ATUTORY INSTRUMENTS

1972 No. 398

WATER SUPPLY, ENGLAND AND WALES

The East Worcestershire Water (Severn Intake) Order 1972

Made - -	13*th March* 1972
Coming into Operation	20*th March* 1972

The Secretary of State for the Environment, in exercise of his powers under section 23 of the Water Act 1945(**a**) and all other powers enabling him in that behalf, hereby orders as follows:—

Citation and commencement.

1.—(1) This order may be cited as the East Worcestershire Water (Severn Intake) Order 1972 and shall come into operation on 20th March 1972.

(2) The East Worcestershire Water Acts and Orders 1877 to 1970 and this order may be cited together as the East Worcestershire Water Acts and Orders 1877 to 1972.

Interpretation.

2.—(1) In this order, unless the context otherwise requires, expressions to which meanings are assigned by the Third Schedule have the same respective meanings, and—

"Company" means the East Worcestershire Waterworks Company;

"deposited plan" and "deposited sections" respectively mean the plan and sections prepared in duplicate signed by an Under Secretary in the Department of the Environment and marked "Plan and sections referred to in the East Worcestershire Water (Severn Intake) Order 1972", one set of which is deposited and available for inspection at the principal office of the Company and the other at the office of the Secretary of State for the Environment;

"Third Schedule" means the Third Schedule to the Water Act 1945;

"undertaking" means the undertaking of the Company as from time to time authorised by any enactment.

(2) All distances and lengths stated in any description of works, powers or lands shall be construed as if the words "or thereabouts" were inserted after each such distance or length.

(3) Any reference in this order to a work identified by the number of such work shall be construed as a reference to the work of that number authorised by this order.

(4) Unless the context otherwise requires, any reference in this order to any enactment shall be construed as a reference to that enactment as amended by, or having effect by virtue of, any subsequent enactment, including this order.

(**a**) 1945 c. 42.

Application of certain provisions of Third Schedule.

3. For the purposes of this order the provisions of the Third Schedule set out in column (1) of the Schedule to this order shall, subject to the modifications set out in column (2) thereof, apply to the undertaking and, subject as aforesaid, are hereby incorporated with this order.

Power to Construct Works.

4.—(1) Subject to the provisions of this order, the Company may, when they have acquired the necessary lands or sufficient interests therein, construct and maintain in the lines and situations shown on the deposited plan and according to the levels shown on the deposited sections, the following works in the parish of Ombersley in the rural district of Droitwich in the county of Worcester—

Work No. 1—An intake and a pumping station, the said intake being situated in the left bank of the river Severn at a point 1,740 yards (measured along the centre line of the river) downstream from Holt Fleet Bridge over the said river;

Work No. 2—An embankment and causeway including a cattle creep in the said causeway;

Work No. 3—A storage reservoir formed partly by means of an embankment or dam at the western end of the reservoir across the stream flowing from the existing fish pond and lake known as Black Pool to the river Severn at a point 250 yards (measured along the centre line of the stream) upstream from the confluence of the said stream with the river and partly by excavation and subsidiary embankments, including an embankment at the eastern end of the reservoir across the said fish pond and lake known as Black Pool;

Work No. 4—An improvement, deepening and reduction in length of the said existing fish pond and lake known as Black Pool including a new bank to form the western end thereof at a point 730 yards (measured along the centre line of the stream and fishpond) upstream from the confluence of the said stream with the river Severn;

Work No. 5—A line or lines of pipes and cables from the intake and pumping station (Work No. 1) to the storage reservoir (Work No. 3);

Work No. 6—A line or lines of pipes and cables from the intake and pumping station (Work No. 1) to the low lift pump house (Work No. 8);

Work No. 7—An overflow catchwater and drainage gallery commencing in the lake (Work No. 4), passing beneath the storage reservoir (Work No. 3) and the low lift pump house (Work No. 8) and terminating at the said stream as now existing below the embankment (part of Work No. 2);

Work No. 8—A low lift pump house;

Work No. 9—A line or lines of pipes and cables from the low lift pump house (Work No. 8) to the treatment works (part of Work No. 10);

Work No. 10—Treatment works and a pumping station, together with staff houses, north of the storage reservoir (Work No. 3);

Work No. 11—A press house and sludge pit formed partly by means of an embankment across the existing quarry north west of the north western end of the causeway (part of Work No. 2) and partly by excavation and a subsidiary embankment;

the said Works Nos. 1 to 11 being situated in the enclosures numbered 1145, 1145b, 1147, 1149, 1222 to 1237, 1249 to 1267 and 1269 on the ordnance map of Worcestershire, Sheet XXVIII-3 (edition of 1927);

Work No. 12—An improvement of the existing access road commencing at the road leading from Powers to Ombersley and terminating at the treatment works (part of Work No. 10) in the enclosures numbered 1117, 1118, 1119, 1121, 1145c, 1145d, 1146, 1147, 1230, 1231 and 1231a on the ordnance map of Worcestershire, Sheets XXI-15 and XXVIII-3 (edition of 1927).

(2) The Company may from time to time renew, enlarge and alter the works described in subsection (1) of this section.

Works to form part of undertaking.

5. The works authorised by this order shall for all purposes form part of the undertaking.

Diversion and stopping up of footpaths.

6.—(1) The Company may divert the portions of the footpaths in the parish of Ombersley, in the rural district of Droitwich, in the county of Worcester, shown upon the deposited plan and thereon denoted by the letters a to b, a to c, a to d1 and d2 and e to f respectively and may stop up and cause to be discontinued as a public right of way so much of either of the said footpaths as will be rendered unnecessary by the diversion thereof.

(2) Notwithstanding anything in subsection (1) of this section but subject to the provisions of section 8 (Temporary stoppage of highways, etc.) of this order, no part of any of the said footpaths shall be stopped up under the powers of this section until the new footpath to be substituted therefor is completed to the satisfaction of the Worcestershire County Council and is open for public use, or, in the case of difference between the Company and the Worcestershire County Council, until the Secretary of State shall have certified that the new footpath has been completed to his satisfaction and is open for public use:

Provided that the Company shall not be required under this section to construct or complete any such footpath diversion, or any part thereof, to a greater width or better standard than the part of the footpath for which it is substituted.

(3) As from the stopping up under the powers of this section of any portion of any of the said footpaths all rights of way over or along the portion of the footpath so stopped up shall be extinguished, and the Company may appropriate and use for the purposes of this order the site and soil thereof so far as they are in possession of the land on both sides thereof.

(4) Each of the said footpaths as diverted under the powers of this order shall be repairable by the authority or person by whom the footpath was repairable before its diversion and shall be subject to the same public rights of way as were exercisable over the footpath before its diversion.

Stopping up of private road and footpath.

7.—(1) The Company may stop up the portion of the private road or track and the portion of footpath in the parish of Ombersley in the rural district of Droitwich, in the county of Worcester, shown on the deposited plan and thereon denoted by the letters a to b, a to c, a to d1 and d2 and e to f respectively and thereupon all rights of way over or along the said portions of private road or track and footpath shall be extinguished.

(2) Nothing in this section shall affect the obligations of the Company under section 6 (Diversion and stopping up of footpaths) of this order in respect of any public right of way on foot over the portion of the private road or track stopped up under this section and over so much of the portion of footpath stopped up under this section as is within the said private road.

Temporary stoppage of highways, etc.

8.—(1) The Company during, and for the purposes of, the execution of any of the works authorised by this order may temporarily stop up, alter, divert or otherwise interfere with, any highway or drain or any private right of way and, in the case of any highway or right of way, may for any reasonable time divert the traffic therefrom and prevent all persons other than those bona fide going to or from any land, house or building abutting on the highway or right of way from passing along and using the same.

(2) The Company shall provide reasonable access for passengers, with or without animals, bona fide going to or from any such land, house or building, and shall, wherever reasonably practicable, provide a proper temporary substitute way before interrupting the traffic on any highway.

(3) The powers of subsection (1) of this section shall not be exercised by the Company—

(*a*) in relation to a highway,

(i) without the consent of the highway authority, which consent shall not be unreasonably withheld but may be given subject to such reasonable conditions (other than a monetary payment) as the highway authority may require, and any question whether such consent is unreasonably withheld, or any conditions so imposed are unreasonable, shall be determined by the Secretary of State;

(ii) so as to obstruct or interfere with such access to, or exit from, any station or depot of any passenger road transport operators as may be reasonably required or, in the case of any highway upon which a service of stage carriages or express carriages is operated, unless not less than forty-eight hours previous notice is given to the traffic commissioners and to the holders of the road service licence under which that service is authorised;

(*b*) in relation to any drain, without providing a proper substitute before interrupting the passage of water in or through such drain, and the Company shall make compensation for any damage caused to any person by the exercise of such powers in relation to any drain, the amount of such compensation being, in case of dispute, determined by arbitration.

SCHEDULE

PROVISIONS OF THE THIRD SCHEDULE APPLIED

Provisions applied (1)	Modifications (2)
Part II (Works and Lands) (except sections 3 and 7 to 9)	In section 2 for the words "plans submitted to the Minister" there shall be substituted the words "the deposited plan" and for the words "the said plans" there shall be substituted the words "the deposited sections". In section 4 the words from the beginning of the section to the words "abstract water" shall be omitted; for the words "any land for the time being held by them in connection with their water undertaking" there shall be substituted the words "the lands specified in the special Act"; after the word "culverts" there shall be inserted the words "galleries, drains, drainage channels" and after the word "plant" there shall be inserted the words "chambers, washouts, junctions, valves, gauges, monitoring equipment, screens, strainers, cables, retaining walls, roads, means of access, piling, embankments, bridges".
Part IV (Minerals Underlying Waterworks)	In section 12 for the words "after this section is incorporated with their enactments" there shall be substituted the words "under the special Act"; for the words "all existing pipes or other conduits for the collection, passage, or distribution of water and underground works belonging to them" there shall be substituted the words "all such pipes or other conduits or underground works"; and the words "for the time being belonging to them" shall be omitted.
Part VI (Breaking Open Streets &c.)	—
Section 83 (Penalty for obstructing execution of special Act)	—
Section 91 (Mode of reference to arbitration)	For the words "the Minister" there shall be substituted the words "the President of the Institution of Civil Engineers".
Section 92 (Liability of undertakers to pay compensation)	—

Provisions applied (1)	Modifications (2)
Section 93 (Protection for works of navigation authorities and for catchment boards and railways)	In subsection (1) after the words "under any enactment" there shall be inserted the words "(other than their new functions under the Water Resources Act 1963(a))".
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers)	—

Signed by authority of the Secretary of State.

J. E. Beddoe,

An Under Secretary in the Department of the Environment.

13th March 1972

(a) 1963 c. 38

Printed in England by St. Clements Fosh & Cross Ltd., and published by Her Majesty's Stationery Office
150/2583 E 15 K7 3/72

SBN 11 020398 4