STATUTORY INSTRUMENTS

1976 No. 1947

WATER, ENGLAND AND WALES

The Yorkshire Water Authority (Lobwood Supply) Order 1976

Made - - -	15*th November* 1976
Coming into Operation	17*th December* 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 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.—(1) This order may be cited as the Yorkshire Water Authority (Lobwood Supply) Order 1976.

(2) This order shall be included among the enactments which may be cited together as the Yorkshire Water Authority Orders 1974 to 1976.

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 Act of 1858" means the Bradford Corporation Waterworks Act 1858(f);

"the Authority" means the Yorkshire Water Authority;

"the Barden Aqueduct" means the aqueduct or conduit of the Authority known as the Barden Aqueduct constructed under the authority of the Act of 1854;

"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 (Lobwood Supply) Order 1976" and "Sections referred to in the Yorkshire Water Authority (Lobwood Supply) Order 1976", 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 Secretary of State" means the Secretary of State for the Environment;

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

(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) 1858 c. lxxvi. (g) 1878 c. 76.

"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.

(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 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.

(*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 metres.

(3)(*a*) Subject to the provisions of paragraph (*b*) of this subsection the provisions of the Railways Clauses Consolidation Act 1845(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;

(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".

(a) 1845 c. 20.

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 and the City of Bradford. Power to construct works.

Work No. 1—An intake, weir and pumping station across and adjacent to the river Wharfe in the enclosures numbered 285, 286 and 287 in the parish of Draughton and in the enclosures numbered 77, 245, 247 and 248 in the parish of Beamsley on the 1/2500 Ordnance Survey map of Yorkshire (West Riding), sheets CLXVIII.8 and CLXIX.5 (edition of 1909) and an alteration, widening and deepening of portions of the bed and a reconstruction of portions of the banks of so much of the said river as lies between reference points SE 0749 5205 and SE 0761 5189.

Work No. 2—An access road commencing by a junction with the road between Addingham and Bolton Abbey (classified road B6160) at reference point SE 0745 5199 and terminating at Work No. 1.

Work No. 3—An aqueduct or line or lines of pipes commencing at Work No. 1 and terminating at Chelker Reservoir at reference point SE 0541 5174.

Work No. 4—An underground telephone line or lines and relay cable or cables commencing at Work No. 1 and terminating at Work No. 13 at reference point SE 0609 5128.

Work No. 5—An electricity cable or cables commencing at Work No. 13 at reference point SE 0609 5128 and terminating at Work No. 1 at reference point SE 0752 5192.

Work No. 6—An access road commencing by a junction with the road between Addingham and Bolton Abbey (classified road B6160) at reference point SE 0764 5179 and terminating at Work No. 3 at reference point SE 0678 5166.

Work No. 7—An access road commencing at Work No. 6 at reference point SE 0726 5167 and terminating at Work No. 3 at reference point SE 0722 5174.

Work No. 8—A pumping station at reference point SE 0498 5425.

Work No. 9—An access road commencing by a junction with the road from Ilkley to Skipton (classified road A65) at reference point SE 0598 5126 and terminating at Work No. 14 at reference point SE 0612 5158.

Work No. 10—An access road commencing at reference point SE 0543 5180 and terminating at Work No. 3 at reference point SE 0562 5180.

Work No. 11—New outlet works in the eastern embankment of Chelker Reservoir commencing at reference point SE 0597 5143 and terminating at Work No. 13 at reference point SE 0609 5128.

Work No. 12—An aqueduct or line or lines of pipes commencing at Work No. 14 at reference point SE 0610 5161 and terminating at Work No. 13 at reference point SE 0609 5128.

Work No. 13—A pumping station at reference point SE 0609 5128.

Work No. 14—A balancing reservoir at reference point SE 0610 5161.

Work No. 15—An underground telephone line or lines and relay cable or cables commencing at or about the valve house at Lower Barden Reservoir at reference point SE 0357 5632 and terminating at Work No. 16 at reference point SE 0349 5627.

Work No. 16—An underground telephone line or lines and relay cable or cables commencing at or about the valve chamber at reference point SE 0330 5633 and terminating at Work No. 13 at reference point SE 0609 5128.

Work No. 17—An aqueduct or line or lines of pipes commencing in the Barden Aqueduct at reference point SE 0464 5463 and terminating at Chelker Reservoir at reference point SE 0541 5174.

Work No. 18—An access road commencing by a junction with the road from Bolton Abbey to Halton East known as Green Lane at reference point SE 0462 5419 and terminating at reference point SE 0455 5515.

Work No. 19—A drain pipe or pipes commencing at Work No. 17 at reference point SE 0499 5421 and terminating on the western bank of Halton Gill at reference point SE 0507 5422.

Work No. 20—A drain pipe or pipes commencing at Work No. 17 at reference point SE 0496 5268 and terminating on the eastern bank of Banks Gill at reference point SE 0491 5266.

Work No. 21—An aqueduct or line or lines of pipes commencing at Work No. 13 at reference point SE 0609 5128 and terminating at Chellow Heights Treatment Works at reference point SE 1170 3546.

Work No. 22—An underground telephone line or lines and relay cable or cables commencing at Work No. 13 at reference point SE 0609 5128 and terminating at Chellow Heights Treatment Works at reference point SE 1170 3546.

Work No. 23—A drain pipe or pipes commencing at Work No. 21 at reference point SE 0540 4945 and terminating on the bank of an unnamed stream at reference point SE 0548 4945.

Work No. 24—A drain pipe or pipes commencing at Work No. 21 at reference point SE 0529 4914 and terminating on the bank of an unnamed stream at reference point SE 0540 4919.

Work No. 25—An access road commencing by a junction with the road from Silsden to Addingham (classified road A6034) at reference point SE 0501 4867 and terminating at Work No. 21 at reference point SE 0516 4858.

Work No. 26—An aqueduct or line or lines of pipes commencing at Work No. 21 at reference point SE 0528 4750 and terminating at reference point SE 0482 4746.

Work No. 27—An underground telephone line or lines and relay cable or cables commencing at Work No. 22 at reference point SE 0528 4750 and terminating at reference point SE 0482 4746.

Work No. 28—A drain pipe or pipes commencing at Work No. 21 at reference point SE 0542 4725 and terminating on the bank of an unnamed stream at reference point SE 0537 4714.

Work No. 29—An access road commencing by a junction with the road from Brunthwaite to Swartha at reference point SE 0526 4689 and terminating at Work No. 21 at reference point SE 0555 4703.

Work No. 30—An access road commencing by a junction with the road from West Morton to Silsden known as Holden Lane at reference point SE 0537 4554 and terminating at Work No. 21 at reference point SE 0580 4579.

Work No. 31—An access road commencing by a junction with the road from West Morton to Silsden known as Holden Lane at reference point SE 0555 4526 and terminating at Work No. 21 at reference point SE 0578 4542.

Work No. 32—An access road commencing by a junction with the road from West Morton to Silsden at reference point SE 0614 4449 and terminating at Work No. 21 at reference point SE 0615 4429.

Work No. 33—An access road commencing by a junction with the road from West Morton to Silsden at reference point SE 0659 4420 and terminating at Work No. 21 at reference point SE 0636 4410.

Work No. 34—An access road commencing at Bank Top at reference point SE 0774 4281 and terminating at Work No. 21 at reference point SE 0777 4314.

Work No. 35—A drain pipe or pipes commencing at Work No. 21 at reference point SE 0818 4305 and terminating on the bank of an unnamed stream at reference point SE 0817 4301.

Work No. 36—An aqueduct or line or lines of pipes commencing at Chellow Heights Treatment Works at reference point SE 1189 3510 and terminating at an existing aqueduct at reference point SE 1282 3425.

Work No. 37—An access road commencing by a junction with the public road known as Hazelwood Road at reference point SE 1222 3506 and terminating at Work No. 36 at reference point SE 1190 3508.

Work No. 38—A drain pipe or pipes commencing at Work No. 36 at reference point SE 1222 3482 and terminating at reference point SE 1216 3477.

(2) Nothing in this section shall authorise the doing of anything constituting an infringement of the exclusive privilege with respect to telecommunication conferred on the Post Office by the Post Office Act 1969(a).

(3) Any electrical works or equipment constructed, maintained, worked or used pursuant to the powers conferred by this section shall be so constructed, maintained, worked and used that any electricity generated or conveyed by or used in or in connection with any such works or equipment does not cause interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Post Office or with telecommunication by means of any such line.

(a) 1969 c 48.

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 water-courses.

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 water course 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) The Authority may stop up the footpaths shown on the deposited plans between the points F1 to F2 and F3 to F4 and thereupon all rights of way over or along the said footpaths shall be extinguished:

Provided that before stopping up that part of the said footpaths between the points F3 and F4 the Authority shall provide an alternative footpath dedicated to the use of the public to the reasonable satisfaction of the highway authority.

(2) The footpath provided in substitution pursuant to the proviso to the foregoing subsection, shall be repairable by the highway or other authority by whom the footpath stopped up under the powers of this section was maintainable before its stopping up, and shall be subject to the same rights of way as were exercisable over that footpath before its stopping up.

(3) No parts of the footpaths between the points marked F1 to F2 and F3 to F4 on the deposited plans shall be stopped up under the powers of this subsection until the Authority have constructed so much of Work No. 9 as is situated between the said points marked F1 and F4.

(4) 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 footpath along the complete length to be stopped up except so far as the owners, lessees and occupiers of those lands may otherwise agree.

Temporary stoppage of water courses, 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 watercourse or any highway 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 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)—(*a*) 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 a person to be appointed by the President of the Institution of Civil Engineers; 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.

(*b*) The powers of subsection (1) of this section shall not be exercised in relation to any watercourse without providing a proper substitute before interrupting the passage of water in or through such watercourse, and the Authority shall make compensation for any damage caused to any person by the exercise of such powers in relation to any watercourse, the amount of such compensation being, in case of dispute, determined by arbitration.

(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.

Abandonment of works.

9.—(1) Subject to the provisions of this order, the Authority may abandon and discontinue the use of the portion of the Barden Aqueduct lying between reference point SE 0464 5463 and reference point SE 1178 3938 and, subject as aforesaid, all powers, rights, and obligations of or in connection with the supply of water and relating to the said aqueduct so abandoned shall cease.

(2) The provisions of subsection (1) hereof shall not be construed as authorising on the part of the Authority any act or omission which apart from the said provisions would be actionable at the suit of any person on any grounds.

(3) The provisions of subsection (1) hereof shall not have effect unless and until the obligations imposed by section XXX of the Act of 1858 concerning the discharge of water for the use of certain persons described therein shall have been fulfilled by a similar discharge of water by the Authority.

Power to take lands.

10.—(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.

(2) Notwithstanding the provisions of subsection (1) of this section, the Authority shall not purchase compulsorily any land required solely for the construction of Works Nos. 3, 4, 5, 11, 12, 15, 16, 17, 19, 20, 21, 22, 23, 24, 26, 27, 28, 35, 36 and 38, (other than any works to be constructed on the surface of the ground forming part of, or connected with, any of those works) if the owners thereof are able and willing to grant or

sell to the Authority such easements or rights in that land as may be sufficient for the purpose of constructing and maintaining any such work as aforesaid at a price to be agreed or, failing agreement, to be determined in accordance with the provisions of the Land Compensation Act 1961(a).

Power to reinstate owners or occupiers of property.

11. 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.

Authority not required to give supplies from pipelines.

12. No person shall be entitled to demand to be afforded a supply of water from Works Nos. 3, 11, 12, 17, 21 and 26.

For protection of Central Electricity Generating Board and Yorkshire Electricity Board.

13. For the protection of the undertakers the following provisions shall, unless otherwise agreed in writing between the Authority and the undertakers, apply and have effect—

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

"adequate alternative apparatus" means alternative apparatus adequate to enable the undertakers 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(b) belonging to or maintained by the undertakers and including any works for the lodging therein of apparatus;

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

"the undertakers" means the Central Electricity Generating Board and the Yorkshire Electricity Board, or either of them as the case may be.

(2) Notwithstanding anything contained 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 in which any apparatus is placed, they shall not remove that apparatus or extinguish any right of the undertakers 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 undertakers.

(4) If the Authority for the purpose of exercising the powers of this order require the removal of any apparatus and give the undertakers written notice of their requirement, or if in consequence of the exercise of the powers of this order the undertakers shall reasonably require to remove any apparatus, the Authority shall, if practicable, afford to the undertakers 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:

(a) 1961 c. 33. (b) 1882 c. 56.

Provided that if the Authority are unable to afford such facilities and rights as aforesaid, the undertakers 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 undertakers 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(a) applies.

(6) The Authority shall pay to the undertakers the amount by which the costs, charges and expenses reasonably incurred by the undertakers 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 undertakers for any damage caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended 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 watercourses, highways, etc.) of this order shall not prevent the undertakers from exercising any rights that they may have to obtain access to any apparatus or prejudice or affect any right of the undertakers—

(*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 electricity cable or cables constructed and maintained pursuant to the powers of section 4 (Power to construct works) of this order or any means of electrical communication constructed, laid or erected pursuant to section 4 of the Third Schedule, as incorporated by section 3 of this order, shall be so constructed, laid or erected and so maintained and used, as to prevent interference with any apparatus.

(9) Any difference arising between the Authority and the undertakers 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.

Amendment of section CXIV of Act of 1854.

14. Section CXIV (Matthew Wilson and William Chadwick, their Tenants, etc., to use the Streams flowing through their Lands as heretofore) of the Act of 1854 shall have effect as if after the word "thereof" there were inserted the words "for domestic or agricultural purposes other than the irrigation of such lands" and as if the proviso were omitted.

(a) 1899 c. 19.

Amendment of sections XXX and XXXI of Act of 1858.

15. The Act of 1858 is hereby amended—

(*a*) in section XXX thereof by deleting the words "out of the conduit now in course of construction in the Parish of Addingham"; and

(*b*) in section XXXI thereof by deleting the words "at or immediately below the points where the said Heathness Gill Beck and Marchup Beck are respectively intersected by the said conduit" and the words "from such conduit to and".

SCHEDULE

PROVISIONS OF THIRD SCHEDULE APPLIED

Provisions applied (1)	Modifications (2)
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 powers of the undertakers to abstract water" shall be omitted and 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, means of electrical communication, 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)	—

Signed by authority of
the Secretary of State
15th November 1976.

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