

0013

### Document Information Form

Mine Number: C/007/020

File Name: Incoming

To: DOGM

From:

Person N/A

Company HORIZON COAL MINE

Date Sent: N/A

Explanation:

RECLAMATION AGREEMENT

cc:

File in: C/007/020, 1996, Incoming

Refer to:

- Confidential
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Date \_\_\_\_\_ For additional information

RECLAMATION AGREEMENT

HORIZON COAL MINE  
ACT007/020

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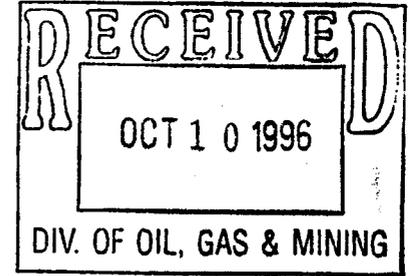
In 007/020, 1996 Incoming

For additional information

RECLAMATION AGREEMENT

Permit Number: 007/020  
 Date Original Permit Issued: 10/10/96  
 Effective Date of Agreement: 10/10/96

STATE OF UTAH  
 DEPARTMENT OF NATURAL RESOURCES  
 DIVISION OF OIL, GAS AND MINING  
 355 West North Temple  
 3 Triad Center, Suite 350  
 Salt Lake City, Utah 84180-1203  
 (801) 538-5340



COAL RECLAMATION AGREEMENT  
 -oo00oo-

For the purposes of this RECLAMATION AGREEMENT the terms below are defined as follows:

PERMIT": (Mine Permit No.) 007/020 (County) Carbon County

"MINE": (Name of Mine) Horizon No. 1 Mine

"PERMITTEE": (Company or Name) Horizon Coal Corporation  
 (Address) P.O. Box 2560, Wise, VA 24293

"PERMITTEE'S REGISTERED AGENT": (Name) Oliver Gushee  
 (Address) Pruitt, Gushee, and Bactell  
 (Phone) 1850 Beneficial Life Tower  
Salt Lake City, UT 84111 - 1495  
801-531-8446

"COMPANY OFFICERS": Richard Gilliam, President  
Leslie Gilliam, Secretary

"BOND TYPE": (Form of Bond) Surety Bond

"BOND": (Bond Amount-Dollars) \$209,200.00  
 (Escalated Year-Dollars)

"INSTITUTION": (Bank or Agency) St. Paul Fire and Marine Insurance Co.

"POLICY OR ACCOUNT NUMBER": Bond Number : 400JU4131

"LIABILITY INSURANCE": (Exp.) The Fidelity & Casualty Company of New York  
 (Insurance Company) MCL002783 effective 8/12/96

"STATE": Utah Department of Natural Resources

"DIVISION": Division of Oil, Gas and Mining

"REGULATION AND RULES" The regulations promulgated by the State of Utah  
Division of Oil, Gas and Mining regulation and rules  
pertaining to Coal Mining and Reclamation Activities

EXHIBITS:

"SURFACE DISTURBANCE"  
 "BONDING AGREEMENT"  
 "LIABILITY INSURANCE"

Revision Dates

Exhibit "A" \_\_\_\_\_  
 Exhibit "B" \_\_\_\_\_  
 Exhibit "C" \_\_\_\_\_

## RECLAMATION AGREEMENT

This RECLAMATION AGREEMENT (hereinafter referred to as "Agreement") is entered into by the Permittee.

WHEREAS, on October 10, 1996, the Division approved the Permit Application Package, hereinafter ("PAP") submitted by Horizon Coal Corp., hereinafter "Permittee"; and

WHEREAS, prior to issuance of a permit to conduct mining and reclamation operations on the property described in the PAP, hereinafter "Property", the Permittee is obligated by Title 40-10-1, et seq., Utah Code Annotated (1953, as amended), hereinafter "Act", to file with the Division a bond ensuring the performance of the reclamation obligations in the manner and by the standards set forth in this agreement, the PAP, the Act, and the State of Utah Division of Oil, Gas and mining Regulations and Rules pertaining to Coal Mining and Reclamation Activities, hereinafter ("Regulations and Rules") and

WHEREAS, the Permittee is ready and willing to file the bond in the amount and in a form acceptable to the Division and to perform all obligations imposed by the Division pursuant to applicable laws & regulations relating to the reclamation of the Property; and

WHEREAS, the Division is ready and willing to issue the permittee a mining and reclamation permit upon acceptance and approval of the bond.

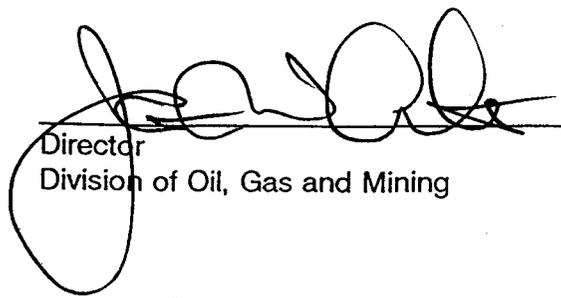
NOW, THEREFORE, the Division and the Permittee agree as follows:

1. The provisions of the Act and the Regulations and Rules are incorporated by reference herein and hereby made a part of this Agreement. Provisions of the Act or Regulations and Rules shall supersede conflicting provisions of this Agreement.
2. The Permittee agrees to comply with all terms and provisions of this Agreement, the PAP, the Act and the Regulations and Rules, including the reclamation of all areas disturbed by surface coal mining and reclamation operations despite the eventuality that the costs of actual reclamation exceeds the bond amount
3. The Permittee has provided a legal description of the property including the number of acres approved by the Division to be disturbed by surface mining and reclamation operations during the permit period. The description is attached as Exhibit "A", and is incorporated by reference and shall be referred to as the "Surface Disturbance".
4. The Permittee agrees to provide a bond to the Division in the form and amount acceptable to the Division ensuring the timely performance of the reclamation obligations in the manner and by the standards set forth in this agreement, the PAP, the Act and the Regulations and Rules. Their bond is attached as Exhibit "B" and is incorporated by reference.
5. The Permittee agrees to maintain in full force and effect the public liability insurance policy submitted as part of the permit application and attached as Exhibit "C". The Division shall be listed as an additional insured on this policy.
6. In the event that the Surface Disturbance is increased through expansion of the coal mining and reclamation operations or decreased through partial reclamation, the Division shall adjust the bond as appropriate in accordance with applicable law.

7. The Permittee does hereby agree to indemnify and hold harmless the State of Utah and the Division from any claim, demand, liability, cost, charge, or suit initiated by a third party as a result of the Permittee or Permittee's agent or employees failure to abide by the terms and conditions of the approved PAP and this Agreement.
8. The terms and conditions of this Agreement are non-cancelable until such time as the Permittee has satisfactorily, as determined by the Division, reclaimed the Surface Disturbance in accordance with this Agreement the approved PAP, the Act, and the Regulations and Rules. Notwithstanding the above, the Division may direct, or the Permittee may request and the Division may approve a written modification to this Agreement in accordance with applicable law.
9. The Permittee may, at any time, submit a request to the Division to substitute the bonding method. The Division may approve the substitution if the bond meets the requirements of the Act and the Regulations and Rules, but no bond shall be released until the Division has approved and accepted the replacement bond.
10. This Agreement shall be governed and construed in accordance with the laws of the state of Utah. The Permittee shall be liable for all reasonable costs incurred by the Division to enforce this agreement.
11. Any breach of the provisions of this Agreement, the Act, the Regulations and Rules, or the PAP may, at the discretion of the Division, result in enforcement actions by the Division which include but are not limited to, an order to cease coal mining and reclamation operations, revocation of the Permittee's permit to conduct coal mining and reclamation operations and forfeiture of the bond.
12. In the event of forfeiture, the Permittee agrees to be liable for additional costs in excess of the bond amount which may be incurred by the Division in order to comply with the PAP, the Act, and the Regulations and Rules: Any excess monies resulting from the forfeiture of the bond amount upon compliance with this contract shall be refunded as directed by the permittee or, if a dispute arises, as directed by a court of competent jurisdiction by interpleading the funds subject to the dispute.
13. No delay on the part of the Division in exercising any right, power, or privilege, under the Bonding Agreement (Exhibit "B") and/or this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege thereof preclude other or further exercise of any right, power or privilege. The provisions of this Agreement are severable, and if any provision of this Agreement, or the application of any provision of this Agreement, to any circumstances is held invalid, the application of such provision of such provision to other circumstances, and the remainder of this Agreement, shall not be affected thereby.
14. Each signatory below represents that he/she is authorized to execute this Agreement on behalf of the named party. Proof of such authorization is provided on a form acceptable to the Division and is attached thereto.

SO AGREED this 10th day of October, 1996.

STATE OF UTAH:

  
\_\_\_\_\_  
Director  
Division of Oil, Gas and Mining

PERMITTEE:

Richard Gilliam - PRESIDENT  
\_\_\_\_\_  
Company Officer - Position

\_\_\_\_\_  
Company Officer - Position

**NOTE:**

An Affidavit of Qualification must be completed and attached to this form for each authorized agent or officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the Principal is a corporation, the Agreement shall be executed by its duly authorized officer.

**EXHIBIT "A"**  
**PERMIT AREA**  
**LEGAL DESCRIPTION**

Permit Number 007/020

## Exhibit "A"

## PERMIT AREA

In accordance with the RECLAMATION AGREEMENT, the PERMITTEE intends to conduct coal mining and reclamation activities on or within the PERMIT AREA as described hereunder:

Total acres within the approved PERMIT AREA: 317.5

Total acres of DISTURBED AREAS within the Permit Area: 9.15

Map(s) showing the approved PERMIT AREA are attached and provided as:

Plate 1-1 Permit Boundary

Map(s) showing the DISTURBED AREAS within the approval Permit Area are attached and provided as:

Plate 1-1 Permit Boundary

## Legal Description of Bonded Area:

Township 13 South, Range 8 East, SLM, Utah  
 Section 8 SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$   
 Section 17 NW $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ ,  
 NW $\frac{1}{4}$  SE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$  SW $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ,  
 W $\frac{1}{2}$  W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$

## NOTE:

In the event that more than one bond is provided for the Permit Area, the Permittee must provide a map and legal description for each sub area of the Permit Area for which each bond is provided.

**EXHIBIT "B"**  
**SURETY BOND**  
**(NON-FEDERAL COAL)**

Exhibit "B" - BONDING AGREEMENT  
SURETY BOND

Permit Number: 007/020

SURETY BOND  
(NON-FEDERAL COAL)

BOND NUMBER: 400JU4131

--oo0oo--

THIS SURETY BOND entered into and by and between the undersigned PERMITTEE/PRINCIPAL, and SURETY, hereby jointly and severally bind ourselves, our heirs, administrators, executors, successors and assigns unto the State of Utah, Division of Oil, Gas and Mining (DIVISION), and the penal sum of (\$ 209,200.00) (Surety Bond Amount) for the timely performance of reclamation responsibilities of the surface disturbance described in Exhibit "A" of this Reclamation Agreement. Surety Company has performed due diligence to its satisfaction the basis for the Surety Bond amount, including without limitation inspection of the Area described in Exhibit "A".

This SURETY BOND shall remain in effect until all of the PERMITTEE's/PRINCIPAL's reclamation obligation have been met and released by the DIVISION and is conditioned upon faithful performance of all of the requirements of the Act, the applicable regulations and rules, the approved permit and the PAP as approved by the Division.

The SURETY will not cancel this bond at any time for any reason, including non-payment of premium or bankruptcy of the Principal during the period of liability.

The SURETY and their successors and assigns, agree to guarantee the obligation and to indemnify, defend, and hold harmless the DIVISION and from any and all expenses which the DIVISION and may sustain as a result of the PERMITTEE's /PRINCIPAL's failure to comply with the condition(s) of the reclamation obligation.

The SURETY will give prompt notice to the PERMITTEE/PRINCIPAL and to the DIVISION of any notice received or action alleging the insolvency or bankruptcy of the SURETY, or alleging any violations or regulatory requirements which could result in suspension or revocation of the SURETY's license.

Upon incapacity of the SURETY by reason of bankruptcy, or suspension or revocation of license, the Permittee shall be deemed to be without bond coverage in violation of state and federal law and subject to enforcement in accordance with SMCRA, the Act, and the applicable regulations and rules.

The terms for release or adjustment of this BOND are as written and agreed to by the DIVISION and the PERMITTEE/PRINCIPAL in the RECLAMATION AGREEMENT, (effective date of Oct., 10, 19 96) incorporated by reference herein, to which this SURETY AGREEMENT has been attached as Exhibit "B".

Exhibit "B" - BONDING AGREEMENT  
SURETY BOND

IN WITNESS WHEREOF, The PERMITTEE/PRINCIPAL has hereunto set its signature and seal  
this 8th day of October, 19 96.

HORIZON COAL CORPORATION

PERMITTEE/PRINCIPAL

By: Rich Gilliam

Title: PRESIDENT

State of Tennessee )

County of Knox )ss:

IN WITNESS WHEREOF, the SURETY has hereto set its signature and seal this 8th  
day of October, 19 96.

Subscribed and sworn to before me this 8th day of October, 19 96

Elizabeth A. Hartzberg  
Print Name

Elizabeth A. Hartzberg  
Notary Public

My Commission Expires: November 29, 19 99

ST. PAUL FIRE AND MARINE INSURANCE COMPANY  
SURETY

By: Janice H. Fennell  
Title: Janice H. Fennell, Attorney-in-Fact

State of Tennessee )

County of Knox )ss:

ACCEPTED BY THE STATE OF UTAH:

[Signature]  
Director - Division of Oil, Gas and Mining

NOTE:

An AFFIDAVIT OF QUALIFICATION must be completed and attached to this form for each authorized agent of officer. Where one signs by virtue of Power of Attorney for a company, such Power of Attorney must be filed with this Agreement. If the PERMITTEE is a corporation, the Agreement shall be executed by its duly authorized officer

Certificate of Liability Insurance  
 Issued To:  
 State of Utah  
 Department of Natural Resources  
 Division of Oil, Gas and Mining  
 -oo0oo-

**THIS IS TO CERTIFY THAT:**

The Fidelity & Casualty Company of New York

\_\_\_\_\_  
 (Name of Insurance Company)

180 Maiden Lane, New York, NY 10038

\_\_\_\_\_  
 (Home Office Address of Insurance Company)

**HAS ISSUED TO:**

Horizon Coal Corporation

\_\_\_\_\_  
 (Name of Permittee)

Horizon No.1 Mine

\_\_\_\_\_  
 (Mine Name)

007/020

\_\_\_\_\_  
 (Permit No.)

**CERTIFICATE OF INSURANCE**

MCL002783

\_\_\_\_\_  
 (Policy Number)

8/12/96

\_\_\_\_\_  
 (Effective Date)

**UNDER THE FOLLOWING TERMS AND CONDITIONS:**

Per R645-301-890 Terms and Conditions for Liability Insurance:

- A. The **DIVISION** shall require the **PERMITTEE** to submit as part of its permit application a certificate issued by an insurance company authorized to do business in the state of Utah certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operations for which the Permit is sought. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons injured or property damaged as a result of the surface coal mining and reclamation operations, including the use of explosives and who are entitled to compensation under the applicable provisions of state law. Minimum insurance coverage for bodily injury and property damage shall be \$300,000 for each occurrence and \$500,000 aggregate.
- B. The policy shall be maintained in full force during the life of the permit or any renewal thereof, including the liability period necessary to complete all reclamation operations under this chapter.
- C. The policy shall include a rider requiring that the insurer notify the Division whenever substantive changes are made in the policy including any termination or failure to renew.

IN ACCORDANCE WITH THE ABOVE TERMS AND CONDITIONS, and the Utah Code Annotated 40-10-1 seq., the Insurance Company hereby attests to the fact that coverage for said Permit Application is in accordance with the requirements of the State of Utah and agrees to notify the Division of Oil, Gas and Mining in writing of any substantive change, including cancellation, failure to renew, or other material change. No change shall be effective until at least thirty (30) days after such notice is received by the Division. Any change unauthorized by the Division is considered a breach of the RECLAMATION AGREEMENT and the Division may pursue remedies thereunder.

UNDERWRITING AGENT:

Samuel F. Robinson, Jr.  
\_\_\_\_\_  
(Agent's Name)

423-450-3358  
\_\_\_\_\_  
(Phone)

Sedgwick James of TN, Inc.  
\_\_\_\_\_  
(Company Name)

P. O. Box 19810  
\_\_\_\_\_  
(Mailing Address)

Knoxville, TN 37939-2810  
\_\_\_\_\_  
(City, State, Zip Code)

The undersigned affirms that the above information is true and complete to the best of his/her knowledge and belief, and that he/she is an authorized representative of the above-named insurance company. (An Affidavit of Qualification must be completed and attached to this form for each authorized agent or officer.)

Oct. 8, 1996 *Sam F. Robinson Jr* Sr. Vice-President  
\_\_\_\_\_  
(Date, Signature and Title of Authorized Agent of Insurance Company)

Signed and sworn to before me by Samuel F. Robinson, Jr.  
\_\_\_\_\_

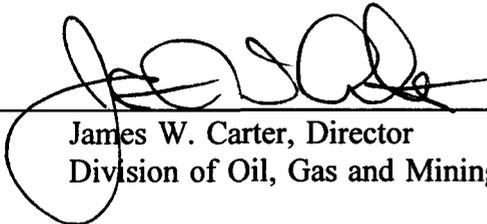
this 8th day of October, 1996.

*Katherine R. Shoemaker*  
\_\_\_\_\_  
(Signature)

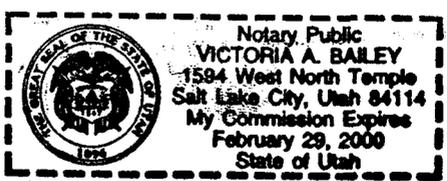
My Commission Expires: ~~MY COMMISSION EXPIRES MARCH 1 2000~~  
\_\_\_\_\_  
(Date)

**AFFIDAVIT OF QUALIFICATION  
DIRECTOR  
--ooOOoo--**

I, James W. Carter, being first duly sworn under oath, deposes and says that he is the Director of the Division of Oil, Gas and Mining, Department of Natural Resources, State of Utah; and that he is duly authorized to execute and deliver the foregoing obligations; and that said **DIRECTOR** is authorized to execute the same by authority of law on behalf of the State of Utah.

(Signed)   
James W. Carter, Director  
Division of Oil, Gas and Mining

Subscribed and sworn to before me this 11<sup>th</sup> day of October, 19 96.



  
Notary Public

My Commission Expires:  
February 29, 2000.

Attest:  
STATE OF Utah )  
COUNTY OF SALT LAKE ) SS:

AFFIDAVIT OF QUALIFICATION  
SURETY COMPANY  
-oo00oo-

I, Janice H. Fennell, being first duly sworn under oath, deposes and says that he/she is the (officer or agent) Attorney-in-Fact of St. Paul Fire and Marine Insurance Company and that he/she is duly authorized to execute and deliver the foregoing obligations; and that said SURETY COMPANY is authorized to execute the same and has complied in all respects with the laws of Utah in reference to becoming sole surety upon bonds, undertakings and obligations herein.

Janice H. Fennell  
Surety Company Officer - Position  
Janice H. Fennell, Attorney-in-Fact

Subscribed and sworn to me before this 8th day of October, 1996

Elizabeth A. Hartzberg  
Notary Public Elizabeth A. Hartzberg

My Commission Expires:  
November 29, 1999, 19    

Attest:

STATE OF Tennessee  
COUNTY OF Knox )ss:

CERTIFIED COPY NO.

For verification of the authenticity of this Power of Attorney, you may telephone toll free 1-800-421-3880 and ask for the Power of Attorney Clerk. Please refer to the Certificate of Authority No. and the named individual(s).

1891280

F-12201

**GENERAL POWER OF ATTORNEY - CERTIFIED COPY**  
(Original on File at Home Office of Company. See Certification.)

**KNOW ALL MEN BY THESE PRESENTS:** That **St. Paul Fire and Marine Insurance Company**, a corporation organized and existing under the laws of the State of Minnesota, having its principal office in the City of St. Paul, Minnesota, does hereby constitute and appoint:

**Richard G. Anderson, Richard C. Rose, Janice H. Fennell, Frank A. Word, Jr., Tracy Tucker, individually, Knoxville, Tennessee**

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise,

**NOT TO EXCEED IN PENALTY THE SUM OF TWENTY-FIVE MILLION DOLLARS (\$25,000,000) EACH**

and the execution of all such instrument(s) in pursuance of these presents, shall be as binding upon said **St. Paul Fire and Marine Insurance Company**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office.

This Power of Attorney is executed, and may be certified to and may be revoked, pursuant to and by authority of Article V, Section 6(C), of the By-Laws adopted by the Shareholders of **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** at a meeting called and held on the 28th day of April, 1978, of which the following is a true transcript of said Section 6 (C):

"The President or any Vice President, Assistant Vice President, Secretary or Service Center General Manager shall have power and authority

- (1) To appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and
- (2) To appoint special Attorneys-in-fact, who are hereby authorized to certify to copies of any power-of-attorney issued in pursuance of this section and/or any of the By-Laws of the Company, and
- (3) To remove, at any time, any such Attorney-in-fact or Special Attorney-in-fact and revoke the authority given him."

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of said Company adopted at a meeting duly called and held on the 5th day of May, 1959, of which the following is a true excerpt:

"Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN TESTIMONY WHEREOF, **St. Paul Fire and Marine Insurance Company** has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 30th day of November, A.D. 1990.

**ST. PAUL FIRE AND MARINE INSURANCE COMPANY**



STATE OF NEW JERSEY } ss.  
County of Somerset

MICHAEL B. KEEGAN, Secretary

On this 24th day of October, 1994

, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said that he/she is the therein described and authorized officer of **St. Paul Fire and Marine Insurance Company**; that the seal affixed to said instrument is the Corporate Seal of said Company; that the said Corporate Seal and his/her signature were duly affixed by order of the Board of Directors of said Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the township of Bedminster, New Jersey, the day and year first above written.



LINDA SMETHERS, Notary Public, Middlesex, NJ  
My Commission Expires December 16, 1996

**CERTIFICATION**

I, the undersigned officer of **St. Paul Fire and Marine Insurance Company**, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the By-Laws of said Company as set forth in said Power of Attorney, with the **ORIGINALS ON FILE IN THE HOME OFFICE OF SAID COMPANY**, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this

8th day of October, 1996

MICHAEL W. ANDERSON, Asst. Secretary

Only a certified copy of Power of Attorney bearing the Certificate of Authority No. printed in red on the upper right corner is binding. Photocopies, carbon copies or other reproductions of this document are invalid and not binding upon the Company.

**ANY INSTRUMENT ISSUED IN EXCESS OF THE PENALTY AMOUNT STATED ABOVE IS TOTALLY VOID AND WITHOUT ANY VALIDITY.**