



Dispute erupts over ancient human remains found at UCSD

By Pat Flynn

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UC San Diego has found itself at the center of a legal battle over the future of two of the oldest human skeletons ever found in the New World.

Twelve Kumeyaay Indian tribes in San Diego County filed suit in federal court earlier this month seeking to have the university turn over the nearly 10,000-year-old remains of a young adult male and a slightly older female to them for traditional burial.

But three University of California professors filed a state court action Monday in Alameda County — since removed to federal court in Northern California — seeking to block such a transfer, arguing that there is no evidence that the remains are related to the Kumeyaay and that they should be preserved for future research.

The remains were discovered in 1976 during an excavation on the grounds of the cliff-top University House, the traditional residence of the campus chancellor. The Indians have been formally seeking their return for years and the university, working through its own policies and federal law governing Native American remains, was preparing to turn them over before the professors indicated their intent to sue.

The Indians filed their suit after learning of the professors' intent.

“UC San Diego is aware of two competing lawsuits that have been filed against the university ...” campus spokesman Jeff Gattas said in a prepared statement. “We believe the University process has achieved a decision that is in accordance with both the law and our commitment to the respectful handling of human remains and associated artifacts.”

Dorothy Alther, an attorney for the Kumeyaay Cultural Repatriation Committee, which represents the 12 local bands, said the disposition of the remains is governed by law.

“Under (the Native American Graves Protection and Repatriation Act) tribes are to have transferred to them any Native American remains held by federal agencies or any institution that receives federal funds,” said Alther, who works for California Indian Legal Services in Escondido. “A lot of the tribes were concerned that their ancestors were lying around in the basements of museums and not being properly interred.”

The Indians' case, Alther said, is bolstered by a 2010 addition to the 1990 law governing Native American remains. It says that even if remains are not “culturally identifiable” with modern tribes, they should still be transferred to tribes in whose “aboriginal lands” they were found.

“What we're saying is that these are Native American remains,” Alther said. “But even if someone says they are not, they were found on aboriginal lands. They go to the Kumeyaay.”

The professors — Margaret Schoeninger of UC San Diego; Robert Bettinger of UC Davis; and Timothy White of UC Berkeley — and their lawyer disagree.

“These are not Native Americans,” said James McManis, the San Jose lawyer for the professors. “We’re sure where they’re from. They had primarily a seafood diet, not the diet if any way of these tribes. They were a seafaring people. They could be traveling Irishman who touched on the continent.

“The idea that we’re going to turn this incredible treasure over to some local tribe because they think it’s grandma’s bones is crazy.”

Less colorfully, the scientists make similar arguments.

“Because the La Jolla Skeletons are so old, and the information about their era so limited, it cannot reasonably be concluded that they share special or significant genetic or cultural features with presently existing indigenous tribes, people or cultures,” Bettinger, an anthropologist, wrote in a declaration attached to the professors’ court filing.

The bones are housed at the San Diego Archaeological Center in Escondido. The university has respected Native American preferences and not permitted genetic testing.

Schoeninger said in a declaration that the way the skeletons were buried was not consistent with pre-colonial Kumeyaay practice. In addition, she wrote, “carbon and nitrogen stable isotope analysis” of collagen from the bones indicates the two ancient people ate a year-round diet of open-ocean and some near-shore fish and mammals different from that of the Kumeyaay.

The professors say DNA and other testing could open new windows on how human life came to North America and the Western Hemisphere.

“No other set of New World remains,” wrote Bettinger, “holds such a high degree of research potential.”

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