

**File Unit - 002/002.01-17396.00.03**



**Series Nbr:** 002.01  
**File Unit Nbr:** 17396.00.03  
**Catalog #:** STEA 7158  
**Accession #:** STEA-00033  
**Category:** CORRESPONDENCE  
**Dates:** 1912-1933

**Extent**

<b>Count</b>	[Count]1
<b>Extent</b>	[Extent]
<b>Type of Unit</b>	[Type of Unit]FOLDER

**Title:** DL&W RR--Correspondence--General Superintendent--17396: International Railway Co. (Crosstown Street Railway Co.)

**Add By:** RED  
**Add Date:** 9/8/2009 5:03:22 PM  
**Change By:** RED  
**Change Date:** 9/8/2009 5:08:25 PM  
**Location:** 002/002.01-B17-008

**Proc By**

<b>Processed By</b>	Pat McKnight
<b>Processing Date</b>	September 2009

**Record Id:** 50574

December 18, 1933.

17355: International Railway Company, Buffalo.  
IND. Knowlton Warehouse Company.

Mr. Douglas Swift,  
General Attorney.

Dear Sir:

Replying to yours December 5 and returning enclosure relative to proposed additional track across Perry Street at Buffalo leading to the plant of the Knowlton Warehouse Company.

We are complying with paragraph 3 of the agreement with the International Railway Company dated December 16, 1915, which requires stop be made before crossing Perry Street and movements be protected by flagman.

Section 4 of this agreement provides that no cars or engines be operated across Perry Street between the hours of 5.30 A.M. and 9.00 A.M. and between 4.00 P.M. and 7.00 P.M. We are complying with the provisions of this paragraph also with the exception that at certain times when we have a rush car requiring placement during the restricted hours, when the crossing is used under protection of flagman, but in no case is a movement made when it will interfere with traffic of the International Railway Company.

I do not think an additional track over this street would add to the movements made under present arrangements; therefore, I see no objection to incorporating this section in the new contract, providing we are unable to obtain a more favorable concession.

I see no objection therefore to entering into an agreement with the International Railway Company for crossing of the additional track, as above.

Yours truly,

EBM/K

*LGB-MAR 20*  
*As vice DS*  
*accordingly*

Buffalo, N. Y., December 14th, 1933.

F-410.10

Mr. E. B. Moffatt,  
General Superintendent.

Dear Sir:

Replying to your letter of December 7th, file 17355, and returning attachments received therewith, relative to proposed additional track across Perry Street at Buffalo, leading to the Knowlton Warehouse Company.

I do not know of any objection to drawing up a similar contract to that covering the track we now have over Perry Street, as covered by agreement, dated December 16th, 1915.

We are complying with paragraph 3 in all instances, which requires that stop must be made before crossing Perry St. and movements protected by flagman.

Section 4 of the agreement provides that no cars or engines will cross Perry St. between the hours of 5.30 AM and 9.00 AM and 4.00 PM and 7.00 PM. We try to comply with this section, but there are times when we have a rush car which requires placement during the restricted hours, when we do violate this section of the agreement, but in no case

Mr. E. B. Moffatt

12/14/33.

has it interfered with the traffic of the International Railway Company. I do not believe that an additional track crossing this street would add many more movements than at the present time. Therefore, I do not see any objection to permitting this section to be incorporated in the new contract, providing, of course, that we cannot get a better concession.

Yours truly,

*W. G. Alexander*  
Superintendent.

December 7, 1933.

17355: International Railway Company, Buffalo.  
Ind. Mr. Knowlton.

Mr. W. G. Alexander,

Superintendent, Buffalo.

Dear Sir:

Herewith letter dated December 5, from General Attorney Swift, relative to efforts of our local attorney at Buffalo to secure permission to lay an additional track across Perry Street at Buffalo for Mr. Knowlton, copy of agreement dated December 16, 1915 with the International Railway Company, referred to is attached hereto.

Please advise if you are now complying with the requirements of sections 3 and 4 of the Agreement with the International Railway Company, and if our practice will in any way be affected by the proposed agreement covering the additional track.

Yours truly,

1-G

17355

THE DELAWARE, LACKAWANNA AND WESTERN RAILROAD COMPANY

LEGAL DEPARTMENT

90 WEST STREET  
(140 CEDAR STREET)  
NEW YORK CITY

WILLIAM S. JENNEY  
VICE PRESIDENT AND GENERAL COUNSEL  
JOHN L. SEAGER  
ASSISTANT GENERAL COUNSEL  
DOUGLAS SWIFT  
GENERAL ATTORNEY FOR NEW YORK  
AUSTIN J. MCMAHON  
ASSISTANT TO GENERAL COUNSEL  
FREDERIC B. SCOTT  
GENERAL ATTORNEY FOR NEW JERSEY  
WALTER J. LARRABEE  
COMMERCE COUNSEL  
JOHN E. MORRISSEY  
ASS'T GENERAL ATTORNEY FOR NEW YORK  
F. EARL WALTER  
ATTORNEY

December 5, 1933.

Mr. E. B. Moffatt,  
General Superintendent,  
Scranton, Pa.

Dear Sir:

Mr. Babcock, our attorney in Buffalo, advises me that he has been trying to get permission to lay a track across Perry street for Mr. Knowlton, and in connection therewith it will be necessary to enter into an agreement with the Street Railway Company for the crossing of its tracks in the street.

In 1915 we laid a track along Columbia street and across Perry street, crossing the International Railway Company's tracks, and at that time entered into an agreement with the International Railway Company for such crossing, a copy of which agreement is attached hereto.

I presume the Street Railway Company will insist upon a similar agreement for the crossing of the proposed additional track; but before going further in the matter I should like to know if you have been complying with the requirements of sections 3 and 4 of the existing contract, and if you will be able to comply with similar requirements in connection with the operation of the proposed track.

Having made a contract of this nature in 1915 it would probably be very difficult to get the Street Railway Company to accept a different contract for another track in the same location. But if you think the terms of the existing contract are too onerous and we should try to get some modification thereof in connection with the new track, we will make the effort. So

E.B.M.

-2-

12/5/33.

far as the requirements of sections 3 and 4 of the existing contract are concerned, however, it would seem to me that what applies to one track might as well apply to the other.

Yours truly,

*Douglas S. Luff*

General Attorney.

DS:DB

Encl.

17355.

October 12, 1920.

8-17-20. Accident.

Mr. A. E. Staub,  
Superintendent, Buffalo.

Dear Sir:

In connection with responsibility for accident at Mississippi and Elk Streets, Buffalo, August 17, when an International Railway car ran into our engine 92, I have the following from General Attorney Swift:

"I return herewith the papers enclosed with your letter of the 3rd ulto. relating to the accident at the Knowlton switch on Elk Street, Buffalo, on August 17.

I have put off answering your letter until I could ascertain definitely whether or not this crossing was covered by an agreement between our Company and the International Railway. Our file indicated that such an agreement was under consideration in 1912 and that all the papers relating thereto were sent to Mr. Babcock's office at that time.

I am in receipt of a letter from Mr. Babcock, which states that he is unable to find in his office the papers in question, or any agreement covering this crossing. I have requested him to have a further search made in Mr. Boyd's office and if no agreement can be found to try to negotiate an agreement with the International Railway Company to cover the crossing.

The crossing was originally installed under the authority of an order of the Board of Railway Commissioners of New York, dated October 12, 1906, which provided that the entire expense of the crossing should be borne by our Company. The order does not refer in any way to the flagging of the crossing.

In absence of an agreement with the International Railway covering this crossing, I do not see that there is

October 18, 1909

any more obligation on the part of the International to flag the crossing than there is on our Company. It seems to be a case where each of the parties is obliged to use reasonable care. I can only suggest that unless and until an agreement is made with the International Railway specifically defining the obligations of the parties in this connection we should not operate our cars and engines over this crossing upon the assumption that the International Railway employes will flag it, but should conduct such operations in such a manner and under such rules with respect to flagging or otherwise as will safeguard us against accidents."

Therefore, until agreement is made you will see that all our engines and cars operate over our Columbia Street Crossing only under protection from our own men.

Acknowledge receipt.

Yours truly,

Signed H. H. Shepard.

General Superintendent.

HHS-4

Copy.

I am in receipt of a letter from Mr. [Name], which states that he is unable to find in his office the copy of the agreement, by an agreement covering this crossing. I have requested him to give a further search and in the event he is unable to find it, to try to ascertain if an agreement with the International Railway Company was made for the crossing. The crossing was originally installed under the authority of an order of the Board of Railway Commissioners of New York, dated October 18, 1909, which provided that the entire expense of the crossing should be borne by our Company. The order does not refer in any way to the flagging of the crossing. In absence of an agreement with the International Railway covering this crossing, I do not see that there is

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY

OFFICE OF GENERAL SUPERINTENDENT

E. M. RINE,  
General Superintendent.

SCRANTON, PA. September 20, 1916.

17355

17355



Mr. H. H. Shepard,  
Superintendent.

Dear Sir:

I have your letter of September 18, file B-414.3, together with blue prints indicating crossing under our tracks at Elmwood Avenue, Black Rock Branch, of the International Railway Company's proposed extension.

Please return your letter of September 6, which I sent you with mine of September 8.

Yours truly,

*Emking*

*The Rine  
Bureau  
MRS  
9-21*

17355

September 20, 1916.

*HB*  
*did we get you HB*

17355

Mr. H. H. Shepard,  
Superintendent.

Dear Sir:

I have your letter of September 18, file B-414.3, together with blue prints indicating crossing under our tracks at Elmwood Avenue, Black Rock Branch, of the International Railway Company's proposed extension.

Please return your letter of September 6, which I sent you with mine of September 8.

Yours truly,

Buffalo, N.Y., September 18, 1916.

17355

B-414.3:

*JMS*  
~~*[Handwritten scribbles]*~~

Mr. E. M. Rine,

General Superintendent.

Dear Sir:

As per your request of September 8th, file 17355, I hand you herewith two copies of blueprint, indicating crossing under our tracks at Elmwood Avenue, Black Rock Branch, of the International Railway Company's proposed extension.

Please understand that this street is being put under our tracks at the present time and they desire to extend their tracks accordingly.

I also return herewith the proposed form of agreement.

Yours truly,

*[Handwritten signature]*  
Superintendent.

17355

September 8, 1916.

17355: International Railway Company, Buffalo.

Mr. H. H. Shepard,  
Superintendent.

Dear Sir:

Returning your letter September 6, with one copy of form of consent which the International Railway Company request to be executed to allow them to operate their street cars along Elmwood Avenue northerly from Hertel Avenue, Buffalo. Please submit two copies of blueprint indicating the route they desire to use over our right of way.

Yours truly,

1-p

Buffalo, N.Y., September 6, 1916.

LACKWANA R.R.  
RECEIVED

SEP  
7  
1916

FILE 17355

Mr. E. M. Rine,

General Superintendent.

Dear Sir:

I attach hereto form of consent, which the International Railway Company requests us to execute, to allow them to operate their street cars along Elmwood Avenue northerly from Hertel Avenue, Buffalo.

Neither Division Engineer Boyd nor I know of any objection to this, as the cars will run under our bridge at that point.

Yours truly,

*M. J. Shepard*  
Superintendent.

INTERNATIONAL RAILWAY CO.

ELMWOOD AVENUE EXTENSION.

The undersigned, NEW YORK, LACKAWANNA & WESTERN RAILWAY owner of property in the City of Buffalo, Erie County, New York, abutting upon that portion of Elmwood Avenue from Hertel Avenue northerly to the north city line of the City of Buffalo, does hereby consent to the construction and operation, by the single overhead trolley system, of a double-track street surface railway by the International Railway Company, or its successors or assigns, through and along Elmwood Avenue aforesaid, from Hertel Avenue northerly to the north city line of the City of Buffalo, and that said company may operate said road by means and power of electricity, and may erect poles and string wires on said highway for said purpose.

Dated-

\_\_\_\_\_, 1916.

NEW YORK, LACKAWANNA & WESTERN RAILWAY CO.

By- \_\_\_\_\_

STATE OF NEW YORK )  
COUNTY OF ERIE : SS:  
CITY OF BUFFALO )

On the \_\_\_\_ day of \_\_\_\_\_, 1916, before me personally came \_\_\_\_\_, to me known, who, being by me duly sworn, did depose and say that he resided in \_\_\_\_\_; that he is the \_\_\_\_\_ of NEW YORK, LACKAWANNA & WESTERN RAILWAY CO., the corporation described in and which executed the above instrument, and that he signed his name thereto by order of the Board of Directors of said corporation.

Buffalo, N.Y., February 11, 1916.

ACKNOWLEDGMENT  
ENL SUP'TS OFFICE  
FEB  
12  
1916  
FILE 17355

Contract 134:

Mr. E. M. Rine,

General Superintendent.

Dear Sir:

I have yours of February 7th, file 17355, relative contract between this Company and the International Railway Co. covering Knowlton switch across Perry Street.

This matter was held up in hearing by the Public Service Commission and there is some doubt in my mind as to whether it goes through. However, we will cover the matters mentioned when the track is constructed.

Yours truly,

*W. H. [Signature]*  
Superintendent.

17300

February 7, 1916.

17355:

Mr. H. H. Shepard,  
Superintendent.

Dear Sir:

Registrar of Contracts Dailey has furnished you direct with copy of agreement dated December 16, 1915, between the International Railway Company, the Delaware, Lackawanna and Western R.R.Co. and the New York, Lackawanna & Western Ry.Co., regarding crossing over Perry Street, in the City of Buffalo. Your special attention is called to Articles 3 and 4 of the agreement, reading:

"3. The said parties of the second part also severally covenant and agree that in the operation of their trains, cars or engines over or upon said switch track that each and every train, car or engine shall be brought to a full stop in each instance at a safe and reasonable distance from the tracks of the party of the first part before crossing the same, and that in each and every instance and before crossing said crossing a flagman shall be stationed at said crossing at the expense of the parties of the second part, who shall see that such crossing can be made with safety, it being expressly understood and agreed that the cars of the said party of the first part shall at all times have the right of way over the trains, cars or engines of the parties of the second part.

"4. It is further severally covenanted and agreed by the parties of the second part that there shall not be any such trains, cars or locomotives operated across said crossing between the hours of five thirty and nine a.m. and four and seven p.m."

Also to second sentence of Article 8, reading:

"It is further agreed that if either party of the second part shall violate any of the covenants of this agreement, the party of the first part may terminate this agreement by giving ten days notice in writing to the parties of the second part."

Please see that all of our employes concerned understand these provisions and comply strictly therewith.

Yours truly,

1-p

February 7, 1916.

17355: Agreement International Railway Co., Buffalo.

Mr. W. S. Jenney,

Vice Pres. & Gen'l Counsel.

Dear Sir:

Referring to your letter January 6, relative to agreement dated December 16, 1915, between the International Railway Company and the D.L.& W.R.R.Co., regarding crossing of our switch track over tracks of the International Railway Co. over Perry Street, Buffalo. I have received copy of the agreement from Registrar of Contracts Dailey, copy also being supplied to Superintendent Shepard. Attention of the latter has been called to strict observance, in accordance with your suggestion, of Articles 3rd and 4th of the agreement, which lay down certain conditions covering operation of trains over the crossing, and also to second sentence of Article 8th, providing for termination of the agreement by the International Railway Company for any violation thereof by the Lackawanna Co.

Yours truly,

1-p

17388

January 24, 1916.

Agreement, International Ry. Co.

Miss M. I. Dailey,

Registrar of Contracts.

Dear Madam:

This will acknowledge receipt of your letter of January 22 enclosing copy of contract No. 349-9, agreement with the International Railway Company, dated December 16, 1915, covering permit to this Company to cross tracks of the International Company in Perry Street, Buffalo, at the Columbia Street intersection, also copy of the resolution of the Common Council, City of Buffalo.

Yours truly,

3-M

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY.

ACCOUNTING DEPARTMENT.

90 WEST STREET, NEW YORK.

ROOM 1809

M. I. DAILEY,  
REGISTRAR OF CONTRACTS.

*M. I. Dailey*  
Contract No. 349-9.

January 22nd, 1916.

Mr. E. M. Rine,  
General Superintendent,  
Scranton, Pa.

Dear Sir:-

I hand you herewith for your information and records, one copy of agreement with the International Railway Co. dated Dec. 16th, 1915, covering permit to this Company to cross the tracks of the International Co. tracks in Perry Street, Buffalo at the Columbia Street intersection, with a single track; also one copy of the resolution of the Common Council of the City of Buffalo.

Very truly yours,

*M. I. Dailey*

ENCL:

CC to HHS.

*Contract file No 243*

No. 349-9.

COPY OF RESOLUTION OF COMMON COUNCIL OF THE CITY OF BUFFALO.

\* \* \* \* \*

\* \* \*

\*

Your Committee on Streets, to which on November 29th was referred the petition (No. 41) of the New York, Lackawanna & Western Railway, for permission to lay and operate a track in Columbia street, and across Ferry street, begs leave to offer a supplemental report, the subject matter of which, as well as said petition has been considered by your committee, and recommends the adoption of the following:

That the prayer of the petition of the New York, Lackawanna & Western Railway Company for permission to lay, maintain and operate switch tracks in Columbia street, and one switch track across Ferry street, be and the same is hereby granted, subject to the following conditions:

First: That the said right is granted subject to the further orders of the Common Council or the Council of the City of Buffalo.

Second: That said tracks shall be laid, maintained and operated from the main lead of said New York, Lackawanna & Western Railway Company in the easterly side of Columbia street, and one track across Ferry street to the warehouse of the Buffalo Cold Storage Company at the northeast corner of Perry and Columbia streets, in the location shown upon the map or plan attached to the above mentioned petition, as revised, and shall be laid under the supervision of the Commissioner of Public Works.

Third: That said Switch track is not to be used across Perry street between the hours of 5.30 and 9 o'clock a.m. and 4 and 7 p.m.

Fourth: That no car or cars shall be permitted to remain standing upon Ferry street at any time, nor shall any car or cars be moved across Perry street unless preceded by a flagman.

Fifth: That the tracks hereby authorized to be laid shall be laid flush with the pavement, and in such manner as to obstruct travel as little as possible, and that such other safeguards shall be provided as may at any time be required by the Common Council or Council of the City of Buffalo.

Sixth: That such switch tracks may be used by the New York, Lackawanna & Western Railway Company for the benefit of the Buffalo Cold Storage Company and the benefit of the L. & I. J. White Company, and their successor or successors in title to the lands now owned or occupied by them.

Seventh: That the petitioner shall at all times have

and keep in good repair the pavement in Perry Street between the rails of this track and two feet outside thereof.

Adopted.

Ayes - Ald. Armbrust, Broderick, Burley, Costello, Coughlin, Davidson, Endres, Fries, Geyer, Haffa, Humphrey, Kelly, Kohl, McDonough, Meyer, Mildenberger, Roskwitalski, Shea, Sperry, Sullivan, Suttner - 21.

Noes - Ald. Holtz - 1.

THE LEGAL DEPARTMENT  
DELAWARE LACKAWANNA & WESTERN RAILROAD COMPANY  
90 WEST STREET  
NEW YORK CITY, NEW YORK

LACKAWANNA  
GEN'L SUPT'S OFF  
ON  
1916

January 6, 1916.

Mr. E. M. Rine,  
General Superintendent,  
Scranton, Penna.

Dear sir:-

In the course of a few days you will receive a copy of an agreement, dated December 16, 1915, between the International Railway Company and this Company, covering Ferry Street crossing in the City of Buffalo.

I wish to call your special attention to Articles third and fourth of the agreement, which lay down certain conditions covering operation of trains over the crossing, and to the second sentence of Article eighth, which provides for the termination of the agreement by the International Company for any violation thereof by the Lackawanna Companies.

These are drastic provisions and I wish to urge the necessity of making and enforcing proper rules to cover all train movements at this crossing.

Yours truly,

*W. J. Jenney*

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY.

ACCOUNTING DEPARTMENT.

90 WEST STREET, NEW YORK.

ROOM 1809

Contract No. 349-7.

August 20th, 1913.

M. I. DAILEY,  
REGISTRAR OF CONTRACTS.

*For Barger*

LACKAWANNA R.R.  
GENL. SUPT'S OFFICE  
AUG  
21  
1913  
FILE 17896

Mr. L. G. Barger,  
Chief Clerk to General Superintendent,  
Scranton, Pa.

Dear Sir:

In accordance with telephone conversation, I hand you herewith copy of the Order of Supreme Court of the State of New York under date of Oct. 26th, 1897, permitting the Crosstown Street Railway Company of Buffalo to cross the tracks of this company at Buffalo, at grade.

The Crosstown Street Railway Company is now owned and operated by the International Railway Co.

Yours very truly,

*M. I. Dailey*

THE DELAWARE, LACKAWANNA & WESTERN RAILROAD COMPANY.

ACCOUNTING DEPARTMENT.  
90 WEST STREET, NEW YORK.  
ROOM 1809.

17396

Contract 349

M. I. DAILEY,  
REGISTRAR OF CONTRACTS.

✓  
D.S.V.

December 31, 1912.

Mr. L. L. Babcock,  
c/o Rogers, Locke & Babcock,  
28 Erie St., Buffalo, N. Y.

Dear Sir:-

Referring to your letter of the 14th inst., acknowledging receipt of bills against the International Railway Company and advising that as soon as you received some data from the Superintendent's office, which you were prevented from getting because of the change in Superintendents, you would take these matters up with the International Company for final conference.

Superintendent Cahill, of the Buffalo Division, advises under date of the 30th, as follows:

"Under date of the 27th ult., I wrote Rogers, Locke & Babcock, enclosing the payrolls and copies of letters from Chief Engineer Ray to Mr. Hustis, etc., and advised them that if there was any additional information that we could furnish we would be pleased to do so, since which time we have heard nothing from them."

The payrolls referred to were the Buffalo Division Road Department payrolls for June and July, 1892, and for July, 1893, which cover the section on which is located the Union Road crossing at Cheektowaga, at which point there is a dispute with regard to the amount the International Railway Company should pay for the

L. L. B. 12/31/12.

-2-

Contract 349.

service of flagmen.

If there is any further information you need which should be furnished by our Operating Department, will you kindly advise me so that I may take it up with the General Superintendent and have same forwarded to you at once.

Yours truly,

✓ Copy to E. M. R.

Please note. I will advise you as soon as I hear from

Mr. Babcock.

*M. D. Wiley*

*you file 17396*