

JUL 15 1976

Ardelle M. Kissler, Clerk
Environmental Quality Council

STATE OF WYOMING
BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

IN THE MATTER OF THE APPLICATION)
OF PETER KIEWIT SONS' CO. FOR A) Docket No. 197-76
MINING PERMIT FOR THE WHITNEY)
MINE)

PETITION FOR LEAVE TO INTERVENE

COMES NOW, WHITNEY BENEFITS, INC., and for its grounds for intervening in the above entitled cause alleges:

1.

That Whitney Benefits is a non-profit corporation organized under the laws of the State of Wyoming and maintains its principal office in the City of Sheridan, Wyoming.

2.

That said Whitney Benefits was established by the Last Will and Testament of Edward A. Whitney, an early Sheridan resident, and under said Will has three purposes, viz:

1) To provide scholarships for the education of needy and worthy young men and women of Sheridan and other counties in Wyoming. Under that program to date, 2,447 students from counties in Northeastern Wyoming have been assisted in their education by interest free loans totaling over \$2,784,090.

2) To provide for the construction of a building with a reading room, restrooms and a gymnasium for the advancement, education and

benefit of the residents of Sheridan County and for the advancement of the morals and health of the community. That through 1975, Whitney Benefits has contributed the sum of \$837,083 to the construction, maintenance, and operation of the Whitney YMCA building.

3) To provide for a better quality life in Sheridan County by the provision for an educational institution for the level beyond high school for the purpose of furnishing, maintaining, and equipping an institution capable of offering a full college course in agriculture or the equivalent as given in standard institutions, even the organization of a school for such purposes if it is limited to two years of educational courses, and that pursuant to this provision of the Will, Whitney Benefits has contributed towards the construction, maintenance, and support of Sheridan College for the education of the youth in Northeastern Wyoming for a total sum of \$628,881.

3.

That in the course of administering the Whitney estate, Whitney acquired land situate in Sheridan County, Wyoming, which land at the time of its acquisition was known to contain coal. Thereafter Whitney sold such land, but expressly reserved in its conveyance all the coal contained in and underlying the lands together with the right to prospect for, mine, and remove coal from such lands upon the condition that the grantee and the grantee's successors would be fully compensated for any and all damages to the surface of said lands, buildings, irrigation ditches, or other improvements located

thereon by reason of the prospecting, mining, and removal of the coal.

4.

That on December 3, 1973, Whitney Benefits entered into a written exploration agreement and option to lease with Peter Kiewit Sons' Co., which option was exercised on December 4, 1974 and a coal lease executed. Lands included in the lease are in Sheridan County, Wyoming, and more particularly described in Exhibit "A" appended hereto. Included in those lands is the land for which Peter Kiewit Sons' Co. have applied for a mining permit in the above entitled matter.

5.

That it is estimated that Whitney Benefits, if a mining permit is issued by the State of Wyoming, will receive a royalty of at least forty cents (40¢) a ton on coal mined and recovered from its lands; that it is estimated that there is a minimum of 17,000,000 tons of recoverable coal; that the total royalty which could accrue from such mine is the sum of \$6,800,000.

6.

That although Whitney has distributed all its income annually for the educational and social improvement of the community of Sheridan and Northeastern Wyoming, its income no longer can meet the demands placed thereon. That it would be to the best interests of Whitney and the people who reside and make their livelihood in Wyoming that Whitney's financial resources be expanded by means of the allowance of strip mining Whitney's fee coal.

7.

That there has been filed in the above entitled cause protests by landowners who have taken title to the land owned by them, subject to the reservation unto Whitney of the right to enter upon their property and mine the underlying coal, and such protests are in derogation of Whitney's rights in the land and will be the subject of civil litigation.

8.

That the mining of coal has been carried on continuously in Sheridan County, Wyoming since prior to 1900; that since approximately 1954, open strip mining has been conducted in the County of Sheridan adjacent to Goose Creek and Tongue River without proven damage to the environment of the community; that mining is a legal activity and that this applicant for intervention claims an interest in the mining of the lands described in the Peter Kiewit Sons' mining application, has an interest in the mining of the coal for the purpose of obtaining royalty, which royalty will be used for legitimate charitable purposes to serve the human needs of this community pursuant to the terms and provisions of the Trust.

WHEREFORE, Whitney Benefits prays that the Board enter its Order authorizing the intervention of Whitney Benefits, Inc. in this matter; that this application be treated as a pleading in the nature of a Petition in support of the mining application of Peter Kiewit Sons' Co. for the Whitney mine.

DATED this 14th day of July, 1976.

BURGESS & DAVIS

By: 

HENRY A. BURGESS
Attorney for Whitney
Benefits, Inc.
P. O. Box 728
Sheridan, Wyoming 82801

CERTIFICATE OF SERVICE

I, HENRY A. BURGESS, Attorney for Whitney Benefits, Inc. in the above entitled and numbered cause, hereby certify that on the 14th day of July, 1976, I served a true and correct copy of a Petition for Leave to Intervene for Whitney Benefits by placing the same in the United States mail, postage prepaid, at Sheridan, Wyoming, correctly addressed to:

Powder River Basin Resource Council
150 West Brundage
Sheridan, Wyoming 82801

Mr. and Mrs. Gerald W. Moravek
P. O. Box 47
Kirby Star Route
Sheridan, Wyoming 82801


HENRY A. BURGESS

EXHIBIT A

WHITNEY BENEFITS, INC.

COAL LAND DESCRIPTION

Parcel No. 1

Record description: T. 57 N., R. 84 W.

Section 1: S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 11: NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$

Section 12: NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$

Also described as: Beginning at the Northeast corner of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 12:

thence	S. 0° 31' W.	4072.75 feet
"	S. 85° 49' W.	1659.91 "
"	S. 87° 34' W.	1671.77 "
"	N. 0° 11' E.	1349.40 "
"	S. 86° 19' W.	1675.47 "
"	West	1316.33 "
"	S. 0° 06' E.	1289.93 "
"	N. 89° 01' W.	1306.76 "
"	N. 0° 33' W.	1285.49 "
"	N. 0° 22' W.	1311.09 "
"	S. 89° 55' E.	1322.01 "
"	N. 0° 08' W.	1327.52 "
"	N. 89° 22' E.	1327.32 "
"	N. 12° 00' E.	1516.82 "
"	N. 87° 05' E.	3187.19 "
"	S. 5° 59' W.	1418.48 "
"	N. 85° 59' E.	1679.40 " to the point of

beginning. The above described tract contains 680.97 acres.

EXHIBIT A

Parcel No. 2

Record description: T. 57 N., R. 84 W.

Section 1: $NE\frac{1}{4}NE\frac{1}{4}$

T. 57 N., R. 83 W.

Section 6: $NW\frac{1}{4}NE\frac{1}{4}, E\frac{1}{2}W\frac{1}{2}$, Lots 4 & 5

T. 58 N., R. 83 W.

Section 31: $E\frac{1}{2}NE\frac{1}{4}, SW\frac{1}{4}NE\frac{1}{4}, E\frac{1}{2}SW\frac{1}{4}, W\frac{1}{2}SE\frac{1}{4}$,

Lots 3 & 4

Also described as: Beginning at the Northeast corner of Section 31:

thence	S. 0° 11' E.	2642.30 feet
"	S. 89° 23' W.	1342.80 "
"	South	2648.50 "
"	S. 0° 37' E.	1359.03 "
"	S. 89° 30' W.	1347.78 "
"	S. 0° 50' E.	4041.80 "
"	West	1331.20 "
"	N. 0° 48' W.	2683.41 "
"	West	1274.12 "
"	N. 2° 16' W.	1333.95 "
"	S. 89° 12' W.	1424.01 "
"	N. 1° 46' E.	1359.99 "
"	S. 89° 43' E.	1329.20 "
"	N. 1° 39.5' E.	2673.00 "
"	N. 89° 23' E.	1256.82 "
"	N. 89° 23' E.	1342.80 "
"	N. 0° 26' E.	1328.42 "
"	East	1338.47 "
"	N. 0° 03' W.	1335.21 "
"	N. 89° 46' E.	1334.85 " to the point of

beginning. The above described tract contains 694.6 acres.