

THE BLACK BOX OF PERPETUAL ACCESS

*Michelle Polchow
Electronic Resources Librarian
University of California, Davis*

National Digital Platform for Libraries

*National Digital Platform
Collaborative or Disconnected?*

- Libraries work to solve local needs
- Simultaneously contribute to regional & national
- NDP is conceptualized as a way of thinking
- Measure US Libraries' digital capacity & capabilities
 - Software applications
 - Social and technological infrastructure
 - Staff expertise

*University of
California*

*... out of
contract
with Elsevier*



UC DAVIS
LIBRARY

NEWS SERVICES VISIT PEOPLE SUBJECT GUIDES

⚠ Need help accessing an Elsevier journal article? [Click here >>](#)

NEWS / JULY 10, 2019

Discontinuation of Elsevier journal access for 2019 articles

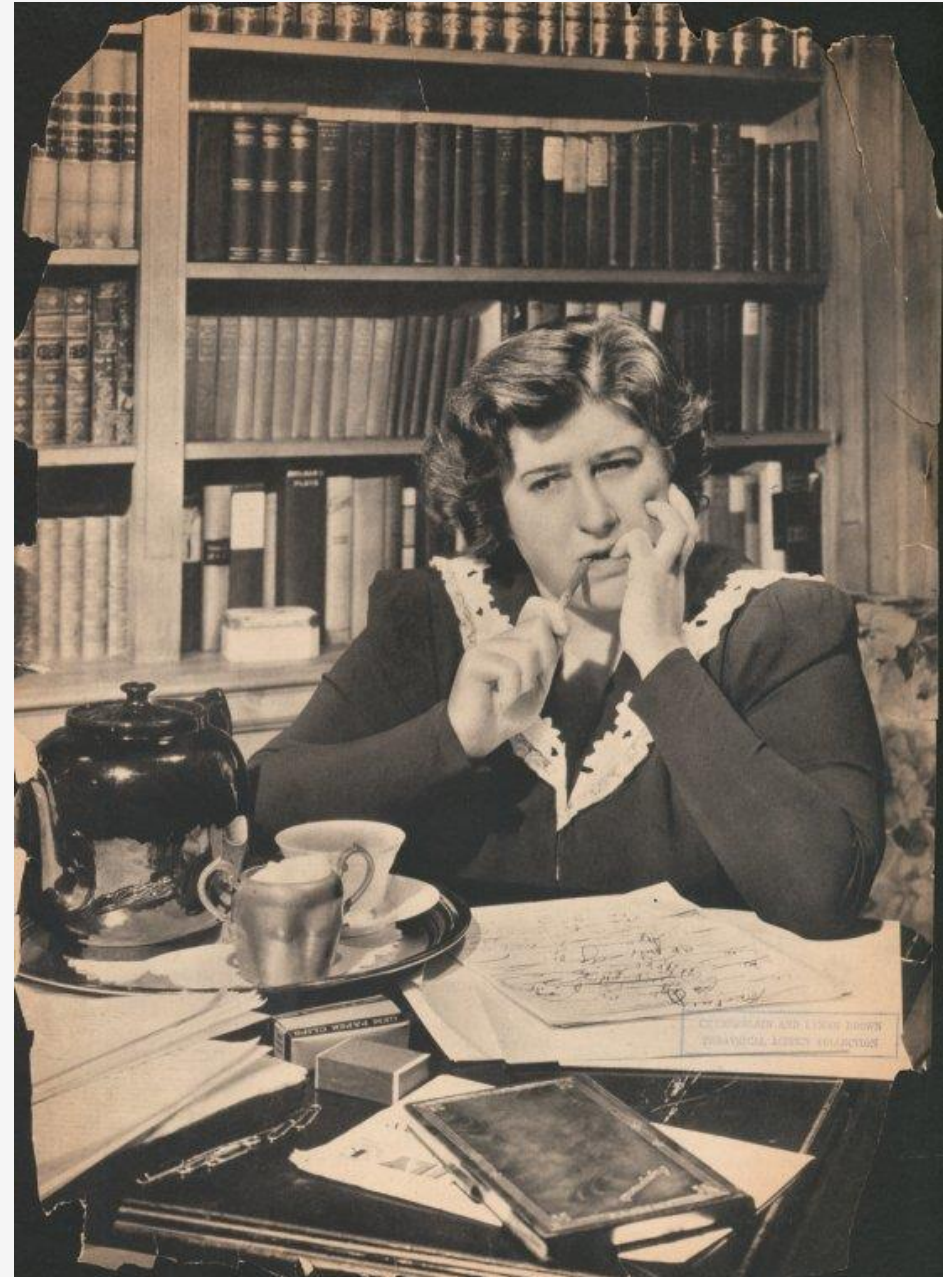
TO: UC Davis Academic Community
FROM: MacKenzie Smith, University Librarian and Vice Provost of Digital Scholarship
Dennis J. Ventry, Jr., Professor of Law and Vice Chair, Academic Senate University Committee on Library and Scholarly Communication
RE: Discontinuation of Elsevier journal access for 2019 articles

The University of California has been out of contract with Elsevier since January. Until now, the publisher continued to allow access to 2019 articles via ScienceDirect. **As of today, Wednesday, July 10, UC's direct access to these Elsevier articles is being discontinued.**

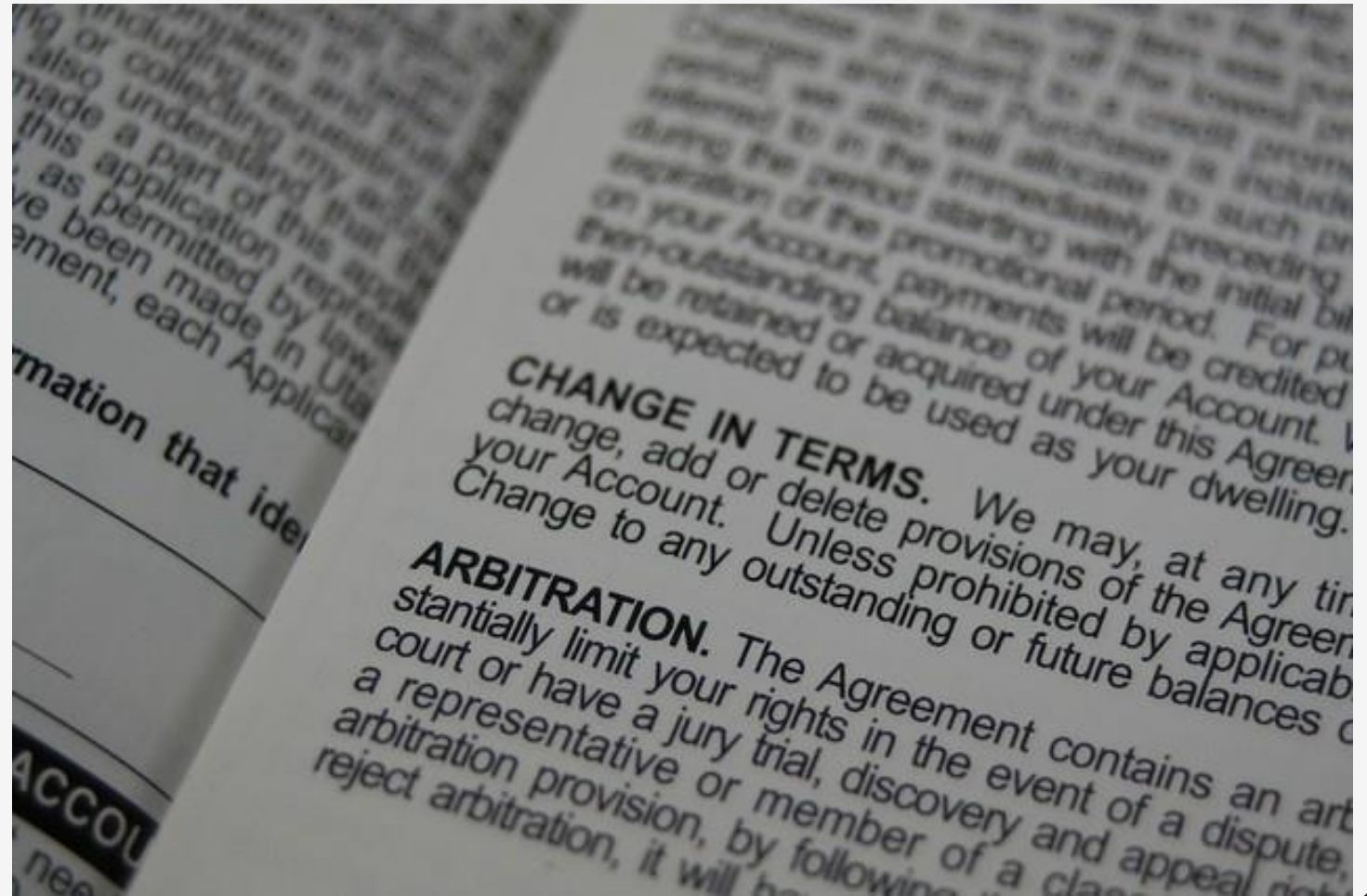
What is affected: Members of the UC community no longer have *direct* access to:

- 2019 articles in all Elsevier journals

*Don't
worry,
we have
perpetual
access to the
backfiles...*



*What did
the
fine print
say?*



Licensed Electronic Resources

- License -
Access (rent) versus Purchase
- Right to retain content after agreement ends?
- Archival rights
 - Is this dependent on an on-going relationship between the parties?
 - Perpetual access- except where termination of the agreement occurs
- Licensors supply Licensees with archival copy of database.
- Will Licensee become lawful owner of digital copy?

LibLicense Model

Performance Obligations

- Survive termination of agreement
- Equivalent access after termination
- Licensee take over equivalent access

- **Perpetual License.** Notwithstanding anything else in the Agreement, Licensors grants to Licensee a nonexclusive, royalty-free, perpetual license to use any Licensed Materials that were **[accessible or subscribed to]** during the term of this Agreement. Such use shall be in accordance with the provisions of this Agreement, which provisions shall survive any termination of this Agreement. The means by which Licensee shall have access to such Licensed Materials shall be in a manner and form substantially equivalent to the means by which access is provided under this Agreement. If the Licensors means of access is not available, the Licensee may provide substantially equivalent access to the Licensed Materials in accordance with Sections 8.2 and 8.3, below.

Authorized Uses

```
mysql> USE xmodulo_DB;  
Database changed  
mysql> CREATE TABLE posts_tbl (  
-> post_id INT UNSIGNED NOT NULL AUTO_INCREMENT,  
-> content TEXT,  
-> author_FirstName VARCHAR(100) NOT NULL,  
-> author_LastName VARCHAR(50) DEFAULT NULL ,  
-> isEnabled TINYINT(1) NOT NULL DEFAULT 1,  
-> date TIMESTAMP NOT NULL DEFAULT CURRENT_TIMESTAMP ,  
-> PRIMARY KEY (post_id)  
-> ) ENGINE = MYISAM;  
Query OK, 0 rows affected (0.02 sec)  
  
mysql> 
```

- *Backup Copy.* Licensor shall provide to Licensee upon request, or Licensee may create, one (1) copy of the entire set of Licensed Materials to be maintained as a backup copy. In the event that the Agreement is terminated, Licensee may use the backup copy to exercise any perpetual license rights granted in this Agreement, including but not limited to use of the backup copy as the archival copy as specified in Section 8, below. Where perpetual rights have not been granted, Licensee will destroy all backup copies within **[thirty (30) business days]** of termination of this Agreement.

UC contract lapse

*...is sure to have profound, if
yet unknown, implications for
the scholarly communications
ecosystem.*

- UC System responsible for 10% of research output of US
 - Elsevier is world's largest publisher of scholarly journals.
-



ENVIRONMENTAL SCAN 2019

By the ACRL Research Planning and Review Committee March 2019

Scholarly Record

Libraries have


- *Long history in preserving scholarly output.*
- *Partnered with researchers as stewards of preservation and persistence.*
- ***Technical Services on the front lines to deliver perpetual access.***

UCD Content Support Services

What might be about to shift?

- Google Scholar provides best link maintenance for OA.
- OA is extremely labor intensive.
- If UC negotiations with Elsevier moves scholarship into Open Access, what impact will that have on perpetual access?

Questions raised:

- Equivalent infrastructure support from Elsevier?
 - Cataloging record services?
 - Turn discovery over to Google Scholar?
 - Version control and authentication?
- 

Link Rot

- Document removed from website by author
- Website redesign migrates one URL to another
- Commercial businesses go out of business rendering websites inaccessible
- Website owner forgets to renew domain registration or stops maintaining website

Reference Rot

- Digital is ephemeral
 - Content is dynamic
 - Wikipedia references rot as users change and edit previous entries
-

National Digital Platform-

Perpetual Access in action

- Digital Archiving
 - Occam's Reader
 - Controlled Digital Lending
 - Internet Archive
 - Google Books
-

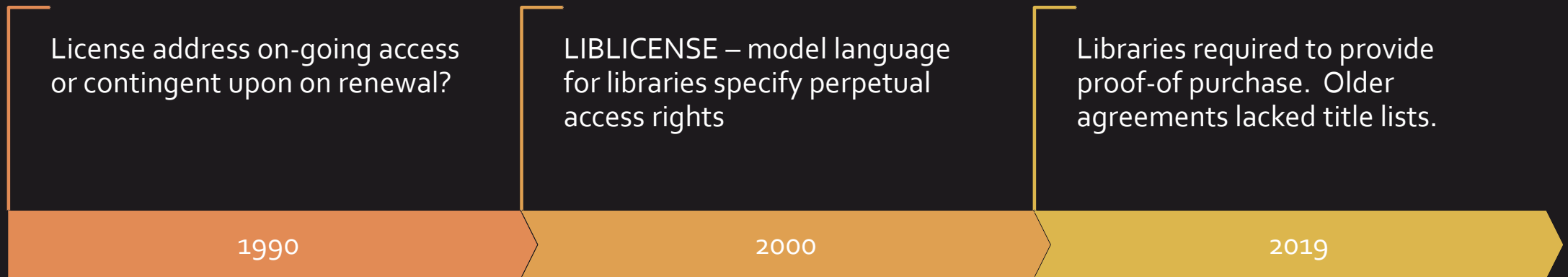


*CLOCKKS
LOCKKS
PORTICO
HathiTrust
Keepers Registry*

*Use License to advocate
for digital preservation*

- **Third Party Archiving Services.** Licensors and Licensees acknowledge that either party may engage the services of third-party trusted archives and/or participate in collaborative archiving endeavors to exercise Licensee's rights under this section of the Agreement. Licensors agree to cooperate with such archiving entities and/or initiatives as reasonably necessary to make the Licensed Materials available for archiving purposes. Licensee may perpetually use a third-party trusted system or collaborative archive to access or store the Licensed Materials, so long as Licensee's use is under the same terms as this Agreement.
- In the event the Licensors discontinue or change the terms of its participation in a third-party archiving service, the Licensors shall notify the Licensee in advance, and shall in good faith seek to establish alternative arrangements for trusted archiving and perpetual access to the Licensed Materials.

Evolution of licensing e-resources



Electronic Resources Management - Alma

Electronic Collection Description

General Information

Additional Information

Notes

Group Settings

History

Summary and Inventory Information

Electronic Collection type

Aggregator package

▼

Interface Name

Galegroup

Interface Description

Services

-

Process type

Acquisition

Access type

☒ Current

☐ Perpetual

Acquisitions and License Information

PO Line

POL-45848

×

☰

PO Line details

POL-45848

Activation date

-

Expected activation date

License

Gale

×

☰

🔄

View license details

Gale

*(not so) Easy
Sharing
of
e-books*



Controlled Digital Lending

Format agnostic

*Interlibrary loan using
digital technology*



Position Statement on Controlled Digital Lending

Last Updated September 2018

Introduction

This Position Statement on Controlled Digital Lending by Libraries ("Statement") offers a good faith interpretation of U.S. copyright law for American libraries considering how to perform traditional lending functions using digital technology while preserving an appropriate balance between the public benefit of such lending and the protected interests of private rights holders. This Statement only applies to in-copyright works, as public domain works may be distributed without restriction. This Statement is not intended to describe the upper limits of the fair use or other rights of libraries, bind the signatories to any legal position, or constitute legal advice. **Because the following analysis is general, any library considering implementing controlled digital lending should consult a competent attorney to develop an appropriate program responsive to the specific needs of the institution and community.**

Controlled Digital Lending ("CDL")

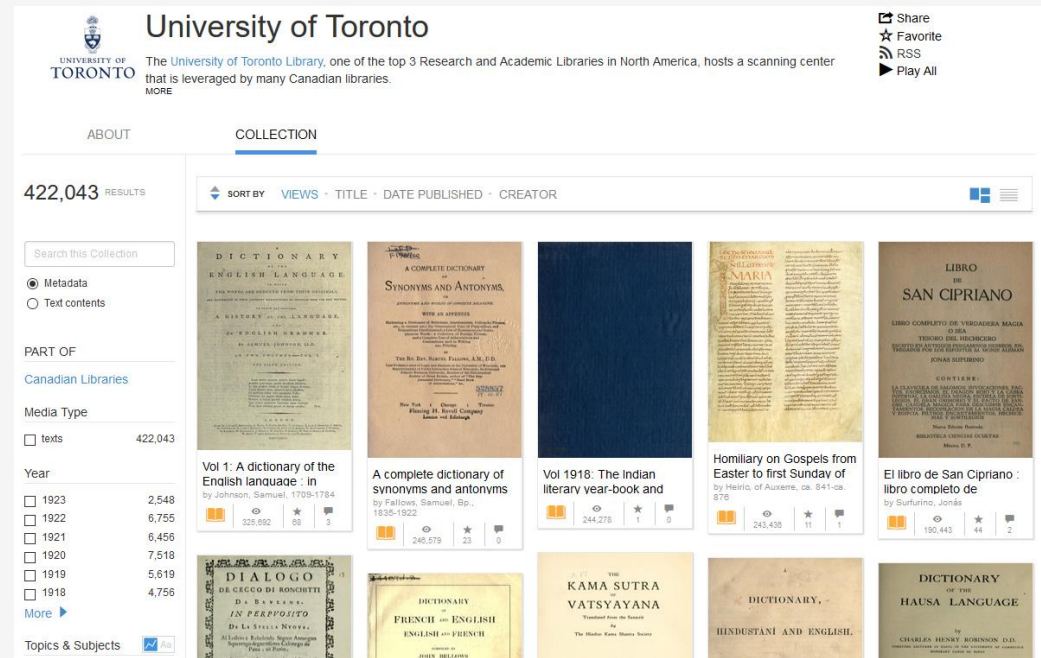
One of the most fundamental and socially beneficial functions of libraries is providing broad access to information by lending books and other materials to their communities. To lend materials more effectively, libraries can apply CDL to their collections in order to fulfill their missions. CDL techniques like those described in this Statement are designed to mirror traditional library practices permitted by copyright law.

Properly implemented, CDL enables a library to circulate a digitized title in place of a physical one in a controlled manner. Under this approach, a library may only loan simultaneously the number of copies that it has legitimately acquired, usually through purchase or donation. For example, if a library owns three copies of a title and digitizes one copy, it may use CDL to circulate one digital copy and two print, or three digital copies, or two digital copies and one print; in all cases, it could only circulate the same number of copies that it owned before digitization. Essentially, CDL must maintain an "owned to loaned" ratio. Circulation in any format is controlled so that only one user can use any given copy at a time, for a limited time. Further, CDL systems generally employ appropriate technical measures to prevent users from retaining a permanent copy or distributing additional copies.

INTERNET ARCHIVE



-



USGS Case Study



*Patuxent Wildlife Research Center
Journal : Contemporary Herpetology
Information*

INTERNET ARCHIVE
Wayback Machine
https://www.pwrc.usgs.gov/tadpole/ Go
296 captures
19 May 2001 - 17 Jul 2019

OCT NOV MAR
17
2016 2017 2019

USGS
science for a changing world
Patuxent Wildlife Research Center

Mississippi State
UNIVERSITY

Smithsonian
Institution
National Museum of Natural History

Utah State
UNIVERSITY

Tadpoles of the United States and Canada: A Tutorial and Key

Ronald Altig¹, Roy W. McDiarmid², Kimberly A. Nichols³ and Paul C. Ustach⁴

¹ Department of Biological Sciences, Mississippi State University, Mississippi State, MS 39762-5759, USA
² USGS Patuxent Wildlife Research Center, National Museum of Natural History, 10th Street & Constitution Ave., NW, Washington, D.C. 20560-0111, USA
³ Biodiversity Programs, National Museum of Natural History, NHB W314A, 10th Street and Constitution Ave., NW, Washington, D.C. 20560-0180, USA
⁴ Department of Biology, Utah State University, Logan, UT 84321-5305, USA

Abstract A key for the tadpoles of the United States and Canada features a different format and approach to identifying frog larvae. More details of ontogenetic variation are included than in many keys, and more attention is paid to using characteristics of living tadpoles. A tutorial examines morphological traits, and color photographs are included to simplify the identification process.

Keys are written with the goal of providing accurate identifications with a minimum of effort. A truly dichotomous strategy (i.e., one that divides the original and subsequent sets of taxa into equal units) is the most efficient (shortest number of steps) approach. Unfortunately, the distribution of useful characters among taxa rarely allows realization of this method. Instead, authors usually present a choice between two alternatives, each defined by one or more characters. This often results in long keys that are cumbersome to use, not especially enlightening, and frequently mask relationships (similar appearing forms come out together but closely related ones may not). Except for those distinctive forms that are separated early in the identification process, a user often has little assurance of being on the right track, and, if the trail reaches an obviously incorrect endpoint, frequently one has no idea which choice led to the wrong conclusion. Such keys are poor pedagogical tools because they fail to show patterns of character distributions among forms and can result in closely-related taxa being widely separated in the key.

Anuran larvae have little in common with their much larger, better known adults. Although tadpoles typically are in specific aquatic habitats for longer periods than their adults, they sometimes are more difficult to find and nearly always more difficult to identify. Most tadpoles are drab in coloration and pattern and even distantly-related species have very similar appearing tadpoles. Even though the tadpoles of many North American frogs superficially appear very similar (How often have you heard: "It's a tadpole but who knows which species?"), they have certain morphological traits that can be used to distinguish among species. We believe that with some practice an assiduous, inquisitive naturalist can learn to differentiate among most forms. To

INTERNET ARCHIVE
Wayback Machine
http://www.contemporaryherpetology.org/chis/1998/2/index.htm Go
7 captures
5 Feb 2007 - 15 Jun 2009

APR JUN JUL
15
2007 2009 2010

Contemporary Herpetology Information Series ISSN 1097-7112

1998 Number 2
24 September 1998
18:00 GMT - 12:00 CST

A KEY TO THE ANURAN TADPOLES OF THE UNITED STATES AND CANADA

Ronald Altig¹ (rga2@ra.msstate.edu), Roy W. McDiarmid² (mcdiarmid.roy@nmnh.si.edu), Kimberly A. Nichols³ and Paul C. Ustach⁴

¹Telephone: 601-325-7561, Facsimile: 601-325-7939; Department of Biological Sciences, Mississippi State University, Mississippi State, MS 39762-5759, USA
²Telephone: 202-357-2780, Facsimile: 202-357-1932; USGS Patuxent Wildlife Research Center, National Museum of Natural History, 10th Street & Constitution Ave., NW, Washington, D.C. 20560-0111, USA
³Biodiversity Programs, National Museum of Natural History, NHB W314A, 10th Street and Constitution Ave., NW, Washington, D.C. 20560-0180, USA
⁴Department of Biology, Utah State University, Logan, UT 84321-5305, USA

Abstract. A key in a different format is presented for the tadpoles of the United States and Canada. More details of ontogenetic variation are included than in many keys and more attention is paid to identifying species by using characteristics of living tadpoles.

Keys are written with the goal of providing accurate identifications with a minimum of effort. A truly dichotomous strategy (i.e., one that divides the original and subsequent sets of taxa into equal units) is the most efficient (shortest number of steps) approach. Unfortunately, the distribution of useful characters among taxa rarely allows realization of this method. Instead, authors usually present a choice between two alternatives, each defined by one or more characters. This often results in long keys that are cumbersome to use, not especially enlightening, and

Legal Discipline Case Study

Tracking rotten links

Sophisticated internet research skills
Internet Archive, Wayback Machine

The Legal Information Archive

The Cyber Cemetery

Internet Sources Cited in Opinions, Supreme Court of
the US

Government Printing Office Persistent Uniform
Resource Locator system (PURLs)

Harvard Library Innovation Lab: Perma.cc



License

vs.

*US Copyright
Fair Use &
Preservation*

- If UC's storage facility repeatedly lend content but must destroy digital copy following ILL transaction, should elements of preservation be assessed with ILL?
 - Big data analysis opportunities?
 - Economy of scale for libraries?
-
- Collection Development vs. Technical Services vs. Public Services
 - Librarians - track down information obscured by broken links

Dual Purpose Activities

- Downsize staff resources
- Increase efficiency
- Optimize collections
- Reduce storage costs
- Maximize copyright

Off-site Storage

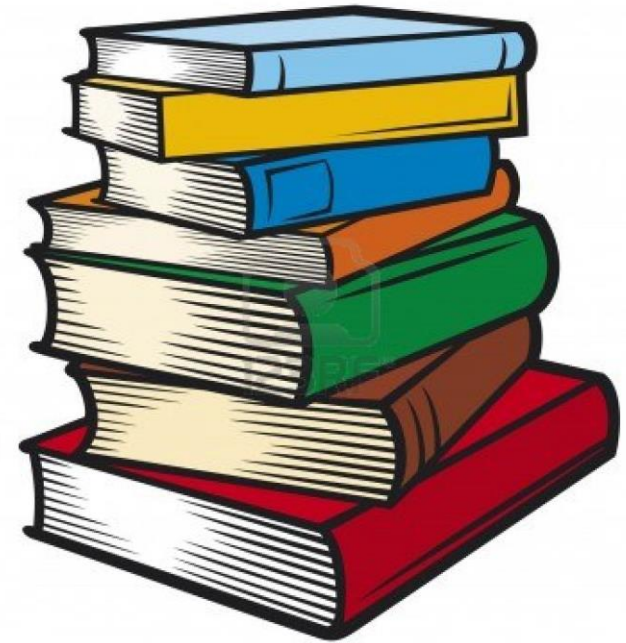
OERs

Reserves

Interlibrary Loan

E-Resources
Troubleshooting

Circulation



Professional Competencies: Electronic Resources Librarian (ALA and NASIG)

- demonstrates leadership by being prepared to work with and act as a bridge across the multiple units/departments involved in electronic resources
- high level of tolerance for complexity and ambiguity
- knowledge of systems architectures, capabilities, support options for library systems involved in access and preservation of electronic resources
- thorough knowledge of licensing and the legal framework
 - archival/perpetual access
 - interlibrary loan.
 - a practical working understanding of issues
- Knowledge of copyright and fair use that can be called into service in publisher/vendor license negotiations to obtain the least restrictive, most library-friendly licensing terms.
- High-level organizational and records management skills to coordinate and manage the often-complicated records needed to track electronic purchases, subscriptions, access set-up and maintenance, and licenses across the multiple departments usually involved in electronic resources.

Source: Sullenger, P. (2014). *A departmental assessment using the core competencies for electronic resources librarians. Serials review*, 40(2), 88–96.

<https://doi.org/10.1080/00987913.2014.922377> Appendix A

Technical Services & E-rights

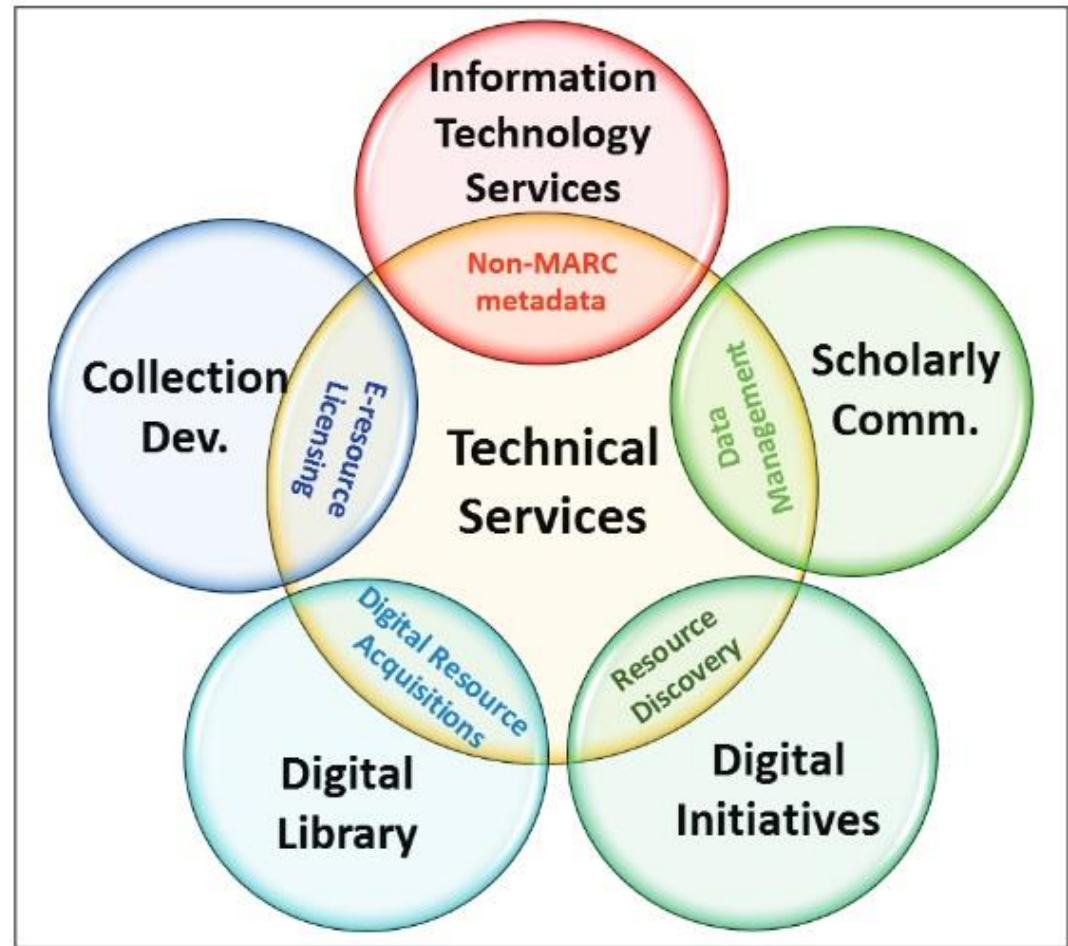


Figure 1. Technical Services Collaborative Functions with Different Library Units

National Digital Platform-

Perpetual Access in action

- Digital Archiving
 - Occam's Reader
 - Controlled Digital Lending
 - Internet Archive
 - Google Books
-



Operationalizing the library

Perpetual Access in action

- Perpetual access – receipts
 - Communicate with vendors
 - Collection goals
 - Job descriptions
 - Authorities - broken links
 - Data driven decisions
 - Strategy / Policy
-



Open Access *(Free range)*

*Wild horses
at play*

Michelle Polchow
Electronic Resources Librarian
University of California, Davis
mpolchow@ucdavis.edu



Bibliography

Association of College and Research Libraries, Environmental Scan 2019, American Library Association. <https://bit.ly/2KeRY52>

LIBLICENSE Model License: Licensing Digital Content. (2014) Center for Research Libraries. liblicense.crl.edu

Lipinski, T. (2013). *The Librarian's Legal Companion for Licensing Information Resources and Services*. Chicago: Neal-Schuman, An Imprint of the American Library Association. Print. Legal Advisor for Librarians, Educators & Information Professionals ; No. 4.

Margolis, E. :(2019). "Link rot, reference rot and the thorny problems of legal citation," Partners for preservation: Advancing digital preservation through cross-community collaboration.

Marx, M., & Owens, T. (2015, June 11). The National Digital Platform for Libraries and Museums. *American Libraries*, 26-29.

Bibliography

Office of Scholarly Communication, University of California, Accessed Sept. 19, 2019 at <https://osc.universityofcalifornia.edu/open-access-at-uc/publisher-negotiations/uc-and-elsevier/> .

Sullenger, P. (2014). A departmental assessment using the core competencies for electronic resources librarians. *Serials review*, 40(2), 88–96. <https://doi.org/10.1080/00987913.2014.922377>

Walters, William H. "The Death and Migration of Book Collections in Academic Libraries." *Portal: Libraries and the Academy* 18.3 (2018): 415-22. Web.

Yun Davis, Jeehyun. (2016). Transforming Technical Services: Evolving Functions in Large Research University Libraries. *Library Resources & Technical Services*. 60. 10.5860/lrts.60n1.52.
