

## "KENNEWICK MAN" A TEACHER FOR ALL AGES

Why would a group of physical anthropologists and archaeologists have to go to court for the right to study a 9,200-year-old skeleton they consider one of the most important discoveries ever made in this country?

This past July, a U.S. District Court judge issued a ruling that may make such study possible and clarified many of the controversial issues surrounding the bones of "Kennewick Man."

### Who is "Kennewick Man?"

On July 28, 1996, two college students watching a boat race spotted a skull in the banks of the Columbia River near Kennewick, Washington. Thinking it a murder victim, they called the sheriff's office. The skull was taken to the local coroner who called upon the assistance of a local forensic archaeologist, who, after recovering the rest of the skeleton, requested a CAT scan. The skeleton at first appeared to be that of an early European settler until a stone spear point was found embedded in the hip bone. Radiocarbon dating placed the skeleton's age at 9,200 years ago.

From preliminary observations, it appeared that "Kennewick Man" died around the age of 50. He possessed some bodily and facial features that differ from the Native Americans of that region. His long and narrow skull, large jaw with a pronounced chin, and arms long in proportion to the rest of his body raise the question of Kennewick's ancestry and his relationship to modern Native Americans.

### Conflicting Claims

The skeleton was found on land belonging to the Army Corps of Engineers. A coalition of five Northwest tribes, led by the Confederated Tribes of the Umatilla Indian Reservation, filed a claim with the Corps asking for the return of the skeleton, which they said should be buried immediately in a secret location without scientific study.

After the Umatilla filed a claim for the skeleton, the Corps of Engineers decided to hand over the Kennewick remains to the tribal coalition. The Corps, meanwhile, had denied requests from several prominent scientists to carry out scientific studies of this rare and ancient find, which might shed light on life at the end of the Pleistocene. The Corps also denied the completion of a DNA analysis that had been started by the University of California-Davis, offered at no cost to the Corps. To safeguard the remains, Kennewick Man was taken by the Corps to a vault at the Batelle Pacific Northwest National Laboratory in Richland, Washington, where it remains today.

The Corps' actions were based on their interpretation of the Native American Graves Protection and Repatriation Act, which defines "Native American" as "of, or relating to, a tribe, people or culture that is indigenous to the United States." According to Alan L. Schneider, counsel for the scientists objecting to the Corps' actions,

Congress's use of the present tense would seem to imply that it did not intend for human remains and other 'cultural items' to be subject to the act unless there is a demonstrated relationship to present-day Native Americans. What kind of relationship this requires and how it is to be established are issues that have yet to be resolved...In the Kennewick Man case, there is no evidence at this point to support the Army Corps' decision. (*Anthropology Newsletter*, February 1997:18).

In recent years, Native Americans actively have sought to halt archaeological excavations on their lands. Some believe that Native Peoples originated in this land and that their ancestors did not cross the Bering Strait; therefore, any skeletons found must be directly related to indigenous Native Peoples and must be returned. Many consider human remains sacred and should not be the object of study.

On the other side of the controversy stand the scientists, whose new scientific techniques such as DNA analysis and CAT scans, along with meticulous methods of recording data, have made it possible to obtain information on skeletal remains

not available before. Such studies do not cause significant harm to the remains. Scientists are interested in comparing the remains of Kennewick Man with those of similar age found in Nevada, Texas, Colorado, and Minnesota.

Scientists have long been involved in studies of skeletal materials to obtain information about nutrition, disease, lifestyles, health, and cause of death of early populations in North America. The human skeleton provides a detailed record of the life of an individual and thus remains an extremely important source of information about past lifeways.

### The Court Case

Once the Corps decided to turn the remains over to the tribal coalition, eight prominent anthropologists, including two Smithsonian scientists acting in their capacity as private citizens, sought a legal restraining order from the U.S. Courts to halt the Corps' transfer of the Kennewick remains to the Umatilla. The scientists stated that the skeleton, one of the oldest and most complete ever found, should be made available for scientific study. Only a few well-preserved skeletons more than 8,000 years old have ever been discovered, and hence Kennewick is of interest to scientists worldwide.

The court's decision came this past July, one year after the skeleton was discovered. The Judge sent the case back to the Corps of Engineers, telling the Corps to reconsider its earlier decision to turn the skeleton over to the Umatilla without further study. The Court criticized the Corps' handling of the case, calling it "arbitrary" and "capricious." Among other things, the Court stated that the Corps:

acted before it had all of the evidence or fully appreciated the scope of the problem. The agency did not fully consider or resolve certain difficult legal questions. The agency assumed facts that proved to be erroneous. The agency failed to articulate a satisfactory explanation for its action. By the agency's own admission, any decision in this matter was premature and ought to be set aside and the matter remanded to the agency for

further consideration (Civil No. 96-1481-JE Court's Opinion p. 31).

The Judge went on to explain that the Corps must take a fresh look at all the legal issues and fully reopen the matter. Meanwhile, the government was to retain custody of the Kennewick remains, and not dispose of them before full resolution of the issues had been made. The Corps must reconsider the plaintiffs' request for permission to study the remains, protect them for their value for scientific study, and consider, among others, the following issues:

- a) Whether the remains are subject to NAGPRA;
- b) What is meant by terms such as "Native American" and "indigenous" in the context of NAGPRA and the facts of this case;
- c) Whether NAGPRA applies to remains from a population that is not directly related to modern Native Americans;
- d) The level of certainty required to establish biological or cultural affiliation;
- e) Whether there is evidence of a link, biologically or culturally, between the remains and a modern Native American tribe; and
- f) Whether scientific study and repatriation of the remains are mutually exclusive or if both objectives can be accommodated.

### Scientific Studies

Scientists believe that science should have a role in the determination of what happens to the Kennewick remains. Within the context of repatriation, scientists examine bones in museum collections to establish correct cultural affiliation and ensure that Native Americans receive the bones of their ancestors through repatriation transfers of museum collections. Sophisticated techniques such as craniofacial analysis involving a system of complex measurements and angles help identify the specific ethnic and tribal group to which the materials belong. For example, distinct differences among Native American populations enable scientists to distinguish a Paiute from a Cheyenne. Other physical anthropology studies have revealed

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*("Kennewick" continued from page 8)*

that some groups have displaced others in distinct geographic regions, rather than one culture evolving directly into the other.

Establishing clear cultural affiliation of such an early individual to any present-day Native American group is likely impossible. Scientific study of Kennewick Man and other early remains, however, can help answer questions not only about the life and health of early inhabitants of North America, but also the range of physical types or human variation of these early people. Investigating these areas may help solve other mysteries, such as the puzzle of the origin of the Ainu people of Hokkaido, Japan, who are considered perhaps the oldest population of that region with features resembling those of caucasoids--more body hair, less facial flatness.

For many, "Kennewick Man," along with other very ancient remains, holds national and international significance, and therefore represents an inheritance for the entire human family.

### Further Readings

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For updated information, see the Smithsonian's Arctic Studies Center web page: <http://www.nmnh.si.edu/arctic/>.

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