

# LEVEL 3 COMMUNICATIONS INC

## FORM S-4/A

(Registration Statement for securities to be issued in business combination transactions)

Filed 07/25/95

Address	1025 ELDORADO BOULEVARD BLDG 2000 BROOMFIELD, CO 80021
Telephone	7208881000
CIK	0000794323
Symbol	LVLT
SIC Code	4813 - Telephone Communications, Except Radiotelephone
Industry	Communications Services
Sector	Services
Fiscal Year	12/31

# LEVEL 3 COMMUNICATIONS INC

## FORM S-4/A

(Securities Registration: Business Combination)

Filed 7/25/1995

Address	1025 ELDORADO BOULEVARD BLDG 2000 BROOMFIELD, Colorado 80021
Telephone	720-888-1000
CIK	0000794323
Industry	Communications Services
Sector	Services
Fiscal Year	12/31

REGISTRATION NO. 33-60977

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# SECURITIES AND EXCHANGE COMMISSION

## WASHINGTON, D.C. 20549

AMENDMENT NO. 1  
TO  
**FORM S-4**  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933

### PETER KIEWIT SONS', INC.

(Exact name of registrant as specified in its charter)

DELAWARE (State or other jurisdiction of incorporation)	1221, 161, 162, 4813, 4911, 7374 (Primary Standard Industrial Classification Code Numbers)	47-0210602 (I.R.S. Employer Identification No.)
1000 KIEWIT PLAZA OMAHA, NEBRASKA 68131 (402) 342-2052 (Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)	MATTHEW J. JOHNSON, ESQ. VICE PRESIDENT - LEGAL PETER KIEWIT SONS', INC. 1000 KIEWIT PLAZA OMAHA, NEBRASKA 68131 (402) 342-2052 (Name, address, including zip code, and telephone number, including area code, of agent for service)	

### MFS COMMUNICATIONS COMPANY, INC.

DELAWARE (State or other jurisdiction of incorporation)	4813 (Primary Standard Industrial Classification Code Numbers)	47-0714388 (I.R.S. Employer Identification No.)
3555 FARNAM STREET, SUITE 200 OMAHA, NEBRASKA 68131 (402) 977-5300 (Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)	TERRENCE J. FERGUSON, ESQ. SENIOR VICE PRESIDENT, GENERAL COUNSEL AND SECRETARY MFS COMMUNICATIONS COMPANY, INC. 3555 FARNAM STREET, SUITE 200 OMAHA, NEBRASKA 68131 (402) 977-5300 (Name, address, including zip code, and telephone number, including area code, of agent for service)	

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### COPIES TO:

JAMES D. DARROW, ESQ.  
SUTHERLAND, ASBILL & BRENNAN  
1275 PENNSYLVANIA AVE., N.W.  
WASHINGTON, D.C. 20004  
(202) 383-0100

JOHN S. D'ALIMONTE, ESQ.  
STEVEN J. GARTNER, ESQ.  
WILLKIE FARR & GALLAGHER  
ONE CITICORP CENTER  
153 EAST 53RD STREET  
NEW YORK, NEW YORK 10022  
(212) 821-8000

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**APPROXIMATE DATE OF COMMENCEMENT OF PROPOSED SALE TO THE PUBLIC:**

**AS SOON AS PRACTICABLE AFTER THE EFFECTIVE DATE OF THIS REGISTRATION STATEMENT.**

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If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. //

### CALCULATION OF REGISTRATION FEE

TITLE OF EACH CLASS OF SECURITIES TO BE REGISTERED	AMOUNT TO BE REGISTERED	PROPOSED MAXIMUM OFFERING PRICE PER SHARE	PROPOSED MAXIMUM AGGREGATE OFFERING PRICE	AMOUNT OF REGISTRATION FEE
Peter Kiewit Sons', Inc. Class C Construction & Mining Group Restricted Redeemable Convertible Exchangeable Common Stock, \$0.0625 par value	60,100	\$21.17(1)	\$1,272,500(2)	\$439*
Peter Kiewit Sons', Inc. Class D Diversified Group Convertible Exchangeable Common Stock, \$0.0625 par value	2,152,183(3)	\$59.12(1)	\$127,227,500(2)	\$43,872*
MFS Communications Company, Inc. Common Stock, \$.01 par value	40,091,664(5)	29.375(4)	\$1,177,692,630(4)	\$406,101(5)
MFS Communications Company, Inc. Series B Convertible Preferred Stock, \$.01 par value	15,000,000(5)	\$1.00(6)	\$15,000,000(6)	\$5,173(5)
MFS Communications Company, Inc. Common Stock, \$.01 par value	347,822(5)(7)	--	--	--

\* Previously paid.

- (1) Determined pursuant to Rule 457(f)(2) based on weighted average book value of securities to be received by Peter Kiewit Sons', Inc. in exchange offer per share of stock to be registered.
- (2) Determined pursuant to Rule 457(f)(2) based on aggregate book value of securities to be received by Peter Kiewit Sons', Inc. in exchange offer per share of stock to be registered.
- (3) Based on an assumed exchange of all of the convertible debentures and an aggregate of 5,000,000 shares of Class B Stock and Class C Stock of Peter Kiewit Sons', Inc.
- (4) Estimated solely for purposes of determining the registration fee pursuant to Rule 457(f) based upon the high and low sales prices of the Common Stock of MFS Communications Company, Inc. as reported by the National Association of Securities Dealers, Inc.'s National Market System on June 9, 1995.
- (5) In addition to the securities to be registered pursuant to this Registration Statement, the offering contemplated by the Prospectus forming a part of this Registration Statement also includes an aggregate of 40,439,490 shares of Common Stock, par value \$.01 per share of MFS Communications Company, Inc. and 15,000,000 shares of Series B Convertible Preferred Stock, par value \$.01 per share of MFS Communications Company, Inc. that are covered by Registration Statement No. 33-93504. A filing fee aggregating \$411,274 was previously paid with the earlier registration statement relating to such 40,439,490 shares of Common Stock par value \$.01 per share and 15,000,000 shares of Series B Convertible Preferred Stock par value \$.01 per share.
- (6) Estimated based upon the book value per share of \$1.00 pursuant to Rule 457(f).
- (7) Represents shares of Common Stock of MFS Communications Company, Inc. issuable upon conversion of the Series B Convertible Preferred Stock. Pursuant to the provisions of Rule 457(i) a separate registration fee is not payable.

THE REGISTRANTS HEREBY AMEND THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANTS SHALL FILE A FURTHER AMENDMENT THAT SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(A) OF THE SECURITIES ACT OF 1933 OR UNTIL THIS REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE COMMISSION, ACTING PURSUANT TO SAID SECTION 8(A), MAY DETERMINE.

### STATEMENT PURSUANT TO RULE 429(B)

THE PROSPECTUS CONTAINED IN THIS REGISTRATION STATEMENT IS A COMBINED PROSPECTUS WHICH ALSO COVERS SHARES OF COMMON STOCK AND PREFERRED STOCK OF MFS COMMUNICATIONS COMPANY, INC. COVERED BY REGISTRATION STATEMENT NO. 33-93504. THIS REGISTRATION STATEMENT ALSO CONSTITUTES PRE-EFFECTIVE AMENDMENT NO. 2 WITH RESPECT TO REGISTRATION STATEMENT NO. 33-93504.

**PART II**  
**INFORMATION NOT REQUIRED IN PROSPECTUS**

**ITEM 20. INDEMNIFICATION OF DIRECTORS AND OFFICERS**

Section 145 of the Delaware General Corporation Law (the "DGCL") empowers a Delaware corporation to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of such corporation) by reason of the fact that such person is or was a director, officer, employee or agent of such corporation, or is or was serving at the request of such corporation as a director, officer, employee or agent of another corporation or enterprise. A corporation may, in advance of the final disposition of any civil, criminal, administrative or investigative action, suit or proceeding, pay the expenses (including attorneys' fees) incurred by any officer, director, employee or agent in defending such action, provided that the director or officer undertake to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the corporation. A corporation may indemnify such person against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

A Delaware corporation may indemnify officers and directors in an action by or in the right of the corporation to procure a judgment in its favor under the same conditions, except that no indemnification is permitted without judicial approval if the officer or director is adjudicated to be liable to the corporation. Where an officer or director is successful on the merits or otherwise in the defense of any action referred to above, the corporation must indemnify him or her against the expenses (including attorneys' fees) which he or she actually and reasonably incurred in connection therewith. The indemnification provided is not deemed to be exclusive of any other rights to which an officer or director may be entitled under any corporation's by-law, agreement, vote or otherwise.

Section 145 of the DGCL empowers a Delaware corporation to purchase and maintain insurance on behalf of its officers and directors against any liability asserted against them incurred while acting in such capacities or arising out of their status as such.

In accordance with Section 145 of the DGCL, Article SIXTH of the Restated Certificate of Incorporation of PKS (the "PKS Certificate") and the By-laws of PKS (the "PKS By-laws") provide that PKS shall indemnify each person who is or was a director, officer or employee of PKS (including the heirs, executors, administrators or estate of such person) or is or was serving at the request of PKS as a director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, to the fullest extent permitted under subsections 145(a), (b) and (c) of the DGCL or any successor statute. The indemnification provided by the PKS Certificate and the PKS By-laws shall not be deemed exclusive of any other rights to which any of those seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Article SEVENTH of the PKS Certificate provides that a director of PKS shall not be personally liable to PKS or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to PKS or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended further eliminating or limiting the personal liability of directors, then the liability of a director of PKS shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended.

In accordance with Section 145 of the DGCL, Article 7 of MFS' Restated Certificate of Incorporation (the "MFS Restated Certificate") and MFS' By-Laws (the "MFS By-Laws") provide that MFS shall indemnify each person who is or was a director, officer or employee of MFS (including the heirs, executors, administrators or estate of such person) or is or was serving at the request of MFS as director, officer or employee of another corporation, partnership, joint venture, trust or other enterprise, to the fullest extent permitted under subsections 145(a), (b), and (c) of the DGCL or any successor statute. The indemnification provided by the MFS Restated Certificate and the MFS By-Laws shall not be deemed exclusive of any other rights to which any of those seeking indemnification or advancement of expenses may be entitled under any by-law, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person. Expenses (including attorneys' fees) incurred in defending a civil, criminal, administrative or investigative action, suit or proceeding upon receipt of an undertaking by or on behalf of the indemnified person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by MFS. Article 8 of the MFS Restated Certificate provides that a director of MFS shall not be personally liable to MFS or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to MFS or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the DGCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the DGCL is amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a director of MFS shall be eliminated or limited to the fullest extent permitted by the DGCL as so amended.

Section 8.7 of the MFS By-Laws provides that MFS may purchase and maintain insurance on behalf of its directors, officers, employees and agents against any liabilities asserted against such persons arising out of such capacities.

## ITEM 21. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

### EXHIBITS

Exhibit No. -----	Description -----
2.1	Form of Securities Purchase Agreement between KDG and MFS
2.2	Form of Distribution Agreement by and among PKS, KDG, KCG and MFS
4.1	Form of Certificate of Designations of the Series B Convertible Preferred Stock of MFS*
4.2	Form of Stock Certificate for the Series B Convertible Preferred Stock*
5.1	Opinion of Sutherland, Asbill & Brennan relating to legality of the Class C Stock and the Class D Stock of PKS***
5.2	Opinion of Willkie Farr & Gallagher relating to legality of the Common Stock of MFS and the Series B Convertible Preferred Stock of MFS*
8	Ruling Letter from the Internal Revenue Service**
15	Letter of Coopers & Lybrand, L.L.P. relating to unaudited financial information
23.1	Consent of Coopers & Lybrand, L.L.P. relating to PKS financial statements*
23.2	Consent of Coopers & Lybrand, L.L.P. relating to MFS financial statements*
23.3	Consent of Peat Marwick LLP*
23.4	Consent of Leon Constantin & Co.*
23.5	Consent of Sutherland, Asbill & Brennan (included in its opinion filed as Exhibit 5.1)***
23.6	Consent of Willkie Farr & Gallagher (included in its opinion filed as Exhibit 5.2)*

23.7	Consent of CS First Boston Corporation
23.8	Consent of Lehman Brothers Inc.
24	Powers of Attorney (included on signature pages)*
99.1	Form of Letter of Transmittal sent to holders of Class B Stock of PKS
99.2	Form of Letter of Transmittal sent to holders of Class C Stock of PKS
99.3	Form of Letter of Transmittal sent to holders of Convertible Debentures of PKS
99.4	Consent of Person Named as Director*
99.5	Opinion of CS First Boston Corporation
99.6	Opinion of Lehman Brothers Inc.

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\* Previously filed.

\*\* Filed under an Application for Confidential Treatment pursuant to Rule 406. \*\*\* To be filed by Amendment.

## ITEM 22. UNDERTAKINGS

(1) Each of the undersigned registrants hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of such registrant's annual report pursuant to section 13(a) or section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial BONA FIDE offering thereof.

(2) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of each of the registrants pursuant to the foregoing provisions, or otherwise, each of the registrants has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by each of the registrants of expenses incurred or paid by a director, officer or controlling person of such registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, each registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(3) Each of the undersigned registrants hereby undertakes to respond to requests for information that is incorporated by reference into the joint prospectus pursuant to Item 4, 10(b), 11, or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(4) Each of the undersigned registrants hereby undertakes to supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in the registration statement when it became effective.

(5) Each of the undersigned registrants hereby undertakes that:

(a) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this Registration Statement in reliance upon Rule 430A and contained in a form of prospectus filed by MFS pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of the Registration Statement as of the time it was declared effective.



(b) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new Registration Statement relating to the securities offered therein, and this offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

## SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, each of the Registrants has duly caused this Amendment No. 1 to be signed on its behalf by the undersigned, thereunto duly authorized, in Omaha, Nebraska on July 25, 1995.

*Peter Kiewit Sons', Inc.*

*MFS Communications Company, Inc.*

By: /s/ Walter Scott, Jr.

By: /s/ James Q. Crowe

-----  
Walter Scott, Jr.  
President

-----  
James Q. Crowe  
Chief Executive Officer

## PKS DIRECTORS AND OFFICERS

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 has been signed by the following persons in the capacities and on the dates indicated.

Signature -----	Title -----	Date ----
<p>/s/ Walter Scott, Jr.</p> <p>- ----- Walter Scott, Jr.</p>	<p>Chairman of the Board and President (Principal Executive Officer)</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- William L. Grewcock</p>	<p>Vice Chairman and Director</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- Robert E. Julian</p>	<p>Executive Vice President - Chief Financial Officer (Principal Financial Officer) and Director</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- Kenneth E. Stinson</p>	<p>Executive Vice President and Director</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- Eric J. Mortensen</p>	<p>Controller (Principal Accounting Officer)</p>	<p>July 25, 1995</p>
<p>- ----- Richard Geary</p>	<p>Director</p>	<p>July __, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- Leonard W. Kearney</p>	<p>Director</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- Richard R. Jaros</p>	<p>Director</p>	<p>July 25, 1995</p>
<p style="text-align: center;">*</p> <p>- ----- George B. Toll, Jr.</p>	<p>Director</p>	<p>July 25, 1995</p>
<p>- ----- Richard W. Colf</p>	<p>Director</p>	<p>July __, 1995</p>

*	Director	July 25, 1995
-----		
Bruce E. Grewcock		
*	Director	July 25, 1995
-----		
Tait P. Johnson		
*	Director	July 25, 1995
-----		
James Q. Crowe		
	Director	July __, 1995
-----		
Robert B. Daugherty		
	Director	July __, 1995
-----		
Charles M. Harper		
	Director	July __, 1995
-----		
Peter Kiewit, Jr.		
* /s/ Walter Scott, Jr.		
-----		
Walter Scott, Jr. Attorney-In-Fact		

## MFS DIRECTORS AND OFFICERS

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 as been signed by the following persons in the capacities and on the dates indicated.

<i>Signature</i> -----	<i>Title</i> -----	<i>Date</i> ----
<div style="text-align: center; margin-bottom: 5px;"><i>/s/ James Q. Crowe</i></div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>James Q. Crowe</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Chairman of the Board and Chief Executive Office (Principal Executive Officer)</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>R. Douglas Bradbury</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Senior Vice President, Chief Financial Officer (Principal Financial Officer) and Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Robert J. Ludvik</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Vice President and Controller (Principal Accounting Officer)</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">-----</div> <div style="text-align: center;"><i>Howard Gimbel</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July __, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Royce J. Holland</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Richard R. Jaros</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Robert E. Julian</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">-----</div> <div style="text-align: center;"><i>David C. McCourt</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July __, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">-----</div> <div style="text-align: center;"><i>Ronald W. Roskens</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July __, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Walter Scott, Jr.</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*</div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>Kenneth E. Stinson</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July 25, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">-----</div> <div style="text-align: center;"><i>Michael B. Yanney</i></div>	<div style="text-align: center; margin-bottom: 5px;"><i>Director</i></div>	<div style="margin-bottom: 5px;"><i>July __, 1995</i></div>
<div style="text-align: center; margin-bottom: 5px;">*    <i>/s/ James Q. Crowe</i></div> <div style="text-align: center;">-----</div> <div style="text-align: center;"><i>James Q. Crowe Attorney-In-Fact</i></div>		

# EXHIBIT INDEX

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\* Previously filed.

\*\* Filed under an Application for Confidential Treatment pursuant to Rule 406. \*\*\* To be filed by Amendment.

**SECURITIES PURCHASE AGREEMENT**

between

**KIEWIT DIVERSIFIED GROUP INC.**

and

**MFS COMMUNICATIONS COMPANY, INC.**

---

**As of July 17, 1995**

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**MFS COMMUNICATIONS COMPANY, INC.**

**SECURITIES PURCHASE AGREEMENT**

**Dated as of July 17, 1995**

Kiewit Diversified Group Inc.  
1000 Kiewit Plaza  
Omaha, Nebraska 68131

Dear Sirs:

MFS Communications Company, Inc., a Delaware corporation (the "COMPANY"), hereby agrees with Kiewit Diversified Group Inc., a Delaware corporation (the "PURCHASER") as follows:

**SECTION 1. AUTHORIZATION OF PREFERRED STOCK**

Subject to the terms and conditions set forth in this Agreement, the Company will authorize and create a series of its Preferred Stock consisting of 15,000,000 shares, \$0.01 par value per share, designated as its "Series B Convertible Preferred Stock" (the "SERIES B PREFERRED STOCK"). The terms, limitations and relative rights and preferences of the Series B Preferred Stock are set forth in the Certificate of Designations, Number, Voting Powers, Preferences and Rights of Series B Convertible Preferred Stock of the Company, a copy of which is attached hereto as Exhibit A (the "CERTIFICATE OF DESIGNATION").

**SECTION 2. PURCHASE AND SALE OF SECURITIES**

**2.1. INITIAL ISSUANCE OF PREFERRED STOCK**

(a) Subject to the terms and conditions set forth in this Agreement and in reliance upon the Purchaser's representations set forth below, on the Closing Date (as defined below) the Company shall issue and sell to the Purchaser, and the Purchaser shall purchase from the Company, 15,000,000 shares of Series B Preferred Stock (the "SHARES") by surrendering to the Company 2.9 million shares of common stock, par value \$.01 per share, of the Company (the "COMMON STOCK") currently owned by the Purchaser (the "KDG SHARES"). Such sale and purchase shall be effected on the Closing Date by the Company executing and delivering to the Purchaser, duly registered in its name, a duly executed stock certificate evidencing the Shares, against delivery by the Purchaser to the Company of certificates representing the KDG Shares, free and clear of any lien, claim, security interest or encumbrance and accompanied by appropriate instruments of transfer.

(b) On the calendar day following the acquisition of the Shares pursuant to Section 2(a), the Purchaser shall distribute to its sole stockholder, Peter Kiewit Sons', Inc. ("PKS"), all of the Shares and all of the remaining shares of Common Stock then owned, directly or indirectly, by the Purchaser (collectively, the "KDG SPIN SHARES"). PKS shall immediately thereafter assign and transfer (the "DISTRIBUTION") all of the KDG Spin Shares to the holders of its Class D Diversified Group Convertible Exchangeable Common Stock, par value \$.0625 per share (the "CLASS D HOLDERS").

(c) Unless this Agreement is terminated in accordance with its terms, the closing of such sale and purchase (the "CLOSING") shall take place at 10:00

A.M., New York City time, on any business day following the satisfaction or waiver of all conditions set forth in Article VI and Article VII designated by the Purchaser (the "CLOSING DATE"), at the offices of the Company, or such other location as the Purchaser and the Company shall mutually select.

### SECTION 3. REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company represents and warrants to the Purchaser that:

#### 3.1. CORPORATE ORGANIZATION; VALIDITY OF SHARES

(a) The Company is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware. The Company has the corporate power and authority to execute and deliver this Agreement and, subject to the receipt of the approvals specified in Section 7.4 of this Agreement, to consummate the transactions contemplated by this Agreement.

(b) Upon issuance, sale and delivery as contemplated by this Agreement, the Shares will be duly authorized, validly issued, fully paid and non-assessable shares of the Company, free of all preemptive or similar rights, and entitled to the rights therein described. Upon their issuance in accordance with the terms of the Series B Preferred Stock, the shares of Common Stock issuable upon conversion of the Shares will be duly authorized, validly issued, fully paid and non-assessable shares of Common Stock of the Company, free of all preemptive or similar rights.

#### 3.2. CORPORATE PROCEEDINGS, ETC.

The Company has duly executed and delivered this Agreement, and subject to the receipt of the approvals specified in Section 7.4 of this Agreement, duly authorized the performance



of this Agreement and the transaction and agreements contemplated hereby. Except as set forth in Section 7.4 of this Agreement, no other corporate action (including stockholder approval) is necessary to authorize such execution, delivery and performance, and upon receipt of the approvals specified in Section 7.4 of this Agreement, upon execution and delivery by the Purchaser, this Agreement shall constitute the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and general principles of equity.

### 3.3. CONSENTS AND APPROVALS

The execution and delivery by the Company of this Agreement, the performance by the Company of its obligations hereunder and the consummation by the Company of the transaction contemplated hereby do not require the Company to obtain any consent, approval or action of, or make any filing with or give any notice to, any corporation, person or firm or any public, governmental or judicial authority, which has not been obtained or will not be obtained before Closing.

### 3.4. PRIVATE OFFERING

Neither the Company nor anyone acting on its behalf has sold or has offered any of the Shares for sale to, or solicited offers to buy from, or otherwise approached or negotiated with respect thereto with, any prospective purchaser, other than the Purchaser. Neither the Company nor anyone acting on its behalf shall offer the Shares for issue or sale to, or solicit any offer to acquire any of the same from, anyone so as to bring the issuance and sale of such Shares or shares of Common Stock issuable upon conversion of the Shares, or any part thereof, within the provisions of Section 5 of the Securities Act.

### 3.5. BROKERAGE

There are no claims for brokerage commissions or finder's fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement made by or on behalf of the Company and the Company agrees to indemnify and hold the Purchaser harmless against any costs or damages incurred as a result of any such claim.

## SECTION 4. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser represents and warrants to the Company as follows:

### 4.1. INVESTMENT INTENT, ETC.

(a) The Purchaser acknowledges that the Shares are being sold to it by the Company pursuant to an exemption from the registration requirements of the Securities Act. The Purchaser will transfer the Shares only in connection with the Distribution.

(b) The Purchaser has such knowledge and experience in financial and business matters that it is capable of evaluating the merits and risks of its investment in the Company as contemplated by this Agreement, and is able to bear the economic risk of such investment for an indefinite period of time. The Purchaser has been furnished access to such information and documents as it has requested and has been afforded an opportunity to ask questions of and receive answers from representatives of the Company concerning the terms and conditions of this Agreement and the purchase of the Shares contemplated hereby.

### 4.2. CORPORATE ORGANIZATION

The Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware.

### 4.3. CORPORATE PROCEEDINGS, ETC.

The Purchaser has authorized the execution, delivery and performance of this Agreement and the transaction and agreements contemplated hereby. No other corporate action (including stockholder approval) is necessary to authorize such execution, delivery and performance, and, upon execution and delivery by the Company, this Agreement shall constitute the valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms, except that such enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights and general principles of equity.

#### 4.4. CONSENTS AND APPROVALS

The execution and delivery by the Purchaser of this Agreement, the performance by the Purchaser of its obligations hereunder and the consummation by the Purchaser of the transaction contemplated hereby do not require the Purchaser to obtain any consent, approval or action of, or make any filing with or give any notice to, any corporation, person or firm or any public, governmental or judicial authority, which consent or approval has not been obtained, or will not be obtained before Closing, and which filing or notice has not been timely filed or will not be timely filed before Closing.

#### 4.5. TITLE TO KDG SHARES

The Purchaser now has, and on the Closing Date will have, valid and marketable title to the KDG Shares to be surrendered by the Purchaser, free and clear of any lien, claim, security interest or other encumbrance, including, without limitation, any restriction on transfer; and upon issuance and delivery of the Shares to the Purchaser by the Company, the Company will acquire good and marketable title to the KDG Shares, free and clear of any lien, claim, security interest or other encumbrance.

#### 4.6. BROKERAGE

There are no claims for brokerage commissions or finder's fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement made by or on behalf of the Purchaser and the Purchaser agrees to indemnify and hold the Company harmless against any costs or damages incurred as a result of any such claim.

### SECTION 5. ADDITIONAL COVENANTS OF THE PARTIES

#### 5.1. AUTHORIZATION OF ISSUANCE OF SHARES

Subject to the receipt of the approvals set forth in Section 7.4 of this Agreement, the Company shall authorize the issuance and delivery of the Shares in accordance with the terms of this Agreement and, subject to the issuance and delivery of the Shares, the Company shall reserve for issuance shares of Common Stock initially issuable upon conversion of the Shares.

## 5.2. VOTING BY THE PURCHASER

- (a) At the 1995 annual meeting of the stockholders of the Company (the "Annual Meeting"), which will consider an amendment to the Amended and Restated Certificate of Incorporation of the Company (the "Restated Certificate"), which amendment would increase the authorized number of shares of preferred stock that the Company has the authority to issue from one million to twenty five million shares (the "AMENDMENT PROPOSAL"), the Purchaser shall cast all votes that the Purchaser is entitled to cast as a stockholder of the Company or otherwise in favor of such proposal.
- (b) At the Annual Meeting, which will consider the approval of the issuance of the Shares to the Purchaser (the "DISTRIBUTION PROPOSAL"), the Purchaser shall cast all votes that the Purchaser is entitled to cast as a stockholder of the Company or otherwise in the same manner as a majority of the votes cast on the Distribution Proposal (excluding abstentions and broker non-votes) by holders of Common Stock other than the Purchaser.
- (c) At the Annual Meeting, which will consider amendments to the Restated Certificate to create a classified board of directors, prohibit stockholder action by written consent, require that special meetings of stockholders be called only by the Board of Directors of the Company or the Chairman of the Board, and require the affirmative vote of at least 66-2/3% of the outstanding shares of stock of the Company entitled to vote thereon to adopt, repeal, alter, amend or rescind the Restated By-laws of the Company, the Purchaser shall cast all votes that the Purchaser is entitled to cast as a stockholder of the Company or otherwise in favor of all such amendments, unless the Distribution Proposal has not been approved by the holders of Common Stock as provided in Section 5.2, in which case the Purchaser shall have no obligation with respect to such amendments.

## 5.3. RESALE OF SECURITIES

- (a) The Purchaser covenants that it will not sell or otherwise transfer the Shares (or any shares of Common Stock acquired upon conversion of the Shares) except in connection with the Distribution.
- (b) The certificates evidencing the Shares issued to the Class D Holders will bear the following legend:

"The securities evidenced hereby are subject to (i) transfer restrictions set forth in the Securities Purchase Agreement (the "Agreement"), dated as of July 17, 1995 between Kiewit Diversified Group Inc. and the Corporation and in

the Certificate of Designations, Number, Voting Powers, Preferences and Rights of Series B Convertible Preferred Stock of MFS Communications Company, Inc. and (ii) an irrevocable proxy as to all matters other than the election of directors and matters as to which holders of the Series B Convertible Preferred Stock of MFS Communications Company, Inc. vote as a separate class given by Kiewit Diversified Group Inc. pursuant to the terms of the Agreement. A copy of the Agreement is available upon request of the Secretary of the Corporation."

#### 5.4. VOTING AND IRREVOCABLE PROXY

(a) At any annual or special meeting of stockholders of the Company, the Purchaser shall vote or cause to be voted the shares of Series B Preferred Stock beneficially owned by it on each matter other than (i) the election of directors and (ii) matters as to which holders of Series B Preferred Stock vote as a separate class, in proportion to the vote of all holders of Common Stock voting on such matter. For purposes of this Section 5.4(a), abstentions, broker non-votes and other failures to vote shall not be considered shares "voting on such matter."

(b) In order to ensure that the shares of Series B Preferred Stock are voted in accordance with the provisions of Section 5.4(a), on the Closing Date the Purchaser shall deliver to the Company an irrevocable proxy coupled with an interest, substantially in the form of Exhibit B hereto (the "Irrevocable Proxy"). The Purchaser acknowledges that the Board of Directors of MFS and the stockholders of MFS will be relying on the provisions of this Section 5.4 in approving the Distribution Proposal, and that the Irrevocable Proxy shall be deemed to be "coupled with an interest sufficient in law to support an irrevocable power" for purposes of Section 212(e) of the Delaware General Corporation Law.

(c) It is the intent of the Company and the Purchaser that the Irrevocable Proxy shall be binding upon all successors and assigns of the Purchaser, including without limitation, PKS, all Class D Holders who receive any shares of Series D Preferred Stock in connection with the Distribution and any permitted transferee of such Class D Holder.

#### 5.5. FURTHER ASSURANCE

Each of the parties shall execute such documents and other papers and take such further actions as may be reasonably required or desirable to carry out the provisions hereof and the transactions contemplated hereby. Each such party shall use its

reasonable efforts to fulfill or obtain the fulfillment of the conditions to the Closing as promptly as practicable.

## SECTION 6. THE PURCHASER'S CLOSING CONDITIONS

The obligation of the Purchaser to purchase and pay for the Shares on the Closing Date, as provided in Section 2 hereof, shall be subject to the performance by the Company of its agreements theretofore to be performed hereunder and to the satisfaction or waiver, prior thereto or concurrently therewith, of the following further conditions:

### 6.1. REPRESENTATIONS AND WARRANTIES

The representations and warranties of the Company contained in this Agreement shall be true on and as of the Closing Date as though such warranties and representations were made at and as of such date, except as otherwise affected by the transactions contemplated hereby.

### 6.2. COMPLIANCE WITH AGREEMENT

The Company shall have performed and complied with all agreements, covenants and conditions contained in this Agreement that are required to be performed or complied with by the Company prior to or on the Closing Date.

### 6.3. OFFICER'S CERTIFICATE

The Purchaser shall have received a certificate, dated the Closing Date, signed by an executive officer of the Company, certifying that the conditions specified in the foregoing Sections 6.1 and 6.2 hereof have been fulfilled.

### 6.4. INJUNCTION

There shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

### 6.5. REVENUE RULING

The ruling received by PKS from the Internal Revenue Service to the effect that the Distribution shall be a tax-free

distribution within the meaning of Section 355 of the Internal Revenue Code of 1986, as amended (the "CODE") shall remain in full force and effect.

## 6.6. CORPORATE APPROVALS

The Board of Directors of the Purchaser shall have approved the authorization, execution, delivery and performance of this Agreement and the transaction contemplated by this Agreement. The Board of Directors of PKS shall have approved the Distribution; provided, that in the event the Board of Directors of PKS shall have approved the Distribution at any time prior to the Closing Date, it shall be entitled to abandon the Distribution at any time prior to the Closing Date for any reason. In the event of any such abandonment, this Agreement shall be terminated without any liability on the part of either party hereto.

## SECTION 7. COMPANY CLOSING CONDITIONS

The obligation of the Company to issue and deliver the Shares on the Closing Date, as provided in Section 2 hereof, shall be subject to the performance by the Purchaser of its agreements theretofore to be performed hereunder and to the satisfaction or waiver, prior thereto or concurrently therewith, of the following further conditions:

### 7.1. REPRESENTATIONS AND WARRANTIES

The representations and warranties of the Purchaser contained in this Agreement shall be true on and as of the Closing Date as though such warranties and representations were made at and as of such date, except as otherwise affected by the transactions contemplated hereby.

### 7.2. COMPLIANCE WITH AGREEMENT

The Purchaser shall have performed and complied with all agreements, covenants and conditions contained in this Agreement that are required to be performed or complied with by it prior to or on the Closing Date.

### 7.3. THE PURCHASER'S CERTIFICATE

The Company shall have received a certificate from the Purchaser, dated the Closing Date, signed by an executive officer

of the Purchaser, certifying that the conditions specified in the foregoing Sections 7.1 and 7.2 hereof have been fulfilled.

#### 7.4. CORPORATE APPROVALS

(a) The stockholders of the Company shall have approved the Amendment Proposal.

(b) A majority of the holders of Common Stock other than the Purchaser present in person or by proxy at a stockholders' meeting voting on the Distribution Proposal (excluding abstentions and broker non-votes) shall have approved the Distribution Proposal, and the Purchaser shall have voted all shares of Common Stock beneficially owned by it in accordance with the vote of such majority to approve such issuance.

#### 7.5. INJUNCTION

There shall be no effective injunction, writ, preliminary restraining order or any order of any nature issued by a court of competent jurisdiction directing that the transactions provided for herein or any of them not be consummated as herein provided.

#### 7.6. DISTRIBUTION

The Company shall have received notice from the Purchaser and PKS to the effect that the Purchaser and PKS have declared the dividends associated with the Distribution, and that there are no conditions to the consummation of either of the foregoing.

### SECTION 8. INTERPRETATION OF THIS AGREEMENT

#### 8.1. TERMS DEFINED

As used in this Agreement, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

AMENDMENT PROPOSAL: shall have the meaning set forth in Section 5.2(a).

BUSINESS DAY: shall mean each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York, New York are authorized or obligated by law or executive order to close.



CERTIFICATE OF DESIGNATION: shall have the meaning set forth in Section 1.

CLASS D HOLDERS: shall have the meaning set forth in Section 2.1(b).

CLOSING: shall have the meaning set forth in Section 2.1(b).

CLOSING DATE: shall have the meaning set forth in Section 2.1(b).

CODE: shall have the meaning set forth in Section 6.5.

COMMON STOCK: shall have the meaning set forth in Section 2.1(a).

DISTRIBUTION: shall have the meaning set forth in Section 2.1(b).

DISTRIBUTION PROPOSAL: shall have the meaning set forth in Section 5.2(b).

KDG SHARES: shall have the meaning set forth in Section 2.1(a).

KDG SPIN SHARES: shall have the meaning set forth in Section 2.1(b).

PERSON: shall mean an individual, partnership, joint-stock company, corporation, trust or unincorporated organization, and a government or agency or political subdivision thereof.

PKS: shall have the meaning set forth in Section 2.1(b).

SECURITIES ACT: shall mean the Securities Act of 1933, as amended.

SERIES B PREFERRED STOCK: shall have the meaning set forth in Section 1.

SHARES: shall have the meaning set forth in Section 2.1(a).

## 8.2. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware applicable to contracts made and to be performed entirely within such State.

### 8.3. SECTION HEADINGS

The headings of the sections and subsections of this Agreement are inserted for convenience only and shall not be deemed to constitute a part thereof.

## SECTION 9. MISCELLANEOUS

### 9.1. NOTICES

(a) All communications under this Agreement shall be in writing and shall be delivered by hand or mailed by overnight courier or by registered mail or certified mail, postage prepaid:

(1) if to the Purchaser, at 1000 Kiewit Plaza, Omaha, Nebraska, 68131, marked for attention of Matthew Johnson, Esq., or at such other address as the Purchaser may have furnished to the Company in writing pursuant to the terms of this Section 9, or

(2) If to the Company, 3555 Farnam Street, Suite 200, Omaha, Nebraska, 68131, marked for the attention of Terrence J. Ferguson, Esq., or at such other address as the Company may have furnished to the Purchaser in writing pursuant to the terms of this Section 9.

(b) Any notice so addressed shall be deemed to be given: if delivered by hand, on the date of such delivery; if mailed by courier, on the first Business Day following the date of such mailing; and if mailed by registered or certified mail, on the third Business Day after the date of such mailing.

### 9.2. EXPENSES AND TAXES

The parties to this Agreement agree that whether or not the transaction contemplated by this Agreement is consummated, all costs and expenses incurred in connection with this Agreement and the transaction contemplated by this Agreement shall be paid by the party incurring such expenses.

### 9.3. TERMINATION AND SURVIVAL

Unless the Closing has occurred prior thereto, this Agreement and, except as herein provided, all the rights of the parties hereto, shall terminate on March 31, 1996 (unless such date is extended by mutual written consent). All warranties, representations, and covenants made by the Purchaser and the Company herein or in any certificate or other instrument

delivered by the Purchaser or the Company under this Agreement shall be considered to have been relied upon by the Company or the Purchaser, as the case may be, and shall survive the delivery to the Purchaser of the Shares, or payment to the Company for such Shares, regardless of any investigation made by the Company or the Purchaser, as the case may be, or on the Company's or the Purchaser's behalf. All statements in any such certificate or other instrument shall constitute warranties and representations by the Company or the Purchaser, as the case may be, hereunder.

#### 9.4. SUCCESSORS AND ASSIGNS; THIRD PARTY BENEFICIARIES.

This Agreement (including the documents and instruments referred to herein) is not intended to confer upon any other person any rights or remedies hereunder and shall be binding upon and inure to the benefit solely of each party hereto, and their respective successors and assigns; and shall not be assigned by operation of law or otherwise. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by any party hereto without the prior written consent of the other party hereto.

#### 9.5. ENTIRE AGREEMENT; AMENDMENT AND WAIVER.

This Agreement together with the Schedules hereto constitute the entire understandings of the parties hereto and supersede all prior agreements or understandings with respect to the subject matter hereof among such parties. This Agreement may be amended, modified, superseded, cancelled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance.

## 9.6. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall be considered one and the same agreement.

Very truly yours,

**MFS COMMUNICATIONS COMPANY, INC.**

By:

Name:

Title:

Accepted and agreed to as of  
the date first above written.

**KIEWIT DIVERSIFIED GROUP INC.**

By:

Name:

Title:

**EXHIBIT B**

**IRREVOCABLE PROXY COUPLED WITH AN INTEREST**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, a stockholder of MFS Communications Company, Inc., a Delaware corporation, ("MFS"), holding 15,000,000 shares of Series B Convertible Preferred Stock of MFS, \$0.01 par value per share (herein called the "Stock"), does hereby make, constitute and appoint the Secretary or any Assistant Secretary of MFS from time to time, the true and lawful attorneys-in-fact and proxies of the undersigned for and in its name, place and stead to attend all meetings of the stockholders of MFS, to receive notices thereof and to vote any and all shares of the Stock at all times standing in the name of the undersigned at all meetings of the stockholders or any adjournment or adjournments thereof on any matter other than the election of directors, and to exercise all consensual or other voting rights with respect to such shares of Stock on any matter other than the election of directors and matters as to which holders of the Stock vote as a separate class, in each case in the manner provided in Section 5.4(a) of the Securities Purchase Agreement dated as of July 17, 1995 between the undersigned and the Company. This proxy is given to secure the obligations set forth therein and is coupled with an interest and is irrevocable, for the period from the date hereof until the date on which all shares of Stock shall have been redeemed by MFS. The undersigned hereby ratifies and confirms all that the said proxies may lawfully do or cause to be done by virtue hereof. This proxy shall be binding on any and all successors or transferees of the undersigned.

**GIVEN AT Omaha, Nebraska this day of 1995.**

---

**KIEWIT DIVERSIFIED GROUP INC.**

By:

Name:

Title:

## **DISTRIBUTION AGREEMENT**

This Distribution Agreement is entered into as of July 17, 1995 by and among Peter Kiewit Sons', Inc., a Delaware corporation ("PKS"), Kiewit Diversified Group Inc., a Delaware corporation ("KDG"), and MFS Communications Company, Inc., a Delaware corporation ("MFS", and together with PKS and KDG, the "Parties").

### **PRELIMINARY STATEMENT**

WHEREAS, the Board of Directors of KDG has preliminarily authorized the transfer and assignment by KDG, as a dividend, to PKS of all of the capital stock of MFS held by KDG (the "KDG Dividend");

WHEREAS, the Board of Directors of PKS has preliminarily authorized the transfer and assignment by PKS, as a dividend, to the holders of the Class D Stock of PKS of all of the capital stock of MFS held by PKS after the KDG Dividend (the "Distribution");

WHEREAS, PKS has submitted a request for a ruling (as amended and supplemented to date, the "Ruling Request") from the Internal Revenue Service (the "Service") to the effect that each of the KDG Dividend and the Distribution will be a tax-free distribution within the meaning of Section 355 of the Internal Revenue Code (the "Code");

WHEREAS, MFS has received a copy of the Ruling Request and is aware of all information disclosed and representations made therein;

WHEREAS, PKS has received the rulings requested in the Ruling Request; and

WHEREAS, the Parties have determined that it is desirable to set forth certain transactions required to make the KDG Dividend and the Distribution and certain agreements that will govern their relationships following the Distribution.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the Parties agree as follows:

### **ARTICLE I DEFINITIONS**

1.01 GENERAL. Terms used but not elsewhere defined in this Agreement shall have the following meanings:

BOARD: the board of directors of PKS.

**CLASS D STOCK:** the Class D Diversified Group Convertible Exchangeable Common Stock of PKS, par value \$.0625 per share.

**CONTINUING AGREEMENTS:** any agreement in effect as of the date hereof between or among one or more members of the PKS Group, on one hand, and one or more members of the MFS Group, on the other hand, other than the Agreements set forth at Schedule I.

**DISTRIBUTION DATE:** the date, to be determined by the Board (or, if so authorized, the Executive Committee), as of which the dividend with respect to the Distribution shall be paid, through the transfer and assignment by PKS of the MFS Common Stock and the MFS Preferred Stock held by PKS to the holders of Class D Stock.

**EXECUTIVE COMMITTEE:** the Executive Committee of the Board.

**GROUP:** either the MFS Group or the PKS Group.

**INFORMATION:** all records, books, contracts, instruments, computer data and other data and information.

**INSURANCE ADMINISTRATION:** with respect to each PKS Policy, (i) the processing of claims made under the PKS Policy, including the reporting of claims to the insurance carrier, management and defense of claims and providing for appropriate releases upon settlement of claims, (ii) the accounting for premiums (including retrospectively-rated premiums), defense costs, indemnity payments, deductibles and retentions as appropriate under the terms and conditions of each of the PKS Policies, (iii) the reporting to excess insurance carriers of any losses or claims which may cause the per-occurrence or aggregate limits of any PKS Policy to be exceeded and (iv) the distribution of Insurance Proceeds as contemplated by this Agreement.

**INSURANCE PROCEEDS:** those monies received by an insured from an insurance carrier or paid by an insurance carrier on behalf of the insured, in either case net of any applicable premium adjustment, retrospectively-rated premium, deductible, retention, cost or reserve paid or held by or for the benefit of such insured.

**MFS CLAIM:** any claim by or against any MFS Individual or any member of the MFS Group with respect to any injury, loss, liability, damage or expense that arose or may have arisen out of one or more occurrences or events that are or may be insured or insurable under one or more of the PKS Policies; provided, however, that any claim subject to the Indemnification Agreement dated as of May 26, 1993 by and between KDG and MFS shall not be considered an MFS Claim.

**MFS COMMON STOCK:** the common stock of MFS, \$.01 par value.

**MFS GROUP:** MFS and all of the Subsidiaries of MFS.

**MFS INDIVIDUAL:** any individual who is, or at any time was, a director, officer or employee of any member of the MFS Group, but in each case only in such individual's capacity as a director, officer or employee of a member of the MFS Group, and not in any other capacity of such individual.

**MFS PLAN OF REORGANIZATION:** a Plan of Reorganization to be adopted by MFS in order to implement certain corporate reorganizations of its subsidiaries described in the Ruling Request, in form and substance mutually satisfactory to MFS and PKS.

**MFS PREFERRED STOCK:** the Series B Convertible Preferred Stock of MFS, \$.01 par value, to be issued to KDG pursuant to the Securities Purchase Agreement.

**PERSON:** an individual, a partnership, a joint venture, a corporation, a trust, an unincorporated organization or a government or any department or agency thereof.

**PKS GROUP:** PKS and its Subsidiaries other than the members of the MFS Group.

**PKS PLAN OF REORGANIZATION:** a Plan of Reorganization to be adopted by PKS to implement certain reorganizations of its subsidiaries described in the Ruling Request.

**PKS POLICIES:** all insurance policies and insurance contracts of any kind, current and past, that are owned or maintained by the PKS Group, and under which any member of the MFS Group is a named insured.

**RECORD DATE:** the date to be determined by the Board (or, if so authorized, the Executive Committee) as the record date for determining holders of Class D Stock entitled to receive the Distribution.

**REGISTRATION RIGHTS AGREEMENT:** the Registration Rights Agreement by and between MFS and KDG dated as of May 26, 1993.

**REPRESENTATIVE:** with respect to any Person, any of such Person's affiliates, directors, officers, employees, agents, consultants, advisors, accountants, attorneys and representatives.

**SECURITIES PURCHASE AGREEMENT:** the Securities Purchase Agreement dated as of the date hereof by and between MFS and KDG.



SUBSIDIARY: with respect to any specified Person, any corporation or other legal entity of which such Person or any of its Subsidiaries controls or owns, directly or indirectly, more than 50% of the stock or other equity interest entitled to vote on the election of members to the board or similar governing body.

## **ARTICLE II CERTAIN TRANSACTIONS BEFORE THE DISTRIBUTION**

2.01 MFS PLAN OF REORGANIZATION. Promptly after receipt of the notice contemplated by Section 3.01, MFS shall adopt the MFS Plan of Reorganization. Not later than the calendar day before the Distribution Date, MFS shall consummate the transactions contemplated by the MFS Plan of Reorganization.

2.02 PKS PLAN OF REORGANIZATION. Promptly after delivery of the notice contemplated by Section 3.01, PKS shall adopt the PKS Plan of Reorganization. Not later than the calendar day before the Distribution Date, PKS shall consummate the transactions contemplated by the PKS Plan of Reorganization.

2.03 PURCHASE OF MFS PREFERRED STOCK. Subject to the satisfaction of the conditions set forth in the Securities Purchase Agreement, KDG shall purchase the MFS Preferred Stock from MFS, and MFS shall sell the MFS Preferred Stock to PKS, not later than the calendar day before the Distribution Date.

2.04 KDG DIVIDEND. On the Distribution Date, but before the (i) the purchase of MFS Common Stock contemplated by Section 2.05 and (ii) the Distribution, KDG shall make the KDG Dividend.

2.05 PURCHASE OF MFS COMMON STOCK. On the Distribution Date, after the KDG Dividend but before the Distribution, PKS will contribute \$ 1 million in cash to MFS in exchange for 28,986 shares of MFS Common Stock.

## **ARTICLE III THE DISTRIBUTION**

3.01 RECORD DATE AND DISTRIBUTION DATE. The Board (or, if so authorized, the Executive Committee), in its sole discretion, may establish the Record Date, the Distribution Date and any appropriate procedures in connection with the Distribution. PKS will provide MFS notice of the proposed Record Date and the proposed Distribution Date promptly after they are established.

3.02 DISTRIBUTION. PKS shall transfer and assign, as of the Distribution Date, the MFS Common Stock and MFS Preferred Stock held by PKS (after consummation of the transactions contemplated by Sections 2.04 and 2.05) to the holders of the Class D Stock as of the Record Date.

3.03 SHARE CERTIFICATES. On or before the Distribution Date, (i) KDG shall deliver to MFS share certificates representing all of the shares of MFS Common Stock and MFS Preferred Stock held by KDG, together with a duly executed blanket stock power or other appropriate instrument of transfer to effect the transfer of all such shares to PKS, and (ii) PKS shall deliver to MFS a blanket stock power or other appropriate instrument of transfer to effect a transfer of the MFS Common Stock and the MFS Preferred Stock to the holders of Class D Stock. In connection therewith, PKS also shall deliver to MFS a list of (i) all transferees in connection with the Distribution, (ii) the number of share certificates of MFS Common Stock and MFS Preferred Stock to be issued to each transferee and (iii) the number of shares of MFS Common Stock and MFS Preferred Stock to be allocated to each such certificate. As soon as practicable after the Distribution Date, MFS shall provide to PKS all such certificates for shares of MFS Common Stock and MFS Preferred Stock, and any other information reasonably requested by PKS to effect the Distribution.

3.04 RECORDATION OF TRANSFER. MFS shall cause the transfers of MFS Common Stock and MFS Preferred Stock from KDG to PKS and from PKS to the holders of Class D Stock as described in Sections 2.04 and 3.02 to be recorded on MFS's stock transfer books as of the Distribution Date.

3.05 RIGHT TO ABANDON DISTRIBUTION. Notwithstanding any provision hereof, this Agreement may be terminated and the Distribution may be abandoned at any time prior to the Distribution Date by and in the sole discretion of PKS without the approval of any other Party. In the event of such a termination, the Securities Purchase Agreement shall terminate and no Party shall have any liability to any Person by reason of this Agreement or the Securities Purchase Agreement.

#### **ARTICLE IV CERTAIN ADDITIONAL COVENANTS AND REPRESENTATIONS**

4.01 FURTHER ASSURANCES. In addition to the actions specifically provided for elsewhere in this Agreement, MFS shall use its best efforts to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably requested by PKS to consummate and make effective the Distribution.

4.02 MFS CAPITAL STOCK. (a) Exhibit A sets forth, as of May 31, 1995, (i) the total number of shares of MFS Common Stock outstanding, (ii) the total number of shares of MFS Common Stock issuable upon exercise of all outstanding options, rights and warrants for the purchase of MFS Common Stock (calculated without regard to vesting or other similar requirements), (iii) the total number of shares of MFS Common Stock issuable upon conversion of all outstanding MFS Series A Convertible Preferred Stock (assuming for this purpose that the Distribution is effected prior to January 1, 1997) and (iv) the total number of shares of MFS Series A Convertible Preferred Stock outstanding. Except as set forth in Exhibit A and except for this Agreement and the Securities Purchase Agreement, there are no agreements or commitments on the part of MFS to issue any MFS Common Stock or any other class of capital stock having the right to vote in the election of directors or any options, rights or warrants for the purchase of or securities convertible into MFS Common Stock or such other capital stock of MFS.

(b) MFS has not issued, and will not issue prior to the Distribution Date, MFS Common Stock, options, warrants, rights or other securities exercisable for or convertible into MFS Common Stock, or any other capital stock, if either (i) the sum of the number of the outstanding shares of MFS Common Stock and the number of shares of MFS Common Stock issuable upon the exercise or conversion of such options, warrants, rights or other securities (assuming for this purpose that the Distribution is effected prior to January 1, 1997 and calculated without regard to vesting or other similar requirements), would exceed 82,250,000, or (ii) any such issuance would result, in the reasonable judgment of PKS, in PKS holding, immediately prior to the Distribution, less than 80% control of MFS (as determined under Sections 355 and 368(c) of the Code).

4.03 TERMINATED AGREEMENTS. As of the Distribution Date, all of the agreements listed at Schedule I shall terminate and have no further force or effect.

4.04 CONTINUING AGREEMENTS. Neither this Agreement nor the Distribution shall modify, amend or otherwise affect the Continuing Agreements. If there is a conflict between this Agreement and a Continuing Agreement, the Continuing Agreement shall control.

4.05 REGISTRATION RIGHTS AGREEMENT. MFS agrees to register under the Securities Act of 1933, as amended, the MFS Common Stock and the MFS Preferred Stock to be distributed in connection with the Distribution on the terms and subject to the conditions set forth in the Registration Rights Agreement.

4.06 AFFILIATE REGISTRATION RIGHTS. MFS agrees to enter into a registration rights agreement with Walter Scott, Jr. and William Grewcock, in form and substance mutually acceptable to MFS and PKS, not later than the date of the Distribution.

4.07 REPRESENTATION. PKS hereby represents to MFS that PKS has no present intention to engage, directly or indirectly, in the provision of telecommunications services to businesses or government users, except as presently permitted under the Noncompetition Agreement dated as of May 26, 1993 by and between PKS and MFS.

4.08 FORM 8-A FILING. Promptly after the Distribution, MFS will register the MFS Preferred Stock on Form 8-A pursuant to Section 12(g) of the Securities Exchange Act.

## **ARTICLE V ACCESS TO INFORMATION**

5.01 ACCESS TO INFORMATION. After the Distribution Date, each of PKS and MFS shall afford to the other and to the other's Representatives reasonable access and duplicating rights during normal business hours to all Information within such Party's possession relating to such other Party's businesses, insofar as such access is reasonably requested by such other Party. Without limiting the foregoing, Information may be requested under this Section for audit, accounting, claims, litigation and tax purposes, as well as for purposes of fulfilling disclosure and reporting obligations.

5.02 PRODUCTION OF WITNESSES. After the Distribution Date, each of PKS and MFS shall use reasonable efforts to make available to the other its Representatives as witnesses to the extent that any such Person may reasonably be required in connection with any legal, administrative or other proceedings in which the requesting party may from time to time be involved.

5.03 RETENTION OF RECORDS. Except as otherwise required by law or agreed in writing, or as otherwise provided in the Continuing Agreements, each of PKS and MFS shall retain, for a period of at least five years following the Distribution Date, all significant Information in such Party's possession or under its control relating to the business of the other Party and, after the expiration of such five year period, prior to destroying or disposing of any such Information, (a) the Party proposing to dispose of or destroy any such Information shall provide no less than 30 days' prior written notice to the other Party, specifying the Information proposed to be destroyed or disposed of, and (b) if, prior to the scheduled date for such destruction or disposal, the other Party requests in writing that any of the Information proposed to be destroyed or disposed of be delivered to such other Party, the Party proposing to dispose of or destroy such Information promptly shall arrange for the delivery of the requested Information to a location specified by, and at the expense of, the requesting Party.

5.04 CONFIDENTIALITY. From and after the Distribution Date, each of PKS and MFS shall hold, and shall use its reasonable best efforts to cause its Representatives to hold, in strict confidence all Information concerning the other party obtained by it prior to the

Distribution Date or furnished to it by such other party pursuant to this Agreement or the Other Agreements, and shall not release or disclose such Information to any other Person, except its Representatives, who shall be bound by the provisions of this Section; provided, however, that PKS and MFS may disclose such Information to the extent that (a) disclosure in the opinion of such Party's counsel, is required or advisable under applicable law (including the federal securities laws), or (b) such Party can show that such Information was (i) available to such Party on a nonconfidential basis prior to its disclosure by the other Party, (ii) in the public domain through no fault of such Party or (iii) lawfully acquired by such party from other sources after the time that it was furnished to such party pursuant to this Agreement or the Other Agreements. Notwithstanding the foregoing, each of PKS and MFS shall be deemed to have satisfied its obligations under this Section with respect to any Information if it exercises the same care with regard to such Information as it takes to preserve confidentiality for its own similar Information.

## **ARTICLE VI INSURANCE**

**6.01 INSURANCE POLICIES.** Notwithstanding any other provision hereof, MFS shall retain any and all rights of an insured party under each of the PKS Policies, including rights of indemnity and the right to be defended by or at the expense of the insurer, with respect to all MFS Claims. PKS, however, shall have no duty to maintain any PKS Policy in force.

**6.02 ADMINISTRATION AND RESERVES.** Notwithstanding any other provision hereof, from and after the Distribution Date, (i) MFS shall be responsible for Insurance Administration with respect to any MFS Claims, and (ii) MFS shall be entitled to the benefit of any reserves held by any insurance carrier with respect to any MFS Claims.

**6.03 INSURANCE PREMIUMS.** MFS shall pay its allocable share of premiums under the PKS Policies, including any retrospectively-rated premiums arising out of the MFS Claims. PKS shall have the right but not the obligation to pay premiums (retrospectively-rated or otherwise) under the PKS Policies with respect to MFS Claims to the extent that MFS does not pay such premiums, whereupon MFS shall forthwith reimburse PKS for any premiums paid by PKS with respect to MFS Claims.

**6.04 ALLOCATION OF INSURANCE PROCEEDS.** MFS shall be entitled to the benefit of all Insurance Proceeds received under the PKS Policies with respect to the MFS Claims.

**6.05 REIMBURSEMENT OF EXPENSES.** MFS shall, upon request of PKS, reimburse PKS for the reasonable costs incurred by PKS, if any, in connection with administration of MFS Claims. MFS shall upon the request of PKS, reimburse the relevant insurer or the relevant third-party administrator, to the extent required under any Insurance Policy or third-party

administration contract with respect to any and all MFS Claims which are paid, settled, adjusted, defended and/or otherwise handled by such insurer or third- party administrator pursuant to the terms and conditions of such Insurance Policy or third-party administration contract.

6.06 ASSISTANCE, WAIVER OF CONFLICT AND SHARED DEFENSE. MFS agrees to provide reasonable assistance to PKS as regards any dispute with any third party (including insurers or third-party administrators) as to any matter related to the PKS Policies or third party administration contract.

6.07 EXCEPTION. Nothing in this Article VII shall be deemed to constitute (or to reflect) the assignment of any of the PKS Policies to MFS.

## **ARTICLE VII MISCELLANEOUS**

7.01 COMPLETE AGREEMENT. This Agreement, the Exhibits and Schedule hereto and the agreements and other documents referred to herein shall constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings with respect to such subject matter.

7.02 EXPENSES. Except as otherwise provided in this Agreement or the Registration Rights Agreement, all costs and expenses of any Party hereto in connection with the preparation, execution, delivery and implementation of this Agreement and with the consummation of the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses, with any costs and expenses that cannot be allocated on the foregoing basis to be divided equally among the Parties.

7.03 SURVIVAL OF AGREEMENTS. All covenants and agreements of the Parties contained in this Agreement shall survive the Distribution.

7.04 GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska (other than the laws regarding choice of laws and conflicts of laws) as to all matters, including matters of validity, construction, effect, performance and remedies.

7.05 NOTICES. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by cable telegram, telex or other standard form of telecommunications, or by registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

**If to PKS or KDG:**

Vice President - Legal

Peter Kiewit Sons', Inc.  
1000 Kiewit Plaza  
Omaha, NE 68131

**If to MFS:**

General Counsel  
MFS Communications Company, Inc. Suite 200  
3555 Farnam Street  
Omaha, NE 68131

7.06 AMENDMENT AND MODIFICATIONS. This Agreement may be amended, modified or supplemented only by a written agreement signed by all of the Parties.

7.07 SUCCESSORS AND ASSIGNS; NO THIRD-PARTY BENEFICIARIES. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their successors and permitted assigns, but neither this Agreement nor any of the rights, interest and obligations hereunder shall be assigned by any Party without the prior written consent of each of the other Parties (which consent shall not be unreasonably withheld). This Agreement is solely for the benefit of the Parties and their Subsidiaries and is not intended to confer upon any other Persons any rights or remedies hereunder.

7.08 COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

7.09 LEGAL ENFORCEABILITY. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Each Party acknowledges that money damages would be an inadequate remedy for any breach of the provisions of this Agreement and agrees that the obligations of the Parties shall be specifically enforceable.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

**PETER KIEWIT SONS', INC.**

By:

Title:

**KIEWIT DIVERSIFIED GROUP INC.**

By:

Title:

**MFS COMMUNICATIONS COMPANY, INC.**

By:

Title:



**EXHIBIT A TO  
DISTRIBUTION AGREEMENT**

As of May 31, 1995

(i) MFS Common Stock:

(ii) MFS Common Stock issuable upon exercise of options, rights, and warrants:

(iii) MFS Common Stock issuable upon conversion of Series A Convertible Preferred Stock:

(iv) Series A Convertible Preferred Stock:

**SCHEDULE I TO  
DISTRIBUTION AGREEMENT**

1. Administrative Services Agreement dated as of September 30, 1992 by and between PKS and MFS.
2. Noncompetition Agreement dated as of May 26, 1993 by and between PKS and MFS.

## **CONSENT OF CS FIRST BOSTON CORPORATION**

We hereby consent to the inclusion, as an Exhibit to the Registration Statement (the "Registration Statement") on Form S-4 of Peter Kiewit Sons', Inc. and MFS Communications Company, Inc., of our fairness opinion to the Board of Directors of PKS dated July 21, 1995, and to the description thereof set forth in the Registration Statement under "Overview -- Background and Purpose of the Spin-off; Purpose of the Exchange Offer, Board Proceedings -- Opinions of Financial Advisors". In giving such consent, we do not admit that we come within the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder, nor do we thereby admit that we are experts with respect to any part of such Registration Statement within the meaning of the term "experts" as used in the Securities Act of 1933, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder.

**CS FIRST BOSTON CORPORATION**

July 21, 1995

**LEHMAN BROTHERS**

July 17, 1995

We consent to the inclusion as an Annex to the Registration Statement (the "Registration Statement") on Form S-4 of Peter Kiewit Sons', Inc. ("PKS") and MFS Communications Company, Inc. of our fairness opinion to the Board of Directors of PKS dated July 17, 1995, and to the description thereof set forth in the Registration Statement under "Overview -- Background and Purpose of Spin- off; Purpose of the Exchange Offer; Board Proceedings -- Opinions of Financial Advisors". In giving such consent, we do not admit that we come within the category of persons whose consent is required under section 7 of the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder (the "Securities Act"), and we do not thereby admit that we are experts with respect to any part of the Registration Statement within the meaning of the term "expert" as used in the Securities Act.

Sincerely,

**LEHMAN BROTHERS**

---

By: Adam Parten  
Vice President

**PETER KIEWIT SONS', INC.**

**INSTRUCTIONS FOR LETTER OF TRANSMITTAL  
TO TENDER SHARES OF**

**CLASS B STOCK**

**FOR SHARES OF**

**CLASS D STOCK**

**PURSUANT TO THE EXCHANGE OFFER DESCRIBED BELOW**

Peter Kiewit Sons', Inc. ("PKS" or the "Company") has provided you with a Joint Prospectus dated , 1995 (the "Prospectus") that describes your right to exchange the shares of Class B Stock held by you for shares of the Company's Class D Stock, on the terms and subject to the conditions set forth in the Prospectus and in the Letter of Transmittal attached to these Instructions. As described in the Prospectus, the Exchange Offer is being made in connection with the Spin-off. THE EXCHANGE OFFER, THE CLASS D STOCK AND THE SPIN-OFF ARE MORE FULLY DESCRIBED IN THE PROSPECTUS, AND YOU SHOULD CAREFULLY REVIEW THE PROSPECTUS, INCLUDING THE DESCRIPTIONS THEREIN OF THE CONDITIONS TO THE EXCHANGE OFFER AND THE SPIN-OFF AND OF PKS'S RIGHT TO ABANDON THE EXCHANGE OFFER OR THE SPIN-OFF OR BOTH, PRIOR TO MAKING A DECISION REGARDING WHETHER TO EXCHANGE SHARES OF CLASS B STOCK FOR SHARES OF CLASS D STOCK. Terms used in these Instructions and the Letter of Transmittal have the meanings ascribed to them in the Prospectus.

**THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., OMAHA, NEBRASKA TIME, ON  
, 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS.**

EXCHANGING SHARES OF CLASS B STOCK FOR SHARES OF CLASS D STOCK IS STRICTLY VOLUNTARY. IF YOU DO NOT WISH TO EXCHANGE ANY SHARES OF CLASS B STOCK FOR SHARES OF CLASS D STOCK, DO NOT FILL OUT THE ATTACHED LETTER OF TRANSMITTAL. SHARES OF CLASS B STOCK TENDERED PURSUANT TO THE EXCHANGE OFFER MAY BE WITHDRAWN PRIOR TO THE EXPIRATION DATE OF THE EXCHANGE OFFER ONLY IN THE MANNER DESCRIBED IN THE PROSPECTUS; OTHERWISE, SUCH TENDERS ARE IRREVOCABLE BY THE TENDERING STOCKHOLDERS.

PLEASE READ THE FOLLOWING GENERAL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE LETTER OF TRANSMITTAL. FOR FURTHER INFORMATION OR ASSISTANCE CONCERNING THE LETTER OF TRANSMITTAL, CONTACT MICHAEL A. KELLEY, STOCK REGISTRAR, PETER KIEWIT SONS', INC., 1000 KIEWIT PLAZA, OMAHA, NEBRASKA 68131, TELEPHONE (402) 271-2870; TELECOPY (402) 271-2965.  
GENERAL INSTRUCTIONS

**1. GENERAL**

The Letter of Transmittal or a photocopy of it should be properly filled in, dated and signed, and should be delivered to Michael A. Kelley, Stock Registrar (the "Stock Registrar"), at the address set forth below:

Michael A. Kelley  
Stock Registrar  
Peter Kiewit Sons', Inc. 1000 Kiewit Plaza  
Omaha, Nebraska 68131

YOUR LETTER OF TRANSMITTAL MUST BE ACCOMPANIED BY YOUR STOCK CERTIFICATES FOR THE CLASS B STOCK BEING TENDERED. DO NOT SIGN OR OTHERWISE ENDORSE ANY STOCK CERTIFICATES TENDERED PURSUANT TO THE EXCHANGE OFFER. EXECUTION OF THE LETTER OF TRANSMITTAL WILL ASSIGN YOUR STOCK TO PKS, SUBJECT TO CONSUMMATION OF THE EXCHANGE OFFER.

**TO BE EFFECTIVE, DELIVERY OF THIS LETTER OF TRANSMITTAL AND THE  
CERTIFICATES REPRESENTING SHARES OF CLASS B STOCK YOU WISH TO EXCHANGE MUST**

BE MADE PRIOR TO 5:00 P.M., OMAHA, NEBRASKA TIME, ON THE EXPIRATION DATE, WHICH WILL BE , 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS. THE METHOD OF DELIVERY OF ALL DOCUMENTS TO THE STOCK REGISTRAR IS AT YOUR OPTION AND RISK. IF YOU CHOOSE TO SEND BY MAIL, IT IS RECOMMENDED THAT YOU SEND BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED, PROPERLY INSURED.

IF THE EXCHANGE OFFER IS NOT COMPLETED FOR ANY REASON, YOUR CLASS B STOCK CERTIFICATES WILL BE RETURNED TO YOU (OR TO YOUR LENDER, IF YOUR CERTIFICATES ARE PLEDGED TO A LENDER).

## 2. SIGNATURES

The signature on the Letter of Transmittal must correspond exactly to the name as written on the face of the share certificate(s) sent to the Stock Registrar. If there is insufficient space to list all of your share certificates being submitted to the Stock Registrar or to respond to any other information, please attach a separate sheet.

## 3. LOST CERTIFICATES

If one or more of your share certificates have been lost or destroyed, you should contact the Stock Registrar for instructions regarding the relevant documentation and what supporting evidence to supply.

## 4. VALIDITY OF SURRENDER

A surrender of certificate(s) will not be deemed to have been made until all irregularities and defects have been cured or waived. The Company reserves full discretion to determine whether the documentation with respect to tendered Class B Stock is complete and generally to resolve all questions relating to tenders, including the date and hour of receipt of a tender, the propriety of execution of any document and all other questions regarding the validity or acceptability of any tender. The Company reserves the right to reject any tender not in proper form or to waive any irregularities or conditions. The Company's interpretation of the terms and conditions of the Exchange Offer, the Letter of Transmittal and these Instructions will be final. All improperly tendered certificates representing Class B Stock will be returned, unless irregularities are waived, without cost to the tendering holder thereof.

## 5. PARTIAL TENDERS

If less than all of the shares of Class B Stock which are evidenced by any share certificate are to be tendered, fill in the number of shares you actually wish to tender on the line(s) entitled "No. of Shares Tendered" in Box B and the balance of the shares on the adjacent line(s) entitled "No. of Shares to be Reissued." A new certificate(s) for the remainder of the shares of Class B Stock which were evidenced by your old certificate(s) will be sent to you (or the applicable lender) as soon as practicable after the consummation of the Exchange Offer. All shares evidenced by certificate(s) listed will be deemed to have been tendered unless otherwise indicated.

Additional copies of the Letter of Transmittal may be obtained from the Stock Registrar.

## LETTER OF TRANSMITTAL

To accompany certificates representing shares of Class C Stock of Peter Kiewit Sons', Inc., a Delaware corporation ("PKS"), or to authorize the delivery of pledged Class B Stock to PKS by FirstTier Bank, N.A., when submitted in connection with the offer by PKS to issue shares of Class D Stock in exchange for issued and outstanding shares of Class C Stock as described in the Joint Prospectus dated , 1995 (the "Prospectus").

**Michael A. Kelley, Stock Registrar:**

I hereby tender the certificates listed in Box B below representing shares of Class B Stock of PKS for exchange for shares of Class D Stock on the terms and subject to the conditions set forth in the Memorandum and this Letter of Transmittal.

### **BOX A: NAME AND ADDRESS OF REGISTERED HOLDER**

PLEASE TYPE OR PRINT THE NAME OF THE REGISTERED HOLDER OF THE SHARES OF CLASS C STOCK LISTED IN BOX C EXACTLY AS SUCH NAME APPEARS ON THE SURRENDERED SHARE CERTIFICATE(S), ALONG WITH THE ADDRESS OF THE REGISTERED HOLDER.

Name and Address of Registered Holder (type or print)

Name:

Address:

(Zip Code)

Telephone Number:

Upon request, I agree to execute and deliver any additional documents deemed necessary or desirable by the Stock Registrar to complete the exchange of the certificates.

The undersigned requests that the stock certificates for any shares of Class D Stock to which the undersigned is entitled be registered in the name of, and be delivered to, the registered holder set forth in Box A above at the address set forth in Box A above.

**BOX B: CERTIFICATES TENDERED:** Please list in this Box B (and an attached sheet, if necessary) ALL the certificates representing Class B Stock you are submitting with this Letter of Transmittal.

[illegible]

The undersigned represents and warrants that the undersigned has full power and authority to assign and transfer the certificates tendered and has good title to such certificates, free and clear of all liens, restrictions, charges, encumbrances, pledges, security interests or other obligations affecting the assignment or transfer of the certificates, and such certificates are not subject to any adverse claim (except to the extent so pledged). All authority conferred or agreed to be conferred in this Letter of Transmittal shall not be affected by, and shall survive, the death or incapacity of the undersigned, and any obligation of the undersigned under this Letter of Transmittal shall be binding upon successors, assigns, heirs, executors, administrators and legal representatives of the undersigned.

THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE UNDERSIGNED HAS RECEIVED AND READ THE PROSPECTUS DATED , 1995, OF PETER KIEWIT SONS', INC. AND MFS RELATING TO THE EXCHANGE OFFER AND SPIN-OFF.

Signed By: \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_ Name (Print) \_\_\_\_\_



**PETER KIEWIT SONS', INC.**

**INSTRUCTIONS FOR LETTER OF TRANSMITTAL  
TO TENDER SHARES OF**

**CLASS C STOCK**

**FOR SHARES OF**

**CLASS D STOCK**

**PURSUANT TO THE EXCHANGE OFFER DESCRIBED BELOW**

Peter Kiewit Sons', Inc. ("PKS" or the "Company") has provided you with a Joint Prospectus dated , 1995 (the "Prospectus") that describes your right to exchange the shares of Class C Stock held by you for shares of the Company's Class D Stock, on the terms and subject to the conditions set forth in the Prospectus and in the Letter of Transmittal attached to these Instructions. As described in the Prospectus, the Exchange Offer is being made in connection with the Spin-off. THE EXCHANGE OFFER, THE CLASS D STOCK AND THE SPIN-OFF ARE MORE FULLY DESCRIBED IN THE PROSPECTUS, AND YOU SHOULD CAREFULLY REVIEW THE PROSPECTUS, INCLUDING THE DESCRIPTIONS THEREIN OF THE CONDITIONS TO THE EXCHANGE OFFER AND THE SPIN-OFF AND OF PKS'S RIGHT TO ABANDON THE EXCHANGE OFFER OR THE SPIN-OFF OR BOTH, PRIOR TO MAKING A DECISION REGARDING WHETHER TO EXCHANGE SHARES OF CLASS C STOCK FOR SHARES OF CLASS D STOCK. Terms used in these Instructions and the Letter of Transmittal have the meanings ascribed to them in the Prospectus.

**THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., OMAHA, NEBRASKA TIME, ON  
, 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS.**

EXCHANGING SHARES OF CLASS C STOCK FOR SHARES OF CLASS D STOCK IS STRICTLY VOLUNTARY. IF YOU DO NOT WISH TO EXCHANGE ANY SHARES OF CLASS C STOCK FOR SHARES OF CLASS D STOCK, DO NOT FILL OUT THE ATTACHED LETTER OF TRANSMITTAL. SHARES OF CLASS C STOCK TENDERED PURSUANT TO THE EXCHANGE OFFER MAY BE WITHDRAWN PRIOR TO THE EXPIRATION DATE OF THE EXCHANGE OFFER ONLY IN THE MANNER DESCRIBED IN THE PROSPECTUS; OTHERWISE, SUCH TENDERS ARE IRREVOCABLE BY THE TENDERING STOCKHOLDERS.

PLEASE READ THE FOLLOWING GENERAL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE LETTER OF TRANSMITTAL. FOR FURTHER INFORMATION OR ASSISTANCE CONCERNING THE LETTER OF TRANSMITTAL, CONTACT MICHAEL A. KELLEY, STOCK REGISTRAR, PETER KIEWIT SONS', INC., 1000 KIEWIT PLAZA, OMAHA, NEBRASKA 68131, TELEPHONE (402) 271-2870; TELECOPY (402) 271-2965.  
GENERAL INSTRUCTIONS

**1. GENERAL**

The Letter of Transmittal or a photocopy of it should be properly filled in, dated and signed, and should be delivered to Michael A. Kelley, Stock Registrar (the "Stock Registrar"), at the address set forth below:

Michael A. Kelley  
Stock Registrar  
Peter Kiewit Sons', Inc. 1000 Kiewit Plaza  
Omaha, Nebraska 68131

UNLESS YOU ARE DIRECTING FIRSTIER BANK, N.A. TO DELIVER PLEDGED CERTIFICATES DIRECTLY TO THE STOCK REGISTRAR AS DESCRIBED BELOW, YOUR LETTER OF TRANSMITTAL MUST BE ACCOMPANIED BY YOUR STOCK CERTIFICATES FOR THE CLASS C STOCK BEING TENDERED. DO NOT SIGN OR OTHERWISE ENDORSE ANY STOCK CERTIFICATES TENDERED PURSUANT TO THE EXCHANGE OFFER. EXECUTION OF THE

LETTER OF TRANSMITTAL WILL ASSIGN YOUR STOCK TO PKS, SUBJECT TO CONSUMMATION OF THE EXCHANGE OFFER. If any certificates for your Class C Stock being tendered have been pledged to FirstTier Bank, N.A., you must so indicate in Box C, and upon delivery by you to PKS of an executed Letter of Transmittal, PKS and FirstTier Bank, N.A. will be authorized to arrange for (i) the delivery of pledged Class C Stock to PKS, and (ii) the delivery to FirstTier Bank, N.A. of certificates representing the shares of Class D Stock to which you are entitled upon exchange of your Class C Stock.

If any of your Class C Stock has been pledged to a lending institution OTHER THAN FIRSTTIER, you must complete Box B and arrange with such lending institution for delivery to PKS of the certificates for the pledged Class C Stock, together with the Letter of Transmittal. EVEN IF YOU DO NOT DESIGNATE A LENDING INSTITUTION IN BOX B OR BOX C, PKS MAY DELIVER CERTIFICATES DIRECTLY TO A LENDING INSTITUTION IF PKS BELIEVES IN GOOD FAITH THAT SUCH LENDING INSTITUTION IS ENTITLED TO RECEIVE SUCH CERTIFICATES UNDER A BORROWING ARRANGEMENT WITH YOU.

TO BE EFFECTIVE, DELIVERY OF THIS LETTER OF TRANSMITTAL AND THE CERTIFICATES REPRESENTING SHARES OF CLASS C STOCK YOU WISH TO EXCHANGE MUST BE MADE PRIOR TO 5:00 P.M., OMAHA, NEBRASKA TIME, ON THE EXPIRATION DATE, WHICH WILL BE , 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS. THE METHOD OF DELIVERY OF ALL DOCUMENTS TO THE STOCK REGISTRAR IS AT YOUR OPTION AND RISK. IF YOU CHOOSE TO SEND BY MAIL, IT IS RECOMMENDED THAT YOU SEND BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED, PROPERLY INSURED.

IF THE EXCHANGE OFFER IS NOT COMPLETED FOR ANY REASON, YOUR CLASS C STOCK CERTIFICATES WILL BE RETURNED TO YOU (OR TO YOUR LENDER, IF YOUR CERTIFICATES ARE PLEDGED TO A LENDER).

## 2. SIGNATURES

The signature on the Letter of Transmittal must correspond exactly to the name as written on the face of the share certificate(s) sent to the Stock Registrar. If there is insufficient space to list all of your share certificates being submitted to the Stock Registrar or to respond to any other information, please attach a separate sheet.

## 3. LOST CERTIFICATES

If one or more of your share certificates have been lost or destroyed, you should contact the Stock Registrar for instructions regarding the relevant documentation and what supporting evidence to supply.

## 4. VALIDITY OF SURRENDER

A surrender of certificate(s) will not be deemed to have been made until all irregularities and defects have been cured or waived. The Company reserves full discretion to determine whether the documentation with respect to tendered Class C Stock is complete and generally to resolve all questions relating to tenders, including the date and hour of receipt of a tender, the propriety of execution of any document and all other questions regarding the validity or acceptability of any tender. The Company reserves the right to reject any tender not in proper form or to waive any irregularities or conditions. The Company's interpretation of the terms and conditions of the Exchange Offer, the Letter of Transmittal and these Instructions will be final. All improperly tendered certificates representing Class C Stock will be returned, unless irregularities are waived, without cost to the tendering holder thereof.

## 5. PARTIAL TENDERS

If less than all of the shares of Class C Stock which are evidenced by any share certificate are to be tendered, fill in the number of shares you actually wish to tender on the line(s) entitled "No. of Shares Tendered" in Box C and the balance of the shares on the adjacent line(s) entitled "No. of Shares to be Reissued." A new certificate(s) for the remainder of the shares of Class C Stock which were evidenced by your old certificate(s) will be sent to you (or the applicable lender) as soon as practicable after the consummation of the Exchange Offer. All shares evidenced by certificate(s) listed will be deemed to have been tendered unless otherwise indicated.

Additional copies of the Letter of Transmittal may be obtained from the Stock Registrar.

## LETTER OF TRANSMITTAL

To accompany certificates representing shares of Class C Stock of Peter Kiewit Sons', Inc., a Delaware corporation ("PKS"), or to authorize the delivery of pledged Class C Stock to PKS by FirstTier Bank, N.A., when submitted in connection with the offer by PKS to issue shares of Class D Stock in exchange for issued and outstanding shares of Class C Stock as described in the Joint Prospectus dated , 1995 (the "Prospectus").

### Michael A. Kelley, Stock Registrar:

I hereby tender the certificates listed in Box C below representing shares of Class C Stock of PKS for exchange for shares of Class D Stock on the terms and subject to the conditions set forth in the Memorandum and this Letter of Transmittal.

BOX A: NAME AND ADDRESS OF REGISTERED HOLDER	BOX B: SPECIAL DELIVERY INSTRUCTIONS
----- -----	----- -----
PLEASE TYPE OR PRINT THE NAME OF THE REGISTERED HOLDER OF THE SHARES OF CLASS C STOCK LISTED IN BOX C EXACTLY AS SUCH NAME APPEARS ON THE SURRENDERED SHARE CERTIFICATE(S), ALONG WITH THE ADDRESS OF THE REGISTERED HOLDER.	FILL IN ONLY IF YOUR CERTIFICATES ARE TO BE SENT TO A LENDING INSTITUTION, OTHER THAN FIRSTTIER, TO WHICH YOUR CLASS C STOCK IS PLEDGED.  These Special Delivery Instructions Cover Class D Stock Issuable in Respect of the Following Number of Shares of Class C Stock:
Name and Address of Registered Holder (type or print)	-----
Name: -----	Mail or deliver to: -----
Address: -----	Name ----- (Please Print)
-----	Address -----
-----	-----
(Zip Code)	-----
Telephone Number: -----	----- (Zip Code)
-----	Lender -----
-----	Contact person: -----
-----	-----
-----	-----

Upon request, I agree to execute and deliver any additional documents deemed necessary or desirable by the Stock Registrar to complete the exchange of the certificates.

Except as otherwise indicated in Box B above or Box C below, the undersigned requests that the stock certificates for any shares of Class D Stock to which the undersigned is entitled be registered in the name of, and be delivered to, the registered holder set forth in Box A above at the address set forth in Box A above, subject to the right of PKS to deliver such certificates directly to a lending institution (whether or not such lending institution is set forth in Box B or Box C) if PKS believes in good faith that such lending institution is entitled to receive such certificates under a borrowing arrangement with the undersigned.

[illegible]

The undersigned represents and warrants that the undersigned has full power and authority to assign and transfer the certificates tendered and has good title to such certificates, free and clear (except to the extent pledged to FirstTier or to a lending institution named in Box B above) of all liens, restrictions, charges, encumbrances, pledges, security interests or other obligations affecting the assignment or transfer of the certificates, and such certificates are not subject to any adverse claim (except to the extent so pledged). All authority conferred or agreed to be conferred in this Letter of Transmittal shall not be affected by, and shall survive, the death or incapacity of the undersigned, and any obligation of the undersigned under this Letter of Transmittal shall be binding upon successors, assigns, heirs, executors, administrators and legal representatives of the undersigned.

THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE UNDERSIGNED HAS RECEIVED AND READ THE PROSPECTUS DATED , 1995, OF PETER KIEWIT SONS', INC. AND MFS RELATING TO THE EXCHANGE OFFER AND SPIN-OFF.

Signed By: \_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_ Name (Print) \_\_\_\_\_

, 1995

**PETER KIEWIT SONS', INC.**

**INSTRUCTIONS FOR LETTER OF TRANSMITTAL  
TO TENDER**

**1990 SERIES CONVERTIBLE DEBENTURES  
DUE OCTOBER 31, 2000**

**1991 SERIES CONVERTIBLE DEBENTURES  
DUE OCTOBER 31, 2001**

**AND/OR**

**1993 SERIES CLASS D CONVERTIBLE  
DEBENTURES DUE OCTOBER 31, 2003 (TOGETHER, "DEBENTURES")**

**FOR SHARES OF**

**CLASS C STOCK AND /OR CLASS D STOCK**

**PURSUANT TO THE EXCHANGE OFFER DESCRIBED BELOW**

Peter Kiewit Sons', Inc. ("PKS" or the "Company") has provided you with an Joint Prospectus dated , 1995 (the "Prospectus") that describes your right to exchange the Debentures owned by you for shares of the Company's Class C Stock and/or Class D Stock, on the terms and subject to the conditions set forth in the Prospectus and in the Letter of Transmittal attached to these Instructions. As described in the Prospectus, the Exchange Offer is being made in connection with the Spin-off. THE EXCHANGE OFFER, THE CLASS C STOCK, THE CLASS D STOCK AND THE SPIN-OFF ARE MORE FULLY DESCRIBED IN THE PROSPECTUS, AND YOU SHOULD CAREFULLY REVIEW THE PROSPECTUS, INCLUDING THE DESCRIPTIONS THEREIN OF THE CONDITIONS TO THE EXCHANGE OFFER AND THE SPIN-OFF AND OF PKS'S RIGHT TO ABANDON THE EXCHANGE OFFER OR THE SPIN-OFF OR BOTH, PRIOR TO MAKING A DECISION REGARDING WHETHER TO EXCHANGE DEBENTURES FOR SHARES OF CLASS D STOCK. Terms used in these Instructions and the Letter of Transmittal have the meanings ascribed to them in the Prospectus.

**THE EXCHANGE OFFER WILL EXPIRE AT 5:00 P.M., OMAHA, NEBRASKA TIME, ON  
, 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS.**

THE BOARD OF DIRECTORS OF THE COMPANY RECOMMENDS THAT HOLDERS OF DEBENTURES PARTICIPATE IN THE EXCHANGE OFFER, FOR THE REASONS DESCRIBED IN THE PROSPECTUS AT "RISK FACTORS -- CERTAIN CONSEQUENCES OF DECISION NOT TO EXCHANGE".

PLEASE READ THE FOLLOWING GENERAL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE LETTER OF TRANSMITTAL. FOR FURTHER INFORMATION OR ASSISTANCE CONCERNING THE LETTER OF TRANSMITTAL, CONTACT MICHAEL A. KELLEY, STOCK REGISTRAR, PETER KIEWIT SONS', INC., 1000 KIEWIT PLAZA, OMAHA, NEBRASKA 68131, TELEPHONE (402) 271-2870; TELECOPY (402) 271-2965.

**GENERAL INSTRUCTIONS**

**1. GENERAL**

The Letter of Transmittal or a photocopy of it should be properly filled in, dated and signed, and should be delivered to Michael A. Kelley, Stock Registrar (the "Stock Registrar"), at the address set forth below:

If your Debentures have been pledged to FirsTier Bank, N.A. ("FirsTier") or any other lending institution, you must complete Box B, and upon delivery by you to PKS of an executed Letter of Transmittal, PKS and the lending institution will be authorized to arrange for (i) the delivery of pledged Debentures to PKS, and (ii) the delivery to the lending institution of certificates representing the shares of Class C Stock and/or Class D Stock to which you are entitled upon exchange of your Debentures. If your Debentures are not pledged to a lending institution, your Letter of Transmittal must be accompanied by your certificates for the Debentures being tendered.

TO BE EFFECTIVE, DELIVERY OF THIS LETTER OF TRANSMITTAL AND THE CERTIFICATES REPRESENTING DEBENTURES YOU WISH TO EXCHANGE MUST BE MADE PRIOR TO 5:00 P.M., OMAHA, NEBRASKA TIME, ON THE EXPIRATION DATE, WHICH WILL BE , 1995, UNLESS EXTENDED AS DESCRIBED IN THE PROSPECTUS. THE METHOD OF DELIVERY OF ALL DOCUMENTS TO THE STOCK REGISTRAR IS AT YOUR OPTION AND RISK. IF YOU CHOOSE TO SEND BY MAIL, IT IS RECOMMENDED THAT YOU SEND BY REGISTERED MAIL WITH RETURN RECEIPT REQUESTED, PROPERLY INSURED.

IF THE EXCHANGE OFFER IS NOT COMPLETED FOR ANY REASON, YOUR DEBENTURE CERTIFICATES WILL BE RETURNED TO YOU (OR YOUR LENDER, IF THE DEBENTURE CERTIFICATES ARE PLEDGED TO A LENDER).

## 2. SIGNATURES

The signature on the Letter of Transmittal must correspond exactly to the name as written on the face of the Debenture certificate(s) sent to the Stock Registrar.

## 3. LOST CERTIFICATES

If one or more of your Debenture certificates have been lost or destroyed, you should contact the Stock Registrar for instructions regarding the relevant documentation and what supporting evidence to supply.

## 4. VALIDITY OF SURRENDER

A surrender of certificate(s) will not be deemed to have been made until all irregularities and defects have been cured or waived. The Company reserves full discretion to determine whether the documentation with respect to tendered Debentures is complete and generally to resolve all questions relating to tenders, including the date and hour of receipt of a tender, the propriety of execution of any document and all other questions regarding the validity or acceptability of any tender. The Company reserves the right to reject any tender not in proper form or to waive any irregularities or conditions. The Company's interpretation of the terms and conditions of the Exchange Offer, the Letter of Transmittal and these Instructions will be final. All improperly tendered certificates representing Debentures will be returned, unless irregularities are waived, without cost to the tendering holder thereof.

## 5. NO PARTIAL TENDERS

A holder of a Debentures may not tender fewer than all Debentures held or less than the full principal amount of each Debenture in the Exchange Offer.

Additional copies of the Letter of Transmittal may be obtained from the Stock Registrar.

## LETTER OF TRANSMITTAL

To accompany certificates representing 1990 Series Convertible Debentures due October 31, 2000, 1991 Series Convertible Debentures due October 31, 2001 and/or 1993 Series Class D Convertible Debenture due October 31, 2003 ("Debenture"), of Peter Kiewit Sons', Inc., a Delaware corporation ("PKS"), or to authorize the delivery of a Debenture certificates to PKS by a lending institution to which the Debenture (s) has been pledged, when surrendered in connection with the offer by PKS to issue shares of Class C Stock and/or Class D Stock in exchange for issued and outstanding Debentures as described in the Joint Prospectus dated , 1995 (the "Prospectus").

**Michael A. Kelley, Stock Registrar:**

I hereby tender for exchange my Debenture(s) of PKS for shares of Class C Stock and Class D Stock on the terms and subject to the conditions set forth in the Prospectus and this Letter of Transmittal.

BOX A: NAME AND ADDRESS OF REGISTERED HOLDER	BOX B: SPECIAL DELIVERY INSTRUCTIONS
<hr/>	
PLEASE TYPE OR PRINT THE NAME OF THE REGISTERED HOLDER OF THE DEBENTURE(S) EXACTLY AS SUCH NAME APPEARS ON THE SURRENDERED DEBENTURE CERTIFICATE, ALONG WITH THE ADDRESS OF THE REGISTERED HOLDER.	FILL IN ONLY IF YOUR DEBENTURE(S) ARE PLEGDED TO A LENDING INSTITUTION (IN WHICH CASE YOUR STOCK CERTIFICATES WILL BE SENT TO SUCH LENDING INSTITUTION).
Name and Address of Registered Holder (type or print)	Check the following box if your Debenture(s) are pledged to FirstTier: / /
	- OR -
Name: -----	Provide the following information for any lending institution other than FirstTier:
Address: -----	Name -----
	(Please Print)
	Address -----
(Zip Code) -----	-----
Telephone Number: -----	-----
	(Zip Code)
	Lender Contact person: -----
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Upon request, I agree to execute and deliver any additional documents deemed necessary or desirable by the Stock Registrar to complete the exchange of the certificates.

Except as otherwise indicated in Box B above, the undersigned requests that the certificates for any shares Class C Stock and/or of Class D Stock to which the undersigned is entitled be registered in the name of, and be delivered to, the registered holder set forth in Box A above at the address set forth in Box A above.

The undersigned represents and warrants that the undersigned has full power and authority to assign and transfer the certificates tendered and has good title to such certificates, free and clear (except to the extent pledged to a lending institution named in Box B above) of all liens, restrictions, charges, encumbrances, pledges, security interests or other obligations affecting the assignment or transfer of the certificates, and such certificates are not subject to any adverse claim (except to the extent so pledged). All authority conferred or agreed to be conferred in this Letter of Transmittal shall not be affected by, and shall survive, the death or incapacity of the undersigned, and any obligation of the undersigned under this Letter of Transmittal shall be binding upon successors, assigns, heirs, executors, administrators and legal representatives of the undersigned.

THE UNDERSIGNED REPRESENTS AND WARRANTS THAT THE UNDERSIGNED HAS RECEIVED AND READ THE JOINT PROSPECTUS DATED , 1995, OF PETER KIEWIT SONS', INC. AND MFS RELATING TO THE EXCHANGE OFFER AND SPIN-OFF.

Signed By: \_\_\_\_\_  
(signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
Name (Print)



**CS FIRST BOSTON**

July 21, 1995

Board of Directors  
Peter Kiewit Sons', Inc.  
1000 Kiewit Plaza  
Omaha, NE 68131

Dear Sirs:

You have advised us that Peter Kiewit Sons', Inc. ("PKS" or the "Company") proposes to cause its wholly owned subsidiary, Kiewit Diversified Group Inc. ("KDG" and, collectively with the Company and the Company's wholly owned subsidiary Kiewit Construction Group Inc., the "Companies"), to distribute to PKS (the "Distribution") all the shares of common stock, par value \$.01 per share (the "MFS Common Stock"), of MFS Communications Company, Inc. ("MFS") and all the shares of a newly issued Series B convertible preferred stock, par value \$.01 per share (the "MFS Preferred Stock"), of MFS held by KDG. You have also advised us that, immediately following the Distribution, PKS will distribute all the MFS Common Stock and the MFS Preferred Stock then held by it (the "Spin-Off") on a pro rata basis to the holders (the "Class D Stockholders") of the Class D Diversified Group Convertible Exchangeable Common Stock, par value \$.0625 per share (the "Class D Common Stock"), of the Company.

You have advised us that the Spin-Off will be consummated only if it can be effected on a tax-free basis, which is possible only if, prior to the Spin-Off, KDG holds at least 80% of the total voting power for the election of directors of MFS. Accordingly, in order to facilitate the Spin-Off, KDG proposes to exchange 2.9 million shares of MFS Common Stock currently held by it for 15 million shares of MFS Preferred Stock (the "MFS Exchange") prior to the Distribution. You have advised us that the Company has determined the MFS Exchange to be the most feasible method of facilitating the Spin-Off on a tax-free basis, and that the Spin-Off will qualify as a tax-free spin-off under Section 355 of the Internal Revenue Code of 1986, as amended. In addition, you have advised us that the Company and MFS will take all action necessary to ensure that the MFS Common Stock and the MFS Preferred Stock to be received by the Class D Stockholders in the Spin-Off will not be "restricted securities" within the meaning of Rule 144(a)(3) promulgated under the Securities Act of 1933, as amended (the "Securities Act"), and will not be subject to restrictions on transfer under the Securities Act (other than restrictions imposed as a result of

the holder being an "affiliate" (within the meaning of Rule 144(a)(1) under the Securities Act) of MFS).

You have also advised us that, prior to the consummation of the Spin-Off, the holders (the "Class B Stockholders") of the Company's Class B Construction and Mining Group Nonvoting Restricted Redeemable Convertible Exchangeable Common Stock, par value \$.0625 (the "Class B Common Stock"), and the holders (the "Class C Stockholders" and, collectively with the Class B Stockholders and the Class D Stockholders, the "Company Stockholders") of the Company's Class C Construction and Mining Group Nonvoting Redeemable Convertible Exchangeable Common Stock, par value \$.0625 (the "Class C Common Stock"), will be given the opportunity to exchange their shares for shares of Class D Common Stock at an exchange ratio of .416598 shares of Class D Common Stock for each share of Class B Common Stock or Class C Common Stock (the "Common Stock Exchanges"). You have advised us that Class B Stockholders and Class C Stockholders who elect to exchange their shares will be required to do so during a period (the "Special Window Period") of at least 20 business days. You have advised us that you estimate that an aggregate of approximately three million shares of Class B Common Stock and Class C Common Stock will be exchanged for Class D Common Stock, and we have assumed, in any event, that less than an aggregate of six million shares of Class B Common Stock and Class C Common Stock will be exchanged for Class D Common Stock. We understand that, while the Company does not currently anticipate that it will be necessary to impose a limit on the amount of Class B Common Stock and Class C Common Stock that will be exchanged for Class D Common Stock, the Board of Directors of the Company has reserved the right to impose such a limit if it determines that the acceptance of all shares tendered for exchange would not be in the best interests of the Company or its stockholders. You have advised us that any such limit would be imposed on a pro rata basis.

In addition, you have advised us that, during the Special Window Period, (a) the holders of the Company's 1990 Series Convertible Debentures due October 31, 2000 (the "1990 Series Debentures") will be given the opportunity to exchange such 1990 Series Debentures for approximately 24.8 shares of Class C Common Stock and approximately 24.8 shares of Class D Common Stock for each \$1,000 principal amount of 1990 Series Debentures, (b) the holders of the Company's 1991 Series Convertible Debentures due October 31, 2001 (the "1991 Series Debentures") will be given the opportunity to exchange such 1991 Series Debentures for approximately 23 shares of Class C Common Stock and approximately 23 shares of Class D Common Stock for each \$1,000 principal amount of 1991 Series Debentures, and (c) the holders of the Company's 1993 Series Class D Convertible Debentures due October 31, 2003 (the "1993 Series Debentures" and, collectively with the 1990 Series Debentures and the 1991 Series Debentures, the "Debentures"; the holders of the Debentures being collectively referred to as the

"Debentureholders") will be given the opportunity to exchange such 1993 Series Debentures for approximately 19.96 shares of Class D Common Stock for each \$1,000 principal amount of 1993 Series Debentures (collectively, the "Debenture Exchanges").

The Distribution, the Spin-Off, the MFS Exchange, the Common Stock Exchanges and the Debenture Exchanges will be described in the Company's joint prospectus with MFS to be distributed to the Company's Class B, Class C and Class D Stockholders and to the Debentureholders (the "Prospectus"). The Distribution, the Spin-Off, the MFS Exchange, the Common Stock Exchanges and the Debenture Exchanges, upon the terms, and subject to the conditions, set forth in the draft Prospectus referred to below are collectively referred to herein as the "Transactions".

You have asked us to advise you with respect to the fairness, from a financial point of view, of the Transactions to the Company Stockholders.

In arriving at our opinion, we have reviewed certain publicly available business and financial information relating to the Companies and MFS. We have also reviewed a draft dated July 11, 1995 of the Prospectus, a draft dated June 2, 1995 of the Certificate of Designation for the MFS Preferred Stock and certain other information, including financial forecasts and pro forma financials, provided to us by the Companies and MFS, and have met with the managements of the Companies and MFS to discuss the businesses and prospects of the Companies and MFS, as well as the terms of the Transactions. We have also considered certain financial and stock market data of MFS, and we have compared that data with similar data for other publicly held companies in businesses similar to those of MFS. In addition, we have compared the financial terms of the MFS Preferred Stock with the financial terms of other securities and have considered such other information, financial studies, analyses and investigations and financial, economic and market criteria that we deemed relevant. We have also analyzed the financial benefits that will be afforded the Class D Stockholders as a result of the Spin-Off and we have considered the fact that the Class B Stockholders and Class C Stockholders will be given the opportunity, as a result of the Common Stock Exchanges, to exchange their shares of Class B Common Stock and Class C Common Stock for shares of Class D Common Stock prior to the Distribution and thereby to participate in the financial benefits of the SpinOff.

In connection with our review, we have not assumed any responsibility for independent verification of any of the foregoing information (including the information contained in the draft Prospectus) and have relied on its being complete and accurate in all material respects. With respect to the financial forecasts, we have assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of each of the

Companies and MFS as to the future financial performance of each of the Companies and MFS, respectively. In addition, we have not made an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of any of the Companies or MFS, nor have we been furnished with any such evaluations or appraisals. We have assumed that the Company will complete the Spin-Off as described in the draft Prospectus and that the consummation of the Transactions will not result in any default or similar event under any loan agreement, instrument of indebtedness or other contract of the Companies or MFS which will not be waived.

We did not participate in the determination by the Company and MFS of the terms of any of the Transactions or the MFS Preferred Stock and have not been asked to consider alternative means of effecting a distribution of the MFS Common Stock or the MFS Preferred Stock to the Class D Stockholders. In addition, our opinion does not in any manner address or constitute a recommendation regarding the business decisions of the Company or MFS to effect the MFS Exchange or the Spin-Off or to offer the Special Window Period for the Common Stock Exchanges or the determination by the Company of the exchange ratio and other terms and conditions applicable to the Common Stock Exchanges. Furthermore, our opinion does not in any manner address or constitute a recommendation regarding the business decision of the Company to offer the Special Window Period for the Debenture Exchanges or the determination by the Company of the terms and conditions of the Debenture Exchanges. Although we understand that the Company intends to effect certain other transactions in connection with the Transactions, our opinion does not in any manner address or constitute a recommendation regarding the business decisions of the Company to effect, or the financial impact on the Company or any of its stockholders of, such other transactions. In addition, our opinion does not in any manner address or constitute a recommendation regarding whether Class B Stockholders or Class C Stockholders should elect to exchange their shares of Class B Common Stock and Class C Common Stock for shares of Class D Common Stock during the Special Window Period or whether Debentureholders should elect to exchange their Debentures for Class C Common Stock or Class D Common Stock, as the case may be, during the Special Window Period. Moreover, we express no opinion as to the market value of the MFS Preferred Stock upon receipt by KDG pursuant to the MFS Exchange or the prices at which the MFS Common Stock or the MFS Preferred Stock will trade subsequent to the MFS Exchange or the Spin-Off. The actual market value of the MFS Common Stock and the MFS Preferred Stock may vary depending upon changes in interest rates, dividend rates, market conditions, general economic conditions and other factors which generally influence the price of securities. Our opinion is necessarily based upon financial, economic, market and other conditions as they exist and can be evaluated on the date hereof.

We have acted as the financial advisor to a special committee (the "Special Committee") of the Board of Directors of the Company constituted to review certain aspects of the Transactions and will receive a fee that is contingent upon our rendering a fairness opinion. In the past, CS First Boston performed certain investment banking services for the Company and received customary fees for such services. In the ordinary course of our business, CS First Boston and its affiliates may actively trade the debt and equity securities of MFS for their own account and for the accounts of customers and, accordingly, may at any time hold a long or short position in such securities.

Based upon and subject to the foregoing, it is our opinion that, as of the date hereof, the Transactions are fair from a financial point of view to the Company Stockholders.

Very truly yours,

**CS FIRST BOSTON CORPORATION**

By:

James B. Hoesley Managing Director

# LEHMAN BROTHERS

## Confidential

July 11, 1995

Board of Directors  
Peter Kiewit Sons', Inc.  
1000 Kiewit Plaza  
Omaha, NE 68131

### Members of the Board:

We understand that Peter Kiewit Sons', Inc. (the "Company") intends to effect a tax-free distribution to the holders (the "Class D Stockholders") of its Class D Diversified Group Convertible Exchangeable Common Stock (the "Class D Common Stock") of all of the shares of Common Stock ("MFS Common Stock") and Preferred Stock ("MFS Preferred Stock") of MFS Communications Company, Inc. ("MFS"), an indirect subsidiary of the Company, held by the Company at the time of the distribution (the "Distribution"). Kiewit Diversified Group, Inc. ("Diversified"), a wholly owned subsidiary of the Company, currently owns the shares of MFS Common Stock. We understand that immediately prior to the Distribution, Diversified will exchange a portion of its MFS Common Stock (2.9 million shares) for \$15 million face value of MFS Preferred Stock to be issued by MFS (the "MFS Exchange"). The MFS Preferred Stock will have five votes per share and, together with the remaining MFS Common Stock owned by Diversified, will provide Diversified with in excess of 80% of the voting interest in MFS with respect to the election of directors. Diversified will then dividend to the Company all of the MFS Common Stock and MFS Preferred Stock held by Diversified, and the Company will distribute such stock, together with \$1 million of MFS Common Stock acquired by the Company from MFS, to the Class D Stockholders.

We further understand that prior to the Distribution, the Company will provide the holders (the "Class B Stockholders") of its Class B Construction and Mining Group Nonvoting Restricted Redeemable Convertible Exchangeable Common Stock (the "Class B Common Stock") and the holders (the "Class C Stockholders") of its Class C Construction and Mining Group Voting Restricted Redeemable Convertible Exchangeable Common Stock (the "Class C Common Stock") with an opportunity to exchange shares of Class B Common Stock and Class C Common Stock for shares of Class D Common Stock (the "B, C-D Exchange"). The B, C-D Exchange will be based solely on the book-value based formula established in the Certificate of Incorporation of the Company applicable to conversions of Class B Common Stock and Class C Common Stock into Class D Common Stock as of January 1, 1995, adjusted for dividends paid through the date of the exchange (the "Exchange Formula"), but holders of Class B Common Stock and Class C Common Stock will be granted an opportunity to exchange

during a specified window period prior to the Distribution which otherwise would not have been available to them under the Certificate of Incorporation, and thereby will have an opportunity to participate in the Distribution on the same terms as the Class D Stockholders. However, in arriving at our opinion as described below, we have assumed, based upon the Company's estimate of the likely levels of exchanges pursuant to the Exchange Offer and with the Company's consent, that no more than 6 million shares of Class B Common Stock and Class C Common Stock will be exchanged for shares of Class D Common Stock. The Class B Stockholders, the Class C Stockholders and the Class D Stockholders are collectively referred to herein as the "Company Stockholders" and the Distribution, the MFS Exchange and the B, C-D Exchange are collectively referred to herein as the "Proposed Transactions." The terms and conditions of the Distribution, MFS Exchange and the B, C-D Exchange are set forth in more detail in the most recent draft of the Joint Prospectus related to the Proposed Transactions (the "Prospectus").

We have been requested by the Board of Directors of the Company to render our opinion with respect to the fairness, from a financial point of view, to the Company Stockholders of the Proposed Transactions, taken as a whole. We have not been requested to opine as to, and our opinion does not in any manner address, the Company's underlying business decision to proceed with or effect all or any portion of the Proposed Transactions or any alternative means of effecting a distribution of the Company's equity interests in MFS to the Class D Stockholders.

In arriving at our opinion, we reviewed and analyzed: (1) the Prospectus, (2) such publicly available information concerning MFS which we believe to be relevant to our inquiry, including the Form 10-K for the fiscal year ended December 31, 1994 and its annual report, (3) financial and operating information with respect to the business, operations, and prospects of MFS and the Company furnished to us by the Company, (4) a comparison of the historical financial results and present financial condition of MFS and the Company with those of other companies which we deemed relevant, (5) a trading history of MFS's common stock from May 1993 to the present and a comparison of that trading history with those of other companies which we deemed relevant, (6) a comparison of the financial terms of the MFS Exchange and the MFS Preferred Stock with the terms of certain other transactions and securities which we deemed relevant and (7) Diversified's tax bases of its equity interests in MFS and, based upon the advice of the Company and its tax advisors, the likely tax impact of various disposition strategies with respect to the equity interests in MFS or its underlying assets and the proposed tax and financial reporting treatment of the Distribution. In addition, we have had discussions with the managements of MFS and the Company concerning their respective businesses, operations, assets, financial condition and prospects and undertook such other studies, analyses and investigations as we deemed appropriate.

In arriving at our opinion, we have assumed and relied upon the accuracy and completeness of the financial and other information used by us without assuming any responsibility for independent verification of such information and have further relied upon the assurances of the managements of MFS and the Company that they are not aware of any facts that would make such information inaccurate or misleading. With respect to the financial forecasts of the Company and MFS, we have assumed that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of the Company and MFS as to the future financial performance of the Company and MFS, respectively. In addition, we have not made an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of the Company or MFS, nor have we been furnished with any such evaluations or appraisals. We have assumed that the consummation of the Proposed Transactions will not result in any default or similar event under any loan agreement, instrument of indebtedness or other contract of the Company or MFS which will not be waived. Our opinion is necessarily based upon financial, market, economic and other conditions, and upon tax laws, accounting standards and legal and regulatory requirements, as they exist on, and can be evaluated as of, the date of this letter, and, with your consent, we have not considered possible changes in such applicable tax laws, accounting standards or regulatory and legal requirements.

In arriving at our opinion, we have relied upon the advice of the Company and its tax advisors that the Proposed Transactions, and in particular the MFS Exchange, are the most feasible methods of ensuring that the Distribution will qualify as a tax-free spin-off under Section 355 of the Internal Revenue Code of 1986, as amended. In addition, we have further relied upon the advice of the Company and its legal advisors that the shares of MFS Common Stock to be received by the Class D Stockholders in the Distribution (other than shares received by persons who are "affiliates" of MFS under the federal securities laws) will be freely tradeable securities.

We also have not been requested to opine as to, and our opinion does not in any manner address, the fairness, from a financial point of view, of the Exchange Formula, which as described above is based on the book value formula set forth in the Certificate of Incorporation of the Company.

In addition, we have not been requested to opine as to, and our opinion does not in any manner address, the price at which shares of MFS Common Stock and MFS Preferred Stock will actually trade following consummation of the Distribution. In addition, trading in shares of MFS Common Stock and MFS Preferred Stock may be characterized by a period of redistribution among the Class D Stockholders who receive such shares in the Distribution which may temporarily depress the trading prices of such shares during such period. The market prices of shares of MFS Common Stock and MFS Preferred Stock also will fluctuate with changes in prevailing interest rates,



economic and financial market conditions, the financial condition and prospects of MFS, and other factors which generally influence the prices of securities.

Based upon and subject to the foregoing, we are of the opinion as of the date hereof that, from a financial point of view, the Proposed Transactions, taken as a whole, are fair to the Company Stockholders.

We have acted as financial advisor to the Company in connection with the Proposed Transactions and will receive an additional fee from the Company upon delivery of this opinion. In addition, the Company has agreed to indemnify us against certain liabilities which might arise out of our acting as financial advisor and the rendering of this opinion. We also have performed various investment banking services for the Company in the past and have received customary fees for such services. In the ordinary course of our business, we actively trade in the debt and equity securities of MFS for our own account and for the accounts of our customers and, accordingly, may at any time hold a long or short position in such securities.

This opinion is solely for the use and benefit of the Board of Directors of the Company and shall not be disclosed publicly or made available to, or relied upon by, any third party without our prior written approval. This opinion is not intended to be and does not constitute a recommendation to any Class B Stockholder or Class C Stockholder as to whether to exchange their shares of Class B Common Stock or Class C Common Stock for shares of Class D Common Stock in the B, C-D Exchange.

Very truly yours,

**LEHMAN BROTHERS**

By:

Jeffrey R. Sechrest Managing Director

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**End of Filing**

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