

**WHITNEY BENEFITS  
NEWS RELEASE**

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Mrs. Dorothy C. King, the President of Whitney Benefits, Inc., recently released a summary of Whitney's 1995 activities. Whitney is a private, non-profit educational foundation located in Sheridan, Wyoming.

**SETTLEMENT OF COAL LITIGATION**

In the Spring of 1995, after six years of negotiations and 12 years of litigation, the United States government paid Whitney and Peter Kiewit Sons Co. \$200 million to settle a law suit brought by the parties against the federal government. Kiewit is a mining and construction firm based in Omaha, Nebraska. Pursuant an agreement between the parties, Whitney received \$65.3 million, and Kiewit received \$134.7 million.

The litigation was precipitated by the enactment of the Surface Mining Control and Reclamation Act (SMCRA) by Congress on August 3, 1977 which prohibited mining in an alluvial valley. Because Whitney had previously leased coal underlying the Tongue River valley to Kiewit for surface mining, Whitney and Kiewit claimed that they were denied the economic benefits of the lease by the legislation.

**LAST WILL AND TESTAMENT OF EDWARD A. WHITNEY**

Whitney was created under the Last Will and Testament of 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 is to be invested, and the net income from the investments is to be used for educational purposes.

**STUDENT LOAN PROGRAM**

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. Since the inception of the program in 1928, the corporation has loaned 3,736 students \$7,898,921.51. In 1995, Whitney approved interest free loans totalling \$459,105 to 66 students; 30 students received loans for the first time, and 36 students had received loans previously.

#### SHERIDAN COLLEGE

Mr. Whitney also specifically suggested the establishment of a college in or near the City of Sheridan, Wyoming from the corporation's net income, once the value of the corporation exceeded \$1,000,000. Since 1959, the corporation has donated 64.5 acres and over \$878,881.85 to establish, maintain, and further the educational programs at Sheridan College.

In 1995, Whitney advanced \$250,000 to Sheridan College which is to be used for the development of a detailed campus plan. In addition, Whitney agreed to contribute \$3,650,000 to Sheridan College for a project that includes the construction of a student residence hall, the remodeling of six existing student residence halls, and the expansion of the student commons. The money will be distributed as the planning and construction progresses, but no later than December 31, 1997.

#### SHERIDAN COUNTY YMCA

Finally, Mr. Whitney authorized the corporation to construct, from the net income, a building for office purposes, with 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 Benefits-YMCA building, with the corporation contributing \$1,007,885.67 to the construction. Since then, the corporation has expended \$360,485.01 on the soccer field, garage, and parking lot and \$64,810.84 for furnishings. The corporation has also furnished \$2,385,149.75 to operate and maintain the building.

In 1995, Whitney contributed \$160,332.94 to the operation and maintenance of the building. In addition, Whitney gave the YMCA \$500,000 to help fund the YMCA's Project 2000 expansion. Finally, in late December, Whitney conveyed its portion of the building, valued at \$2,190,000, to the YMCA.

#### THE FUTURE ROLE OF WHITNEY BENEFITS

Mrs. King also said that the Whitney Board of Trustees took the opportunity to reevaluate Whitney's future responsibilities in view of the settlement of the coal litigation which increased Whitney's net worth from \$10,000,000 to \$75,000,000. It was readily apparent that the income from the investments would materially benefit the Sheridan community. The real issue for the Board was to distribute the income in a manner consistent with the language contained in Mr. Whitney's Will. The Board, as an entity, and the Trustees, as individuals, have a fiduciary duty to fulfill the purposes articulated by Mr. Whitney in his Will.

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Although the overall intent of the Will is to promote education, the Will's express language clearly identifies the student loan program, the college, and the building as the specific beneficiaries. Based upon the unambiguous language of the Will, the Whitney Board does not have the authority to change the beneficiaries. For example, the question arose whether Whitney could expend some of the income for grants (scholarships) instead of loans. After reviewing the pertinent language in the Will and considering a legal opinion which had been requested on the issue, the Board concluded that Whitney was limited to making loans and could not make grants. Similarly, because the Will does not specifically provide for other beneficiaries, the Board was forced to deny many requests for financial assistance, even though the requests were from excellent programs that would benefit many deserving people.

The Whitney Board recognizes that Sheridan College and the YMCA, as specific beneficiaries under the Will, are two of the fine institutions that serve large numbers of Sheridan County residents, and in addition, help make Sheridan County a very desirable place to live. The Board is aware that both Sheridan College and the YMCA have developed numerous private funding sources that have allowed each entity to continually enhance its programs and make those programs available to Sheridan County residents. The Whitney Board, and both Sheridan College and the YMCA, are concerned that Whitney's receipt of the coal settlement proceeds may prompt benefactors of Sheridan College and the YMCA to reduce or even withdraw their financial support. However, a review of Whitney's 1995 contributions emphasize the need for continued private funding of those entities.

Whitney's contributions to Sheridan College, for the development of a campus plan and for the construction and renovation of campus buildings, are intended to supplement, not replace, private donations for scholarships, supplies, and equipment. In addition, the total estimated cost to construct one new dormitory, to renovate the six existing dormitories, and to renovate the student commons is expected to exceed \$8,000,000. Because there are no State or other funds available for this project, Sheridan College must ask private donors, other than Whitney, to complete the construction and renovation, as well as to continue funding scholarships and the purchase of supplies and equipment.

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Whitney's contributions to the YMCA, for operation and maintenance and for Project 2000, are not intended and cannot replace the support that the YMCA traditionally receives from other private sources. From the time the Whitney-YMCA complex was constructed to the present time, Whitney has contributed a portion of the cost of operation and maintenance, which combined with the support from other private sources, allows the YMCA to maintain its level of service to the community with only minimal fee increases. With respect to Project 2000, the purpose of the project is to address community needs that are currently unmet. In addition, the total cost of Project 2000 is expected to exceed \$3,000,000, which once again will require contributions from other private donors.

In summary, the Whitney Trustees believe that they can best fulfill Mr. Whitney's intent by supplementing, not replacing, the contributions that other private donors make to Sheridan College and the YMCA. In this manner, the Trustees will have complied with Mr. Whitney's Will, Sheridan College and the YMCA will be strengthened and enhanced, and the Sheridan community will benefit.

Mrs. King asked that additional information be obtained from Whitney's Executive Director, Bob Koester.