

1975 No. 40

WATER, ENGLAND AND WALES

**The North West Water Authority (Lune and Wyre
Transfer of Water) Order 1975**

<i>Made</i>	16th January 1975
<i>Laid before Parliament</i>	31st January 1975
<i>Coming into Operation</i>	21st February 1975

The Secretary of State for the Environment, in exercise of powers conferred by section 67 of the Water Resources Act 1963(a), section 36 of the Compulsory Purchase Act 1965(b), and section 1 of the Water Resources Act 1971(c) and now vested in him (d) and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This Order may be cited as the North West Water Authority (Lune and Wyre Transfer of Water) Order 1975 and shall come into operation on 21st February 1975. Citation and commencement.

(2) The North West Water Authority Orders 1974 and this order may be cited together as the North West Water Authority Orders 1974 and 1975.

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

Interpretation.

“the Act of 1961” means the Land Compensation Act 1961(e);

“the Act of 1965” means the Compulsory Purchase Act 1965;

“the Authority” means the North West Water Authority;

“the deposited plans” and “the deposited sections” mean the plans and sections prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked “Plans and sections referred to in the North West Water Authority (Lune and Wyre Transfer of Water) Order 1975”, of which one set is deposited and available for inspection at the office of the Chief Executive of the Authority and the other at the offices of the Secretary of State;

“land” includes any interest in, or right over, land and land covered with water;

(a) 1963 c. 38.

(b) 1965 c. 56.

(c) 1971 c. 34.

(d) S.I. 1970/1681 (1970 III, p.5551).

(e) 1961 c. 33.

“the tribunal” means the Lands Tribunal;

“watercourse” has the same meaning as in the Water Resources Act 1963;

“the works” means Works Nos. 1 to 17 and any works, apparatus or conveniences constructed, provided or installed by the Authority as part of, or in connection with, or for the purposes of, those works or any of them.

(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 or by a number and letter of the alphabet shall be construed as a reference to the work of that number or (as the case may be) that number and letter authorised by this order.

(4) Unless the subject or 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 modification
of
enactments.

3.—(1) In its application to this order, Part I of the Act of 1965 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 subsection (1) of section 11 after the words “fourteen days’ notice” there shall be inserted the words “in the case of the land in the Parish of Quernmore in the City of Lancaster numbered 35 on the deposited plans and of the land in the Parish of Over Wyresdale in the City of Lancaster numbered 51A on the deposited plans and in the case of any other lands one month’s notice”;

(c) in subsection (3) of section 11 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”;

(d) subsection (5) of section 24, section 27 and sub-paragraph (3) of paragraph 3 of Schedule 3 shall not apply.

(2) For the purposes of this order section 2 (Permissible Limits of deviation) of the Third Schedule to the Water Act 1945(a) shall apply to the Authority and the works subject to the following modifications (that is to say)—

(a) for the words “the plans submitted to the Minister” there shall be substituted the words “the deposited plans” and for the words “the said plans” wherever they occur there shall be substituted the words “the deposited sections”;

(b) for the reference to “the undertakers” there shall be substituted a reference to the Authority.

(a) 1945 c. 42.

4.—(1) Subject to the provisions of this order, the Authority on or under the lands delineated on the deposited plans, upon the acquisition of the said lands or sufficient rights or interests therein, may make and maintain in the lines or situations and according to the levels shown upon the deposited plans and sections and within the limits of deviation there shown the following works in the County of Lancashire—

Power to
construct
works.

Work No.1 An improvement of that part of the River Lune in the City of Lancaster lying between two lines drawn across the river one from reference point SD48016233 to reference point SD47916240 and the other from reference point SD48276378 to reference point SD48366372.

Work No.2 An intake and pumping station in the Parishes of Quernmore and Halton-with-Aughton in the City of Lancaster at reference point SD50606463.

Work No.3 An aqueduct in the said Parish of Quernmore and the City of Lancaster commencing at Work No.2 and terminating at Work No.4.

Work No.4 A balancing tank and pumping station in the City of Lancaster at reference point SD48576386.

Work No.5 An improvement of that part of the River Lune in the said Parishes of Quernmore and Halton-with-Aughton lying between two lines drawn across the river one from reference point SD50656459 to reference point SD50666467 and the other from reference point SD51366475 to reference point SD51326482.

Work No.6 An intake in the said Parish of Quernmore on the south bank of the River Lune at reference point SD51466483.

Work No.7 An underground tunnel, including shafts connected therewith in the said Parish of Quernmore commencing in Work No.6 and terminating in Work No.8.

Work No.8 A pumping station and settling tanks in the said Parish of Quernmore at reference point SD51756425.

Work No.9 An aqueduct in the said parish of Quernmore commencing in Work No.8 and terminating by an outfall into an unnamed tributary of the River Lune at reference point SD51896407.

Work No.10 An aqueduct in the said Parish of Quernmore commencing in Work No.8 and terminating by an outfall into the River Lune at reference point SD51366476.

Work No.11 An improvement of the said unnamed tributary in the said Parish of Quernmore consisting of a widening, deepening, straightening and strengthening of portions of the bed and banks of so much of the said tributary as lies between reference point SD51886407 and the confluence of the tributary with the River Lune.

Work No.12 A drive improvement in the said Parish of Quernmore including the widening and strengthening thereof commencing at its point of junction with the road from Lancaster to Caton (Classified Road No. A683) at reference point SD51316455 and terminating at Work No.8.

Work No.13 An aqueduct or line or lines of pipes in the said Parish of Quernmore commencing at Work No.8 and terminating at the commencement of Work No.14 at reference point SD52435953.

Work No.13A A washout conduit or line or lines of pipes in the said Parish of Quernmore commencing by a junction with Work No.13 at reference point SD51836413 and terminating by an outfall into the said unnamed tributary at reference point SD51886407.

Work No.13B A washout conduit or line or lines of pipes in the said Parish of Quernmore commencing by a junction with Work No.13 at reference point SD51756329 and terminating by an outfall into a watercourse at reference point SD51776329.

Work No.13C A washout conduit or line or lines of pipes in the said Parish of Quernmore commencing by a junction with Work No.13 at reference point SD51776254 and terminating by an outfall into a watercourse at reference point SD51906254.

Work No.14 An underground tunnel in the said Parish of Quernmore and in the Parish of Over Wyresdale in the City of Lancaster commencing at the termination of Work No.13 and terminating at the commencement of Work No.15 at reference point SD55585397.

Work No.15 An aqueduct or line or lines of pipes in the said Parish of Over Wyresdale commencing at the termination of Work No.14 and terminating at Work No.16.

Work No.16 A weir incorporating an outfall across the River Wyre in the said Parish of Over Wyresdale at reference point SD55555382.

Work No.17 An access road in the said Parish of Over Wyresdale commencing by a junction with the unclassified county road from Ortnor to Abbeystead at reference point SD55825433 and terminating at Work No.15.

(2) The Authority may as part of and in connection with the improvement of the River Lune by means of—

(a) Work No.1 alter any one or more of the channels of the river, reconstruct or strengthen the whole or any part of Skerton weir and construct a new weir, a fish pass and a measuring weir;

(b) Work No.5 alter any one or more of the channels of the river, construct groynes, and reconstruct or strengthen the whole or any part of Forge weir and in connection therewith construct a sluice in and a dam across the adjoining headrace of the weir.

(3) (a) The Authority may lay electric lines in connection with and as part of the aqueducts or lines of pipes (Works Nos. 3, 10, 13 and 15) and of the underground tunnels (Works Nos. 7 and 14) authorised by this order for the purpose of—

(i) establishing telegraphic, telephonic or other electrical communication either between any part of the undertaking of the Authority

(as for the time being authorised by any enactment) and any part of the works authorised by this order, or between different parts of those works; or

(ii) inspecting, maintaining, repairing, managing, working, or using the said works or any of them.

(b) Subsections (3), (4) and (5) of section 5 of the Third Schedule to the Water Act 1945 shall extend and apply to any electric lines laid under this subsection as if they were wires, posts, conductors and other apparatus laid under the said section 5 and for that purpose shall be deemed to be incorporated with this order.

(c) In this subsection "electric line" has the same meaning as in the Electricity (Supply) Acts 1882 to 1936.

(4) The Authority may, within the limits of deviation for the works described in paragraph (1) of this article, extend, enlarge, alter, replace or relay the same.

5.—(1) Subject to the provisions of this order, the Authority, for the purposes of or in connection with the works described in or authorised by article 4 (Power to construct works) of this order and in or on the lands delineated on the deposited plans, may—

(a) make junctions and communications between any of those works and any watercourses and any existing streets, roads, droves, ways, bridges, towing paths and footpaths;

(b) make, provide and maintain all necessary and convenient buildings, walls, banks, embankments, piling, fences, facilities for watering cattle and other animals, culverts, drains, intakes, siphons, channels, weirs, groyne, fish passes and traps, gauges, sluices, wharves, mattresses, gabions, pitching, roads, droves, pipe or other bridges, towing paths and footpaths, and all such mains, pipes, cables, wires, pumps, machinery, works and appliances as may be required;

(c) raise, widen, lengthen, alter and reconstruct the bridges over any watercourses altered, widened, deepened, strengthened, straightened, or diverted under the powers of this order and the approaches to such bridges and strengthen, underpin and deepen the piers, arches and other supports and the foundations thereof without acquiring the said bridges or any interest therein;

(d) sell or otherwise dispose of spoil or other materials;

(e) execute any works for the protection of any adjoining lands or buildings;

(f) remove, alter, divert or stop up any watercourse or local authority sewer, the Authority providing a proper substitute before interrupting the flow of sewage in any sewer or water in any watercourse;

(g) fell, lop or cut and remove any tree, bush, shrub or other vegetation; and

(h) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, gas or electricity.

(2) In the exercise of the powers conferred by this article, the Authority shall cause as little detriment and inconvenience to any person as circumstances admit.

(3) In or on the lands delineated on the deposited plans the Authority may raise, lower or otherwise alter the position of any steps, areas, cellars, windows, pipes or spouts belonging to any house or building, and may remove all other obstructions so that the same be done with as little delay or inconvenience to the inhabitants as circumstances admit.

(4) The powers of subparagraph (c) of paragraph (1) of this article shall not be exercised by the Authority in relation to a bridge carrying 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.

6.—(1) The Authority may divert the footpaths in the City of Lancaster in the County of Lancashire described in column (1) of Schedule 1 to this order in the parishes referred to opposite thereto in column (2) of the said Schedule between the points specified in column (3) of the said Schedule as shown on the deposited plans, and may stop up and cause to be discontinued as a highway, so much of each of the footpaths as will be rendered unnecessary by the diversion of such footpath under the powers of this order.

(2) Notwithstanding anything in paragraph (1) of this article where a footpath is to be diverted the existing public highway shall not be stopped up under the powers of this article until the new footpath to be substituted therefor is completed in accordance with the reasonable requirements of the highway authority and is open for public use or in the case of a difference between the Authority and the highway authority as to whether the said requirements have been complied with or as to their reasonableness until the matter in dispute has been referred to and determined by the Secretary of State and he has certified that the new footpath has been completed in accordance with his determination. Before applying to the Secretary of State for his determination the Authority shall give to the highway authority seven days' notice of their intention to do so:

Provided that the Authority shall not be required under this paragraph to construct or complete any footpath to a greater width or better standard than the footpath for which such footpath is substituted.

(3) As from the date of completion to the satisfaction of the highway authority concerned of any such diverted footpath, or as from the date of the said certificate (as the case may be), all rights of way over or along the portion of the footpath so stopped up shall be extinguished and the Authority may appropriate and use for the purposes of this order the site and soil thereof so far as they are owners of the land on both sides thereof.

(4) A footpath diverted under the powers of this order shall be repairable by the highway or other authority by whom it was maintainable before its diversion and be subject to the same public rights of way as were exercisable over the footpath before its diversion.

7.—(1) The Authority, during and for the purposes of the execution of any of the works, 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. Temporary stoppage of water-courses, highways, etc.

(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 paragraph (1) of this article 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 paragraph (1) of this article 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 the tribunal.

(4) (a) The exercise of the powers conferred by this article 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 paragraph "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

8. Subject to the provisions of this order the Authority may purchase compulsorily such of the lands within the limits of lands to be acquired shown on the deposited plans as they may require for the construction, maintenance and operation of the works or other purposes connected therewith, including (without prejudice to the generality of the foregoing) for the purpose of obtaining access thereto, obtaining materials for the construction thereof, depositing spoil or other material excavated during the construction thereof, or otherwise for the purposes of this order or other purposes connected therewith. Power to acquire lands.

9. Notwithstanding anything in article 8 (Power to acquire lands) of this order, the Authority shall not acquire compulsorily any land required only for the construction of Works Nos. 3, 7, 10, 13, 13B, 13C, 14 and 15 (other than any works to be constructed on the surface of the ground forming part of, or Easements only to be acquired for underground works, etc.

(a) 1878 c. 76.

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, maintaining and protecting any such work as aforesaid at a price to be agreed or, failing agreement, to be determined by arbitration in accordance with the provisions of the Act of 1961.

Power to make discharges of water.

10.—(1) The Authority may make the discharges respectively particulars of which are set out in Schedule 2 to this order from the discharge points specified in column (1) thereof and on the sheets mentioned opposite the same respectively in column (2) thereof, as shown on the deposited plans, and into the watercourses specified in column (3) thereof, being discharges of water from the sources described in column (4) thereof, by means of the works authorised by this order specified in column (5) thereof, for purposes mentioned in column (6) thereof and at a rate not exceeding that specified in column (7) thereof.

(2) Notwithstanding anything in paragraph (1) of this article the discharges thereby authorised may be made at any other point on the receiving watercourse mentioned opposite the same in column (3) of the said Schedule being a point within the limits of deviation of the work from which the discharge is made and mentioned in column (5) of the said Schedule.

(3) The Authority shall not by means of Work No. 16 discharge water into the River Wyre when the flow in the river immediately above the point of discharge is at the rate of 2300 megalitres per day (506 million gallons per day) or more.

(4) The water to be discharged into the River Wyre by means of Work No. 16 shall by settlement process have had excess sedimentary matter removed therefrom.

Making good diminution of local sources of water supply due to construction of Work No. 7 or Work No. 14.

11.—(1) In this article—

“protected person” means a person who is entitled to a protected right in respect of the abstraction of water from a source of supply, as provided by section 26 of the Water Resources Act 1963;

“relevant diminution” means a reduction in the supply of water available in a source of supply such that a protected person is prevented from abstracting water from that source of supply to the extent of his protected right as it exists at the date of the coming into operation of this order.

(2) If it shall be agreed between the Authority and a protected person or determined by arbitration that during the construction or after the completion of Work No. 7 or Work No. 14 and as a result of that construction there has been a relevant diminution in that person's source of supply the Authority shall, on his written request and provided it is reasonably practicable so to do, at their own option either—

(a) immediately afford or cause to be afforded to him a supply of water equal to the amount of the diminution so, however, that any interruption of such a supply owing to frost, exceptional drought, unavoidable accident, electrical or mechanical breakdown or other unavoidable cause or the execution of necessary works shall not be a breach of any obligation under this subparagraph; or

(b) at the expense of the Authority make such alterations, additions or extensions to his relevant works, machinery or apparatus for abstracting water as will make good the diminution;
or offset the effect of the diminution partly in one way and partly in the other.

(3) A supply of water afforded by the Authority under subparagraph (a) of the last preceding paragraph shall be afforded upon such terms as may be agreed, or failing agreement determined by arbitration:

Provided that the charges to be made by the Authority in any year for such a supply shall not exceed an amount equal to the cost which the protected person would have incurred in that year in obtaining by abstraction a supply unaffected by the relevant diminution, less any cost to him in that year of so obtaining a reduced supply affected by the relevant diminution (such costs to be determined in default of agreement by arbitration and not to include charges levied in relation to the abstraction of water) and provided also that if so agreed in lieu of such annual charge the Authority may charge such sum in gross as may be agreed between the Authority and the protected person, or in default of agreement, as may be determined by arbitration, to represent the capitalised value of such annual charge.

(4) All mains, pipes, pumps, meters and fittings required for the purpose of supplying water to a protected person in pursuance of these provisions shall be provided, laid, placed or fixed by and at the expense of the Authority and thereafter shall be repaired, maintained, renewed and made good by and at the expense of the protected person.

(5) It shall be a condition of the Authority's liability under this article that the protected person shall afford to them, their officers and servants, without charge at all reasonable times, such rights, facilities and information as the Authority may reasonably require for the purpose of discharging their obligations.

(6) Where a protected person accepts or is awarded monetary compensation or damages in respect of the effect of a relevant diminution the foregoing provisions of this article shall not have effect so as to oblige the Authority to take or cause to be taken action in accordance with these provisions in relation to that diminution in so far as its effect is the subject of such compensation or damages; but nothing in this paragraph shall be taken as intended to relieve the Authority of any obligation to make good, whether by paying compensation or otherwise, loss or damage suffered by a protected person in consequence of anything done by them for the purpose of these provisions.

(7) Any question or difference arising between the Authority and the protected person under these provisions (other than a difference as to the meaning or construction of these provisions) shall be determined by arbitration.

12.—(1) In this article "the Board" means the Central Electricity Generating Board and the North Western Electricity Board, or either of them as the case may be, and "apparatus" means any electric line or works belonging to the Board as respectively defined in the Electric Lighting Act 1882(a).

For protection of Central Electricity Generating Board and North Western Electricity Board.

(2) Notwithstanding the provisions of article 8 (Power to acquire lands) of this order the Authority shall not in pursuance of those provisions acquire any apparatus or extinguish any rights in respect of such apparatus otherwise than by agreement.

(3) The exercise of the powers conferred by article 7 (Temporary stoppage of watercourses, highways, etc.) of this order shall not prevent the Board from obtaining access to any apparatus nor prejudice or affect any right of the electricity undertakers—

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

(b) for the purpose of such laying, erecting, maintaining, inspecting, repairing, renewing or removing to enter upon and break open that highway or right of way.

Arbitration. 13. In arbitrations under this order the reference shall (except where otherwise expressly provided) be to a single arbitrator to be appointed by agreement between the parties or, in default of agreement, to be appointed on the application of any party (after giving notice in writing to the other party or parties) by the President of the Institution of Civil Engineers.

SCHEDULE 1

FOOTPATHS TO BE DIVERTED

(1) No. on map prepared by Lancashire County Council under section 32 of the National Parks and Access to the Countryside Act 1949(a)	(2) Parish	(3) Portions of footpaths as marked on deposited plans showing extent of stopping up
15 64 68	Quernmore Over Wyresdale Over Wyresdale	X1—X2 X3—X4 X5—X6

(a) 1949 c. 97.

SCHEDULE 2
DISCHARGES OF WATER

(1) Dis-charge point	(2) Sheet No. on deposited plans	(3) Receiving water course	(4) Source of discharge water	(5) Work No. from which discharge made	(6) Purpose of discharge	(7) Max. Rate Ml/d (mgd)
P1	2	River Lune	River Lune	3 4 } }	To empty aqueduct and balancing tank partially or completely for construction maintenance operational and other purposes	60 (13.2)
P2	3	River Lune	River Lune	10 } }	To empty settlement tanks	25 (5.5)
P3	3	Stream	River Lune	9 } }	aqueducts and tunnel partially or completely for construction maintenance operational and other purposes	25 (5.5)
P4	3	Stream	River Lune	13A } }	To empty aqueducts and tunnels	5 (1.1)
P5	6	Ditch	River Lune	13B } }	partially or completely for construction maintenance operational and other purposes	5 (1.1)
P6	6	Ditch	River Lune	13C } }		5 (1.1)
P7	8	River Conder	River Lune	13 } }		50 (11.0)
P8	8	Trough Brook	River Lune	13 } }		25 (5.5)
P9	12	River Wyre	River Lune	16	To regulate flow in the River Wyre	450 (99)

16th January 1975

ANTHONY CROSLAND,
Secretary of State for the Environment.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order in pursuance of section 67 of the Water Resources Act 1963 and section 1 of the Water Resources Act 1971 authorises the North West Water Authority to construct certain works in connection with the River Lune and the River Wyre and to make discharges of water as set out in Schedule 2 to the Order. All the places of discharge except one are in the Bowland Forest, an area of outstanding natural beauty within the meaning of the National Parks and Access to the Countryside Act 1949.

By virtue of section 254(3) of the Local Government Act 1972(c.70) as applied by section 34 of the Water Act 1973(c.37) the order is made in favour of the North West Water Authority as successor to the Lancashire River Authority who applied for it.

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