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August 10, 2010

Ms. Helen Hankins  
Director, Colorado State Office  
Bureau of Land Management  
2850 Youngfield St.  
Lakewood, CO 80215-7093

Dear Helen,

Following up on our conversation last week, I wanted to elaborate on the reasons for including in the *Over The River* EIS some serious discussion regarding the project's benefits as a major piece of public art. These benefits, while perhaps difficult to quantify, are as central to a fair and balanced evaluation of the project's merits as other benefits such as increased tourism and recreational opportunities.

It is striking to remember that the National Environmental Policy Act (NEPA) itself provides that it is the Federal Government's responsibility to "assure for all Americans safe, healthful, productive, and *esthetically and culturally pleasing surroundings*."<sup>1</sup> In order to do this, NEPA states that the federal Government must "utilize a systematic, interdisciplinary approach which will insure *the integrated use of the natural and social sciences and the environmental design arts in planning and in decision-making* which may have an impact on man's environment."<sup>2</sup>

Because there has never been a federal EIS on a work of public art before, it's no surprise that you have no federal precedent for a discussion of art in the OTR EIS. Many States with "little NEPA's" modeled on federal NEPA have discussed the benefits of art. Also, the Park Service's EIS under NEPA for the Flight 93 National Memorial Site takes positive and negative aesthetic impacts into account.

- The National Park Service's EIS for the Flight 93 National Memorial explicitly evaluates the benefits of the project's aesthetic contributions. In its Environmental Consequences section, the study states that "both positive and negative aesthetic impacts (enhancement as well as degradation) are analyzed and documented" in the study.<sup>3</sup> With respect to the memorial, the study states that "[t]he intent of the Tower is to provide

<sup>1</sup> 42 U.S.C. § 4331(b)(2) (emphasis added).

<sup>2</sup> 42 U.S.C. § 4332(2)(A) (emphasis added).

<sup>3</sup> National Park Service, *Flight 93 National Memorial Final General Management Plan/Environmental Impact Statement, Chapter IV – Environmental Consequences* 40 (2007), available at <http://www.nps.gov/flni/parkmgmt/gmp.htm>.

a landmark for the memorial. Its monolithic form would present a major contrast against the open, rural landscape, and its visual effect would be powerful.”<sup>4</sup> The study concludes that “[w]hile a significant change from the existing landscape, the design enhances the topography and character of the site.”<sup>5</sup>

- The FEIS under the New York State Environmental Quality Review Act for the expansion of a performing arts center explicitly assesses the artistic and cultural importance of the proposed building. Under its *Purpose, Needs, and Benefits* section, the FEIS notes that “[t]he intended use of the Finger Lakes Performing Arts Center has been and will continue to be a cultural and civic resource to its surrounding counties and communities.”<sup>6</sup> Later the FEIS states “[t]he venue provides valuable cultural experiences to the region.”<sup>7</sup>
- A state environmental review of the renovation of Washington Park in New York City likewise discusses the social and cultural importance of both the park and its renovations. It notes, for example, that “the Park’s multiple social and artistic activities create their own distinctive brand of creative noise, generated from the public’s many planned and spontaneous performances and artistic expressions.”<sup>8</sup> The study discusses that the new design will retain these features because it “promotes passive enjoyment, user experience, social interaction, and artistic inspiration.”<sup>9</sup>
- The Federal Transportation Administration considered aesthetics in the FEIS for the proposed reconstruction of Doyle Drive near the Golden Gate Bridge. In the Purpose and Need statement, the study identifies preserving the “natural, cultural, scenic and recreational values of affected portions of the Presidio, a national historic landmark district.”<sup>10</sup> In evaluating the aesthetic impact of the preferred alternative, the study compares the alternatives in terms of their impact on drivers’ visual enjoyment as they pass by the site of the proposed project.<sup>11</sup>

As with the above projects, *Over The River’s* important artistic and aesthetic features dictate that such factors be explicitly considered in its EIS. In a sense, the OTR DEIS implicitly acknowledges this, by concluding in Appendix C, the Visitation Projections Report, that if the artists’ proposed project is rejected and some shorter alternative chosen, fewer visitors will attend and artistic value will be compromised. I’m suggesting that all of the artistic and aesthetic benefits be explicitly addressed.

I’d like to take this opportunity to correct a fact on which there may be some misunderstanding. You mentioned that the steel anchors to be used for the OTR project would be left behind after the exhibition, creating an adverse effect that weighed against attributing benefits to the art

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<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 43.

<sup>6</sup> Ontario County, New York, Final Environmental Impact Statement 27 (2005), available at <http://www.co.ontario.ny.us/planning/acrobat/rfp/feis/FEISv1Part1.pdf>.

<sup>7</sup> *Id.* at 67, available at <http://www.co.ontario.ny.us/planning/acrobat/rfp/feis/FEISv1Part2.pdf>.

<sup>8</sup> City of New York, Department of Parks and Recreation, *Environmental Assessment Statement*, Attachment A, Description of Proposed Action 27 (2006), available at [http://www.nycgovparks.org/download/download.php?downloadFile=WSP\\_EAS/environmental\\_assessment.pdf](http://www.nycgovparks.org/download/download.php?downloadFile=WSP_EAS/environmental_assessment.pdf).

<sup>9</sup> *Id.* at 28.

<sup>10</sup> San Francisco Transportation Authority & Federal Transportation Administration, *South Access to the Golden Gate Bridge – Doyle Drive FEIS/R - Executive Summary* ii (2008), available at [http://www.presidioparkway.org/project\\_docs/feis.aspx](http://www.presidioparkway.org/project_docs/feis.aspx).

<sup>11</sup> *Id.* ch. 3 at 118-122.

work. I'm advised by the project engineer that the anchors will be removed so that nothing remains above the surface whatsoever. Sections 4.12.2.3(b) and 2.4.1.1-2 of the DEIS acknowledge this. Below ground surface, a portion of the anchors will remain, as the DEIS also acknowledges.

Christo is an acclaimed leader in the fields of "public art" and "environmental art", and the recipient of numerous prestigious prizes, awards, resolutions, and honorary degrees for his works over the past decades. I mention this not to boast about his achievements but rather to convey to you the profound impact his work has had throughout the world and amongst many different circles. It seems fitting to me that a world-renowned innovator in the contemporary fields of environmental art and public art should display his work on the federal public lands.

*Over The River* perfectly reflects the type of artistic, social, and cultural engagement that public art seeks to create. Public art such as *Over the River* is by definition meant to provoke reaction by engaging the public outside the framework of a traditional artistic exhibition – outside of the four walls of a museum, and outside of the four corners of a painting.

The economic benefit to the community through increased publicity and tourism is unquestioned. But this does not begin to capture the social, cultural, and historical benefits of the project. *Over The River* will challenge visitors to appreciate the valley's grandeur as an integral piece of the project. Rather than speeding through the Arkansas River Valley on the way to their destination, travelers will visit the valley as a destination itself. Visitors will be able to share the profound and uplifting sense of freedom of expression and community engagement that Christo's art is well known for.

Similarly, the project invites exciting educational opportunities and benefits. As the artists did with The Gates project in Central Park, they will make available OTR-related curriculum supplements and educational materials for schools at all grade levels. Many school-age students within a day's drive will likely travel as part of school trips to see the project, and be given the opportunity to witness a historical work of art as well as connect with the local landscape in a way they otherwise would not. Finally, the historical and cultural impact of such a project will transform perception of the valley for future generations. Such potential for positive impact should surely be considered as part of this project's evaluation.

The process of creating public art, including planning, permitting, negotiations, installation, exhibition, and removal of a work, is central to the piece itself. This process forces communities to engage with the art in ways that traditional means of art exhibition cannot. As one expert put it, "[n]o artist in American history has more effectively brought about this kind of constructive debate through art than [ ] Christo and Jeanne-Claude."<sup>12</sup> The results create rich opportunities for public participation and community involvement, educational activities, historical reflection, and a newfound appreciation for the surrounding environment and physical landscape.

Ultimately, as with tourism and recreation, the general public is the final beneficiary of public art.

In sum, in order to properly evaluate the costs and benefits of *Over The River*, a thoughtful, serious discussion of the aesthetic, cultural, social, and historical benefits derived from its character as public art should be included in the project's EIS. NEPA's language and common practices indicate that the work's benefits should be discussed.

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<sup>12</sup> Letter from Jonathan Fineberg, Gutgsell Professor of Art History and Director of Phillips Center for the study of Modern Art in Illinois, concerning Christo's *Over the River* project, (Nov. 12, 2006).

I appreciate your time and energy on this effort. I hope my comments have adequately conveyed my position with respect to the important benefits derived from *Over The River's* status as public art. Please call if you have any questions or would like to discuss my points further.

I hope if you or your staff have any questions you will feel free to call or email me. I am writing this letter in support of Christo because he and his late wife Jeanne Claude changed my view of art. Put another way, they took a boy from Utah, Montana and Wyoming and allowed him to see a more complex, yet beautiful world. the OTR will have the same impact on untold thousands.

Sincerely,

A handwritten signature in black ink that reads "Patrick Shea". The signature is written in a cursive, slightly slanted style.

Patrick A. Shea  
Former National Director, Bureau of Land Management  
Department of Interior

cc: Christo  
Lori Potter  
Robert Abbey