

WHITNEY BENEFITS ASKS WHY THE U.M.W. LOCAL NO. 1972 DOES NOT WANT A COAL MINE IN SHERIDAN COUNTY

Whitney Benefits, Inc., a Sheridan charitable organization, is very concerned to learn that the U.M.W. Local No. 1972 has filed a written protest with the Bureau of Land Management of Whitney's application for an exchange of federal coal. According to an article published in the Omaha World Herald on October 23, 1984, U.M.W. No. 1972 and the Powder River Basin Resource Council protested to the Bureau of Land Management in joint letters that the exchange of Whitney Benefits' coal for federal coal in Sheridan County should not be allowed by the B.L.M.. Whitney, under the provisions of a federal law, is seeking to exchange its fee coal, ruled unminable in 1979, for federal coal which can be mined.

Board member Henry Burgess stated, "The mining of the federal coal requested in the Whitney exchange in Sheridan County would not only provide increased revenues for the charitable work of Whitney Benefits, but would also provide mining jobs and mineral severance taxes which would benefit all of Sheridan County's residents."

Board member Burgess explained, "Whitney Benefits is a charitable operation which provides scholarships to educate local youth and also helps to operate and maintain both the Y.M.C.A. and Sheridan College. Whitney's Board can't understand why local U.M.W. members, whose children Whitney has helped to educate, would want to stop this project. The revenue to be obtained from mining this coal is critical to Whitney's charitable purposes."

Burgess went on to explain that Whitney Benefits' largest asset is a tract of coal located in Sheridan County which, in 1979, as a result of the passage of the Surface Mine Coal and Reclamation Act, was prohibited from being mined due to the presence of an alluvial valley floor. Sheridan's Senator Wallop, with the Whitney situation in mind, was successful in adding an amendment to that Act. This amendment allowed an owner of coal so prohibited from being mined to exchange its coal for federal coal which could be mined. Whitney and its coal lessee, Peter Kiewit Sons, Inc., parent corporation of Big Horn Coal Company, have been working with the B.L.M. since 1979 to consummate an exchange.

Burgess added, "Whitney felt it very important to seek an exchange of federal coal in Sheridan County and not somewhere else in Wyoming so that the people it serves could reap the tax and employment benefits from a coal mine. It is also my understanding that this coal is vital to the continued operation of the Big Horn Coal Company in Sheridan in the future. The exchange process has been a difficult and time-consuming one. This type of unexplained, local opposition is very detrimental to Whitney's successful completion of an exchange."

According to Burgess, Whitney benefits is attempting the first alluvial valley floor fee coal exchange in the nation. In order to enforce its rights under the federal statute the charity has been forced to file lawsuits in three different federal courts and one state court. One lawsuit was recently argued in the Federal Court of Appeals in Washington, D.C. Another is presently pending in the Federal District Court for the District of Wyoming, and an action was recently filed in September in the Wyoming District Court in Sheridan.

Burgess went on to state, "The union's position is particularly unfortunate since it appears they did not have accurate information on which to base their position." Burgess stated that Whitney Benefits and PKS, Inc. had attempted to obtain a copy of the U.M.W. No. 1972 letter from the Bureau of Land Management, but were denied access to that letter by the B.L.M.. Burgess went on to say, "But, if the Omaha World Herald article is an accurate reflection of the contents of that letter, the reasons the U.M.W. gave in protesting our application are wrong." Burgess continued, "The article is written as if Whitney Benefits merely had a lease on the coal and was seeking to have a lease-for-lease exchange. This is not the situation. Whitney Benefits owns the fee coal and under the provisions of the federal statutes a fee coal owner is entitled to an exchange of fee coal and is not required to bid for a federal coal lease." Burgess explained that apparently Congress passed the Wallop amendment to provide a fee coal owner with "just compensation" for the property the government would be taking by ruling a piece of land unminable due to the presence of an alluvial valley floor. Both the Wyoming Constitution and the U.S. Constitution provide that the government cannot take a person's property without providing "just compensation." According to the article, the union argues that this exchange would harm the State of Wyoming. Burgess pointed out that the State of Wyoming and, in particular, Governor Herschler are fully behind the Whitney Benefits alluvial valley floor exchange and have been working with Whitney since the beginning to see the exchange consummated. Burgess stated, "The allegations made by U.M.W. No. 1972 are not new. In 1982 on two separate occasions Governor Herschler wrote the State Director of the Bureau of Land Management and stated that the State of Wyoming fully supported the Whitney benefits exchange and did not agree that the State would be harmed by doing so." Burgess stated, "Apparently the union also points to certain letters written by several mining companies in March of 1982 stating that they would protest such an exchange." Burgess said, "Reliance on these letters appears to me to be unjustified since they were written some two and one-half years ago and many of the companies that wrote those letters have now sold their property and left Sheridan County."

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Whitney Benefits, Inc.