STATUTORY INSTRUMENTS

1979 No. 176

WATER, ENGLAND AND WALES

The North West Water Authority (River Derwent) Order 1979

Made - - - - 20*th February* 1979

Coming into Operation 1*st March* 1979

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

Citation and commencement.

1.—(1) This order may be cited as the North West Water Authority (River Derwent) Order 1979 and shall come into operation on 1st March 1979.

(2) The North West Water Authority Orders 1974 to 1978 and this order may be cited together as the North West Water Authority Orders 1974 to 1979.

Interpretation.

2.—(1) In this order, unless the context otherwise requires—

"the Authority" means the North West Water Authority;

"the deposited plan" means the plan prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked "Plan referred to in the North West Water Authority (River Derwent) Order 1979", one duplicate of which has been deposited and is available for inspection at the offices of the Secretary of the Authority at Dawson House, Great Sankey, Warrington and the other at the offices of the Secretary of State for the Environment;

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

(2) Unless the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this order.

Application and incorporation of Third Schedule to the Water Act 1945.

3. For the purposes of this order the provisions of the Third Schedule to the Water Act 1945 which are set out in column (1) of Schedule 1 to this order shall, subject to the modifications set out in column (2) thereof, apply to the undertaking and are hereby incorporated with this order.

(a) 1945 c. 42.

(b) S.I. 1951/142, 1900, 1970/1681.

[DET 31684]

Power to construct works.

4. The Authority may, when they have acquired the necessary lands or obtained sufficient rights therein, construct and maintain the following works in, on and under the land described in Schedule 2 to this order:—

An intake in the north bank of the River Derwent and a pumping station.

Works to form part of undertaking.

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

Temporary stoppage of drains, highways and rights of way.

6.—(1) The Authority, during and for the purposes of the construction of any of the works authorised by this order, may temporarily stop up, alter, divert, or otherwise interfere with any drain or any highway or 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 Authority shall provide reasonable access for passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) (*a*) The powers of subsection (1) of this section shall not be exercised in relation to a highway 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 President of the Institution of Civil Engineers.

(*b*) The powers of subsection (1) of this section shall not be exercised in relation to any drain without providing a proper substitute before interrupting the passage of water in or through such drain, and the Authority 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 the Lands Tribunal.

(4) (*a*) The exercise of the powers conferred by this section in relation to a highway shall not affect the powers of the Post Office under the Telegraph Acts 1863 to 1916 to maintain, inspect, repair, renew or remove telegraphic lines or to open or break up that highway for any of those purposes;

(*b*) in this subsection the expression "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

(a) 1878 c. 76.

SCHEDULE 1

PROVISIONS OF THE THIRD SCHEDULE APPLIED FOR THE PURPOSES OF ORDER

Provisions applied (1)	Modifications (2)
Section 4 (General power to construct subsidiary works)	The words from the commencement of the section to "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 delineated on the plan referred to in the special Act"; for the word "thereof" there shall be substituted the words "of those works" and after the word "buildings" there shall be inserted the words "cofferdams, cables, roads, means of access,".
Section 6 (Penalty for obstructing construction of works)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers).	In subsection (1) for the words from "with the clerk of the council" to the end of the subsection there shall be substituted the words "with the council of every county and district affected by the special Act".

SCHEDULE 2

DESCRIPTION OF LAND

Land in the District of Allerdale, in the County of Cumbria, comprising part of the enclosures numbered 2729, 6635, 7024 and 7845 in the former Parish of Workington on the 1/2500 ordnance map of Cumberland, Sheet NY 0129 (1961 edition) containing 1.60 hectares or thereabouts and more particularly delineated on the deposited plan and thereon coloured pink.

Signed by authority of
the Secretary of State
20th February 1979.

A. G. Semple,
An Under Secretary in the Department
of the Environment.