STATUTORY INSTRUMENTS

1976 No. 109

WATER, ENGLAND AND WALES

The Northumbrian Water Authority (Low Worsall) Order 1976

Made - - - - 26*th January* 1976

Coming into Operation 6*th February* 1976

The Secretary of State for the Environment, in exercise of powers conferred by section 23 of the Water Act 1945(**a**), as extended by section 3 of the Water Act 1948(**b**), and now vested in him (**c**) and of all other powers enabling him in that behalf, hereby orders as follows:—

Citation.

1.—(1) This order may be cited as the Northumbrian Water Authority (Low Worsall) Order 1976.

(2) The Northumbrian Water Authority Orders 1974 and 1975 and this order may be cited together as the Northumbrian Water Authority Orders 1974 to 1976.

Interpretation.

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

"the Authority" means the Northumbrian 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 Northumbrian Water Authority (Low Worsall) Order 1976", of which one duplicate is deposited and available for inspection at the offices of the Secretary of the Authority 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.

(**a**) 1945 c. 42. (**b**) 1948 c. 22.

(**c**) S.I. 1951/142, 1900, 1970/1681 (1951 I, p. 1347, 1348; 1970 III, p. 5551).

[DOE 22150]

Application and incorporation of enactments.

3.—(1) 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 2 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.

(2) Sections 30 to 44 inclusive of the Railways Clauses Consolidation Act 1845(**a**) (which relate to the temporary occupation of lands near the railway during the construction thereof) are hereby incorporated with this order and, as so incorporated, shall have effect as if for the words "the period by the special Act limited for the completion of the railway" there were substituted the words "the period of two years from the commencement of the construction of any of the works authorised by the special Act" and the following expressions had the meanings hereby assigned to them—

"the company" means the Authority;

"the railway" means the works authorised by this order and "the centre of the railway" means the centre of any such works; and

"the special Act" means this order.

(3) In its application to this order, Part I of the Compulsory Purchase Act 1965(**b**) shall have effect subject to the following exceptions and modifications—

(*a*) at the end of section 4 there shall be added the following proviso—

"Provided that such powers shall in relation to any of the land be deemed to have been exercised if before the expiration of the said three years notice to treat has been served in respect of that land.";

(*b*) in section 11(1) for the words "fourteen days" there shall be substituted the words "one month";

(*c*) in section 11(2), at the end of the first paragraph thereof, there shall be inserted the words "(other than paragraph 3(3) thereof)";

(*d*) in section 11(3) for the words "not less than three nor more than fourteen days' notice" there shall be substituted the words "not less than seven days' notice in the case of the first entry and not less than twenty-four hours' notice in the case of a subsequent entry"; and

(*e*) section 27 shall be omitted.

Purchase of land.

4.—(1) The Authority may purchase compulsorily for the purpose of the works authorised by this order all or any of the lands described in Schedule 1 to this order.

(2) Notwithstanding the provisions of subsection (1) of this section, the Authority shall not so purchase any land described in paragraph 2 of Schedule 1 to this order if the owner of that land is able and willing to grant or sell to the Authority (at a price to be agreed or, failing agreement, to be determined in accordance with the provisions of the Land Compensation Act 1961(**c**)) such easements and rights over and in that land as the Authority may require for the purpose of access over those lands, with or without vehicles, to and from the existing Low Worsall Pumping Station of the Authority and Work No. 1 authorised by this order.

(**a**) 1845 c. 20. (**b**) 1965 c. 56. (**c**) 1961 c. 33.

5. The Authority may construct and maintain the following works in the Parish of Low Worsall in the District of Hambleton in the County of North Yorkshire— Power to construct works.

Work No. 1—An intake and pumping station on the right bank of the River Tees in the enclosures numbered 2033, 7428 and 7523 in the parish of Low Worsall on the 1/2500 ordnance map NZ 3810 to 3910 (1969 edition);

Work No. 2—An improvement of the access road between the existing Low Worsall Pumping Station of the Authority and the road from Yarm to Low Worsall (B1264) in the enclosures numbered 5019 and 6294 on the 1/2500 ordnance maps NZ 3810 to 3910 (1969 edition) and NZ 3809 to 3909 (1973 edition);

Work No. 3—An improvement of the junction of the said access road with the said road from Yarm to Low Worsall in the enclosures numbered 6294, 6390 and 7593 on the 1/2500 ordnance map NZ 3809 to 3909 (1973 edition).

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

7.—(1) The Authority, during and for the purposes of the construction 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. Temporary stoppage of drains, highways and rights of way.

(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 Secretary of State.

(*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).

8. In the Tees Valley Water Order 1946(b) (which authorised the construction and maintenance of the existing Low Worsall Pumping Station of the Authority) the following provisions are hereby repealed— Repeal of provisions of Tees Valley Water Order 1946.

(a) 1878 c. 76.

(b) S.R. & O. 1946/1969.

(*a*) in the description of Work No. 1 in section 4 (Power to construct works) the words "and weir";

(*b*) section 6 (For protection of Tees Conservancy Commissioners).

For protection of Tees and Hartlepool Port Authority.

9. For the protection of the Tees and Hartlepool Port Authority (in this section referred to as "the Port Authority") the following provisions shall, unless otherwise agreed in writing between the Authority and the Port Authority, apply and have effect—

(1) In this section the expression "specified works" means so much of the works authorised by the Tees Valley Water Order 1946 and by this order, and of any subsidiary works constructed for the purposes thereof, or in connection therewith, as is, or is to be, situated in the bed, banks or foreshore of the River Tees.

(2) (*a*) Before the Authority commence the construction of any of the specified works after the coming into operation of this order they shall deliver plans, sections and particulars thereof to the Port Authority for their approval, which approval shall not be unreasonably withheld, and such specified works shall not be constructed otherwise than in accordance with such plans, sections and particulars as may be approved, or are to be deemed to be approved, by the Port Authority or as may be settled by arbitration, and to their reasonable satisfaction;

(*b*) In giving their approval under paragraph (*a*) of this subsection the Port Authority may attach thereto such reasonable conditions as they think fit for the protection of navigation and for the prevention of bank erosion and river siltation.

(3) If within two months after the receipt by the Port Authority of any plans, sections or particulars they have not signified in writing their disapproval thereof, and the reasons for their disapproval, they shall be deemed to have approved thereof.

(4) After the purpose for which any temporary structure placed in the River Tees for the purpose of, or in connection with, the construction of the specified works after the coming into operation of this order has been accomplished, the Authority shall, with all reasonable dispatch, and in any case after reasonable notice from the Port Authority, remove any such temporary structure and, if they fail to do so within 30 days after receipt of such notice, the Port Authority may remove the same at the expense of the Authority; and the amount of any expense reasonably so incurred shall be a debt due from the Authority to the Port Authority.

(5) The Authority shall at all reasonable times afford to the Port Authority and their duly authorised officers and servants access to the specified works during the construction thereof for the purpose of inspection.

(6) The approval by the Port Authority of any plans, sections and particulars shall not exonerate the Authority from any liability or affect any claim for damages under this section or otherwise.

(7) Any question or difference which may arise between the Authority and the Port Authority under this section shall be determined by arbitration.

SCHEDULE 1

DESCRIPTION OF LANDS

1. Lands in the Parish of Low Worsall in the District of Hambleton in the County of North Yorkshire shown coloured red on the deposited plan, being:—

(*a*) land comprising 1.35 hectares or thereabouts forming part of the enclosures numbered 7428 and 7523 in the said parish on the 1/2500 ordnance map NZ 3810 to 3910 (1969 edition) and so much of the land forming part of the enclosure so numbered 2033 in the said parish as is required for the purpose of the works; and

(*b*) land comprising 85 square metres or thereabouts forming part of the enclosures numbered 6294, 6390 and 7593 in the said parish on the 1/2500 ordnance map NZ 3809 to 3909 (1973 edition).

2. Lands in the said Parish of Low Worsall shown coloured brown on the deposited plan, being land comprising 0.41 hectares or thereabouts forming part of the enclosures numbered 5019 and 6294 in the said parish on the 1/2500 ordnance maps NZ 3810 to 3910 (1969 edition) and NZ 3809 to 3909 (1973 edition).

SCHEDULE 2

PROVISIONS OF THE THIRD SCHEDULE APPLIED FOR PURPOSES OF ORDER

Provisions applied (1)	Modifications (2)
Section 2 (Permissible limits of deviation)	For the words "the plans submitted to the Minister" there shall be substituted the words "the plan referred to in the special Act" and the words from "and they also" to the end of the section shall be omitted.
Section 4 (General power to construct subsidiary works)	The words from "and to any other" 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 "roads, means of access, embankments".
Section 5 (Power of undertakers to lay or erect telephone wires, etc.)	—
Section 6 (Penalty for obstructing construction of works)	—

Provisions applied (1)	Modifications (2)
Section 7 (Power to acquire easements for underground works)	After the words "underground works" in subsection (1) there shall be inserted the words "or of providing means of access" and after that subsection there shall be inserted the following subsection:— "(1A) For the purposes of this section a work shall be deemed to be underground although apparatus or conveniences connected therewith are partly on the surface."
Section 8 (Persons under disability may grant easements, etc.)	—
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.
Section 82 (Power to enter premises)	—
Section 83 (Penalty for obstructing execution of special Act)	—
Section 85 (Summary proceedings for offences)	—
Section 86 (Continuing offences and penalties)	—
Section 87 (Restriction on right to prosecute)	—
Section 91 (Mode of reference to arbitration)	—
Section 92 (Liability of undertakers to pay compensation)	—
Section 94 (Copies of special Act to be kept by undertakers in their office, and deposited with certain officers).	—

A. G. Semple,

An Under Secretary in the Department of the Environment.

Signed by authority of
the Secretary of State
26th January 1976.