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Price

Kiewit, Whitney filing suit against state

Peter Kiewit Sons' Co. and Whitney Benefits, Inc., filed a lawsuit Friday in U. S. District Court against the state of Wyoming, asking for \$231,920,187.50 plus interest as compensation for the state's alleged refusal to provide federal coal in exchange for Whitney coal.

The Department of Environmental Quality stopped Kiewit and Whitney from mining coal in the Tongue River valley in 1979 under provisions of the Surface Mining Control and Reclamation Act which prohibits surface coal mining that would

significantly "interrupt, discontinue or preclude" farming on alluvial valley floors. One reason for forbidding PKS to mine the area is that a large portion of the operation was located within an alluvial valley floor.

But the law does provide for an exchange for federally-owned coal.

The SMCRA provides that the Secretary of Interior is authorized to exchange federal coal for fee coal which has been prohibited from being mined.

On July 6, 1981, Kiewit and Whitney submitted an application to

the Bureau of Land Management for an exchange of Whitney Benefit fee coal for federal coal. According to documents filed the BLM has not offered nor have the plaintiffs received any federal coal in exchange for Whitney coal prohibited from being mined.

The suit claims that the state of Wyoming has taken Kiewit and Whitney property without just compensation in violation of the Fifth and Fourteenth Amendment to the U.S. Constitution and Articles 1, 6 and 33 of the Wyoming Constitution.