
STATUTORY INSTRUMENTS

1976 No. 2043

LAND DRAINAGE

The Rainham Creek (Closure) Order 1976

Made - - - - - 29th November 1976

Coming into Operation 11th December 1976

ARRANGEMENT OF ARTICLES

1. Citation and commencement
2. Interpretation
3. Application of Act of 1965
4. Power to acquire lands
5. Power to acquire easements only
6. Construction of works
7. Power to deviate
8. Subsidiary powers to Water Authority
9. Temporary closing of creek in connection with works
10. Power to Water Authority to dredge
11. Removal of vessels
12. Opening of sluice
13. Crown rights
14. Exemption from requirements as to works and dredging licences
15. Creek to cease to be within jurisdiction of Port Authority
16. Approval by Secretary of State to tidal works and deposit of spoil
17. For protection of Port Authority

The Minister of Agriculture, Fisheries and Food and the Secretary of State for Trade, in exercise of their powers under section 56 of the Thames Barrier and Flood Prevention Act 1972(a) and of all other powers enabling them in that behalf, hereby order as follows:

Citation and commencement

1. This Order may be cited as the Rainham Creek (Closure) Order 1976 and shall come into operation on 11th December 1976.

Interpretation

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

“the Act of 1965” means the Compulsory Purchase Act 1965(b);

“the Act of 1968” means the Port of London Act 1968(c);

“the creek” means that part of the river known as Rainham Creek;

(a) 1972 c. xlv.

(b) 1965 c. 56.

(c) 1968 c. xxxii.

“the deposited plan” and “the deposited sections” means the plan and sections prepared in triplicate signed by an Assistant Secretary in the Ministry of Agriculture, Fisheries and Food and marked “Plan and sections referred to in the Rainham Creek (Closure) Order 1976”, of which one set is deposited and available for inspection at the office of the Chief Executive of the Water Authority and one set each at the offices of the Minister and of the Secretary of State for Trade respectively;

“enactment” means any enactment, whether public general or local, and includes any order, byelaw, rule, regulation, scheme or other instrument having effect by virtue of an enactment;

“functions” includes powers and duties;

“land” or “lands” includes land covered by water and any interest in land and any easement or right in, to, over or under land;

“the Minister” means the Minister of Agriculture, Fisheries and Food and “the Ministers” means the Minister and the Secretary of State for Trade acting jointly;

“the Port Authority” means the Port of London Authority;

“the river” means the River Thames and includes—

(a) any tributary or other watercourse or any basin, bay, channel or creek the water in which ultimately flows into, or which is directly or indirectly connected with, the River Thames; and

(b) the bed, banks and foreshore of the River Thames and of any such tributary, watercourse, basin, bay, channel or creek;

“tidal work” means so much of any work authorised by this Order as is in, on, under or over tidal waters or tidal lands below the level of mean high-water springs;

“the tribunal” means the Lands Tribunal;

“vessel” means every description of vessel, whether with or without means of propulsion of any kind, and includes anything constructed or used to carry persons, goods, plant or machinery, or to be propelled or moved, on or by water, a seaplane on or in the water and a hovercraft within the meaning of the Hovercraft Act 1968(a);

“the Water Authority” means the Thames Water Authority;

“watercourse” has the same meaning as in the Land Drainage Act 1930(b);

“the works” means Works Nos. 1, 2 and 3 and any works, apparatus or conveniences (whether temporary or permanent) constructed, provided or installed by the Water 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 National Grid reference points.

(3) Unless the subject or context otherwise requires, any reference in this Order to a work identified by a number shall be construed as a reference to the work of that number 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.

(a) 1968 c. 59.

(b) 1930 c. 44.

(5) The Interpretation Act 1889(a) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

Application of Act of 1965

3.—(1) Part I of the Act of 1965, in so far as it is applicable for the purposes of this Order and is not inconsistent with the provisions thereof, shall apply to the compulsory purchase of land under this Order as it applies to a compulsory purchase to which the provisions of Schedule 1 to the Acquisition of Land (Authorisation Procedure) Act 1946(b) apply and as if this Order were a compulsory purchase order under the said Act of 1946.

(2) The provisions of the Act of 1965, as so applied, 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 for the words “fourteen days” there shall be substituted the words “one month”;

(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.

Power to acquire lands

4. Subject to the provisions of this Order the Water Authority may purchase compulsorily such of the lands delineated on the deposited plan and shown on that plan as being within the limit of land to be acquired 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 easements only

5.—(1) The Water Authority may, instead of acquiring any land which they are authorised to acquire compulsorily under this Order, acquire compulsorily such easements and rights in, to, over or under the land as they may require for the purposes of or in connection with the exercise of any of their powers under this Order.

(2) Accordingly the Water Authority may give notice to treat in respect of any such easement or right describing the nature thereof; and the provisions of Part I of the Act of 1965 as applied for the purposes of this Order shall apply in relation to the acquisition of such easements and rights as if they were land within the meaning of the Act of 1965.

(3) Where the Water Authority have acquired an easement or right only in, to, over or under any land under this Article—

(a) 1889 c. 63.

(b) 1946 c. 49.

(a) they shall not be required or, except by agreement or during the execution of the works, entitled to fence off or sever that land from the adjoining land;

(b) the owner or occupier of the land for the time being shall, subject to the easement or right, have the same right to use the land as if this Article had not been enacted.

(4) If in his particulars of claim the owner of any land in respect of which notice to treat for an easement or right is given under this Article requires the Water Authority to acquire the land, the Water Authority shall not be entitled under this Article to acquire the easement or right unless the tribunal determines that the easement or right can be granted without material detriment to the land or, in the case of a park or garden belonging to a house, without seriously affecting the amenity or convenience of the house; and, if the tribunal does not so determine, the Water Authority may acquire the land compulsorily notwithstanding that the period mentioned in section 4 of the Act of 1965 has expired, but not later than one year after the determination of the tribunal:

Provided that nothing in this paragraph shall apply to land forming part of a street.

(5) A notice to treat given under this Article shall be endorsed with notice of the effect of paragraph (4) of this Article.

Construction of works

6.—(1) Subject to the provisions of this Order, the Water Authority may, in the lines or situations and within the limits of deviation shown on the deposited plan and according to the levels shown on the deposited sections, execute in the London Borough of Havering the works described in paragraph (2) of this Article together with all necessary and proper works and conveniences connected therewith or incidental thereto.

(2) The works referred to in paragraph (1) of this Article are the following works:—

Work No. 1. A dam across the mouth of the creek commencing on the right bank of the creek at reference point TQ 5122180797 and terminating on the left bank of the creek at reference point TQ 5131080730;

Work No. 2. A culvert or culverts, fitted with tide flaps and emergency gates, commencing at reference point TQ 5107581117 and terminating at reference point TQ 5095780987;

Work No. 3. A sea wall or embankment commencing at reference point TQ 5088581059 and terminating at reference point TQ 5122180797.

(3) Notwithstanding anything to the contrary in this Order or shown on the deposited plan or the deposited sections, but without prejudice to the provisions of the next following Article the Water Authority may, if they think fit, subject to the approval of the Ministers execute the whole or any part of the works within the limits of deviation shown on the deposited plan in accordance with dimensions and descriptions other than the dimensions and descriptions shown on the deposited plan and the deposited sections or set out in the last foregoing paragraph.

(4) Without prejudice to the provisions of the last foregoing paragraph, the Water Authority may maintain and may from time to time alter, extend, enlarge, replace, repair or renew—

(a) the works, or any part thereof, within the limits of deviation; or

(b) any other works, conveniences or other things, provided by or belonging to them in connection with the works;
or may remove the works or any part thereof.

(5) The construction of all tidal works shall when commenced be proceeded with and completed as soon as practicable.

(6) The Water Authority may fill in and reclaim the bed and banks of so much of the creek as lies between Work No. 1 and a line drawn across the creek from reference point TQ 5106481092 on the right bank of the creek to reference point TQ 5110581121 on the left bank of the creek.

(7) As from the completion of the construction of Work No. 1 all rights of navigation in the creek upstream of that work shall be extinguished.

Power to deviate

7. In the execution of the works, or any part thereof, the Water Authority may deviate from the lines or situations thereof shown on the deposited plan to any extent within the limits of deviation shown on that plan, and may deviate vertically from the levels shown on the deposited sections to any extent upwards or downwards.

Subsidiary powers to Water Authority

8.—(1) Subject to the provisions of this Order and within the limits of deviation shown on the deposited plan or on any land acquired by the Water Authority under the powers of this Order the Water Authority, in connection with and for the purposes of the works, may—

- (a) make junctions and communications between any of those works and any watercourses and any existing streets, roads, ways, bridges and footpaths;
- (b) make, provide and maintain all necessary or convenient buildings, walls, banks, embankments, borrow pits, quays, slipways, pavings, hards, moorings, boat-hoists, rollers and other facilities for transporting boats, fish ladders or passes or other apparatus for facilitating the passage of fish, piling, fences, culverts, drains, intakes, syphons, watercourses, weirs, sluices, wharves, mattresses, pitching, gabions, roads, bridges, towing paths, footpaths and landscaping works and all such mains, pipes, cables, wires, machinery, works and appliances as may be required;
- (c) dispose of spoil or other material excavated in the execution of the works;
- (d) execute any works for the protection of any adjoining lands or buildings;
- (e) remove, alter, divert or stop up any watercourse or sewer (not being a watercourse), the Water Authority providing a proper substitute before interrupting the flow of water or sewage in any sewer or watercourse;
- (f) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, sludge, gas, electricity or petroleum (as defined in the Petroleum (Consolidation) Act 1928(a)).

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

Temporary closing of creek in connection with works

9.—(1) Notwithstanding anything to the contrary in any other enactment or in any rule of law, the Water Authority may, in executing or doing in, on, under or over the creek any works or things authorised by or under the foregoing provisions of this Order, close the creek or any part thereof to navigation.

(2) Without prejudice to the provisions of Article 3 (Application of Act of 1965) or paragraph (7) of Article 17 (For protection of Port Authority) of this Order neither the Water Authority nor the Port Authority shall be liable for any costs, damages or expenses whatsoever incurred by any person as a result, directly or indirectly, of any closure of the creek under the foregoing paragraph.

Power to Water Authority to dredge

10. Subject to the provisions of this Order, the Water Authority may from time to time both during and after the construction of the works deepen, dredge, and improve, and remove obstructions from, the bed, foreshore and banks of the river within the limits of land to be acquired shown on the deposited plan for the purposes of or in connection with the construction, operation, maintenance, alteration, extension, enlargement, replacement, repair, renewal or removal of the works.

Removal of vessels

11.—(1) Where any vessel is sunk, stranded or abandoned in any part of the river within the limits of land to be acquired shown on the deposited plan or without lawful authority left or moored therein, the Water Authority, after consultation with the Port Authority and unless the Port Authority inform the Water Authority that they will proceed forthwith to take all reasonable steps to secure the prompt removal of the vessel in pursuance of the provisions of section 120 (Power to raise and remove vessels sunk, etc.) of the Act of 1968, may take all such action as may be necessary to remove the vessel.

(2) The Water Authority may recover from the owner of any vessel removed by them under the foregoing paragraph all expenses reasonably incurred by them in respect of the removal and storage of the vessel and of any furniture and tackle thereof or any cargo, goods, chattels and effects removed therefrom.

(3) If any such vessel be not within six weeks of its removal by the Water Authority proved to their satisfaction to belong to any claimant it shall together with any furniture, tackle, cargo, goods, chattels and effects thereupon vest in the Water Authority:

Provided that if within six months of its removal by the Water Authority a claim is made to the vessel by a person who subsequently proves to the satisfaction of the Water Authority that he is the owner thereof then they shall, if the vessel is unsold, permit the owner to retake it with any furniture, tackle, cargo, goods, chattels and effects thereupon upon payment of the expenses referred to in paragraph (2) of this Article and of any expenses incurred by the Port Authority in respect of the vessel or its cargo or anything else associated with the vessel and referred to in subsection (2) of the said section 120 of the Act of 1968 or, if the vessel, furniture, tackle, cargo, goods, chattels and effects thereupon have been sold, the Water Authority shall pay to such owner the amount of the proceeds of such sale after deducting the said expenses, and in case such proceeds shall be insufficient to reimburse the Water Authority and the Port Authority such expenses the deficiency may be recovered by the Water Authority or (as the case may be) the Port Authority as a simple contract debt.

(4) (a) Except where there is, in the Water Authority's opinion, an emergency, paragraph (1) of this Article shall not authorise the removal of any vessel by the Water Authority unless the Water Authority have given to the owner of the vessel not less than forty-eight hours' notice of their intention to remove the vessel, and if before the notice expires the Water Authority receive from the owner a counter-notice in writing that he desires to remove the vessel himself he shall be at liberty to do so and the Water Authority shall not take any action to remove the vessel themselves until the expiration of seven days from the receipt of the counter-notice and of any further continuous period thereafter during which the owner of the vessel proceeds with the removal thereof with reasonable diligence and in compliance with any directions given to him by the Water Authority for the protection of the works or by the Port Authority for the prevention of interference with navigation.

(b) If the owner of a vessel to whom notice is to be given under this Article is not known to the Water Authority or if his place of business or abode is not known to the Water Authority or is outside the United Kingdom, the notice may be given by affixing it to the vessel in a conspicuous position.

(5) In this Article "owner" in relation to any vessel sunk, stranded, abandoned, left or moored as aforesaid means the owner of the vessel at the time of the sinking, stranding, abandonment, leaving or mooring thereof.

Opening of sluice

12. The Water Authority may regulate the opening, shutting and management of the tide flaps and emergency gates forming part of Work No. 2 so as to control the passage of water through that work.

Crown rights

13.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege or exemption of the Crown and in particular and without prejudice to the generality of the foregoing nothing in this Order authorises the Water Authority to take, use or in any manner interfere with any land or hereditaments or any rights of whatsoever description—

- (a) belonging to Her Majesty in right of Her Crown and under the management of the Crown Estate Commissioners without the consent in writing of those commissioners on behalf of Her Majesty first had and obtained for that purpose; or
- (b) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Section 77 of the Land Drainage Act 1930 shall not apply to this Order.

Exemption from requirements as to works and dredging licences

14. The works shall for the purposes of subsection (7) of section 66 (Licensing of Works) of the Act of 1968, and any dredging or other operations carried out under Article 10 (Power to Water Authority to dredge) of this Order shall for the purposes of subsection (6) of section 73 (Licensing of dredging etc.) of that Act, be deemed to have been constructed or carried out, as the case may be, in the exercise by the Water Authority of their functions under the Land Drainage Act 1930 and the Land Drainage Act 1961(a).

(a) 1961 c. 48.

Creek to cease to be within jurisdiction of Port Authority

15. (a) As from the date of completion of Work No. 1 so much of the creek as is above that work shall, as provided for in sub-paragraph (b) of this Article, cease to be within the jurisdiction of the Port Authority.

(b) Paragraph 2 of Schedule 1 to the Act of 1968 shall as from the said date have effect as if after sub-paragraph (ee) of that paragraph there were inserted the following new sub-paragraph—

“(eee) Rainham Creek above Work No. 1 authorised by Article 6 of the Rainham Creek (Closure) Order 1976.”

Approval by Secretary of State to tidal works and deposit of spoil

16.—(1) Section 76 (Works to be approved by Board of Trade) of the Act of 1968, except paragraph (b) of subsection (1) thereof shall apply in relation to a tidal work as if it were, or were to be, a work placed or constructed on the bed of the river under the direction or licence of the Port Authority.

(2) No spoil or other material excavated during the construction of the works or dredged in the exercise of the powers of Article 10 (Power to Water Authority to dredge) of this Order shall be deposited in any place below the level of mean high-water springs otherwise than in such a position and subject to such conditions and restrictions as may be fixed by the Secretary of State for Trade.

For protection of Port Authority

17. For the protection of the Port Authority the following provisions shall, unless otherwise agreed in writing between the Water Authority and the Port Authority, apply and have effect:—

(1) In this Article, except where the context otherwise requires—

“controlled access” means access on the terms that a person to whom access is afforded shall comply with any requirements which may be notified to him for the purposes of ensuring that there is no interference with safe and proper working at Work No. 1 or at any other tidal work;

“plans” includes sections and particulars;

“scouring” includes disturbance or collapse of the foreshore or bed of the river.

(2) Not later than twenty-eight days before—

(i) starting to carry out any tidal work; or

(ii) exercising any of the powers of Article 10 (Power to Water Authority to dredge) of this Order;

the Water Authority shall submit to the Port Authority plans of the proposed work and such further particulars thereof as may be available to the Water Authority and as the Port Authority may reasonably require and, in carrying out such works or in exercising such powers, the Water Authority shall comply with all reasonable modifications and conditions (not involving alteration to the basic design of any tidal work), including the carrying out of works by the Water Authority at their own expense, as may be specified by the Port Authority for the protection of traffic in, or the flow or regime of, the river:

Provided that any such modifications or conditions as aforesaid shall be notified by the Port Authority to the Water Authority within twenty-

eight days of the receipt by the Port Authority of the plans or particulars to which such modifications or conditions relate.

- (3) The Water Authority shall upon completion of any part of a tidal work, remove as soon as is practicable any temporary works and material for temporary works which are situated in, on, under or over the river on the riverward side of Works Nos. 1, 2 and 3 and which were carried out or placed only for the purposes of that part of a tidal work, and shall make good the site thereof to the reasonable satisfaction of the Port Authority.
- (4) The Water Authority shall at all reasonable times during construction of the works upon receipt on each occasion of not less than forty-eight hours' written notice, afford to any duly authorised representative of the Port Authority controlled access, without payment or charge, to Work No. 1 or to any other tidal work for the purposes of inspection and survey in connection with the exercise of the Port Authority's functions and shall provide reasonable facilities therefor.
- (5) Except so far as may be unavoidable in the construction of the works, the Water Authority shall not, without the consent of the Port Authority under the hand of their Secretary or harbour master (which shall not be unreasonably withheld), deposit in or allow to fall or be washed into the river any gravel, soil or other materials (including in particular any spoil or material excavated, whether or not from the river, in the carrying out of the works).
- (6) (a) Any pile, stump or other obstruction which becomes exposed in consequence of a tidal work (other than a pile, stump or other obstruction situated on the site of any permanent works or situated in the creek landward of Work No. 1) shall be removed from the river by the Water Authority or, if it is not reasonably practicable to remove it, shall be cut off at such level below the bed of the river as the Port Authority may reasonably direct;
(b) If the Water Authority fail to remove from the river, or to cut off as aforesaid, any such pile, stump or other obstruction within twenty-eight days after receipt of written notice from the Port Authority requiring its removal or cutting off the Port Authority may carry out the removal or cutting off and recover the costs of so doing from the Water Authority.
- (7) (a) The Water Authority shall be responsible for and make good to the Port Authority all costs, charges, damages and expenses which may be occasioned to or reasonably incurred by the Port Authority by reason of any negligent or wilful act or omission of the Water Authority or of any officer, servant or agent of the Water Authority in relation to the exercise or purported exercise of any of their functions under this Order;
(b) The fact that any act or thing may have been done by the Water Authority or any officer, servant or agent of the Water Authority under this Order in accordance with plans or particulars submitted to or modifications or conditions specified by the Port Authority or in a manner approved by the Port Authority or under their supervision or the supervision of their duly authorised representative shall not excuse the Water Authority from any liability under the provisions of this paragraph, and the Water Authority shall effectively indemnify and hold harmless the Port Authority from and against all claims and demands arising out of or in connection with any act or thing which may have been done as aforesaid;

(c) Nothing in this paragraph shall impose any liability on the Water Authority with respect to costs, charges, damages or expenses so far as they may be attributable to any negligent or wilful act or omission of the Port Authority, their servants or agents;

(d) The Port Authority shall give to the Water Authority reasonable notice of any claim or demand as aforesaid, and no settlement or compromise thereof shall be made without the prior consent of the Water Authority.

(8) On completion of the construction of the works the Water Authority shall supply to the Port Authority a plan on a scale of not less than 1 in 2500 and sections and cross-sections on scales of not less than 1 in 100 showing the situation and levels of the works.

(9) (a) If it is agreed between the Water Authority and the Port Authority after taking into account any relevant data or circumstances, or in default of agreement it is determined in pursuance of a reference by the Port Authority under paragraph (13) of this Article, that—

(i) any part of the river has silted up or has been subjected to scouring; and

(ii) such silting up or scouring is silting up or scouring to which the provisions of this paragraph apply; and

(iii) for the safety of navigation or in the interests of persons using the river or for the protection of works in the river, such silting up or scouring should be removed or, as the case may be, made good;

the Water Authority shall pay to the Port Authority (in the manner set out in sub-paragraph (c) of this paragraph) any additional expense to which the Port Authority may reasonably be put in dredging the river to remove the silting up, or in making good the scouring, in so far as it is attributable to a tidal work.

(b) The provisions of this paragraph apply in relation to any silting up or scouring which is wholly or partly attributable to Works Nos. 1, 2 and 3 and any other tidal work executed in connection therewith or incidental thereto or to any other tidal work which may affect materially traffic in or the flow or regime of the river carried out under paragraph (4) of Article 6 (Construction of works) of this Order, during the period of the execution of those works and thereafter for a period of ten years from the relevant date and shall then cease to apply in relation to any silting up or scouring which is wholly or partly attributable to the tidal works in question.

In this paragraph “the relevant date” means, in relation to—

(i) Works Nos. 1, 2 and 3 and any other tidal work executed in connection therewith or incidental thereto, the date on which it is certified by the Engineer of the Water Authority that Works Nos. 1, 2 and 3 are completed; and

(ii) any other such tidal work carried out under paragraph (4) of Article 6 as is hereinbefore referred to, the date on which it is so certified that the tidal work is completed.

(c) The Water Authority shall, if so required by the Port Authority, make payment to the Port Authority on account of any sum required to be paid in pursuance of sub-paragraph (a) of this paragraph, being payments of such amounts and made at such times as may be agreed between the Water Authority and the Port Authority, or in default of

agreement as may be determined by the Minister and the Secretary of State for the Environment acting jointly in pursuance of a reference to them under paragraph (13) of this Article to be reasonable for meeting so much of the current cost to the Port Authority in dredging the river or causing the river to be dredged, or in making good or in causing to be made good scouring to which the river has been subjected, as is required to be paid as aforesaid.

- (10) (a) If a tidal work is abandoned or suffered to fall into decay, the Port Authority may by notice in writing require the Water Authority at their own expense to exercise the option either of repairing and restoring the work or any part thereof, or of removing the work and restoring the site thereof to its former condition, to such an extent and within such limits as the Port Authority may reasonably require;

(b) If on the expiration of such reasonable period as may be specified in a notice served under this paragraph upon the Water Authority they have failed to comply with the requirements of the notice, the Port Authority may themselves exercise the option and execute the appropriate works specified in the notice and any expenditure incurred by them in so doing shall be recoverable from the Water Authority as a simple contract debt.

- (11) Any consent given by the Port Authority under this Order and any conditions attached to that consent shall have effect also as a consent or conditions attached thereto (as the case may be) given by the Port Authority under section 61 of the Land Drainage Act 1930 (as amended by the Land Drainage Act 1961).

- (12) Except as otherwise expressly provided in this Order and except so far as may be necessary to enable the objects of this Order to be effected, nothing in this Order shall prejudice or derogate from the estates, rights, interests, privileges, liberties or franchises of the Port Authority or alter or diminish any power, authority or jurisdiction vested in the Port Authority at the commencement of this Order.

- (13) Any question or difference arising between the Water Authority and the Port Authority under this Article, other than a question or difference to which the provisions of the Land Compensation Act 1961, the Act of 1965 or the Land Compensation Act 1973(a) apply, or as to the meaning or construction of this Article, may be referred by either of the parties (after giving notice in writing to the other of them) for determination by the Ministers and their decision shall be final:

Provided that as respects any question or difference so arising under paragraph (9) of this Article the reference in this paragraph to the Ministers shall be deemed to be a reference to the Minister and the Secretary of State for the Environment acting jointly.

(a) 1973 c. 26.

In witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 25th November 1976.

(L.S.)

John Silkin,
Minister of Agriculture, Fisheries
and Food.

Stanley Clinton Davis,
Parliamentary Under Secretary of State,
Department of Trade.

29th November 1976.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, made under section 56 of the Thames Barrier and Flood Prevention Act 1972, empowers the Thames Water Authority to construct a permanent dam across the mouth of Rainham Creek and to execute ancillary works. It confers the necessary powers on the Authority, including powers to acquire the requisite land and rights by agreement or compulsorily, to close the Creek or part thereof to navigation temporarily in connection with and during the execution of any of the works and to regulate sluice gates and tide flaps, to dredge and, after consultation with the Port of London Authority, to remove vessels sunk, stranded or abandoned in any creek or watercourse within the limits of land to be acquired and to recover the expenses from the owners.

The Order provides that from the date of completion of the dam the creek upstream of the dam shall cease to be within the jurisdiction of the Port of London Authority and rights of navigation therein shall be extinguished. It also makes provision for the protection of the Port of London Authority.

Copies of the plan and sections mentioned in this Order are available for inspection during office hours at the office of the Chief Executive of the Thames Water Authority, at New River Head, Rosebery Avenue, London EC1R 4TP, at the offices of the Minister of Agriculture, Fisheries and Food, Great Westminster House, Horseferry Road, London SW1P 2AE and at the offices of the Secretary of State for Trade, Sunley House, 90 High Holborn, London WC1V 6LP.