

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

Scranton, April 14, 1921

File 1009

Mr. H. H. Shepard,

General Superintendent.

Dear Sir:

Referring to our conversation relative to placing empty cars and taking coal out of the Spencer Coal Company's Colliery located off Murray Branch.

On March 9th, we placed one car for Spencer Coal Co. on Murray Branch for shipment to Madison, N.J. and since that time have placed five additional cars. A few days ago while I was at Danville, Supt. Parsons of the Erie R.R. called up my Chief Clerk, Mr. Kennedy, also Mr. Campbell's Chief Clerk and advised that he would bill the D. L. & W. R. R. for their percentage on these shipments via No. 6 Junction and that we had no right to go into the Spencer Breaker and take out coal.

I have read over our agreement with the Erie R. R. very carefully and I cannot see anything in this agreement which would permit us to take coal out of the Spencer Breaker. Trainmaster Mullaghy advises that from 1908 up to the present time, to the best of his knowledge, we have not taken coal out of this breaker. I made a special trip to see former Yardmaster William Nixon at Elmhurst and he states it was several years prior to 1908 since we have taken coal from this Breaker.

The only record I can find which would lead one to believe we had the right to take coal out of this breaker is contained in letter dated May 22, 1909 to Mr. G. J. Ray, Chief Engineer, from R. M. White, who was at that time Division Engineer, Scranton. This letter gives corrected list of distances on the Winton Branch of the N. Y. S. & W. R. R. and this corrected list shows Spencer to D. L. & W. Junction 0.65 miles. It is further my understanding that when we took coal from this breaker, it was purchased by the D. L. & W. and



TOGETHER with all and singular the improvements, ways, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging or in anywise appertaining, and the reversions and remainders, rents, issues and profits; and all the estate, right, title interest, property, claim and demand whatsoever of the said party of the first part, in law equity or otherwise, howsoever, of, in and to the same and every part thereof, It is mutually understood and agreed by and between the parties hereto that the drain pipes as now laid across the adjoining right of way are to be extended across the premises hereby conveyed by the party of the second part and thereafter kept open and unobstructed. TO HAVE AND TO HOLD the said hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said party of the second part, its successors and assigns forever. The said party of the first part, for herself, her heirs, executors and administrators, does by these presents covenant, grant and agree to and with the said party of the second part, its successors and assigns, that she, the said party of the first part, shall warrant, defend and save the said party of the second part, its successors and assigns, harmless from all and singular the claims, demands, actions, suits, damages, costs, charges, expenses, losses and payments, which shall or may at any time hereafter be made or incurred by the said party of the second part, its successors and assigns, in or about the premises herein above described.