

FILED *Book 3718*
AUDITING

WY 45-18

✓
Cleveland, O, March 23, 1931.

Lease Erie A-5701 - NYS&W 948 dated May 10, 1927
between Erie Railroad Company, NYS&W Railroad
Company and Spencer Coal Company.

Mr. A. B. Johnson,
General Land and Tax Agent.

Dear Sir:

Question has been raised by the Interstate
Commerce Commission Examiner why the annual rental
of \$10.00 provided for in the above lease is divided
50% Erie Railroad and 50% NYS&W Railroad.

Please advise.

Yours truly,

Auditor of Disbursements.

ALG:D



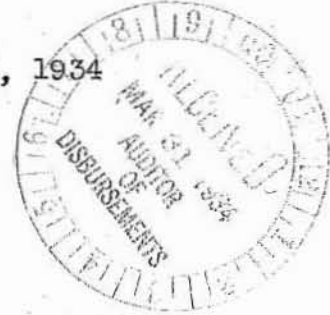
ERIE RAILROAD COMPANY

002
FILE
AUDITOR OF DISBURSEMENTS
3715

PJG-DS-6.

In your reply please refer to our file R-11888

Cleveland, Ohio March 30, 1934



Mr. J. G. Austin
Auditor of Disbursements
Cleveland, Ohio

Dear Sir:

Replying to your letter of the 23rd instant, regarding lease A-5701-NYS&W-948, dated May 10, 1927, between Erie Railroad Company, New York, Susquehanna and Western Railroad Company and Spencer Coal Company, covering lease of premises at Dunmore, Penna:

The reason why the amount collected under the agreement in question was split 50%-50%, was due primarily to the fact that both Lessees were named jointly in the agreement.

The matter has been looked into, however, and future amounts collected will be credited entirely to the N. Y. S. & W. RR. Co.

Very truly yours,

W. B. Johnson
General Land and Tax Agent.

notation on WY. 157B

Noted JMW 4/11/34

ERIE RAILROAD COMPANY

008

BD

Copy of agreement dated Dec. 11, 1914 between
Erie R.R. Co. and Spencer Coal Co., covering
operation and maintenance of portion of
Spencer Branch.

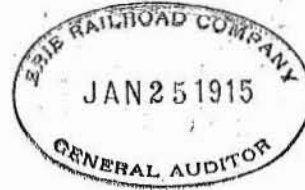
Respectfully referred to

Mr. A. J. Stone,
Vice Pres. & General Manager.

Mr. C. P. Crawford,
Comptroller.

Mr. G. W. Orcutt,
Asst. to the President.

Mr. G. A. Bergen,
Coal Traffic Manager.



For their information.

J. A. ...
Vice President & Secretary.

Jan. 22, 1915.

Small

THIS AGREEMENT, made in duplicate this Eleventh day of December, A.D., 1914, by and between the Erie Railroad Company, a corporation organized and existing under the laws of the State of New York, party of the first part, hereinafter called the "Railroad Company":

And the Spencer Coal Company, a corporation organized and existing under the laws of the State of Pennsylvania, hereinafter called the "Coal Company", party of the second part:

WITNESSETH: That, whereas the said Railroad Company operates a line of Railroad extending from Rock Junction to Jessup, in the County of Lackawanna and State of Pennsylvania, known as the "Jessup Branch" as indicated between "X" and "Y" on the blueprint map attached hereto and made a part hereof; and

WHEREAS, the Spencer Coal Company is the owner of a certain track and branch railroad, known as the "Spencer Branch" and leading from the said Jessup Branch at "A" to a point indicated on said blueprint map by the letter "D", both of which points are indicated upon attached blueprint map, as well as other tracks marked in green on said map and

WHEREAS, said Coal Company operated said branch and tracks from "A" to "C" as indicated on said map until in the year 1910 when it was agreed in certain correspondence between the parties hereto, that the Coal Company would take up its rails laid on that portion of said Spencer Branch between "A" and "C" and the Railroad Company would lay heavier rails and assume the operation and maintenance thereof thereafter and

WHEREAS, the said Railroad Company has, at its own expense laid its own rails, and, since the above agreement, exclusively operated and maintained, at its own expense, said portion from "A" to "C" of the Spencer Branch, and

WHEREAS, it has become necessary to renew and rebuild a bridge on said Spencer Branch where it crosses Little Roaring Brook at a point indicated as "B" on said blueprint map, and it has seemed desirable to confirm the existing understanding and reduce it to the more permanent form of a formal agreement.

NOW, THEREFORE, for and in consideration of the sum of one dollar, lawful money of the United States, paid by each party to the other, the receipt whereof is hereby acknowledged, respectively, and of the facts, terms and conditions hereinbefore and hereinafter stated, and of the advantages to be mutually gained thereby, the parties hereby agree as follows:

FIRST: The Railroad Company will, at its own cost and expense, continue to operate and properly maintain, during the continuance of this agreement, the portion of the said Spencer Branch track, extending from point marked "A" to point marked "C" on the attached blueprint.

SECOND: The Railroad Company, will at its own cost and expense, renew the bridge over Little Roaring Brook at point marked "B" on the attached blueprint, replacing the present wooden stringers with a bridge of suitable design to properly sustain the heavy cars and engines now in use, and will, at its own expense, continue to maintain the said bridge during the term of this agreement; said work of renewing said bridge shall be so done as not to unnecessarily delay shipments of coal by the Coal Company over said Spencer Branch and over said bridge.

The said Railroad Company to furnish to the Coal Company a detailed statement of the cost of renewal, as aforesaid, of said bridge.

THIRD: In consideration of the Railroad Company's renewing the rail, as above mentioned, between points "A" and "C" and in continuing to maintain said Spencer Branch between said points, and in renewing and maintaining the bridge at point marked "B", the Coal Company agrees to maintain, in a reasonably safe condition for operation, that portion of the Spencer Branch extending from point marked "C" to point marked "D", and does grant to the Railroad Company, during the continuance of this agreement, the right to use as a head-room track, to reach the tracks of the Wilkes Barre and Eastern Railroad Company or the New York, Susquehanna & Western Railroad Company, so much of the portion of the track of the Spencer Branch from point marked "C" to point marked "D" and tail-track "E" to "F" as may be necessary for that purpose; and for the purpose of transporting coal and putting in cars and freight for the Coal Company, but for no other purposes.

FOURTH: It is further agreed that, upon the termination of this agreement, the Coal Company shall have the right, and is hereby given the option to purchase from the Railroad Company the rails, frogs, and other appliances laid and used by the Railroad Company in the operation and maintenance of the portion of the said Spencer Branch track extending from point marked "A" to point marked "C" on the attached blueprint; and likewise, the bridge that is installed by the Railroad Company over Little Roaring Brook at a point marked "B" on said blueprint. The purchase price to be the then market value of the same, and to be paid by the Coal Company to the Railroad Company within Ninety (90) days after the same has been agreed upon or ascertained and determined, and, should the parties fail to agree upon the then market price, the same shall be ascertained and determined by arbitrators, one to be appointed by the Railroad Company, one by the Coal Company, and they two to select the third arbitrator, if necessary, and the price determined by such arbitrators to be paid by the Coal Company to the Railroad Company shall be final and binding upon both parties hereto; and, should said arbitration fail, for any reason, for a period of Thirty (30) days after said termination, then said price shall be fixed by an appraiser to be appointed by the Court of Common Pleas of Lackawanna County on the petition of either party, which appraisement shall be subject to the approval of said court, and, upon such approval, shall be final and binding upon the said parties; and the parties hereto hereby agree to the jurisdiction of said court for said purpose. Costs of arbitration or court proceedings to be borne equally by the parties hereto. Should the Coal Company not desire to purchase, as aforesaid, then the Railroad Company shall have the right to take and remove said rails, frogs, appliances, and bridge, within Thirty (30) days from the termination of this agreement.

It is also further agreed that if the Coal Company desires to purchase from the Railroad Company the rails, frogs, and appliances of the trackage indicated in red between point marked "C" and point marked "H", on attached blueprint, which the Railroad Company is maintaining over the land of the Coal Company, the Coal Company shall, in like manner, upon termination of this agreement, have the right to purchase the same upon same terms, and under similar conditions, as hereinbefore set forth; and, should the Coal Company not desire to purchase the same; then the Railroad Company shall have the right to take and remove the same within Thirty (30) days from the termination of this agreement.

FIFTH: This agreement is subject to termination by either party giving to the other at least Ninety (90) days previous notice in writing of such intention of cancellation or termination, but, until so cancelled or terminated, the rights and obligations of the respective parties hereto shall carry to and be binding upon their lessees, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed the day and year hereinbefore first above written.

ERIE RAILROAD COMPANY

By F.D.UNDERWOOD
President.

Attest: (Seal)
DAVID BOSMAN
Secretary.

SPENCER COAL COMPANY

By C.W.ROBBINS
President.

Attest: (Seal)
R.N.LA BAR
Secretary.