
FEATURES

The Selling of the *Tyrannosaurus rex* Named “Sue”: Its Effect on North Dakota’s Fossil Resource Management Program

By John W. Hoganson

In the mid-1980’s, the North Dakota Geological Survey Fossil Resource Management Program was initiated to address the need for management of North Dakota’s fossil resources. For more than a century, collectors have come to North Dakota to hunt for fossils and numerous important specimens have been removed from the state. Many of these fossils are now in the collections of museums and universities in the eastern United States. In 1989, two laws were passed in North Dakota to greatly enhance our fossil resource management efforts. The legislation that “recreated” the North Dakota Geological Survey (NDCC 54-17.4) directs the Geological Survey to operate and maintain a public repository for fossils, thus creating a North Dakota State Fossil Collection. This collection is being developed and housed at the Geological Survey’s paleontology laboratory located in the North Dakota Heritage Center in Bismarck. Also in 1989, North Dakota’s Paleontological Resource Protection Act (NDCC 54-17.3) was ratified. This law gives the North Dakota Industrial Commission, acting through the office of the State Geologist, the responsibility to manage and protect fossil resources on lands owned by the State of North Dakota and its political subdivisions.

However, a new challenge for the management of North Dakota’s fossil resources has developed in the past few years as the result of a thriving international market for fossils and the resulting collecting and selling of fossils by profiteers. The most startling example is the recent auction of the most complete skeleton ever found of a *Tyrannosaurus rex* for \$8.36 million!

Auction of the *T. rex* named “Sue”

In 1990 the Black Hills Institute, a private company located in Hill City, South Dakota that collects and sells fossils, discovered the remains of a *Tyrannosaurus rex* on Maurice Williams’ ranch near Faith, South Dakota. The fossil was named “Sue” because it was discovered by Sue, a former employee of the Black Hills Institute. This started a bizarre and ridiculous trend of giving names to fossil dinosaur specimens (almost as ridiculous as Johnny Cash’s old song, “A Boy Named Sue”).

Peter Larson, owner of the Black Hills Institute, and a team of bone hunters excavated the fossil and paid Maurice Williams \$5,000 for the specimen. They transported the fossil to their Hill City headquarters. Word spread quickly around the paleontological community that a remarkably complete and well-preserved *T. rex* specimen had been found by the Black Hills Institute and was for sale.

An ownership dispute developed over the fossil between the Black Hills Institute and Maurice Williams. Maurice Williams claimed that the payment of \$5,000 was only for the right to look for fossils on his property, not for the actual excavation and possession of the specimen. Williams, a Sioux tribal member, apparently did not have the authority to sell the fossil without the permission of the Department of Inte-

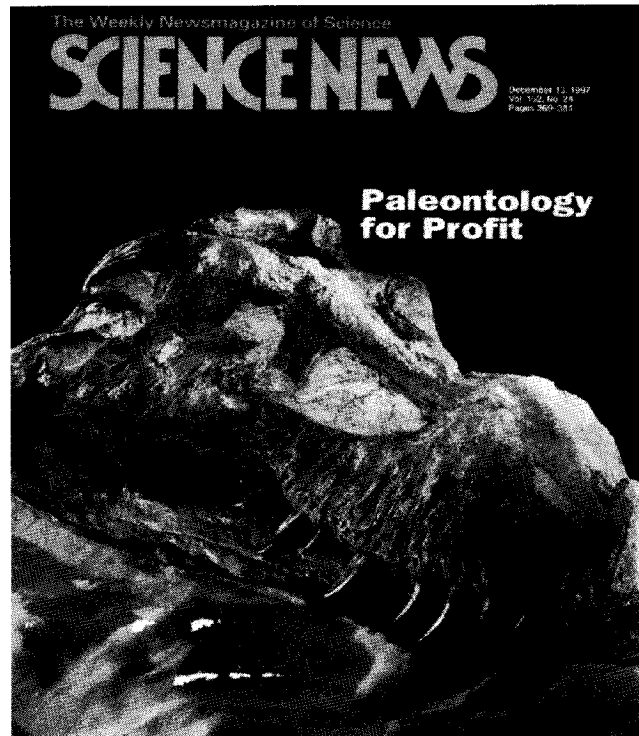


Figure 1. Cover of December 13, 1997 Science News magazine showing the skull of the *T. rex* known as “Sue.”

rior, because the federal government was holding the land in trust for him. The federal government confiscated the specimen and transported it to the South Dakota School of Mines and Technology for protection until the dispute was resolved. (I was asked by the FBI to be a member of the team of paleontologists to make sure the specimen was safely transported to the School of Mines, but North Dakota Attorney General Nick Spaeth decided it was best that the Survey stay out of the situation. As it turned out he was correct because several law suits resulted from the incident.) Larson and Williams both accused each other of wrong doing and the fate of the *T. rex* skeleton was left to be decided by the courts.

Eventually, the courts awarded the fossil to Williams and the Bureau of Indian Affairs was directed to work with Williams to do something with the fossil that would be for his best interest. They decided to sell the fossil to the highest bidder and Sotheby's, the large New York City-based auction company, was commissioned to hold the auction. On October 4, 1997, at Sotheby's auction house in New York City, after a bidding frenzy that lasted nine minutes, the Field Museum of Natural History in Chicago purchased the specimen for \$8.36 million, with most of the proceeds going to Williams. Funding for the purchase was in part provided by Disney Enterprises and McDonald's. It should be noted that Peter Larson's subsequent legal problems and eventual conviction for illegal fossil collecting and customs violations resulting in his incarceration in a federal prison for two years, had nothing to do with the *T. rex* named "Sue" controversy.

Reaction of the professional paleontology community to the sale of "Sue"

The professional paleontology community anxiously anticipated the *T. rex* auction because of uncertainty as to whether the important specimen would end up in a private collection, thereby making it unavailable for scientific study and public display, or in a public repository in this country. The ultimate concern was the effect the sale would have on the science of paleontology. During the months prior to the sale, there was speculation about how much the specimen would sell for. Its sale, for the unprecedented amount of over \$8 million, shocked the paleontology community and heightened concern. The week after the auction, I was in Chicago attending the annual conference of the Society of Vertebrate Paleontology (SVP). The effect of the sale of the dinosaur on the science of paleontology was a major topic of discussion in the SVP Government Liaison Committee of which I am a member. The Government Liaison Committee is made up of paleontologists from throughout the country and helps establish policy for the SVP regarding fossil-resource management and other paleontological issues.

At the conference, the SVP released a position

statement regarding the sale of "Sue." The statement expressed support to the Chicago Field Museum and the foundations, corporations, and individuals that recognize that the specimen is of great significance to science and society. The SVP statement also praised the groups that provided funding for the purchase of the specimen to insure that it will remain in the public domain for scientific research and education. Prior to the sale, professional paleontologists were concerned that the specimen would be purchased by an individual collector (private bidders were involved in the bidding at the auction) and/or end up leaving the country. Many fossils, particularly dinosaur specimens, are being sold by commercial collectors to overseas buyers. Some of these buyers are bonafide museums, others use fossils to decorate office buildings, and some are fossil collectors and speculators. The SVP position statement does express a grave concern that there will be an increase in fossil collecting for commercial purposes and marketing of fossils because of the sale of "Sue" and the high price obtained. A concern was also expressed in the statement that there will be increased pressure by profiteers to open public lands for commercial collecting of fossils. Collecting of vertebrate fossils from public lands for commercial purposes is, at this time, prohibited. Allowing commercial fossil collecting on public lands would remove important fossils from the public trust and would prevent scientific study of most of these fossils and their use in educational activities. Commercial fossil dealers have been lobbying in Washington, D.C. to open federally administered public lands for indiscriminate fossil collecting for profit.

Ramifications of the sale of "Sue"

It is not too early to tell what some of the ramifications will be from the sale of "Sue." For example, another *T. rex* skeleton (with the equally ridiculous name of "Z-rex") collected in South Dakota in 1992 by commercial fossil dealers from Kansas, is now on the market. It is reputed to be one of the most complete *T. rex* skeletons ever found. The asking price is \$15 million. An incident believed to be triggered by the sale of "Sue" occurred last fall near Fort Peck, in northeastern Montana. There, a paleontologist from the University of Norte Dame was excavating a partial tyrannosaurus skeleton. The former owners of the property where the specimen was being excavated attempted to steal the fossil before it was completely removed from the ground and consequently damaged the specimen. Also, as a result of the auction of "Sue," at least one western museum has been asked by property owners to return dinosaur fossils that had been collected from their property, even though the museum paleontologists that collected the fossils had permission from the land owners to do so. In many areas where dinosaur fossils are found, it is becoming more difficult for professional paleontologists to obtain permission to collect fossils on private property because of the commer-



Figure 2. "Wanted Poster" for dinosaur fossils recently posted in businesses in Marmarth, North Dakota.

cial value of fossils.

In North Dakota, the state has management responsibility for fossils found on state (public) lands and on lands owned by political subdivisions of the state. Federal agencies (USFS, BLM, Corps of Engineers, National Park Service, Bureau of Reclamation) have management responsibility for fossils found on federal public lands. Tribal governments manage fossils on reservation lands. Permission must be obtained, usually through a permit-granting process, from those fossil resource management agencies to collect certain kinds of fossils, mostly vertebrate fossils, from public lands under their jurisdictions. For example, the North Dakota Geological Survey issues permits to collect certain kinds of fossils (mostly vertebrate fossils) on state-administered property. However, in North Dakota and perhaps in all states, fossils occurring on private property belong to the landowner (unlike in Canada where most fossils, even those found on private land, are considered to be public property). Landowners in North Dakota can do what they wish with fossils found on their property.

In badland areas of southwestern North Dakota near the town of Marmarth, Slope County and in Bowman County, where the dinosaur fossil-bearing Hell Creek Formation is extensively exposed, several out-of-state fossil hunting groups are looking for and collecting dinosaur bones this summer. There is no doubt that the public interest in fossils, in part, as a result of the *Jurassic Park* and *The Lost World* movies, and the huge amount of money being paid for fossils such as "Sue" has prompted an increase in dinosaur fossil collecting in North Dakota. These groups have made contractual arrangements with property owners to collect fossils in that area. Eight of these groups are commercial fossil dealers and the others are either sponsored by museums or universities. Some of the

collectors are credentialed and qualified paleontologists, but most are not. In any case, all of the fossils collected by them will likely leave North Dakota forever. This has been happening for many years in that area of the state. In recent years advertising signs have even been posted in the post office and cafes in Marmarth by commercial fossil dealers. (Figure 2) In fact, as I write, a *Triceratops* dinosaur skull collected in Bowman County in 1995 is for sale on the Internet for \$65,000 (Figure 3). Stephen Jay Gould, a noted



Figure 3. *Triceratops* skull from Bowman County, North Dakota 'for sale' on the Internet.

paleontologist, has termed this commercialization of fossils as the "Great Dinosaur Ripoff."

Landowners have a legal right to sell property that belongs to them, even though they are fossils. Those of us who spend a lot of time in southwestern North Dakota realize how difficult it is to make a living these days ranching and farming. Commercial fossil activities have, however, created a social conflict because some citizens do not believe it is right to sell the fossils and want them to stay in North Dakota while others are not concerned about the loss of the fossils from the area. Because of the mixed nature of land ownership (private, state, federal, and county) in Bowman and Slope counties, federal, state, and county officials are monitoring fossil-collecting activities to make sure that these collectors do not illegally remove fossils from the public lands.

The North Dakota Geological Survey is able to manage and help regulate fossil collecting on state, federal and other public lands because we have legislated responsibility to be stewards of our fossil resources. The NDGS is serious

about its responsibility to preserve North Dakota fossils for the benefit of North Dakotans. We must make sure that responsibility is not taken away by efforts of commercial fossil collectors because fossils are part of our natural heritage; they need to be kept in the public domain for scientific and educational purposes. In fact, I believe we must work toward strengthening our laws, particularly at the federal level, to insure that fossil resources are adequately protected for future generations. It is heartening to know that the great majority of people in this country believe that fossils found on federal public lands belong to everyone in the United States, should not be privately owned, and should be housed in public facilities. In a recent national poll, commissioned by The Dinosaur Society, more than 85% of the people polled from around the United States agreed with these views.

But what about fossils found on private property in North Dakota? There have been two major effects on North Dakota's Fossil Resource Management Program as a result of the high prices being paid by commercial fossil hunters for fossils collected from privately owned property. First, the state cannot compete financially with commercial fossil collectors who offer private property owners large sums of money to collect fossils from their land. Consequently, museums like the North Dakota Heritage Center, where we are developing exhibits of North Dakota's prehistoric life, can not obtain specimens collected in North Dakota by commercial fossil dealers. Second, because of lease agreements between the landowners and commercial collectors, we can not obtain permission to collect fossils for the state from those commercially leased private lands. Most fossil specimens collected by commercial dealers will never be available for the enjoyment of the citizens of the state and for the education of our children. In addition to the loss of fossil specimens through commercial collecting activities, the state also loses the scientific information that the fossils provide. Fossils are our only means of knowing what kinds of plants and animals inhabited North Dakota at different times in the geologic past. They also provide us with information about past climate and how climate has changed through time. The loss of that information is as devastating to the state of North Dakota as the loss of the fossil specimens themselves.

Let me end this essay on an optimistic note. There

are many private land owners in North Dakota who believe that North Dakota fossils should remain in North Dakota for scientific study and public display even though they are aware of the economic value of fossils found on their property. An example of citizen support is provided by one of the North Dakota Geological Survey's current projects, the restoration of a mosasaur skeleton for exhibit at the North Dakota Heritage Center. Mosasaurs were large (20 to 25 feet long) marine reptiles that lived at the same time as the land-dwelling dinosaurs. The nearly complete skeleton of a mosasaur was found on Bev and Orville Tranby's property near Cooperstown, Griggs County by Mike Hanson and Dennis Halvorson of Cooperstown. The Tranby's have donated the specimen to the state for study and permanent exhibit at the North Dakota Heritage Center.

North Dakota has a wonderful program, called the Natural Areas Registry Program, which is intended to preserve natural areas, including important paleontological sites, located on private property. The Natural Areas Registry Program is a citizen-based conservation program administered by the North Dakota Parks and Recreation Department. The North Dakota Geological Survey takes an active role in the program when paleontological sites are being considered for the natural areas registry. As part of this program, the state identifies significant natural areas and approaches the property owner to suggest that the site be preserved. If the owner agrees, the state then advises that landowner about appropriate preservation procedures. It is a highly effective program because the landowner retains ownership of the property and assumes the lead role in preserving the natural area with help from the state. There are already about 50 registered natural areas in North Dakota. Most of these are biological sites, but five of the sites, such as the Stumpf site in Morton County (see my winter 1994 *NDGS Newsletter* article, v. 21, no. 4, p.7-10), are registered natural areas because they are significant fossil sites. Landowners, who register their land in the program, are recognized for their contribution to the betterment of the State of North Dakota at a ceremony at which time the Governor presents them with a certificate of appreciation and a plaque. We are all indebted to these property owners for their willingness to preserve these important fossil sites and other natural areas.