

WHITNEY BENEFITS, INC.
NEWS RELEASE

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April, 1995

Mrs. Dorothy C. King, the President of Whitney Benefits, Inc., announced that the United States has paid Whitney and Peter Kiewit Sons Co. \$200,000,000 to settle a law suit brought by the parties against the government. Whitney is a private, non-profit educational foundation located in Sheridan, Wyoming, and Kiewit is a mining and construction firm based in Omaha, Nebraska. Pursuant to a stipulation between the plaintiffs, Whitney received approximately \$65,275,000, and Kiewit received approximately \$134,725,000.

The litigation was precipitated by the enactment of the Surface Mining Control and Reclamation Act (SMCRA) by Congress on August 3, 1977. On December 3, 1974, Whitney leased to Kiewit certain coal properties located in Sheridan County, Wyoming, underlying farm lands in an alluvial valley floor; Kiewit intended to surface mine the coal. Whitney's lease, by extension, was in effect when SMCRA was enacted. Whitney and Kiewit claimed that because SMCRA prohibited surface coal mining on the property, they were denied the economic benefits of the property and the lease.

When negotiations with the government failed to satisfy their claims, the plaintiffs filed suit in the United States Court of Federal Claims in August of 1983. On October 13, 1989, the Court of Federal Claims found that SMCRA effected a taking of the plaintiffs' property, and on December 28, 1989, entered judgment in favor of the plaintiffs and against the government for \$60,296,000, together with interest from the date that SMCRA was enacted.

After the judgment was entered, the parties continued to litigate various differences, and the case was pending before the United States Court of Appeals for the Federal Circuit when the settlement was reached. The settlement included accrued interest on the original judgment.

Whitney Benefits, Inc. was created under the Last Will and Testament of Mr. Edward A. Whitney, a Sheridan County resident, who passed away in 1917. Mr. Whitney provided that the District Court of Sheridan County, Wyoming would retain jurisdiction and supervision over the corporation's activities. Under the terms of Mr. Whitney's Will, the principal of the corporation was to be invested, and the net income from the investments was to be used for educational purposes.

Specifically, Mr. Whitney directed the corporation to create a student loan program that would help provide needy and worthy young men and women with modest financial assistance from the corporation's income to pursue academic and vocational studies. Through December 31, 1994, the corporation has loaned 3,706

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students \$7,570,609.53.

Mr. Whitney also specifically suggested that when the corporation's principal reached \$1,000,000, the corporation consider the establishment of a school of agriculture or of technical training in or near the City of Sheridan, Wyoming from the estate's net income. Since 1959 and through December 31, 1994, the corporation has donated 64.5 acres and over \$628,881.85 to establish, maintain, and further the educational programs at Sheridan College.

Finally, Mr. Whitney authorized the corporation to construct, from the net income, a community building with offices, reading rooms, rest rooms, and a gymnasium for the advancement of education. In 1963, the corporation and the Sheridan County YMCA agreed to build the Whitney-YMCA building, with the corporation contributing \$1,007,885.67 to the construction. Since then and through December 31, 1994, the corporation has spent \$360,485.01 on the soccer field, garage and parking lot and \$64,810.84 for furnishings. The corporation has also furnished, through December 31, 1994, \$2,224,816.81 to operate and maintain the building.

Mrs. King said that, pursuant to Mr. Whitney's Will, the settlement proceeds would be invested, and the income earned from the investments would then become available for distribution under the terms of Mr. Whitney's Will and under the supervision of the Sheridan County District Court.

Mrs. King asked that additional questions be directed to the corporation's Executive Director, Bob Koester.

*All figures
correct thru
12-31-94*