STATUTORY INSTRUMENTS

1974 No. 2182

WATER, ENGLAND AND WALES

The Yorkshire Water Authority (Grimwith Reservoir) Order 1974

Made - - - - 20*th December* 1974

Coming into Operation 17*th January* 1975

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 section 33(2) of the Compulsory Purchase Act 1965(c) and now vested in him (d), and of all other powers enabling him in that behalf, hereby orders as follows:—

Citation.

1. This order may be cited as the Yorkshire Water Authority (Grimwith Reservoir) Order 1974.

Interpretation.

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

"the Act of 1854" means the Bradford Waterworks Act 1854(e);

"the Authority" means the Yorkshire Water Authority;

"the deposited plans" and "the deposited sections" mean respectively the plans and sections prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked "Plans referred to in the Yorkshire Water Authority (Grimwith Reservoir) Order 1974" and "Sections referred to in the Yorkshire Water Authority (Grimwith Reservoir) Order 1974", of which one set has been deposited and is available for inspection at the offices of the Authority and the other set at the offices of the Secretary of State;

"the Grimwith Reservoir" means the reservoir known as the Grimwith Reservoir constructed under the authority of the Act of 1854;

"the Secretary of State" means the Secretary of State for the Environment;

"telegraphic line" has the same meaning as in the Telegraph Act 1878(f);

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

"the undertaking" means the water undertaking of the Authority as for the time being authorised by any enactment.

(2) References in this order to reference points shall be construed as references to the National Grid reference points.

(a) 1945 c. 42.
(b) 1948 c. 22.
(c) 1965 c. 56.
(d) S.I. 1951/142, 1900, 1970/1681 (1951 I, pp. 1348, 1347; 1970 III, p. 5551).
(e) 1854 c. cxxiv.
(f) 1878 c. 76.

(3) Unless the subject or context otherwise requires 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, references in this order to any enactment shall be construed as references to that enactment as amended by any subsequent enactment, including this order.

Incorporation of enactments.

3.—(1) In its application in relation to this order, Part I of the Compulsory Purchase Act 1965 shall have effect subject to the following exception and modification:—

(*a*) section 27 (Acquiring authority to make good deficiencies in rates) shall be omitted; and

(*b*) subsection (2) of section 11 (Powers of entry) shall have effect as if at the end of the first paragraph thereof there were inserted the words "(other than paragraph 3(3) thereof)".

(2) (*a*) For the purposes of this order, the provisions of the Third Schedule which are specified 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, subject as aforesaid, are hereby incorporated with this order.

(*b*) For the purposes of section 13 of the Third Schedule as so applied and incorporated with this order, the prescribed distance shall be two hundred yards.

(3) (*a*) Subject to the provisions of paragraph (*b*) of this subsection the provisions of the Railways Clauses Consolidation Act 1945(**a**) with respect to the temporary occupation of lands near the railway during the construction thereof are hereby incorporated with this order.

(*b*) In the construction of the provisions of the Railways Clauses Consolidation Act 1845 incorporated with this order:—

(i) the expression "the special Act" shall mean this order;

(ii) the expression "the company" shall mean the Authority;

(iii) the expression "the railway" shall mean the works authorised by this order;

(iv) the expression "the centre of the railway" shall mean the centre of any such works respectively or, in the case of the Grimwith Reservoir, as enlarged under the powers of this order, the line of the top water level of that reservoir;

(v) for the words "the period by the special Act limited for the completion of the railway" there shall be substituted the words "the period of five years from the commencement of the construction of any of the works authorised by the special Act".

Power to construct works.

4.—(1) Subject to the provisions of this order, the Authority may construct and maintain in the lines and situations shown on the deposited plans, and according to the levels shown on the deposited sections, and upon the lands delineated on those plans, the following works in the District of Craven:—

Work No. 1.—An enlargement of the Grimwith Reservoir to be formed by means of an embankment or dam across the river Dibb commen-

(**a**) 1845 c. 20.

cing at reference point SE 05256437 and terminating at reference point SE 06216408.

Work No. 2.—An access road commencing by a junction with the road from Grassington to Pateley Bridge (classified road B6265) at reference point SE 05386302 and terminating at reference point SE 06726410.

Work No. 2A.—An access road commencing at the termination of Work No. 2 and terminating at reference point SE 05986497.

Work No. 2B.—An access road commencing in Work No. 2 at reference point SE 05726378 and terminating at reference point SE 06006402.

Work No. 2C.—An access road commencing in Work No. 2 at reference point SE 06386406 and terminating at reference point SE 06416420.

Work No. 3.—An accommodation bridge at Blea Beck at reference point SE 05046565.

Work No. 3A.—An accommodation bridge at Gate Up Gill at reference point SE 05346576.

Works to form part of undertaking.

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

Power to divert watercourses.

6.—(1) It shall be lawful for the Authority to divert and alter the course or the flow of water in, into or out of any watercourse on any lands acquired or appropriated by them for the purposes of the works authorised by this order, and the existing bed, banks and channel of the diverted portion of such watercourse shall by virtue of this order vest in the Authority and may be appropriated and used by the Authority for the purposes of or in connection with those works.

(2) In the exercise of the powers conferred by this section the Authority shall do as little damage as may be.

Stopping up of footpaths.

7.—(1) (*a*) The Authority may stop up the footpaths shown on the deposited plans between the points specified in Schedule 2 to this order and thereupon all rights of way over or along the said footpaths shall be extinguished.

(*b*) No parts of the said footpaths between the points marked A1 to A2, A2 to A3, A2 to A4, A4 to B1 and A3 to B1 on the deposited plans shall be stopped up under the powers of this subsection until the Authority have constructed and properly completed an alternative footpath between the termination of Work No. 2A and the said point marked A1 in the position shown on the deposited plans and no parts of the said footpaths between the points marked B1 to B2, B2 to C1 and B2 to B3 on the deposited plans shall be stopped up under the powers of this subsection until Work No. 2A and so much of Work No. 2 as is situated between the points marked B3 and J on the deposited plans are completed and open for public use on foot.

(2) The Authority may also stop up so much of any other footpaths within the limits of deviation of the works authorised by this order as may be situate on any lands acquired by the Authority under the powers of section 9 (Power to take lands) of this order, which are required for the purpose of any of those works or for obtaining materials for the construction thereof, and thereupon all public rights of way over any such portions of footpaths shall be extinguished.

(3) No portion of any footpath shall be stopped up under the powers of this section until the Authority are in possession of all lands abutting on both sides of such portion except so far as the owners, lessees and occupiers of those lands may otherwise agree.

(4) In this section "properly completed" means completed to the satisfaction of the highway authority in accordance with their reasonable requirements and open for public use or, in case of difference between the Authority and the highway authority, completed in accordance with the determination of the Secretary of State and certified by him to have been so completed and open for public use.

Temporary stoppage of highways, etc.

8.—(1) The Authority 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 any private 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 foot passengers, with or without animals, bona fide going to or from any such land, house or building.

(3) The powers of subsection (1) of this section shall not be exercised in relation to a highway—

(i) in the case of any trunk road, without the consent of the Secretary of State;

(ii) in the case of any other 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; and

(iii) in the case of a 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.

(4) 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.

Power to take lands.

9.—(1) Subject to the provisions of this order the Authority may for the purpose of the construction of the works authorised by this order or for the purpose of obtaining materials for the construction thereof purchase compulsorily all or any of the lands delineated on the deposited plans as being within the limits of land to be acquired for Works Nos. 1, 2, 2A, 2B, 2C, 3 and 3A.

Power to reinstate owners or occupiers of property.

10. The Authority may enter into, and carry into effect, an agreement or arrangement with the owner or occupier of any land acquired under this order with respect to his reinstatement.

11. For the protection of the Yorkshire Electricity Board (in this section referred to as "the board") the following provisions shall, unless otherwise agreed in writing between the Authority and the board, apply and have effect— For protection of Yorkshire Electricity Board.

(1) In this section unless the subject or context otherwise requires—

"adequate alternative apparatus" means alternative apparatus adequate to enable the board to fulfil their statutory functions in a manner not less efficient than previously;

"apparatus" means electric lines and works (as respectively defined in the Electric Lighting Act 1882(a)) belonging to or maintained by the board and includes any works for the lodging therein of apparatus;

"in" in a context referring to apparatus includes, under, over, across, along or upon:

(2) Notwithstanding anything in this order or shown on the deposited plans, the Authority shall not, under the powers of this order, acquire any apparatus otherwise than by agreement:

(3) If the Authority in the exercise of the powers of this order acquire any interest in any land on or over which any apparatus is placed, they shall not remove that apparatus or extinguish any right of the board to use, maintain, repair, renew or inspect that apparatus until adequate alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the board:

(4) If the Authority for the purpose of exercising the powers of this order require the removal of any apparatus and give to the board written notice of their requirement, or if in consequence of the exercise of the powers of this order the board shall reasonably require to remove any apparatus the Authority shall, if practicable, afford to the board the necessary facilities and rights for the construction of adequate alternative apparatus in other land of the Authority and thereafter for the maintenance, repair, renewal and inspection of such apparatus:

Provided that if the Authority are unable to afford such facilities and rights as aforesaid, the board shall, on receipt of a notice to that effect from the Authority, forthwith use their best endeavours to obtain the necessary facilities and rights in other land:

(5) The Authority shall, except in a case of emergency, give to the board not less than fourteen days' notice in writing before commencing any work to which section 18 of the Schedule to the Electric Lighting (Clauses) Act 1899(b) applies:

(6) The Authority shall pay to the board the amount by which the costs, charges and expenses reasonably incurred by the board in connection with any removal or alteration of any apparatus or the construction of any new apparatus which may be required in consequence of the exercise of the powers of this order shall exceed the value (such value being calculated after removal) of any apparatus removed in consequence of alternative apparatus being provided and shall also make compensation to the board for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended

(a) 1882 c. 56. (b) 1899 c. 19.

removal or abandonment) in consequence of the exercise of the said powers:

(7) The temporary stopping up, alteration or diversion of or other interference with, any highway or private right of way under the powers of section 8 (Temporary stoppage of highways, etc.) of this order shall not prevent the board from obtaining access to any apparatus or prejudice or affect any right of the board—

(*a*) to lay, erect, maintain, inspect, repair, renew or remove any apparatus in the highway or way; or

(*b*) for the purpose of such laying, erection, maintenance, inspection, repair, renewal or removal to enter upon and break open that highway or way:

(8) Any difference arising between the Authority and the board under this section shall be referred to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed by the President of the Institution of Civil Engineers on the application of either party after giving notice in writing to the other party.

Repeals.

12. The enactments specified in Schedule 3 to this order are hereby repealed to the extent specified in that schedule.

SCHEDULE 1

PROVISIONS OF THIRD SCHEDULE APPLIED

(1) Provisions applied	(2) Modifications
Part II (Works and Lands) ...	In section 2 for the words "plans submitted to the Minister" there shall be substituted the words "deposited plans" and for the words "said plans" wherever they occur there shall be substituted the words "deposited sections". In section 4 the words "and to any other provisions of the special Act limiting the power of the undertakers 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 deposited plans"; and after the word "buildings" there shall be inserted the words "roads, means of access, embankments, fences, piers, bridges, chambers, meters, valves, discharge pipes, drains, overflows".
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 XVI (General and Miscellaneous) (except sections 79, 80, 81 and 84)	—

SCHEDULE 2

FOOTPATHS WHICH MAY BE STOPPED UP

Points on deposited plans showing extent of stopping up

A1 to A2
A2 to A3
A2 to A4
A4 to B1
A3 to B1
B1 to B2
B2 to C1
B2 to B3

SCHEDULE 3

REPEALS

Enactment (1)	Section (2)	Marginal note (3)	Extent of repeal (4)
The Act of 1854	LXVII	Company to be liable for all Damages consequent on the bursting of any Reservoir	So much of the section as relates to the Grimwith Reservoir.
	CV	Company shall procure a Grant or Easement for the Division of Grimwith Beck to the existing Californian Drift of the Yorkshire Mining Company	The whole section.
	CVI	Company shall pay full compensation for extra cost and Inconvenience of working Mines, or supplying crushing and smelting Mills with Water	The whole section.
	CVII	Company to secure a Supply of Water to additional Works of the Mining Company under certain Conditions	The whole section.

Enactment (1)	Section (2)	Marginal note (3)	Extent of repeal (4)
	CVIII	Company to pay full Compensation to Yorkshire Mining Company for all Losses, &c. occasioned by the proposed Reservoir and Works	The whole section.
	CIX	Rights of Mining Company not to be prejudiced otherwise than as expressly provided and declared	The whole section.
	CX	Provisions as to Minerals in Lease to Yorkshire Mining Company extended to Reversioner	The whole section.
	CXI	Power to John Yorke to impound certain Waters in working Mines, &c. returning the same into their original course	The whole section.
	CXII	Company to compensate certain Owners, &c. of Mines for Inconvenience occasioned by the Construction, &c. of Reservoirs	The whole section.
	CXIII	Power to John Yorke, &c. to take Fish, &c. found in the Reservoir	The whole section.

Enactment (1)	Section (2)	Marginal Note (3)	Extent of repeal (4)
The Bradford Corporation Waterworks Act 1890(a)	24	For protection of millowners on the Wharfe and Dibb	The whole section.
The Bradford Water (Grimwith Reservoir) Order 1961(b)			The whole order.
The Bradford Water Order 1968(c)	Schedule 4		The reference to section CIX of the Act of 1854.

Signed by authority of
the Secretary of State
20th December 1974.

F. J. Ward,
An Under Secretary in the
Department of the Environment.

(a) 1890 c. ccxxxi.
(b) S.I. 1961/1489.
(c) S.I. 1968/2051.

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