

March 23, 2005

As the archivist responsible for the care and preservation of the H. Lee Waters film collection including “Kannapolis” which was placed on the National Film Registry by the Librarian of Congress in December 2004, I strongly support modifying and clarifying current copyright law so that small gauge “orphan films” can be preserved and made available to the public. As an archivist, my working definition of “orphan films” describes films outside of the studio system. That is, films produced by independent filmmakers, itinerant filmmakers, home movie makers and other amateur enthusiasts who do not shoot 35mm film and do not have access to a feature film studio’s preservation budget or climate controlled vaults.

A good deal of the historically and culturally significant moving picture footage of the 20th century was produced on small gauge film (8mm – 28mm) and falls into the “orphan film” description. These same productions often have the most difficult copyright ownership to determine because of the lack of a studio documentation trail. Often these rolls of film do not include a title or any other form of identification making them virtually impossible to trace backwards to a source or copyright holder.

Most of the H. Lee Waters films lack a title and film credits. Fortunately, Mr. Waters shot in a small, clearly defined geographic region; there are many people alive who still remember him and the films he made of their towns; and, we have his business ledgers which list the towns that he filmed and the dates that he returned to town to show the films. With these resources and a strong familiarity of Mr. Waters’ filmic style, I have been able to identify previously nameless films that had been sitting and deteriorating on institutional shelves for decades. Duke actively collects and preserves these films despite murky copyright laws because they are unique reversal films which will be lost forever if they are not preserved.

Waters, and many other amateur and itinerant filmmakers, used reversal film stock rather than negative film stock because it was cheaper. What this means is that the film exposed in the camera was processed to become the positive projection print- - a negative was never created. Once a reversal film deteriorates beyond the point that it can be restored, the work is lost forever. All reversal film is organic and will deteriorate, when it begins depends on how well the film was processed and stored. It is a given that the life of an unidentifiable 16mm reversal film is much shorter than current copyright terms.

Respectfully,

Karen Glynn
Visual Materials Archivist
Rare Book, Manuscript, and Special Collections Library
Duke University

