

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
WITHIN AND FOR THE COUNTY OF SHERIDAN, STATE OF WYOMING

BIG HORN COAL COMPANY,
a Corporation,

Plaintiff,

-vs-

SHERIDAN-WYOMING COAL COMPANY, INC.,
a Corporation,

Defendant.

JUDGMENT

The above entitled cause came on regularly for hearing on the 15th day of August, 1949, upon the petition of the plaintiff and the answer of the defendant herein, and the plaintiff appearing by its attorneys, W. C. Fraser and A. W. Lonabaugh, and the defendant appearing by its attorney, R. E. McNally, and the matter coming on further to be heard upon the evidence and upon briefs of counsel thereafter submitted, and the court now being duly advised as to all matters and issues involved in the proceedings, finds:

1. That the plaintiff is a corporation duly organized under and existing by virtue of the laws of the State of Wyoming, and is engaged in the business of the mining of coal.
2. That the defendant is the owner and in possession of the property sought to be condemned and hereinafter described.
3. That it is the purpose of the plaintiff to construct along the routes and between the places hereinafter mentioned, a railroad having a standard gauge, and the places from and to which said railroad is intended to be run are from a point where said route intersects the C. B. & Q. Railroad, said point being situated in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 21, Township 57 North, Range 84 West of the Sixth Principal Meridian, Sheridan County, Wyoming, and bearing South 50° 53' West, a distance of 1915.6 feet from the Northeast corner of said Section 21, thence in a general northeasterly direction across Tongue River to the coal lands of the plaintiff and the Northwest corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 15, Township 57 North, Range 84 West of the Sixth Principal Meridian, of said County and State.
4. That the plaintiff has caused to be surveyed, laid out, and staked, and located its line of railroad as described with other

lands in plaintiff's petition, said right of way being particularly described as follows:

A tract of land consisting of approximately 34.999 acres, more or less in all, classified as 3.895 acres of dry cultivated land, 11.344 acres of dry pasture land, and 9.76 acres of worked out coal land (dry pasture), said right of way being a part of Sections Fifteen (15), sixteen (16) and Twenty-one (21), Township Fifty-seven (57) North, Range Eighty-four (84) West of the Sixth Principal Meridian, Sheridan County, Wyoming, and being bounded and described with reference to a certain survey line as shown on the plans filed in said cause, and more particularly described as follows, to-wit:

Beginning at a point designated as 0 + 00 on said Plans and which said point is situated in the NW¹/₄ of said Section 21 and bears S. 50° 53' W., a distance of 1915.6 feet from the Northeast corner of said Section 21, said point being the beginning of a 4° 56' curve to the left, the tangent to said curve at said point of beginning bearing N. 74° 18' E.; thence along said survey line along said 4° 56' curve to the left, a distance of 356 feet to Station 3 + 56.0 as indicated on the accompanying Plans and which said point is the point of beginning of said right of way and is located on an established property line fence between the Chicago, Burlington and Quincy Railroad right of way and the property owned by the Sheridan-Wyoming Coal Company; thence continuing along said 4° 56' curve to the left along said survey line with a right of way width on the left of 7.5 feet and a right of way width on the right of 92.5 feet, a distance of 1044.0 feet to a point designated on the Plans as Station 14 + 00; thence continuing along said 4° 56' curve to the left on said survey line with a right of way width on the left of 7.5 feet and a right of way width on the right of 192.5 feet, a distance of 16.4 feet to Station 14 + 16.4 as designated on the Plans as the point of curve, the tangent of which bears N. 4° 24' E.; thence along said survey line on an 8° 30' curve to the right with a right of way width of 7.5 feet on the left and 192.5 feet on the right, a distance of 74.0 feet to a point designated on the Plans as Station 14 + 90.4; thence N. 10° 42' E. along said survey line with the same right of way widths as last above mentioned, a distance of 12.9 feet to point of curve which is designated on the Plans as Station 15 + 03.3; thence along said survey line on a 3° 05' curve to the right, with the same right of way widths as last above mentioned, a distance of 596.7 feet to a point designated on the Plans as Station 21 + 00; thence continuing along said survey line on said curve of 3° 05' to the right with a right of way width of 7.5 feet on the left and 92.5 feet on the right, a distance of 1082.3 feet to a point designated on the Plans as Station 31 + 82.3; thence N. 62° 15' E. along said survey line, with right of way widths as last above mentioned, a distance of 898.3 feet to a point designated on the Plans as Station 40 + 80.6; thence along said survey line along a 2° 00' curve to the right, with right of way width of 7.5 feet on the left and 80 feet on the right of said survey line, a distance of 199.4 feet to a point designated on the Plans as Station 42 + 80.0; thence continuing along said survey line on said 2° 00' curve to the right with right of way width on the left of 7.5 feet and 100 feet on the right of said survey line, a distance of 75.6 feet to a point designated on the Plans as Station 43 + 55.6; thence along said survey line, with right of way widths the same as last above mentioned, N. 67° 45' E., a distance of 33.1 feet to a point designated on the Plans as Station 43 + 88.7; thence along said survey line on a 3° 00' curve to the right with right of way widths the same as last above mentioned, a distance of 281.3 feet to a point designated on the Plans as Station 46 + 70.0; thence continuing along said survey line on said 3° 00' curve to the right with right of way width on the left of 80 feet and 100 feet on the right of said survey line, a distance of 313.7 feet to a point designated on the Plans as Station 49 + 83.7; thence along said survey line, with right of way widths the same as last above mentioned, N. 85° 35' E., a distance of 1118.2 feet to a point designated on the Plans as Station 61 + 01.9; thence along said survey line on a 9° 00' curve to the left, with right of way widths remaining

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the same as for the last above described course, a distance of 48.1 feet to the point designated on the Plans as Station 61 + 80, at which point the right of way line on the right extends to the North bank of Tongue River and is contiguous with said North bank to a point of intersection with the West line of the NE¹/₄SE¹/₄ of Section 16, Township 57 North, Range 84 West of the Sixth Principal Meridian; thence said right of way runs North along the West line of the NE¹/₄SE¹/₄ of said Section 16 to the Northwest corner of said quarter section, said point being the northern terminus and end of said right of way; thence southwesterly S. 81° 26' West, a distance of 1119.0 feet, more or less, to a point where the left side of said right of way as heretofore described intersects the North bank of Tongue River as indicated on the Plans as Station 60 + 15, said right of way last above described all being North of Tongue River and containing in all 9.76 acres.

All right of way lines above described are parallel to the said survey line except the right of way described beyond Station 60 - 15 North of Tongue River.

5. That there exists an immediate necessity for the appropriation by the plaintiff of that part of the lands owned by the defendant and in possession of the defendant, hereinabove particularly described, to enable the plaintiff to construct, maintain and operate its said railroad for the transportation of coal.

6. That the plaintiff has heretofore sought in good faith to purchase the interests of said defendant in and to said lands, and to settle with said defendant for the damages which will result from the taking thereof, but that plaintiff has been unable to make a reasonable bargain therefor for settlement of such damages with said defendant, and thereafter, the plaintiff duly served upon said defendant notice of its intention to file petition for condemnation of same as required by law.

7. That the land sought to be taken and hereinabove described is located in the manner which will be most compatible with the aforesaid necessity of said plaintiff and which will do the least amount of private injury.

THE COURT FURTHER FINDS that the right of way as described in plaintiff's petition and as sought to be taken at the trial of said cause includes certain lands of the defendant sought to be taken for trackage and tipple, extending beyond and North of the East and West center line of said Section 16, and beyond the point where said plaintiff has access to its own lands, and in regard to the taking and appropriating of said lands so extending beyond and North of the East and West center line of said Section 16, the court finds against the

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plaintiff and in favor of the defendant and plaintiff's petition in regard to said extension is denied.

THE COURT FURTHER FINDS that the plaintiff has made application, as provided by Section 3-6311 and Section 3-6312, W.C.S. of 1945, for the fixing of bond for the purpose of entering on and appropriating the above described real property of the defendant and that a bond in the sum of \$1,000.00 should be fixed, conditioned upon the payment of such condemnation money, compensation and costs as shall be finally assessed and determined.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the court that said proceedings were duly and regularly brought and that there exists an immediate necessity for the taking and appropriation of the above described real property.

IT IS FURTHER ORDERED by the court that the plaintiff forthwith file in this court for approval its bond in the sum of \$1,000.00 for the payment of all condemnation money, compensation and costs and upon the filing and approval of said bond, the plaintiff be, and it hereby is authorized and empowered to enter in and upon said above described premises, take and appropriate the possession of same, and to proceed with the construction of its said railroad on same.

IT IS FURTHER ORDERED by the court that H. C. Jeffers, Forrest Ralston, and C. C. Rawlings, three impartial freeholders of said County, are hereby appointed as commissioners to ascertain and determine the compensation to be paid to the defendant, Sheridan-Wyoming Coal Company, Inc., for the taking of said real property without regard to minerals underlying same, condemnor having waived same, and that the 25th day of August, 1949, is hereby appointed as the date of the first meeting of said commissioners who shall make and certify their ascertainment and assessment on or before the 31st day of August, 1949.

To which order of the court the defendant and plaintiff by their respective counsel duly excepted, which exception was allowed by the court.

Approved as to Form:

JAMES H. BURGESS
Judge of the District Court

R. E. McHALLY
Attorney for Defendant

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THE STATE OF WYOMING

County of Sheridan

ss.

I,

John W. Songer

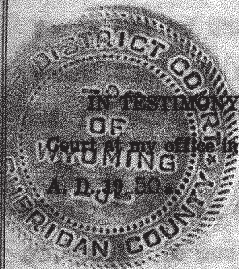
Clerk of the

Fourth

Judicial District

Court within and for the County and State aforesaid, do hereby certify the foregoing to be a true and complete copy of Judgment in that action in the above entitled Court wherein

BIG HORN COAL COMPANY, A corporation is plaintiff and SHERIDAN-WYOMING COAL COMPANY, INC., A corporation is defendant, as the same appears on file and of record in this office.



IN TESTIMONY WHEREOF, I have hereunto subscribed my hand and affixed the official seal of said

Court at my official residence in Sheridan, Wyoming, this 28 day of February,

John W. Songer
Clerk of the District Court.

By

Deputy.