

ELK HORN FUEL COMPANY

STATEMENT FOR PERMISSION TO DO
BUSINESS IN NEW YORK.

Dated, October 23, 1913

Filed Oct. 28 1913

(Copy)

Pursuant to the provisions of Section 16 of the General Corporation Law of the State of New York and Section 432 of the Code of Civil Procedure of said State, ELK HORN FUEL COMPANY, a stock corporation organized and existing under and by virtue of the laws of the State of West Virginia, does hereby make a statement and designation, under its corporate seal, to be filed with the annexed sworn copy of its Certificate of Incorporation, as follows, to wit:

FIRST: That the business or objects of said corporation, which it is engaged in carrying on or which it proposes to carry on within the State of New York, are as follows:

To buy, ship, sell and deal in coal and the products thereof; to manufacture and sell coke and the products thereof; to purchase, own, acquire, sell and deal in timber and the products thereof; to operate or drill for, accumulate, store, sell or distribute petroleum oil and natural gas and the products thereof.

To purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and to issue in exchange therefor its stocks, bonds and other obligations, and while the holder thereof exercise all the rights and privileges of ownership, including the right to vote thereon and to guarantee the payment of such bonds and other obligations.

To manufacture, lease, buy, sell, or otherwise dispose of, use, hold and otherwise deal in any and all such property, real and personal, as may be necessary or con-

venient in the conduct of the Company's business, to the extent that such powers and purposes are conferred by the laws of the State of New York upon similar corporations formed under the provisions of the Business Corporations Law of said State.

SECOND: That the place within the State of New York which is to be its principal place of business is No. 14 Wall Street, Borough of Manhattan, City, County and State of New York.

THIRD: That said corporation hereby designates John F. Caulfield as the person upon whom a summons may be served within the State of New York, or any other process or other paper whereby a special proceeding is commenced in a court or before an officer, except a proceeding to punish for contempt, and except where a special provision for the service thereof is otherwise made by law.

FOURTH: That said John F. Caulfield so designated has an office or place of business at No. 14 Wall Street in the Borough of Manhattan, City, County and State of New York, the place where said corporation is to have its place of business within the State of New York.

FIFTH: That the written consent of said John F. Caulfield to said designation, duly signed and acknowledged, is hereto annexed.

SIXTH: That a sworn copy of the certificate of incorporation is hereto annexed.

SEVENTH: That the corporation proposes to use with its corporate name when used within the State of New York the abbreviation "(Inc.)" as an affix to its said corporate name.

IN WITNESS WHEREOF, ELK HORN FUEL COMPANY, the corporation hereinbefore mentioned and described, has caused these presents to be executed by its President and has caused its corporate seal to be hereto affixed and attested by its ^{Asst} Secretary this 23rd day of October, 1913.

ELK HORN FUEL COMPANY,
(Sgd) By C. W. Watson
President.

ATTEST:

(Sgd) J. F. Caulfield
Asst. Secretary.

STATE OF NEW YORK)
) SS:
COUNTY OF NEW YORK.)

On this 23rd day of October, One Thousand nine hundred and thirteen, before me personally came CLARENCE W. WATSON, the President of ELK HORN FUEL COMPANY, to me known, who, being by me duly sworn, did depose and say that he resides in *Farmont, West Virginia* ; that he is the President of ELK HORN FUEL COMPANY, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation and he executed said instrument as President of said corporation by like authority.

(Sgd.)

Henry B. G. Craig

NOTARY PUBLIC, No. 629 FOR NEW YORK COUNTY,
NEW YORK COUNTY REGISTER'S OFFICE No. 5076

STATE OF WEST VIRGINIA.

CERTIFICATE OF INCORPORATION.

I, STUART F. REED, Secretary of State of the State of West Virginia, do hereby certify that an Agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

I. The undersigned agree to become a corporation by the name of BLK HORN FUEL COMPANY.

II. The principal place of business of said corporation shall be located at No. 311 Broadway or 16th Street, in the City of Ashland, in County of Boyd, and State of Kentucky. Its chief works will be located in the State of Kentucky.

III. The objects and purposes for which this corporation is formed are as follows:

To purchase, own, hold, lease and otherwise acquire real estate, coal and other mineral lands, timber lands and oil and gas lands; and to sell, lease or otherwise dispose of the same in the States of Kentucky, Virginia and West Virginia, in accordance with the laws thereof; to open and operate mines; to mine ship and sell coal and other minerals and products thereof; to manufacture and sell coke and products thereof; to purchase, own, acquire sell and deal in timber; and to manufacture, purchase, own, sell and deal in the products thereof; to operate or drill for, accumulate, store, sell or distribute petroleum oil and natural gas; to own, construct, lease or operate railroads and tramroads in connection with the business aforesaid, and transport the

products aforesaid and other articles of traffic to market; to own, construct, lease or operate pipe lines for conveying, transporting and delivering oil or gas; to own, construct, lease and operate telephone and telegraph line or lines for use in connection with the general business purposes of the Company; to carry on in connection with the business above contemplated a store or stores, and conduct in connection therewith a general merchandise business by wholesale or retail; to purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and to issue in exchange therefor its stocks, bonds and other obligations, and while holder thereof, to exercise all the rights and privileges of ownership, including the right to vote thereon and guarantee the payment of such bonds and other obligations; to lease, buy, sell, use and hold all such property, real, and personal, as may be necessary or convenient in the conduct of the Company's business, and to do all things other and else incident to any of said operations or businesses or permitted to such corporations by the laws of West Virginia.

It is not desired to hold more real estate in the State of West Virginia than 10,000 acres, but nothing herein contained is intended to limit the amount of real estate which may be held by the Company outside of said State.

The foregoing clauses shall be construed both as objects and powers; it being hereby expressly provided that the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the powers of this

corporation.

IV. The amount of the total authorized capital stock of said corporation shall be one hundred and fifty thousand dollars (\$150,000.00) which shall be divided into fifteen hundred (1500) shares of the par value of (\$100.00) one hundred dollars each; of which authorized capital stock the amount of (\$500.00) five hundred dollars has been subscribed, and the amount of (\$50.00) fifty dollars has been paid.

Said total authorized capital shall be divided into two classes: Five hundred (500) shares of the par value of one hundred dollars (\$100.00) each shall be five per cent (5%) cumulative preferred stock, and the remaining one thousand (1000) shares of one hundred dollars (\$100.00) each shall be common stock. The holders of the preferred stock shall be entitled to receive, and the Company shall be obligated to pay, but only out of the surplus profits of the Company, cumulative dividends at the rate of five per centum (5%) per annum and no more, payable semi-annually in each year; before any dividend shall be paid upon or set apart for the common stock. The dividends on the preferred stock shall be cumulative from and after April 1st, 1913. In no event shall any dividend whatsoever be paid or declared on the common stock until the full current annual dividend on the preferred stock, as well as all accumulated and defaulted dividends thereon, shall have been paid or set apart. Subject to the foregoing provisions and not otherwise, such dividends as may be determined by the Board of Directors may be declared and paid on the common stock from time to time; out of the surplus profits of the Company. The Board of

Directors shall have power from time to time to fix and determine and to vary the amount of the working capital of the Company, and to direct and determine the use and disposition of any surplus profits of the Company over and above the capital stock paid in. Upon any dissolution or liquidation of the Company, or upon any distribution of capital or in the event of the insolvency of the Company there shall be paid to the holders of the preferred stock one hundred dollars (\$100.00) per share and the amount of all unpaid accrued dividends thereon, before any sum shall be paid to, or any assets distributed among the holders of the common stock, and after such payments to the holders of the preferred stock, all remaining assets and funds of the company shall be paid to the holders of the common stock, according to their respective shares. The holders of shares of preferred stock shall have the same voting rights as the holders of shares of common stock. The whole of the preferred stock, or any part thereof, may be redeemed at any time at the option of the Board of Directors, upon sixty days previous notice in writing to the holders of record of such stock, given in such manner as may be prescribed by the By-Laws, by paying therefor in cash the par value of said preferred stock and all unpaid accrued dividends thereon at the date fixed for such redemption, as also the dividend payable at the next succeeding dividend period. If at any time less than the whole of the preferred stock then issued and outstanding shall be called for redemption, only such proportion of the said stock held by each preferred stockholder shall be redeemed as the total amount of stock then

called for redemption shall bear to the total amount of preferred stock of the corporation then outstanding; except that whenever such proportion results in fractional part of a share, then the proportion of such preferred stockholder shall be increased or decreased so as to result in the nearest whole number of shares so to be redeemed. As such stock is so redeemed each certificate therefor shall be cancelled.

V. The names and post office addresses of the incorporators and the number of shares of stock subscribed for by each, are as follows:

NAME	ADDRESS	NO. OF COMMON	TOTAL NO. OF SHARES.
R.D. Davis, Jr.	Ashland, Kentucky	One (1)	One (1)
John S. Hager	Ashland, Kentucky	One (1)	One (1)
K.M. Fitzgerald	Ashland, Kentucky	One (1)	One (1)
Thomas Boggess, Jr.	Ashland, Kentucky	One (1)	One (1)
W.P. Wheeler	Ashland, Kentucky	One (1)	One (1)

VI. This corporation is to expire in fifty years from the date of this certificate of incorporation.

VII. The directors of the Company may designate from their number an Executive Committee, which shall, for the time being, in the intervals between the meetings of the Directors, to the extent provided by the By-Laws, exercise the powers of the Board of Directors, so far as they may lawfully do so, in the management of the affairs and business of the Company.

No contract or other transaction between the Company and any other corporation shall be affected by the fact that the directors of this Company are interested in

or are directors or officers of such other corporation, and any director, individually, may be a party to, or may be interested in any contract or transaction of this Company, and no contract or transaction of this Company with any person or persons, firm or association, shall be affected by the fact that any director or directors of this Company, is a party to, or interested in such contract or transaction, or in any way connected with such person or persons, firm or association, provided that the interest in any such contract or other transaction of any such director shall be fully disclosed, and that such contract or other transaction shall be authorized or ratified by the vote of a sufficient number of the Directors of the Company not so interested; and each and every person who may become a director of this company is hereby relieved from any liability that might otherwise exist from contracting with the Company for the benefit of himself, or any firm, association or corporation in which he may be in any wise interested.

Given under our hands this 3rd day of February, 1913.

R.D. Davis, Jr.
John S. Hager
K.M. Fitzgerald
Thomas Boggess, Jr.
W.P. Wheeler

WHEREFORE, The corporators named in the said Agreement and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the THIRD day of FEBRUARY Nineteen Hundred and SIXTY-THREE a Corporation by the name and for the purposes set forth in said agreement.

Given under my hand and the Great Seal of the said (Seal) State, at the City of Charleston, this THIRD day of FEBRUARY NINETEEN Hundred and THIRTEEN.

STUART F. REED
Secretary of State.

STATE OF *new york*)
COUNTY OF *new york*) SS:

J. F. Caulfield , being duly sworn, deposes
Asst
and says that he is the *Asst* Secretary of ELK HORN FUEL COMPANY,
a corporation organized under the laws of the State of West
Virginia; that the foregoing is a true copy of the Certifi-
cate of Incorporation of said corporation and of the whole
thereof.

Sworn to before me this *23rd*)
day of *October*, 1913.)

Sgd' John F. Caulfield

Henry B. J. Craig
NOTARY PUBLIC, No. 629 FOR NEW YORK COUNTY
NEW YORK COUNTY REGISTER'S OFFICE No. 5076