**Whose story should be told? Representations of Native Americans in Public Art**

By

Barbara Leigh Smith[[1]](#footnote-1)

***Abstract*:** *This case tells the story of controversial murals in a prominent federal building in the historic Federal Triangle district in Washington D.C. American Indian employees who work in the building, which is now headquarters of the Environmental Protection Agency, want the murals removed, saying they perpetuate inaccurate and demeaning stereotypes of Native Americans and create a hostile work environment. The mural dispute raises issues about the connections between government and the arts and difficult questions about leadership, public policy, stereotypes, historical integrity, civil rights, and cultural politics. These conflicts illustrate important issues of rights vs interests and the relationship between Native concerns and the so-called “national good.”*

On March 16, 2005, the General Services Administration (GSA) announced that it was initiating the 106 review process under the National Historic Preservation Act (NHPA) to determine whether the present location of six controversial murals was the “most appropriate way to display them, given the nature of their content” (U.S. GSA, November 2005). They said this review process would allow all interested parties to present their views. The GSA announcement came after many years of unresolved conflict.

The six works at the center of the controversy were produced in the early 1930s as a central feature of a newly constructed building, the New Post Office, which is now part of the Federal Triangle Historic District and the Pennsylvania Avenue National Historic Site in Washington, D. C. (National Park Service). The new building was part of the 1901 Millan Plan, the first federally funded urban redevelopment plan. When Congress passed the Public Buildings Act in 1926, major construction began of new buildings in the Federal Triangle and in the larger inner city core. Ten buildings now comprise the Federal Triangle. The New Post Office building was intended to be a central feature of the Federal Triangle, which would be a unified set of buildings on a 70 acre site between the White House and the Capital (National Park Service). The design was inspired by the Place Vendome in Paris and was expected to revitalize one of the city’s most blighted neighborhoods, then known as Murder Bay (Wikipedia, *William Jefferson Clinton Federal Building*). The New Post Office was an eight-story monumental building built in the Classical Revival architectural style. (See Picture #1 below). Two spectacular seven-story spiral marble staircases are central features of the building. The contested murals are in the lobbies on the fifth and seventh floors directly off the staircase.



Picture 1 *EPA Headquarters in Washington D.C. (also known as New Post Office, Ariel Rios Building, and*

*now the William Jefferson Clinton Building)*

The federal art programs operated under a number of different names and ran from approximately 1934 to 1943. They began at a time when 25% of the workforce was unemployed. George Biddle, an artist and friend of President Franklin Roosevelt, suggested that the United States establish an art program similar to the fresco revival that was taking place in Mexico, where the history of Mexico and the social ideals of the Revolution were being painted on government buildings by talented artists working at minimal wages. Biddle said,

The younger artists of America would be very eager to express these ideals in a permanent art form if they were given the government’s cooperation. They would be contributing to and expressing in living monuments the social ideals that you are struggling to achieve. And, I am convinced that our mural art with a little impetus can soon result, for the first time in our history, in a vital national expression. (Motian-Meadows and Garnsey, 47-48)

The New Post Office was one of the first locations integrating art in new federal buildings as part of the New Deal Era federal art programs. The murals were created under the Treasury Department’s Section of Painting and Sculpture, an art commissioning program. In 1935, the first National Project was announced to “embellish the building with ‘Romantic Subject Matter in History of Post’ for an expenditure of $95,128” (GSA, Brochure: *Murals at Ariel Rios Federal Building 1935-2006*). More than 1,000 artworks were produced and placed in post offices throughout the United States. Art is an integral part of the New Post Office Building, with 25 murals depicting the country’s postal heritage.[[2]](#footnote-2)

The building was renamed the “Ariel Rios Building” in 1985 to honor a fallen agent of the ATF, the Bureau of Alcohol, Tobacco and Firearms (Wikipedia, Ariel Rios). The Environmental Protection Agency (EPA) made the Ariel Rios Building its headquarters after the U.S. Post Office vacated the building. In July 2013, the building was again renamed the “William Jefferson Clinton Building” to honor the 42nd president” [[3]](#footnote-3) (Wikipedia, William Jefferson Clinton Federal Building).

The General Services Administration (GSA) is responsible for the Ariel Rios Building and all federal buildings, including the artwork. The Fine Arts Collection of the GSA includes more than 17,000 works dating back to the 1850’s. Many of these works are on long term loan to museums. When the National Historic Preservation Act (NHPA) was enacted in 1966, all of the Federal Triangle buildings became historic properties protected under the Act’s new preservation rules and procedures. The National Historic Preservation Act was created to preserve historical and archaeological sites in the United States. It requires all federal agencies to assess the impact of permitted projects on historic properties through a process called the Section 106 Review. The National Register of Historic Places, under the National Park Service, holds the official listing of all historic properties.

**The Controversial Murals and the Artist**

While much of the public artwork produced during the 1930’s and 40’s was viewed mainly as a means to increase employment, some of the artwork, including the works in the Ariel Rios Building, was chosen on the basis of merit through a competitive commissioning process. Frank Mechau, Jr. (1904-1946) was one of the artists awarded a commission. Two of the contested works were painted by him.

Mechau was a noted Colorado Western artist who was educated at Denver University and the Art Institute of Chicago and did extensive study in Europe. He received three prestigious Guggenheim Fellowships and taught at the Colorado Spring Fine Arts Center and was Chair of the Art Department at Columbia University. His many works are found in a number of federal buildings in Washington, D.C. and in many public and private collections as well as the Metropolitan Museum, the Denver Art Museum the Denver Public Library, and the Colorado Springs Fine Arts Center (GSA. Ariel Rios Library description of murals and artists).

Six of the murals have been the focus of the current conflict:

* Frank A. Mechau’s *Dangers of the Mail* depicts a massacre scene where American Indian men, having overturned a stage coach, are scalping nude white women and murdering white men.
* Frank A. Mechau’s *Pony Express* depicts American Indians as thieves, including violent images of assault, killing, raiding and stealing.
* Ward Lockwood’s *Opening of the Southwest* and *Consolidation of the West* illustrates an ‘uncivilized’ American Indian eating a snake, and another American Indian male, in only a loin cloth, lying on the floor in defeat. The white colonists look to the west in hope and reverence. These two murals were painted directly on the wall.
* William C. Palmer’s *Covered Wagon Attacked by Indians:* A group of American Indians on horseback are attacking a family of white settlers huddled around a covered wagon. The American Indians are wielding tomahawks and the white men are armed with guns. Inaccurately, the painting shows a chief attacking the wagon, as well; although chiefs typically gave orders, they did not actively fight.
* Karl Free’s *French Explorers and Indians* depicts passivity and submission toward the French explorers. American Indian men are naked or wearing only a loin cloth, and the American Indian women are bare-breasted.

(GSA, Ariel Rios Library, Mural Descriptions and Artist biographies)

Most of complaints came to focus on the murals by Frank Mechau and Ward Lockwood, and as the controversy evolved, *Dangers of the Mail* became the primary issue. (See Picture #2 below). This massive 13 feet high and 20 feet wide mural was controversial from the time it was first installed, with early complaints centering on nudity. The *Washington Post* and *Time Magazine* both covered the early disputes in the 1930s. The *Post* reported that gasping employees rushed to see it, and while some admired it, others were offended…The headline over the *Post* photograph summed up Mechau’s response: “It’s history” (Shen, 2000). A newspaper that later ran a story on the issue provocatively responded, titling its story “*Mural Dilemma: Historic? Historically inaccurate? Or downright discriminatory?”* (Shott, 2005)

Indian employees at the EPA began complaining about the murals shortly after the Agency moved into the building. The EPA has a number of programs specifically focused on tribes and a relatively large number of American Indian employees. Meetings between tribes and EPA officials often brought the murals to the attention of the visitors, an embarrassment to some EPA employees. At first, attempts were made to settle the issues internally. Responding to the ongoing disquiet over the issue, in 2000, EPA Administrator Carol Browner ordered the paintings be covered and said this was a temporary solution “until we are able to reach our ultimate goal of removing them from public view” (Shott, 2005).



Some felt covering them set a bad precedent. EPA attorney Dana Ott was quoted as saying that the paintings should not be removed simply because they depict “inconvenient” historical facts. “It’s hypersensitivity,” he said…”not a solution to start covering up art. It’s Orwellian. He was so angry after he saw one of the covered-up murals one night that he rolled away the temporary display to expose it again…and people were cheering me on” (Shen, 2000).

In 2001, EPA employee Robert Smith (Oneida) was asked by the EPA Office of Civil Rights and the EPA American Indian Advisory Committee to do research and prepare a report for former administrator Michael Leavitt on the paintings. Smith brought in an academic anthropologist from the National Museum of Natural History to assist. Smith later did a presentation to the EPA’s Tribal Operations Committee, a group of 19 tribal leaders or their environmental managers and members of the EPA’s senior leadership team, which subsequently passed a resolution objecting to the paintings (Smith, Affidavit).

Later in the Bush Administration, Christine Todd Whitman had the paintings uncovered, removed to be refurbished, and finally returned for display in the same locations, along with screens that partially obscured the works (Shott, 2005). (See picture below).



Display partially blocking mural

Source: Mark Frauenselder

The Society for American Indian Employees (SAIGE),[[4]](#footnote-4) a non-profit organization representing American Indian and Alaska Native federal, state, tribal and local government employees, became involved in the issue in 2003, after frustrated EPA employees requested their assistance, and the National Congress of American Indians passed a resolution objecting to the ongoing presence of the artwork. As SAIGE Representative Lori Windle recounted, they first met with the GSA in late 2004 to try to resolve the issue and avoid litigation against the EPA and the GSA. At that meeting they were shown drawings of opaque panels that would be temporarily installed. Then everything seemed to change, with the focus shifting to only consider the *Dangers of the Mail* mural, long delays due to turnover at GSA, and no consultation with civil rights experts although that had been the focus of the issue from the start (US GSA, 2007 Consulting Panel, Windle Testimony).

When informal discussions failed, the Lawyers’ Committee for Civil Rights Under Law and the law firm of Lathan and Watkins became involved at the request of aggrieved EPA employees Robert Smith and Ronald Cyr. They argued that the offensive images created a hostile work environment, violated Title VII of the Civil Rights Act of 1964, and should be removed.

At this point, the EPA formally acceded full authority to the GSA to make the decision in a letter dated May 27, 2004, despite the fact that they had previously taken full responsibility when the murals were first covered during the Clinton Administration. The GSA then became formally involved in the dispute and initiated the National Historic Preservation Act 106 (NHPA) review process to determine “whether the present setting for the paintings and murals is the most appropriate way to display them” (U.S GSA, 2005). This process had not been initiated during the Clinton Administration, probably because the EPA was trying to resolve the issue internally, and the NHPA 106 process was not widely understood or utilized.

In the months that followed, numerous questions would be raised about the scope and authority of the various agencies involved, whether the NHPA defined the artworks as “historic,” whether the 106 process was the appropriate pathway forward, and how to balance issues of historic preservation with civil rights and governmental responsibilities for providing safe and non-discriminatory working environments. Some would argue that this was not and should not be seen as an issue of balancing interests but rather a fundamental conflict of rights, which is much more difficult to resolve. Historical records indicated that previous responses to such issues were not consistent. In fact, in 1995 the Library of Congress had removed an exhibit called “Back to the Big House: The Cultural Landscape of the Plantation” after controversy arose (Milne, 1995).

**Consultation through the 106 review process**

As part of the preparation for the 106 process, GSA requested written statements from the “designated consulting parties” who had brought the initial complaints: the Society of American Indian Government Employees and the EPA employees, Roland Cyr and Robert Smith, and their representatives--the law firm of Lathan and Wilkins and the Lawyers’ Committee for Civil Rights Under Law.

The December 2005 SAIGE letter reiterated its contention that the presence of the murals created a hostile work environment and violated the 1964 Civil Rights Act prohibitions against workplace discrimination. SAIGE said the only acceptable form of mitigation was removal of the two murals, *Dangers of the Mail* and *Pony Express,* and placement of them in a museum. They pointed out these murals had been removed previously for restoration and were not painted directly on the walls. They went on to say that the building’s historical record clearly indicated that the art was not a key feature of its historic status (SAIGE, 2005).

The testimony submitted by Lathan and Wilkins on behalf of EPA employees Robert Smith and Roland Cyr provided a six page detailed statement of reasons why the six paintings on canvas should be removed from the workplace, and the frescoes painted on the wall should be covered if they could not be removed. This action, they argued, was consistent with the responsibility of all federal agencies “to act in the best interests of American Indians under the federal trust responsibility” (Latham and Watkins, 2007). They also pointed out that this would in no way violate the GSA policies nor the NHPA. They explained that the GSA must always deal with competing values in its decision making, including lowering costs and increasing efficiency. Furthermore, they asserted that “the tension between valuing works of art and guarding against workplace discrimination is by no means unprecedented,” pointing to the recent decision to remove an exhibit at the Library of Congress. They noted that “the National Historic Preservation Act does not require any substantive result” and was never “intended to address the problem that artwork may create a discriminatory workplace environment” (Lathan and Watkins, 2007).

The artist’s son Michael Mechau also provided written testimony as one of the Consulting Parties to the proceedings. He first argued that the 25 murals in the building were specifically designed for the building and fell under the provisions of the National Historic Preservation Act. He contended that the murals should not be removed or covered and challenged everyone to see the murals as a “monumental drama of the collision of peoples in the American west.…meant to move the viewer to take that larger view” (Mechau, 2006). Mechau pointed out that some of the panels, especially the “Pony Express” mural, described whites massacring peaceful Indians. That scene, he said, corresponded “to the Sand Creek Massacre in Colorado of November 29, 1864” which the artist knew about and deplored (Mechau, 2006). Mechau concluded his letter with alternatives to covering or removing the murals, stressing the many opportunities available to develop interpretive materials, video narratives, add other Indian artwork, and directly engage the issues.

**Initial Formal Consultation with Expert Panel**

On October 30, 2006, the GSA held its first public consultation on the Ariel Rios murals. Gary Porter, Acting Regional Historic Preservation Officer, selected the experts who would testify and officially convened the panel. It was a panel of experts on the arts and museums and did not include the original complainants or civil rights experts. The way panels are constituted is, of course, an important aspect of any process.

Invited panel members included the following:

Rayna Green, Curator, National Museum of American History, special interest in issues about identity;

Hilde Hein, Brandeis Women’s Studies Research Center, specialist in public art;

Connie Kieffer, arts educator, specialist on New Deal Murals in Chicago;

B. Byron Price, University of Oklahoma, specialist in art of the American West;

Paul Chaat Smith, Associate Curator, National Museum of the American Indian, specialist in cultural politics;

Sharyn Udall, Art Historian, specialist on American Southwest Art;

and Robert Weinstein, Principal Architrave P.C. Architects, specialist on historic architecture.

A GSA spokesperson started the process, noting the importance of listening and learning from one another in a democracy. A facilitator, Mary Case, would guide the discussion.

In her opening remarks, Case noted that while the mural controversy was the topic of the day, the discussion necessarily raised many other issues, including

identity, stereotypes, censorship, aesthetic and historic integrity, the idea that monuments deserve our protection, the nature of change and the veracity of the historical record over time, the idea that respect means different things to different people, and that a single individual in the American democracy does have the right and the responsibility to voice his or her opinion. (U.S. GSA . Transcript of Testimony on Ariel Rios Murals, 2006)

The consulting panel had been given a tour the previous evening. After briefly describing the history of the Federal Triangle and the Ariel Rios Building, Porter explained that since this was a historic building, the National Historic Preservation Act required a Section 106 advisory process if any change in the property was being considered. He said the process would include several public meetings as well as an online website for public comments.

In addition to hearing from experts on the arts and historical preservation, various consulting interested parties would be involved including the Society of American Indian Government Employees (SAIGE), the National Congress of American Indians (NCAI), the Lawyers’ Committee of Civil Rights Under Law, and the sons and daughter of the artist Mechau. Case explained that the Lawyer’s Committee and SAIGE had brought the original complaint at the behest of employees who worked in the EPA building after previous attempts to settle the issue informally through discussions within the EPA had failed.

The panel members then each spoke briefly about what they saw as the important issues at stake. Rayna Green led off, noting that she had frequently been caught in the middle of disputes like this at the National Museum of American History. She said she thought about the murals in the larger context of Washington in general. In that context, she said, the whole city could be seen as a hostile work environment, with images of Indians slaughtering people, Pocahontas saving Captain John Smith, and Custer’s last stand. She called them “collective mythologies” and noted that many of them were not true and this representation “bears no resemblance to good history” (US GSA 2006 Consulting Panel, Green Testimony). In a sense, the artworks are most remarkable, she said, for their ordinariness, since they were everywhere. She ended her testimony by saying that bringing questions to the floor is the most important thing to do, noting that it doesn’t happen very often. Usually, she said, any work questioning conventional authority around here doesn’t stay up very long, and public funds are withdrawn from supporting it (US GSA 2006 Consulting Panel, Green Testimony).

Hein recommended the murals be relocated to a more appropriate setting, such as the American Art Museum, which has a large WPA (Works Progress Administration) art collection. Kieffer argued that murals tell important stories and said that conveying and understanding the context in which they are developed is important. Sharyn Udall made the same recommendation, saying that history had not dealt kindly with those who go back and second guess the artists of another era (US GSA, 2006, Consulting Panel, Udall Testimony).

Price argued for an option that opened up the discussion rather than removing or screening the contested artworks. He told a story about a similar controversy at the National Cowboy and Western Heritage Museum in Oklahoma City over “The End of the Trail” sculpture. That controversy ended with a decision to showcase rather than hide or remove the massive sculpture along with extensive interpretive materials (US GSA 2006 Consulting Panel, Price Testimony).

Paul Chatt Smith (Comanche) followed up, saying he was fascinated with the issues and the way histories are made and remade and how art shapes our understanding. Frankly, he said, he didn’t know what the GSA should do. On the one hand, he felt solidarity with his fellow Indian workers who found the murals intolerable. Indians, he said, found few places in Washington that positively portrayed them, not even the professional sports team. Still, the murals felt to him a bit like comic books and reflected the views of artists eight decades ago. He wasn’t really interested in historical accuracy, since the artist wasn’t an historian. Smith elicited laughter from the audience as he recounted Comanche history: he said, warfare was, at one time, their job profession. “I read [the murals],“ he said, “as both monuments and case studies of the dispossession and disempowerment of American Indians. So in that sense they couldn’t possibly be more accurate” (GSA 2006 Consulting Panel, Smith Testimony). He sardonically closed his testimony by commenting that “the world and this city are preposterous,” after noting other contradictions including naming the most expensive building ever constructed by the federal government after President and Hollywood Cowboy Ronald Regan (GSA 2006 Consulting Panel, Smith Testimony).

The final hour of the session gave others in the audience the opportunity to speak. Eight speakers came forward including representatives from SAIGE and the National Congress of American Indians as well as numerous individuals who worked at the EPA. A large number of American Indians were among this final group. The conversation dramatically shifted away from the broader issues the expert panel had raised about art to the civil rights issue. All of these speakers argued for the removal of the murals to a more appropriate setting.

Compelling testimony came from current and former EPA employees. Jason Edwards said that removal was the best option to promote human health. He said the tie to the original post office mission no longer applied since the post office no longer occupied the building. He ended his testimony with the provocative question “Would we even be having this discussion if these murals depicted stereotypes against another race? Would we be having this discussion if the murals were, in fact, 13 feet by 20 feet wide of, say, a young black man being lynched by Klan members?” (GSA 2006 Consulting Panel, Edwards Testimony).

Cinda Hughes (Kiowa), legislative associate for the National Congress of American Indians, spoke to the deleterious effect of the murals on government-to-government relationships and the meetings that often took place in the Ariel Rios Building. Nigel Simon and Sacheen Smith (Navajo) said the murals were hurtful to them each and every day when they came to work at the EPA, and they said the murals should be moved.

SAIGE representative Lori Windle concluded the public testimony, noting that there was “rumbling in the Indian community about this forum in that no representatives of the civil rights—any civil rights experts—were included in the panel” (GSA 2006 Consulting Panel, Windle Testimony). She said she understood that this was a narrowly focused Section 106 process, but she wanted them to know that the civil rights issues were important, and many important civil rights groups including Federal Employed Women, Blacks in Government, the National Coalition for Equity in Public Service, and others had submitted comments on removing the murals.

**Final Consultation on Paths Forward**

The second and final public consultation was held on April 13, 2007. It involved the primary interested parties who were formally designated consulting parties: the artist’s sons and daughter, SAIGE representatives, the Lathan and Watkins law firm and the Lawyers’ Committee for Civil Rights representing the employees (Robert Smith and Roland Cyr), and a large number of representatives from the National Historic Preservation Office and related federal agencies. The EPA was invited but chose not to attend the meeting. Those at the meeting (in person or by conference call) included the following:

Gary Porter, National Capital Region Historic Preservation Officer;

David Maloney, Acting State Historic Preservation Officer for District of Columbia;

Matt Radford, Deputy Director Center for Historic Buildings in GSA;

Hector Abreu, Advisory Council on Historic Preservation;

Beth Savage, regional historic preservation officer for GSA’s national capital region;

Peter Gray, Senior Attorney Advisor Office of Legal Counsel, Equal Opportunity Commission;

Richard Jensen, Post Service sitting in to for Dallen Wordekemper Federal Preservation Officer;

Sarah Crawford, Employment discrimination attorney with the Lawyers’ Committee for Civil Rights with Audrey Wiggins and Eddie Correia (representing EPA employees Bob Smith and Roland Cyr);

Bob Smith, former employee EPA and Roland Cyr, current employee EPA;

Lorri Windle (Master of Fine Arts) and James Bird, SAIGE;

Shana Barehand, SAIGE and former EPA employee;

Dorik Mechau, Michael Mechau and Vanni Lowenslager, children of artist Frank Mechau;

and Susan Podzba, Public Policy Mediator.

GSA employee Gary Porter opened the meeting, saying that the two main options they had heard presented were retaining or removing the murals. He said this session would focus on other possible alternatives and, hopefully, the group could coalesce and develop a shared vision. He suggested the discussion begin with participants describing their experience of the physical shared space the murals occupied.

The current and previous employees of the EPA immediately came forward and described the daily hurt they experienced as they came to work. Bob Smith said his emotions ran the gamut from disappointment to real anger. He said he certainly could not bring his family to the annual “Bring your daughter to work day.” SAIGE representative Lori Windle said she had previously only “viewed” the murals from a distance and the issue had been primarily an intellectual and moral issue. When she actually came to visit, it was an entirely different experience. She said there were others looking at the mural that day and

there was a kind of titillation going on. As they looked at the *Dangers of the Mail* mural the women giggling and pointing and the men were “Oh, ho, ho,” guffawing, you know, and suddenly my intellectual experience turned into a deep-seated feeling in the pit of my stomach—what these native employees must have to go through every day. (US GSA, 2007, Consulting Panel, Windle Testimony)

The discussion then turned towards the options and the roles of the various agencies in making the decision.

Who would actually make the final decision? some asked.

Porter responded that the final decision would be made by the GSA. The 106 process, he said, was a way to provide input. It looked at ways of minimizing, avoiding, or mitigating changes to historic properties. Avoiding was the usual response which would mean doing nothing. Minimizing was what was happening now with the screening.

In subsequent comments, GSA representatives said their usual position was to NOT move artwork from buildings. Since the works in question had been specifically designed to be part of the building when it was constructed, this issue was even more complicated. In any case, GSA said, they would also consult with the EPA before making a decision. They went on to explain their process, saying,

GSA will analyze all the input, consider all comments, and come up with a final determination: again, be that avoidance, minimizing, or mitigating. And once they’ve done that …they’ve complied with the 106 aspect of this. This has nothing at all to do with any civil lawsuit scenarios or any other sort of other employee issues and their hostile work environments. That’s totally out of the spectrum of 106….it has to be understood what we’re looking at under 106 is the resource, and the resource is the building.

The mural is a contributing factor to the building. …It’s actually 106 for the building, and the impact of what’s done to those murals, which will have to the building. (GSA, Transcript of April 2007 Consulting Panel)

A variety of observations on the issues followed. Michael Mechau noted that many Indian EPA employees said they loved the building, and simply moving all artwork about Indians would leave a void. At the same time, he said he didn’t think the current location was good in terms of respecting and viewing the art, especially with the displays partially blocking the work. He urged an intermediate solution such as putting up more modern day positive artwork. He also posed several important questions that summed up some of the dilemmas and remained unanswered: “What makes the negative feelings that some feel a matter of such public concern as to require removal or concealment of historic murals?” and “How should the genuinely troubled feelings of some who believe the murals….encourage people to belittle Indians be dealt with?” (US GSA, Transcript of April 2007 Consulting Panel, Mechau Testimony).

Smith raised new points, observing that the building was a historic site but not a museum. Museums provided more protection for artworks and were a more appropriate home. Responding to some suggestions to leave the works in place but put up explanatory placards, he said, people don’t usually read interpretative materials. They are ineffective in educating people.

The meeting drew to a close with many unanswered questions. The artist’s daughter asked at the end “How are you going to weight the comments of the EPA employees as against, for example, your panel of experts? How do you deal with that?” (US GSA, Transcript of April 2007 Consulting Panel, Lowenslager Testimony).

Porter responded:

Well, that’s a hard question, but that’s really something the GSA has to look at it in its decision making process. While there’s general consensus here today for the removal of the murals for display outside the building, there are laws and other considerations GSA will need to balance as it reaches a decision and even if we agree on the removal option and that opportunity does not materialize, then there will need to be ways to look at how we resolve the issues.” (US GSA, Transcript of April 2007 Consulting Panel, Porter Testimony)

**The 2007 Decision**

Later in 2007, the GSA issued its decision, called the “treatment,” with its mitigation plan. GSA said they had considered four options:

1. Relocate the *Dangers of the Mail* mural to another room within the building where the mural could be viewed but would not be within general public space.
2. Establish a loan program that makes it possible for the murals to be placed on loan in a suitable museum.
3. Do nothing, i.e. remove the interim screen.
4. Replace the existing screen around the mural with a redesigned and more appropriate screen along with newly developed interpretive materials.

Their treatment/decision would be as follows:

GSA will design and build a new screen to be placed at the “Dangers of the Mail” mural by Frank Mechau. The new screen will mask the mural from individuals passing through the lobby who do not wish to view the mural, while at the same time providing for a viewing experience for those who choose to view the mural. The screen will also incorporate revised interpretative materials to address the history of the art and the controversy associated with the mural. A comprehensive interpretive program will also be developed for all 22 murals in the building.

The consulting parties and others will be invited to participate on an advisory panel for the development of an appropriate screen for “Dangers of the Mail” mural and the interpretative

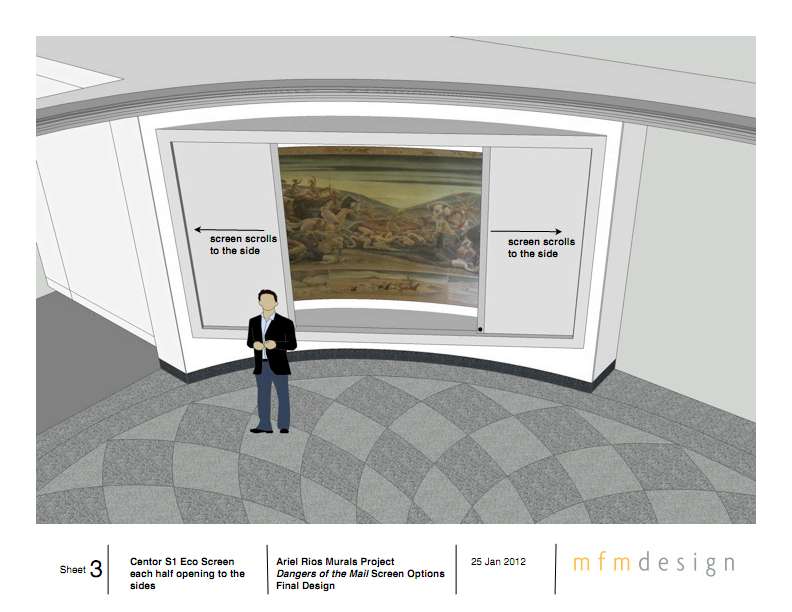
materials for all murals. (US GSA Gary Porter letter to David Maloney, 2007)

The decision was made and things moved slowly ahead. In the meantime, SAIGE reported that they were periodically checking with GSA to see what was happening. In September 2009, SAIGE Board Chair Dan Garceau wrote a letter to GSA again expressing his view that the GSA should remove the murals to a more appropriate museum setting, but agreeing, nonetheless, to participate in the advisory group developing a new screen and interpretative materials.

GSA Acting Regional Administrator Sharon Banks replied, saying that they went to “great lengths to understand the perspectives of all interested parties” and “were sensitive to the objections of SAIGE employees and others. They had reached a “reasonable compromise” with a solution that effectively addresses those concerns while meeting GSA’s stewardship obligations for the fine arts collection that is under its care” (Banks, 2009). Banks said the GSA must balance these views with their obligation for “protecting, interpreting and making works of art commissioned by the Federal Government accessible to the general public. The murals in question are even more significant in that they are historic resources protected under the NHPA, and were specifically commissioned to enhance the architecture of the Building. Artwork should not be removed simply because it is controversial or unpopular” (Banks, 2009).

Thinking that the outcome might be different under the newly elected Obama Administration, there was one last attempt by SAIGE to address the civil rights issue by calling a meeting in June 2010 at the EPA with lawyers from both sides. Gary Porter, from the GSA, also attended the meeting. The meeting ended with assurance that these views would be taken into account, but there was no follow up.

In the meantime, the GSA moved on, hoping to gain meaningful participation of the interested parties in the development of the new screen and interpretative materials. They let contracts to do the research for the new interpretative materials and design the new screens. As 2013 came to a close, the research was nearly finished. The various interested parties--the NCAI, SAIGE, and the Mechau family-- had been invited to review the proposed text and images including design alternatives for the new screens. (See Picture # below). As the 2014 year began, only the Mechau family had responded. The lengthy process took its toll, exhausting many of the participants. Some of the people most centrally involved in the issue had changed jobs and moved on. The GSA, meanwhile, needs to secure additional funding for the installation phase of the project. They anticipate that the work might be completed and installed by the end of the year. They also plan to build a website.



In the end, it is not clear whether the final decision satisfied anyone. Newspaper reports indicated that many are criticizing the leadership of all the organizations involved. As one news report put it, what everyone can agree on is that neither the EPA nor the GSA was willing to take responsibility, and the numerous temporary “fixes” have not solved the issue (Shott, 2005). “The Lawyers’ Committee accuses the General Services Administration, the landlord of the EPA building, of hiding behind the National Historic Preservation Act to avoid removing the murals” (Jones, 2008).

Meanwhile, the topic continues to generate discussion, with the National Museum of the American Indians announcing in February 2014 a new online digital exhibit of 400 items called “Indians at the Post Office: Native Themes in New Deal Era Murals.” Jose Barreiro, Assistant Director of History and Culture, at the Smithsonian Museum of the American Indian said this:

There is much to be discerned about these post office murals from the 1930s and 1940s, and what they can tell us about the way we see, and have seen, the World….Many of the artists were unfamiliar with the region connected to the post office they were assigned…and American Indian culture…The long range goal of this project …is to critique, from a contemporary vantage point, all 400 of these murals. (Smithsonian Museum of the American Indian exhibit, Indians at the Post Office)

The *Dangers of the Mail* mural is absent from the exhibit though it was prominently featured in an earlier article by the new exhibit’s project director, Sandra Starr (Starr, 2010). The National Postal Museum co-sponsored the exhibition.

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| **Appendix 1 Timeline**  1930-1935. New Post Office building constructed as part of a redevelopment project of the Federal Triangle area.  1936. Prominent Western artist Frank Mechau wins commission to produce murals for the Ariel Rios Building.  1937. Murals installed in the US Postal Service building.  1971. US Post Office vacates building.  1985. Renaming Ariel Rios Federal Building to honor a fallen officer of the ATF, an occupant of the building.  1996. EPA moves into the Ariel Rios Building.  2001. EPA Employee Robert Smith asked by the EPA Office of Civil Rights & American Indian Advisory Committee (AIAC) to do research on the artworks in question. Hires an expert and does a report to brief former EPA Administrator Michael Leavitt. Presentation to EPA Tribal Operation Committee who later formally object to displays.  2000. EPA Administrator Carol Browner orders the paintings covered because they “perpetuate stereotypes.”  2000. In Bush Administration the paintings are uncovered, removed to be refurbished, and returned to original locations. The administration also puts up an Indian-related display in front of two of the murals including “Dangers of the Mail.”  *[Type a quote from the document or the summary of an interesting point. You can position the text box anywhere in the document. Use the Drawing Tools tab to change the formatting of the pull quote text box.]*  2003 (December). Employees continue to object to paintings and murals. GSA and EPA reported to be in discussion but no resolution.  2003. EPA employees working in the Ariel Rios Building approach SAIGE (Society of American Indian Government Employees) saying the murals are offensive to many employees and asks for assistance.  2004 (October). EPA employees seek legal advice and retain Lathan and Watkins, LLC and Lawyers’ Committee for Civil Rights Under Law.  2004. National Congress of American Indians passes resolution objecting to offensive art in federal buildings.  2004. SAIGE contacts the General Services Administration about the murals.  2004 (May). EPA accedes full authority over decision about artwork in Ariel Rios Building to the GSA  2005 (March). GSA initiates consultation under Section 106 of the National Historic Preservation Act to consider the possible removal of the controversial murals  2005 (June). Meeting results in setting up a website for public comment that will run for 60 days concluding on December 2005. Over 400 comments posted and evenly divided in their views.  2006 (October). First GSA Consulting session held on Ariel Rio Murals with panel of experts  2007 (April). Second GSA Section 106 Consultation on Ariel Rios Murals.  2007. GSA issues its decision to design and build a new screen and develop extensive interpretative materials for all 22 murals with the participation of the consulting parties  2007 (September). Porter letter to David Maloney issuing GSA decision.  2009 (August). Letter from SAIGE Board Chair Dan Garceau to GSA (Sharon Banks) reiterating SAIGE position that the murals should be removed but will continue to work with them on interpretative material development.  2009 (September). Response to SAIGE letter from GSA Sharon Banks.  2008. Research underway by the GSA to design panels and write interpretative material on murals. Interested parties group asked to review materials and images  2010 (June). EPA meeting of SAIGE, Lawyers Committee for Civil Rights Under Law, Roland Cyr, and EPA lawyers to try to discuss and address unresolved civil rights issue. Porter from GSA also attends.  2013. Ariel Rios Federal Building renamed the William Jefferson Clinton Building.  2014 (February). “Indians at the Post Office” online digital exhibit co-sponsored by NMAI and National Postal Museum.  2014 or 2015. Expected installation date for new screens and interpretive materials in EPA building. |

**References**

Banks, Sharon. (2009, September 11). Letter to Dan Garceau, SAIGE.

Barehand, Shana and Bob Haozous. (2009, Sept 25). “Censorship—who should say what art is?” Native America Calling Website at www.nativeamericacalling.com/nac\_past2009/shtml

Garceau, Dan. (nd). Letter to Sharon Banks, GSA.

*Indianz.com.* (2005, March 17*). Indian murals at EPA building to undergo review.*

Jones, Susan. (2008, July 7). *Civil Rights Group Renews Push Against Indian Murals*. CNS News.

Lawyers’ Committee for Civil Rights Under Law*.* (nd). *Untitled summary description of Ariel Rios mural issue.*

Lathan and Watkins, LLP and Lawyers’ Committee for Civil Rights Under Law*.* (February 2007). Testimony. *The GSA NHPA Section 106 Consultation Re: Murals in Ariel Rios Building Comments by Roland Cyr and Robert Smith.* Downloaded [www.gsa.gov/arielriosmurals](http://www.gsa.gov/arielriosmurals)

Mechau, Michael. (2006, December 5). Letter to Gary Porter re: Section 106 Undertaking.

Milne, J. (1995, December 23,). “Controversy Closes Exhibit on Slavery.” *Boston Globe*.

Motian-Meadows, Mary and Georgia Garnsey. (2012). *The Murals of Colorado: Walls that Speak*. Johnson Books: Boulder.

National Historic Preservation Act. [http://www.achp.gov/docs/nhpa 2008-final.pdf](http://www.achp.gov/docs/nhpa%202008-final.pdf)

National Park Service. Federal Triangle Historic District. [www.nps.gov/nr/travel/wash/dc42.htm](http://www.nps.gov/nr/travel/wash/dc42.htm)

Porter, Gary. (September 2007). Letter to David Maloney, District of Columbia, State Historic Preservation Officer.

Society of American Indian Government Employees. (December 2005). *Society of American Indian Government Employees’ Statement Concerning Murals in Ariel Rios Building*. Position paper presented to GSA.

Shen, Fern. (2000, November). “History and the EPA’s Big Picture: 30’s Mural Draws Stares and Critics.” *Washington Post*.

Shott, Chris. (August 26, 2005). “Mural Dilemma: Historic? Historically inaccurate? Or downright discriminatory? The feds are scratching their heads over what to do with divisive D.C. artworks.” *Washington City Paper*.

Smith, Robert. (nd). *Affidavit in the Matter of NHPA Section 106 Consultation related to paintings in Ariel Rios Building.* Presented to United States General Services Administration.

Starr, Sandra. (Fall 2010). “Indians in the Post Office: Art Works offer Mixed Messages.” *National Museum of the American Indian.* Smithsonian: Washington D.C. Pgs. 36-41.

Starr, Sandra, Project Leader. (February 2014). “Indians at the Post Office: Native Themes in New Deal-Era Mural.” Online digital exhibition. Co-sponsored by the National Museum of the American Indian and the National Postal Museum. http://npm.si.edu/indiansatthepostoffice/

United States GSA. (2005, March). *GSA to Initiate Section 106 Historic Preservation Review for Six WPA Murals in the Ariel Rios Building, Washington D.C*. Press Release.

United States GSA. (October 30, 2006.) *Transcript of GSA Panel on Ariel Rios Murals*. www.gsa.gov/arielriosmurals

United States GSA (2007, April 13. *Transcript of Section 106 Consultation on the Ariel Rios Murals.* Washington D.C. [www.gsa.gov/arielriosmurals](http://www.gsa.gov/arielriosmurals)

United States GSA. Ariel Rios Library at [www.gsa.gov/arielrioslmurals](http://www.gsa.gov/arielrioslmurals)

U.S. GSA. (nd). Brochure: *Murals at Ariel Rios Federal Building 1935-2006.*

United States GSA. Ariel Rios Federal Building (New Post Office), Washington D.C. <http://www.gsa.gov/portal/ext/html/site/hb/category/25431/action>...

Wikipedia. *Ariel Rios*. <http://en.wikipedia.org/wiki/Ariel_Rios>

Wikipedia. William Jefferson Clinton Federal Building <http://www.en.wikipedia.org/wiki/William_Jefferson_Clinton_Building>

Wikipedia. National Historic Preservation Act of 1966. <http://www.wikipedia.org/wiki/National_Historic_Preservation_Act>

Windle, Lori. (Jan 2004). SAIGE letter to GSA Stephen Perry.

1. Barbara Leigh Smith is an Emeritus Member of the faculty at The Evergreen State College and Director of the Enduring Legacies Native Cases Project. Thanks to the Nisqually Tribe for their generous support of the writing of this case. Teaching notes and other cases can be freely downloaded from the Enduring Legacies Native Cases website at <http://nativecases.evergreen.edu>. Please use appropriate attribution when using these cases. [↑](#footnote-ref-1)
2. For an online depiction of this history and the works produced see the 2014 National Museum of the American Indian and the National Postal Museum online exhibition “Indians at the Post Office.” [↑](#footnote-ref-2)
3. Nearly all of the material on this dispute refers to the site as the Ariel Rios Building, since the most recent name change happened after these events. The website where most of this material is located and available online is at the GSA in the Ariel Rios Library. Shortcut address is www.gsa.gov/arielrioslibrary. [↑](#footnote-ref-3)
4. SAIGE was established in 2002 with a mission to promote the recruitment and advancement of American Indian and Alaska Native employees, to educate government agencies on the history and their obligations, to assist agencies in developing programs which honor the federal-tribal relationship, and to provide a forum for discussing important issues. It is an all-volunteer organization. Annual youth conferences are a major feature of their work. [↑](#footnote-ref-4)