

Mr. WIRTH. I thank the Senator from West Virginia for this clarification.

#### MULTIPHASE FLOW RESEARCH INSTITUTE

Mr. DIXON. Mr. President, I want to take this opportunity to bring to my colleagues' attention a very important program: The Multiphase Flow Research Institution as conducted through the Midwest universities energy consortium.

Multiphase Flow plays a key role in many major industries, including electric utilities, metals processing, pharmaceuticals, chemicals, and even farming. Yet our technical understanding of Multiphase Flow is seriously limited. If we understood it better, we could, for example, increase the efficiency of powerplants, reduce the danger of explosion in grain elevators, burn coal in an environmentally acceptable manner using fluidized bed technology.

To date, little funding has been made available for this worthy research program: \$400,000 for 1988 and \$300,000 for 1989. These funds, however, were administered through the Pittsburgh Energy Technology Center which also controls the funding of other fossil research programs at Argonne National Laboratory. This has resulted in a decrease in the fossil energy programs of Argonne.

In the House, the 1990 Interior appropriations bill did include funding for university coal research and for solids transport, so the MFRI Program will be a conferenceable item. Let me, therefore, ask my good friend if he will give careful consideration to providing moneys from available funds for the Multiphase Flow Research Institute as conducted through Argonne National Laboratory and the Midwest universities energy consortium when this bill goes to conference.

Mr. BYRD. Let me assure my distinguished colleague from Illinois that when this bill goes to conference, we will, indeed, give every appropriate consideration to providing funds to the Multiphase Flow Research Institute as conducted through the Midwest universities energy consortium.

#### LINCOLN HOME RA

Mr. SIMON. I distinguished floo guy on the Lincoln Historic Site. This area surrounding dent's home. The site has been a pri Park Service over and is of great for Illinois and President, the I tions' bill we are c ludes an increas 1989 levels for ma is crucial to full re toric site. I wish gushed chairman the Interior bill.

The complete re also requires a li for construction c luded in the Ho priations bill. Mr the chairman will ence committee, item so that this l tion of one of heroes and leaders

Mr. BYRD. I t from Illinois for t to my attention.

historic site is inc and must continue the National Park every effort withi budgetary constr House line item tee, so that the Lib al Historic Site can Mr. SIMON. I t of the committee.

#### WATER SYSTEMS

Mr. STEVENS. bill contains an a construction of t Kotzebue, AK, whi lication. Could th subcommittee res on this item?

Language in the refers to a need fo to match the gra 1989 and 1990 fo t chairman of the s for me whether th from non-Federal all moneys which ceived since the Sta year 1986? This a \$2.35 million wi amounts being pr fiscal year 1987, \$1 1988, and \$800,000.

Mr. BYRD. The It is the intent of that all non-Federa Kotzebue as outlin from Alaska be co money to match th long as these funds ed for the project a then they are to intent of the sub total funds durin matched. It is also intent that the fun