
STATUTORY INSTRUMENTS

1978 No. 1945

WATER, ENGLAND AND WALES

**The South West Water Authority (Colliford Reservoir)
Order 1978**

Made - - - - - 21st December 1978

Coming into Operation 11th January 1979

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

1.—(1) This order may be cited as the South West Water Authority Citation. (Colliford Reservoir) Order 1978.

(2) This order shall be included among the enactments which may be cited together as the South West Water Authority Orders 1974 to 1978.

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

Interpreta-
tion.

“the Act of 1963” means the Water Resources Act 1963;

“the Authority” means the South West Water Authority;

“the County Council” means the County Council of the County of Cornwall;

“the deposited plans” and “the deposited sections” respectively 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 South West Water Authority (Colliford Reservoir) Order 1978” one set of which is deposited and available for inspection at the principal office of the Authority, and the other at the offices of the Secretary of State for the Environment.

(2) In this order, a group of two letters and eight figures identifying or associated with any point represents the map co-ordinates of that point estimated to the nearest ten metres on the grid of the national reference system used by the Ordnance Survey on its maps and plans.

(3) All distances and lengths stated in any description of works, powers or lands in this order shall be construed as if the words “or thereabouts” were inserted after each such distance and length.

(a) 1963 c. 38.

(b) 1965 c. 56.

(c) S.I. 1970/1681.

(4) Unless the subject or context otherwise requires, any references 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.

(5) Unless the context otherwise requires, references in this order to any enactment shall be construed as references to that enactment as amended by, or having effect by virtue of, any subsequent enactment, including this order.

(6) The Interpretation Act 1978(a) shall apply to this order as it applies to subordinate legislation made after the commencement of that Act.

Incorporation of enactment.

3. There shall be excepted from Part I of the Compulsory Purchase Act 1965, as applying in relation to this order, the provisions of section 27 and paragraph 3(3) of Schedule 3 to that Act.

Purchase of lands.

4. Subject to the provisions of this order, the Authority may purchase compulsorily such of the lands within the limits of deviation and of lands to be acquired delineated on the deposited plans as may be required for the purposes of the construction, maintenance and operation of the works authorised by this order or other purposes connected therewith.

Common rights.

5.—(1) In this article—

“the common land” means the lands comprising 142 acres or thereabouts forming part of Redhill Downs Common in the Parish of St. Neot, delineated on the signed plan and thereon coloured green;

“the exchange lands” means the lands vested in the Authority, comprising 248 acres or thereabouts, delineated on the signed plan and thereon coloured yellow;

“the signed plan” means the plan prepared in duplicate, signed by an Under Secretary in the Department of the Environment and marked “Plan referred to in article 5 of the South West Water Authority (Colliford Reservoir) Order 1978” and deposited with the deposited plans.

(2) As from the date of the coming into operation of this order the exchange lands shall vest in the persons in whom the common land was vested immediately before that date, subject to the like rights, trusts and incidents as attached thereto, and the common land shall thereupon be discharged from all rights, trusts and incidents to which it was previously subject.

Construction of works.

6. Subject to the provisions of this order, the Authority may, when they have acquired the necessary lands or sufficient interests or rights therein, construct, maintain, renew and alter, in the lines or situations and within the limits of deviation shown on the deposited plans and according to the levels shown on the deposited sections, the following works in the Parish of St. Neot in the District of Caradon in the County of Cornwall—

- (a) Work No. 1—An impounding reservoir (in this order called the “Colliford Reservoir”) to be formed by means of a dam (Work No. 1A) and two subsidiary dams (Works Nos. 1B and 1C).
- (b) Work No. 1A—A dam across the St. Neot River commencing at SX 17687092 and terminating at SX 18127109.
- (c) Work No. 1B—A subsidiary dam commencing at SX 16317299 and terminating at SX 16217272.
- (d) Work No. 1C—A subsidiary dam commencing at SX 17367110 and terminating at SX 17367103.
- (e) Work No. 2—A new road, being a diversion or realignment of part of the existing road from the A30 road near Lords Waste to St. Neot commencing by a junction with the said existing road at SX 16377321 and terminating by a junction with the said existing road at SX 16677155.
- (f) Work No. 3—An access road commencing by a junction with the said existing road at SX 16987087 and terminating at a junction with the unclassified road from Bolventor to Wenmouth Cross at SX 18527121, with branch access roads to the commencement of the dam (Work No. 1A), to a valve house at the foot of the said dam and to the fish trap (part of Work No. 4).
- (g) Work No. 4—A weir and fish trap on the St. Neot River at SX 18017085 with holding tanks and loading facilities.

7. In the construction of any of the works authorised by this order the Authority may deviate laterally to any extent not exceeding the limits of deviation therefor shown on the deposited plans and they may deviate vertically from the levels therefor shown on the deposited sections to any extent:

Limits of deviation.

Provided that the dams (Works Nos. 1A, 1B and 1C) shall not be constructed at a greater height above the surface of the ground than that shown on the said sections and two metres in addition thereto.

8. For the purpose of establishing telegraphic, telephonic or other electrical communication between their offices and any part of their works or between different parts of their works, the Authority may lay and erect in, on or over any highway and, with the consent of the owners and occupiers of any other land, in, on or over that land such wires, posts, conductors and other apparatus as they deem necessary.

Powers of Authority to lay or erect telephone wires, etc.

9.—(1) Subject to the provisions of this order and within the limits of deviation shown on the deposited plans, the Authority, in connection with and for the purposes of the works authorised by this order, may—

General power to construct subsidiary works.

- (a) make junctions and communications between any of those works and any watercourses and any existing streets, roads, droves, ways, fords, bridges, towing paths and footpaths;
- (b) make, provide and maintain all necessary and convenient walls, banks, embankments, grout curtains, piling, fences, facilities for watering cattle and other animals, culverts, drains, intakes, syphons, channels, weirs, gauges, gauging stations, measuring devices, sluices, buildings, wharves, slipways, mattresses, pitching,

roads, dromes, bridges, towing paths and footpaths, and all such mains, pipes, cables, wires, pumps, machinery, electricity generating plant, substations, transformer compounds, switchyards, radio aeri-als, 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) construct and maintain new fords across watercourses and approaches to such fords, and widen, lengthen, alter and reconstruct existing fords and the approaches thereto;
- (e) stop up and discontinue so much of the watercourses shown on the deposited plans as will be rendered unnecessary by reason of the execution of the works;
- (f) dispose of spoil or other material;
- (g) execute any works for the protection of any adjoining lands or buildings;
- (h) 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;
- (i) fell, lop or cut and remove any tree, bush, shrub or other vegetation; and
- (j) alter any mains, pipes, wires and other works and apparatus for conveying or transmitting water, 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 Authority shall cause as little detriment and inconvenience to any person as circumstances admit.

(3) The powers of paragraph (1)(c) 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 for the Environment.

Construc-
tion of new
road.

10.—(1) All work in connection with the construction of the new road (Work No. 2) shall be done under the superintendence and to the reasonable satisfaction of the County Council.

(2) As from its completion the new road (Work No. 2) shall be maintained and repaired by, and at the expense of, the Authority for a period of one year after the opening thereof for public use and at the expiration of that period the surface of the new road shall vest in the County Council as a highway maintainable at the public expense.

(a) 1928 c. 32.

(3) Any dispute between the Authority and the County Council under this article shall be determined by arbitration.

11.—(1) Subject to the provisions of this article, the Authority may stop up and extinguish all rights of way over so much of the road from Lords Waste to St. Neot which is shown between the points marked A11 and A12 on the deposited plans as shall be bounded on both sides by lands which may be acquired by the Authority under the powers of this order, and such other portions of the said road as may be agreed by the County Council. Stopping up of road.

(2) Notwithstanding anything in paragraph (1) of this article, no portion of the said road shall be stopped up under this article until the new road (Work No. 2), has been completed to the reasonable satisfaction of the County Council in accordance with article 10 (Construction of new road) of this order and is open for public use.

12. Subject to the provisions of this article, the Authority may stop up the portion of the footpath in the Parish of St. Neot in the District of Caradon which is shown between the points marked B1 and B2 on the deposited plans, and thereupon all public rights of way over so much of any such footpath as is so stopped up shall be extinguished. Stopping up of footpath.

Provided that no part of any such portion of footpath as is referred to in this article shall be stopped up until the Authority are in possession of the lands on both sides of such footpath along the complete length to be stopped up as delineated on the deposited plans, except so far as the owners, lessees and occupiers of those lands may otherwise agree.

13.—(1) The Authority during and for the purposes of the execution of any of the works authorised by this order or obtaining materials for the construction thereof may temporarily stop up, alter, divert or otherwise interfere with any watercourse or 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 for the Environment.

(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 arbitration.

For protection of Post Office.

14.—(1) Where in pursuance of article 11 (Stopping up of road) of this order the Authority stop up the whole or any part of the road mentioned in the said article the following provisions shall, unless otherwise agreed in writing between the Authority and the Post Office, have effect in relation to so much of any telegraphic line belonging to, or used by, the Post Office as is under, in, upon, over, along or across the land which by reason of stopping up of the road, or part of the road, ceases to be a road or part of a road (in this paragraph referred to as "the affected line") that is to say:—

(a) the power of the Post Office to remove the affected line shall be exercisable notwithstanding the stopping up, so however that the said power shall not be exercisable as respects the whole or any part of the affected line after the expiration of a period of three months from the date of the sending of the notice referred to in sub-paragraph (e) of this paragraph unless, before the expiration of that period, the Post Office has given notice to the Authority of its intention to remove the affected line, or that part thereof, as the case may be;

(b) the Post Office may, by notice in that behalf to the Authority, abandon the affected line, or any part thereof, and shall be deemed, as respects the affected line or any part thereof, to have abandoned it at the expiration of the said period of three months unless, before the expiration of that period, the Post Office has removed it or given notice of its intention to remove it;

(c) the Post Office shall be entitled to recover from the Authority the expense of providing, in substitution for the affected line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the affected line, a telegraphic line in such other place as the Post Office may reasonably require;

(d) where under sub-paragraph (b) of this paragraph the Post Office has abandoned the whole or any part of the affected line, it shall vest in the Authority, and the provisions of the Telegraph Acts 1863 to 1916 shall not apply in relation to it as respects anything done or omitted after the abandonment thereof;

(e) as soon as practicable after the whole or any part of the said road has been stopped up under the powers of the said article 11 the Authority shall send by post to the Post Office a notice informing it of such stopping up.

(2) The exercise of the powers conferred by article 13 (Temporary stoppage of watercourses, highways, etc.) of this order 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.

(3) In this article "telegraphic line" has the same meaning as in the Telegraph Act 1878(a).

15. In arbitrations under this order the reference shall be to a single Arbitration. arbitrator to be appointed by agreement between the parties or, in default of agreement, by the Secretary of State for the Environment.

A. G. Semple,

Signed by authority of
the Secretary of State

An Under Secretary in the
Department of the Environment.

21st December 1978.