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STATUTORY INSTRUMENTS

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1974 No. 2227 (S. 201)

WATER SUPPLY, SCOTLAND

**The South-East of Scotland Water Board (Megget Reservoir etc.) Water Order 1974**

*Made* - - - - - 31st December 1974  
*Coming into Operation* 31st January 1975

The Secretary of State, in exercise of the powers conferred upon him by sections 21(2) and 44(1) of the Water (Scotland) Act 1946(a), as amended by the Water (Scotland) Act 1949(b) and the Water (Scotland) Act 1967(c), and conferred upon him by section 23 of the Water (Scotland) Act 1949 as amended by the Water (Scotland) Act 1967, and of all other powers enabling him in that behalf, on the application of the South-East of Scotland Water Board hereby makes the following order:—

PART I

*Citation and commencement*

1. This order may be cited as the South-East of Scotland Water Board (Megget Reservoir etc.) Water Order 1974 and shall come into operation on 31st January 1975.

*Interpretation*

- 2.—(1) In this order, unless the context otherwise requires—
- “the Act” means the Water (Scotland) Act 1946;
  - “approved” means approved by the Secretary of State;
  - “Board” means the South-East of Scotland Water Board;
  - “Commissioners” means the River Tweed Commissioners;
  - “County Council” means the County Council of the County of Selkirk;
  - “day” in a context referring to taking water means a period of twenty-four hours reckoned from midnight;
  - “deposited plans” means the plans and sections, comprising Sheets Nos. 1 to 8, each prepared in duplicate, sealed with the seal of the Secretary of State for Scotland and marked “The South-East of Scotland Water Board (Megget

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(a) 1946 c. 42.  
(c) 1967 c. 78.

(b) 1949 c. 31.

Reservoir etc.) Water Order 1974”, one copy of each of which is deposited in the office of the Scottish Development Department, St. Andrew’s House, Edinburgh, and the other in the office of the Clerk to the Board at Edinburgh;

“engineer” means the Board’s engineer for the time being;

“gauge” includes a gauge, weir or other apparatus for measuring the flow of water;

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

“the Loch” means St. Mary’s Loch, situated in the Parish of Yarrow and the County of Selkirk;

“Purification Board” means the Tweed River Purification Board;

“relevant statutory requirement” means section 52 of the Edinburgh Corporation Order 1958(a), sections 8 and 9 of the West Lothian Water Board (West Water and Baddingsill Reservoirs) Water Order 1961(b) and sections 9 and 10 of the Edinburgh Corporation (Fruid Reservoir Etc.) Water Order 1962(c);

“reservoir” means the Megget reservoir;

“river inspector” means the Purification Board’s river inspector for the time being;

“undertaking” means the undertaking for the time being of the Board;

“works” means the works described in Schedule 1 to this order which the Board in exercise of the powers conferred on them by section 24 of the Act, with the consent of the Secretary of State, and in the lines and situations and according to the levels shown on the deposited plans Sheets Nos. 3 to 8, propose to construct and maintain for the purposes of providing a supply of water within their region when they have acquired the necessary land or sufficient rights therein;

“year” means a period from and including the first day of April in any year to and including the thirty-first day of March in the following year.

(2) A work identified by the number of the work shall be construed as a reference to the work of that number described in Schedule 1 to this order.

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

(4) Where any provision of this order specifies both a metric measurement and an imperial measure, the imperial measure shall for the purposes of the said provision be deemed to be equivalent to the metric measurement.

*Incorporation and application of provisions of the Fourth Schedule to the Act*

3. The provisions of section 2 (permissible limits of deviation), section 6 (penalty for obstructing construction of works), section 8 (persons under disability may grant servitudes etc.) and section 9 (extinction of private rights of way) of Part II, of section 10(3), (4) and (5) (supplementary provisions relating to compensation water) of Part III, of section 11 (relating to underlying minerals)

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(a) See 1958 c. v.  
(c) S.I. 1962/781.

(b) S.I. 1961/2126.

of Part IV, of section 42 (penalty for obstructing execution of this order), section 43 (proceedings for offences) and section 44 (liability of Board to pay compensation) of Part IX of the Fourth Schedule to the Act, all modified and adapted in terms of section 44(1) of the Act and set out in Schedule 2 to this order, apply to the water undertaking to which this order relates.

*Incorporation and application of provisions of the Railway Clauses Consolidation (Scotland) Act 1845 and the Lands Clauses Acts*

4. For the purposes of this order, section 6 of the Railways Clauses Consolidation (Scotland) Act 1845(a) and the Lands Clauses Acts, with the exception of section 127 of the Lands Clauses Consolidation (Scotland) Act 1845(b), are hereby incorporated with this order and those Acts and the enactments relating to compensation payable in respect of the compulsory purchase of lands shall apply accordingly, subject to the aforesaid exception and to the exceptions and modifications specified in Parts I and II of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947(c).

## PART II

### *Water rights*

5. Subject to the provisions of this order, the Board may for the purposes of their undertaking by means of the works—

- (i) impound and take the waters of the Megget Water and of all springs, feeders and tributaries thereof upstream of the site of the dam (Work No. 2) in the Parish of Yarrow and County of Selkirk;
- (ii) impound and take the waters of the Loch and of all springs, feeders and tributaries thereof in the Parish of Yarrow and County of Selkirk; and
- (iii) take water from the River Tweed in the Parish of Stobo and County of Peebles.

6. During the construction of the works the Board may take such water as they may require for such construction from the Megget Water and its tributaries by means of temporary intakes (Works Nos. 5a, 5b and 5c) or otherwise, from the Loch and from the River Tweed.

7.—(1) Subject to the provisions of this article, from a date not later than 24 months after the date when the water level in the reservoir (Work No. 3) has for the first time reached the level of the overflow incorporated in the dam (Work No. 2) the Board shall—

- (a) discharge from the reservoir (Work No. 3) such quantities of water as will maintain in the Megget Water during every day a uniform and continuous flow measured through or over an approved gauge “C” (Work No. 5) of:—
  - (i) in any year during the period from and including the first day of April to and including the thirty-first day of October, not less than 41,000 cubic metres (9,020,000 gallons) per day;

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(a) 1845 c. 33.  
(c) 1947 c. 42.

(b) 1845 c. 19.

- (ii) in any year during the period from and including the first day of November to and including the thirty-first day of March, not less than 13,500 cubic metres (2,970,000 gallons) per day:

Provided that the quantities so discharged and measured through or over an approved gauge "B" (Work No. 4) shall not be less than 9,000 cubic metres (1,980,000 gallons) per day;

- (b) without prejudice to the uniform and continuous flow provided for in subparagraph (a) of this paragraph and subject to the provisions of article 8 of this order, discharge into the Megget Water from the reservoir (Work No. 3) additional quantities of water (hereinafter termed "reservoir freshets") provided that as measured through or over an approved gauge "A" incorporated in the dam (Work No. 2)—

- (i) the aggregate of quantities of reservoir freshets discharged shall not exceed:—

- (A) in any year 912,000 cubic metres (201,000,000 gallons);
- (B) in any period of 28 consecutive days 545,000 cubic metres (119,900,000 gallons); and
- (C) in any period of 7 consecutive days 270,000 cubic metres (59,000,000 gallons); and

- (ii) the rate of discharge of reservoir freshets shall not exceed 135,000 cubic metres (29,700,000 gallons) per day;

- (c) discharge from the Loch such quantities of water as will maintain in the Yarrow Water during every day a uniform and continuous flow measured through or over an approved gauge "E" incorporated in the fixed sill (part of Work No. 7) of:—

- (i) in any year during the period from and including the first day of April to and including the thirty-first day of October, not less than 100,000 cubic metres (22,000,000 gallons) per day;

- (ii) in any year during the period from and including the first day of November to and including the thirty-first day of March, not less than 54,000 cubic metres (11,900,000 gallons) per day; and

- (d) without prejudice to the uniform and continuous flow provided for in subparagraph (c) of this paragraph and subject to the provisions of article 8 of this order, discharge into the Yarrow Water from the Loch additional quantities of water (hereinafter termed "Loch freshets") through the existing outlet culvert and channel (part of Work No. 7) from the Loch provided that as measured through or over an approved gauge "F" incorporated in the existing outlet (part of Work No. 7)—

- (i) the aggregate of quantities of Loch freshets discharged shall not exceed:—

- (A) in any year 3,680,000 cubic metres (809,000,000 gallons);
- (B) in any period of 28 consecutive days 750,000 cubic metres (165,000,000 gallons); and
- (C) in any period of 7 consecutive days 360,000 cubic metres (79,200,000 gallons); and

- (ii) the rate of discharge of Loch freshets shall not exceed 180,000 cubic metres (39,600,000 gallons) per day:

except that—

(1) until the first day of January 1987—

(A) the aggregate of quantities of Loch freshets discharged shall not exceed:—

- (i) in any year 7,000,000 cubic metres (1,540,000,000 gallons);
- (ii) in any period of 28 consecutive days 825,000 cubic metres (181,500,000 gallons); and
- (iii) in any period of 7 consecutive days 396,000 cubic metres (87,100,000 gallons); and

(B) the rate of discharge of Loch freshets shall not exceed 198,000 cubic metres (43,600,000 gallons) per day; and

(2) until the first day of January 1987 or until such later date as may be agreed between the Board and the Purification Board, the river inspector shall after consulting the Commissioners on giving to the engineer not less than 7 days' notice be entitled, for the purposes of river control tests, to requisition an increase in Loch freshets up to a maximum—

- (i) in any period of 28 consecutive days of 1,650,000 cubic metres (363,000,000 gallons);
- (ii) in any period of 7 consecutive days of 750,000 cubic metres (165,000,000 gallons); and
- (iii) a rate of 360,000 cubic metres (79,200,000 gallons) per day for not more than 8 days in the period from and including the first day of April to and including the thirtieth day of September:

Provided that,

(a) in the event of the quantity discharged in any period of 28 days exceeding 825,000 cubic metres (181,500,000 gallons), the engineer may require that the total discharge in that period and the immediately ensuing period of 28 days shall not exceed 1,650,000 cubic metres (363,000,000 gallons); and

(b) the engineer may impose such operational conditions as he may consider necessary or reasonable in the interest of maintenance of supplies of water from the reservoir or of safety.

(2) When the Board have completed the control works (Work No. 8) and have commenced to take water from the Loch under the provisions of article 5(ii) of this order the provisions contained in paragraphs (1)(c) and (d) of this article shall cease to apply and the Board shall—

(a) discharge or cause or permit to flow into the Yarrow Water from the Loch during every day in a uniform and continuous flow quantities of water measured through or over an approved gauge "D" incorporated in the control works (Work No. 8) as follows:—

- (i) in any year during the period from and including the first day of April to and including the thirty-first day of October, not less than 100,000 cubic metres (22,000,000 gallons) per day;

- (ii) in any year during the period from and including the first day of November to and including the thirty-first day of March, not less than 54,000 cubic metres (11,900,000 gallons) per day; and
- (b) without prejudice to the uniform and continuous flow provided for in subparagraph (a) of this paragraph and subject to the provisions of article 8 of this order, discharge Loch freshets into the Yarrow Water from the Loch provided that as measured through or over an approved gauge "D" incorporated in the control works (Work No. 8)—
  - (i) the aggregate of quantities of Loch freshets discharged shall not exceed:—
    - (A) in any year 7,360,000 cubic metres (1,619,000,000 gallons);
    - (B) in any period of 28 consecutive days 1,500,000 cubic metres (330,000,000 gallons); and
    - (C) in any period of 7 consecutive days 750,000 cubic metres (165,000,000 gallons); and
  - (ii) the rate of discharge of Loch freshets shall not exceed 360,000 cubic metres (79,200,000 gallons) per day:

except that, until the first day of January 1987—

- (A) the aggregate of quantities of Loch freshets discharged shall not exceed:—
  - (i) in any year 11,050,000 cubic metres (2,431,000,000 gallons);
  - (ii) in any period of 28 consecutive days 1,650,000 cubic metres (363,000,000 gallons); and
  - (iii) in any period of 7 consecutive days 825,000 cubic metres (181,500,000 gallons); and
- (B) the rate of discharge of Loch freshets shall not exceed 396,000 cubic metres (87,100,000 gallons) per day.

(3) In complying with the provisions of paragraphs (1)(c) and (d) of this article the Board shall not lower the level of the Loch below 246.13 metres (807.5 feet) ordnance datum (Newlyn) and in complying with the provisions of paragraph (2) of this article the Board shall not lower the level of the Loch below 245.67 metres (806.0 feet) ordnance datum (Newlyn) but shall, in addition to the discharges to be made under the provisions of paragraphs (1)(a) and (b) of this article discharge from the reservoir (Work No. 3) such quantities of water as will enable the Board to comply with the provisions of paragraphs (1)(c) and (d), (2) and (5) of this article.

(4) During the first filling of the reservoir (Work No. 3) and until the date when the provisions of paragraph (1) of this article come into operation—

- (i) at all times when the water level in the reservoir (Work No. 3) is below 306.9 metres (1007.0 feet) ordnance datum (Newlyn) the Board shall discharge into the Megget Water from the reservoir (Work No. 3) in a uniform and continuous flow quantities of water as measured through or over an approved gauge "B" (Work No. 4) of not less than:—

- (a) 18,000 cubic metres (3,960,000 gallons) per day during the period from and including the first day of April to and including the thirty-first day of October;
- (b) 9,000 cubic metres (1,980,000 gallons) per day during the period from and including the first day of November to and including the thirty-first day of March;
- (ii) at all times when the water level in the reservoir (Work No. 3) is 306.9 metres (1007.0 feet) ordnance datum (Newlyn), or above, but below 314.6 metres (1032.0 feet) ordnance datum (Newlyn), the Board shall comply with the provisions of paragraphs (1)(a) and (1)(c) of this article or, if the said paragraph (1)(c) has ceased to apply, with the provisions of paragraphs (1)(a) and (2)(a) of this article; and
- (iii) at all times when the water level in the reservoir (Work No. 3) is 314.6 metres (1032.0 feet) ordnance datum (Newlyn), or above, the Board shall comply with the provisions of subparagraph (ii) of this paragraph and of paragraphs (1)(b) and (1)(d) of this article or, if the said paragraph (1)(d) has ceased to apply, with the provisions of subparagraph (ii) of this paragraph and of paragraphs (1)(b) and (2)(b) of this article:

Provided that the Board shall not be required to comply with the provisions of subparagraphs (ii) and (iii) of this paragraph sooner than 48 hours after the water level in the reservoir (Work No. 3) reaches the levels specified in the said subparagraphs (ii) and (iii).

(5) In the event of an emergency developing in the river system below the Loch of such a nature as cannot be relieved by the discharges to be made under the foregoing provisions of this article, the Board shall, at the request of the river inspector, discharge from the Loch such additional quantities of water at such rates and for such periods as may be agreed between the engineer and the river inspector, provided that—

- (i) in the opinion of the engineer the yield of the reservoir for supply purposes at the time or within the ensuing 24 months would not be put at risk; and
- (ii) the total additional quantity so discharged in any year shall not be more than 1,365,000 cubic metres (300,000,000 gallons).

For the purposes of this paragraph an “emergency” shall be deemed to be a situation which impairs, or creates a substantial risk to the discharge of the functions of the Purification Board and shall be certified as such by the river inspector, in writing, to the engineer not later than 48 hours after any request for such additional discharge.

**8.** The times of commencement and cessation and the rate of discharge of reservoir freshets and Loch freshets under the provisions of article 7 of this order shall, subject to the provisions of this order, be determined by the Purification Board, provided that the Board shall not be required to discharge any freshet until the expiry of 48 hours (or in case of emergency such shorter period as may be agreed upon between the engineer and river inspector) from the time of receipt by the engineer of a request confirmed in writing by the river inspector for the discharge of a freshet.

9.—(1) On the expiry of ten years from the date on which this order comes into operation the average daily discharge of water from the Loch shall be assessed jointly by the Board and the Purification Board and if the Commissioners so desire the Commissioners.

(2) On the assessment of the average daily discharge of water from the Loch as aforesaid, if the deviation of the said assessment from 400,000 cubic metres (88,000,000 gallons) per day exceeds 10,000 cubic metres (2,200,000 gallons) per day, the quantities and rates of discharges specified in articles 7(1)(c) and (d) and 7(2) of this order shall be varied in the same ratio as the said assessment bears to the rate of 400,000 cubic metres (88,000,000 gallons) per day, and the said varied quantities and rates shall on the first day of January 1987 be substituted for those specified in articles 7(1)(c) and (d) and 7(2) of this order, except that the extent of any such variation in the quantities and rates of discharges specified in articles 7(1)(c) and (d) and 7(2) of this order shall be restricted to fifteen per centum thereof.

(3) Any difference arising between the Board and the Purification Board or the Commissioners on the said assessment shall be settled by arbitration. In the event of any such arbitration delaying later than the first day of January 1987 the giving effect to any variation provided for in paragraph (2) of this article, such giving effect shall be within sixty days of the receipt by the Board of the finding of the arbiter.

10.—(1) In the exercise of the powers conferred on the Board by article 5(iii) of this order the Board may for a period not exceeding ten years from the date on which this order comes into operation take from the River Tweed in a uniform and continuous flow such quantities of water as the engineer may from time to time determine but at a rate not exceeding 22,700 cubic metres (5,000,000 gallons) per day as measured through or over an approved gauge "G" (incorporated in Work No. 12), provided that at any time when the Board is so taking water, if the rate of flow in the said river at Lyne Ford is less than 200,000 cubic metres (44,000,000 gallons) per day—

- (i) the Board shall discharge from any one or any combination of its Talla, Fruid, Baddinsgill or West Water Reservoirs into the tributaries of the River Tweed quantities of water per day which as measured through or over the gauges at the said reservoirs approved for the measurement of the said discharge of compensation water from the said reservoirs, in total, shall be equal to the quantity of water per day being taken;
- (ii) such discharges shall be additional to any quantities of compensation water already being discharged from any of the said reservoirs in pursuance of any relevant statutory requirement; and
- (iii) the engineer shall have given the river inspector not less than 48 hours notice confirmed in writing of the quantity which will be taken and the reservoir or reservoirs from which water shall be discharged under the provisions of this paragraph.

(2) For the purposes of this article the rate of flow in the River Tweed shall be measured by the Purification Board's Lyne Ford gauge. The Board shall defray the cost of any reasonable expenditure which the Purification Board may incur in adapting the said gauge for the said purposes. The said gauge shall be



open to inspection by the Board's accredited representatives at all reasonable times.

(3) In the event of any differences arising between the Board and the Purification Board with reference to this article such differences shall be settled by arbitration.

**11.—**(1) If the powers to take water conferred by this order have not been exercised within ten years from the date on which this order comes into operation the said powers shall cease.

(2) If any of the powers to take water conferred by this order have been exercised within ten years from the date on which this order comes into operation then the provisions of paragraph (1) of this article shall not apply to any of the said powers.

### PART III

#### *Acquisition of lands*

**12.** Subject to the provisions of this order, the Board are hereby authorised to purchase compulsorily for the purposes of constructing the works the areas of land delineated in red on the deposited plans Sheets Nos. 3, 5, 7 and 8 and the servitudes delineated in green on the deposited plans Sheets Nos. 3 and 5 and described in Schedule 3 to this order.

#### *Period for compulsory purchase of land*

**13.** The powers of the Board under this order for the compulsory purchase of lands for the purposes of this order shall cease on the expiry of five years from the date on which this order comes into operation.

#### *Provisions as to Work No. 1*

**14.** Notwithstanding anything in Schedule 1 to this order the following provisions of this article shall have effect with respect to Work No. 1:—

(1) before commencing construction of Work No. 1, the Board shall submit to the County Council for their approval (which approval shall not be unreasonably withheld) plans, sections and particulars relating thereto and, notwithstanding anything shown on the deposited plans Sheets Nos. 3 and 4 the said works shall not be constructed otherwise than in accordance with such plans, sections and particulars as approved by the County Council. On completion of the improvement and diversion of the public road in the Valley of the Megget Water (part of Work No. 1) in accordance with the said plans, sections and particulars, the same shall be taken over by the County Council provided that the taking over as aforesaid shall not render the County Council responsible for any maintenance works on the said public road which may become necessary arising from the effect of wave action in the reservoir on any embankments, culverts or bridges and the Board shall be responsible for the carrying out of all such maintenance works and for the provision of any necessary protective works against the wave action in the reservoir; and

(2) in the event of any dispute between the Board and the County Council arising out of or in connection with any of the matters referred to in this article, the same shall be settled by arbitration.

*Provisions as to Work No. 8*

**15.** Notwithstanding anything in Schedule 1 to this order the following provisions of this article shall have effect with respect to Work No. 8:—

(1) before commencing the construction of the fish pass or ladder to be incorporated in the control works (Work No. 8), the Board shall submit to the Commissioners for their approval (which approval shall not be unreasonably withheld) plans, sections and particulars relating thereto and, notwithstanding anything shown on the deposited plans Sheets Nos. 3 and 4, the said fish pass or ladder shall be constructed in accordance with such plans, sections and particulars as approved by the Commissioners; and

(2) in the event of any dispute between the Board and the Commissioners arising out of or in connection with any of the matters referred to in this article the same shall be settled by arbitration.

*Works to form part of water undertaking*

**16.** The works specified in Schedule 1 to this order other than that part of Work No. 1 taken over by the County Council as aforesaid shall for all purposes form part of the undertaking.

PART IV

*Miscellaneous*

**17.** The Board shall at all times after the expiration of six months from the date on which this order comes into operation keep at their principal office a copy thereof and of the deposited plans.

Given under the seal of the Secretary of State for Scotland.

*John Kerr,*  
Assistant Secretary.

(L.S.)

Scottish Development Department,  
St. Andrew's House,  
EDINBURGH.

31st December 1974.

SCHEDULE 1

The following Works Nos. 1 to 9 referred to in this order and shown on the deposited plans Sheets Nos. 3 and 4 are:—

*In the Parish of Yarrow and County of Selkirk*

Work No. 1

An improvement of so much of the public road in the valley of the Megget Water as extends from its junction with the route A. 708, near Cappercleuch, to its crossing of the Glengaber Burn and a diversion of so much of the said public road as extends from the said crossing to a point on the said public road 280 metres (306 yards) east of Meggethead farmhouse with the necessary bridges, culverts, embankments, cuttings, drains, passing places, accesses, parking places, fencing and ancillary works, including any necessary protective works against wave action in the reservoir.

Work No. 2

An embankment dam across the valley of the Megget Water, 820 metres (900 yards) upstream of its confluence with the Glengaber Burn incorporating an overflow at a level of 333.15 metres (1093 feet) ordnance datum (Newlyn), outlets, an approved gauge "A" and ancillary works with access thereto from the diversion of the public road part of Work No. 1.

Work No. 3

A reservoir extending from the dam (Work No. 2) to a point on the Megget Water 370 metres (405 yards) east of Meggethead farmhouse with access thereto from the diversion of the public road part of Work No. 1.

Work No. 4

An approved gauge "B" on the Megget Water, 10 metres (11 yards) upstream of its confluence with the Glengaber Burn.

Work No. 5

An approved gauge "C" on the Megget Water, 280 metres (306 yards) downstream of its confluence with the Glengaber Burn with access thereto from the dam (Work No. 2).

Work No. 5a

A temporary intake on the Craigierig Burn, 370 metres (405 yards) upstream of the bridge over the said burn at Craigielee.

Work No. 5b

A temporary intake on the Cramalt Burn, 580 metres (634 yards) upstream of the bridge over the said burn at Cramalt.

Work No. 5c

A temporary intake on the Megget Water, 300 metres (330 yards) north north east of Shielhope Farm.

Work No. 6

An access road on the line of the existing Bowerhope farm road, extending from the junction of the said farm road with route A. 708 to a point on the said farm road adjacent to the existing outlet sluice at the Loch.

Work No. 7

River and loch shore protection works and ancillary works; a fixed sill at a level of 246.58 metres (809 feet) ordnance datum (Newlyn) at the outlet of the Loch, incorporating an approved gauge "E"; an approved gauge "F" incorporated in the existing outlet culvert and channel from the Loch.

Work No. 8

Control works and channel at the outlet of the Loch, incorporating an approved gauge "D" and a fish pass or ladder.

Work No. 9

An intake and pumping station, with ancillary works, adjacent to the Loch, extending therefrom under and to the west of route A.708, at a point on the said route 530 metres (580 yards) south of the bridge over the Megget Water with access thereto from the said route on both sides thereof.

The following Works Nos. 10 and 11 referred to in this order and shown on the deposited plan Sheet No. 5 are:—

*Partly in the Parish of Yarrow and County of Selkirk and partly in the Parish of Manor and County of Peebles*

Work No. 10

A tunnelled aqueduct extending from a point 500 metres (550 yards) west of the centre line of the dam (Work No. 2) in the Parish of Yarrow and County of Selkirk incorporating inlet works in the area of the reservoir (Work No. 3) to the outlet works (Work No. 11) in the Parish of Manor and County of Peebles with access to the said inlet works from the diversion of the public road part of Work No. 1.

*In the Parish of Manor and County of Peebles*

Work No. 11

Outlet works situated adjacent to the Manor Water at a point 260 metres (284 yards) upstream of the confluence of the Newholm Hope Burn and the Manor Water with access from the public road in the valley of the Manor Water from a point on the said public road 120 metres (132 yards) south of the point where it crosses the Newholm Hope Burn.

*In the Parish of Stobo and County of Peebles*

Work No. 12

A temporary intake and pumping station situated on the River Tweed and incorporating an approved gauge "G", 70 metres (77 yards) downstream from the footbridge at Lyne Ford with access thereto from the public road extending between Millbraehead in the Parish of Manor and Lynesmill Bridge in the Parish of Stobo as shown on deposited plan Sheet No. 7.

*In the Parish of Eddleston and County of Peebles*

Work No. 13

A booster station situated adjacent to the public road between Silverdean and Westloch Farm 230 metres (250 yards) north of the junction of the said public road with route A.703 with access thereto from the said public road as shown on deposited plan Sheet No. 8.

*Article 3*

SCHEDULE 2

The provisions of the Fourth Schedule to the Act referred to in this order are:—

Section 2

In the construction of the works the Board may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plans Sheets Nos. 3, 5, 7 and 8 and they may also deviate vertically from the levels shown on the deposited plans Sheets Nos. 4, 5, 7 and 8 to any extent:

Provided that—

- (a) No embankment for the reservoir shall be constructed at a greater height above the general surface of the ground than that shown on the said plans and 2 metres (6 feet) in addition thereto; and
- (b) Except for the purpose of crossing a stream, canal, dyke, watercourse or railway, or of crossing any lands where the consent of all persons interested in those lands has been obtained, no pipe or other conduit or aqueduct shall be raised above the surface of the ground otherwise than in accordance with the deposited plans.

#### Section 6

Any person who wilfully obstructs a person engaged by or under authority of the Board in setting out the line or site of the works, or knowingly pulls up any peg or stake driven into the ground for the purpose of setting out such line or site or knowingly defaces or destroys anything made or erected for that purpose, shall be liable to a fine not exceeding five pounds.

#### Section 8

Persons empowered by the Lands Clauses Acts to sell, convey and dispose of any lands may, subject to the provisions of those Acts, grant to the Board any servitude or right required for the purposes of this order over or in those lands, and the provisions of the Lands Clauses Acts with respect to lands and feu duties, ground annuals, rents or other annual or recurring payments shall, so far as applicable, apply in relation to such grants and to such servitudes and rights:

Provided that nothing in this section shall be construed as empowering persons to grant any servitude or right of water in which any other person has an interest, unless that other person concurs in the grant.

#### Section 9

(1) Any private right of way over land which the Board are authorised to acquire compulsorily shall, if they so resolve and give notice of their resolution to the owner of the right, be extinguished as from the acquisition by them of the land, or as from the expiration of one month from the service of the notice, whichever may be the later.

(2) The Board shall pay compensation to all persons interested in respect of any such right so extinguished, and such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with respect to the taking of lands otherwise than by agreement.

#### Section 10(3)

If the Board—

- (a) fail to instal or maintain in good order any such gauge as is mentioned in this order, or refuse to allow any person interested to inspect and examine any such gauge or any records made thereby or kept by them in connection therewith or to take copies of any such records; or
- (b) take any water contrary to the provisions of this order,

they shall without prejudice to their civil liability, if any, to a person aggrieved, be liable, in the case of an offence under paragraph (a) of this subsection, on summary conviction to a fine not exceeding £50 in respect of each day on which the offence has been committed or has continued, and in the case of an offence under paragraph (b) of this subsection—

- (i) on summary conviction to a fine not exceeding £50 in respect of each such day; and
- (ii) on conviction on indictment to a fine not exceeding £500 in respect of each such day.

#### Section 10(4)

For the purposes of this order a fishery district board shall be deemed to be interested in the flow of water in any stream within their fishery district or any stream feeding such a stream and shall be deemed to be aggrieved by the commission of an offence under this order in relation to any such stream.

#### Section 10(5)

The provisions of this order shall be deemed to have been accepted by all persons interested as providing full compensation for all water taken by the works.

#### Section 11

When the Board purchase any land, they shall become entitled to such parts of any mines of coal, ironstone, slate or other minerals under that land as it may be necessary for them to dig, carry away or use in the construction of any works referred to in this order but, save as aforesaid, they shall not by virtue only of their purchase of the land become entitled to any such mines or minerals which shall, save as aforesaid, be deemed to be excepted from the conveyance of the land unless expressly mentioned therein as conveyed thereby.

#### Section 42.

A person who wilfully obstructs any person acting in the execution of this order shall be liable to a fine not exceeding five pounds and to a further fine not exceeding five pounds for each day on which the offence continues after conviction therefor.

#### Section 43.

(1) Save as otherwise expressly provided all offences and fines under this order may be prosecuted and recovered under the Summary Jurisdiction (Scotland) Acts.

(2) Any offence under this order (other than an offence in respect of which if it is continued a further penalty may be imposed) for which the maximum penalty that may be imposed does not exceed £10 may be prosecuted in any court of summary jurisdiction within the meaning of the Summary Jurisdiction (Scotland) Act 1954 having jurisdiction in the place where the offence was committed.

#### Section 44

In any case where no express provision with respect to compensation is made by this order the Board shall pay to the owners and occupiers of, and all other persons interested in, any lands or streams taken or used for the purposes of this order, or injuriously affected by the construction or maintenance of any works referred to in this order or otherwise by the execution of the powers thereby conferred, compensation for the value of the lands or streams so taken or used and for all damage sustained by those owners, occupiers and other persons by reason of the exercise as to those lands and streams of the powers conferred on the Board by this order or any Act incorporated therewith.

The amount of such compensation shall, in case of dispute, be settled in manner provided by the Lands Clauses Acts with reference to the taking of lands otherwise than by consent.

## SCHEDULE 3

The lands and servitudes in the Parish of Yarrow and County of Selkirk and in the Parishes of Manor, Stobo and Eddleston and County of Peebles which the Board are authorised to purchase compulsorily referred to in this order and shown on the deposited plans Sheets Nos 3, 5, 7 and 8.

| Reference on Deposited Plans | Quantity, description and situation of the land                                                                                                                                                                                                                                                                                                                                                                                                                    | Owners or reputed owners                                                                                                                               | Lessees or reputed lessees | Occupiers (other than tenants for one month or less period than one month)                     |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|------------------------------------------------------------------------------------------------|
| 1<br>(Sheet No. 3)           | <i>In the Parish of Yarrow and County of Selkirk</i><br>Area 350 hectares (860 acres) or thereby in farm roads, paddocks, sheep parks and rough grazing land comprising parts of the lands of Syart, Shielhope and Winterhopeburn Farm, Meggethead Farm and Cramalt Farm together with Craigelee Cottage, and garden ground and the whole buildings of Shielhope, Cramalt, Cramalt Lodge and Cramalt Church, Craigerig and the Woodlands at Shielhope and Cramalt. | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Tods, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | None                       | Owners                                                                                         |
| 1A<br>(Sheet No. 3)          | Area 10.0 hectares (24.7 acres) or thereby as a strip of ground 6 metres (6.6 yards) or thereby in width within which lies part of the public road in the valley of the Megget Water.                                                                                                                                                                                                                                                                              | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Tods, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | None                       | The County Council of the County of Selkirk, per the County Clerk, PO Box 6, Selkirk, TD7 4BU. |

| Reference on Deposited Plans | Quantity, description and situation of the land                                                                                                                                               | Owners or reputed owners                                                                                                                               | Lessees or reputed lessees                        | Occupiers (other than tenants for one month or less period than one month) |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|----------------------------------------------------------------------------|
| 1B<br>(Sheet No. 3)          | Area 0.074 hectare (0.182 acre) or thereby comprising Megget School Schoolhouse, garage and shed and garden ground.                                                                           | The County Council of the County of Selkirk, per the County Clerk, PO Box 6, Selkirk TD7 4BU.                                                          | None                                              | Miss A. M. Brown, Megget School Schoolhouse, Yarrow, by Selkirk.           |
| 2<br>(Sheet No. 3)           | Area consisting of five strips of ground amounting in all to 5.7 hectares (14.1 acres) or thereby in rough grazing land and roadside verges comprising parts of the lands of Henderland Farm. | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Tods, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | J. Mitchell, Henderland Farm, Yarrow, by Selkirk. | Lessee                                                                     |
| 3<br>(Sheet No. 3)           | Area 0.28 hectare (0.69 acre) or thereby in rough grazing land and in the bed of the Megget Water comprising parts of the lands of Henderland Farm.                                           | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Tods, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | J. Mitchell, Henderland Farm, Yarrow, by Selkirk. | Lessee                                                                     |



|                    |                                                                                                                                                                                                                        |                                                                                                                                                         |                                                   |        |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|--------|
| 4<br>(Sheet No. 3) | Servitude for vehicular traffic over a strip of ground 220 metres (245 yards) or thereby in length by 5 metres (5.4 yards) or thereby in width in rough grazing land comprising parts of the lands of Henderland Farm. | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Todds, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | J. Mitchell, Henderland Farm, Yarrow, by Selkirk. | Lessee |
| 5<br>(Sheet No. 5) | Servitude 3720 metres (4068 yards) or thereby in length by 5 metres (5.4 yards) or thereby in width under rough grazing land comprising parts of the lands of Cramalt Farm.                                            | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Todds, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | None                                              | Owners |
| 6<br>(Sheet No. 3) | Area 1.94 hectares (4.8 acres) or thereby in the bed of the Loch, Loch margin land and rough grazing land comprising parts of the lands of Henderland Farm.                                                            | The Trustees of the Discretionary Trust of the Earl of Wemyss and March, per Messrs. Todds, Murray & Jamieson, WS, 66 Queen Street, Edinburgh, EH2 4NE. | J. Mitchell, Henderland Farm, Yarrow, by Selkirk. | Lessee |

| Reference on Deposited Plans | Quantity, description and situation of the land                                                                                                                                                               | Owners or reputed owners                                                                                                                                                                                           | Lessees or reputed lessees                                                                                                                     | Occupiers (other than tenants for one month or less period than one month) |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| 7<br>(Sheet No. 3)           | Area 2.12 hectares (5.2 acres) or thereby in Loch margin land and bed of the Yarrow Water and left bank thereof comprising parts of the lands of Kirkstead Farm.                                              | The Trustees of the Philiphough Trust, per Messrs. A. J. & A. Graham, 198 West George Street, Glasgow, G2 2PB.                                                                                                     | R. A. McClymont, Kirkstead Farm, Yarrow, by Selkirk.                                                                                           | Lessee                                                                     |
| 8<br>(Sheet No. 3)           | Area 5.43 hectares (13.4 acres) or thereby in Loch margin land, farm road, rough grazing land, plantation and bed of the Yarrow Water and right bank thereof comprising parts of the lands of Bowerhope Farm. | J. C. Lewis, Berwick Court Farm, Berwick Nr. Polegate, Sussex, per John Sale and Partners, 18-20 Glendale Road, Wooler, Northumberland, NE71 6DW.                                                                  | W. Bell, Bowerhope Farm, Yarrow, by Selkirk.                                                                                                   | Lessee                                                                     |
| 9<br>(Sheet No. 3)           | Area 8.92 hectares (22.0 acres) or thereby in bed of the Loch comprising parts of the lands of Kirkstead Farm and parts of the lands of Bowerhope Farm.                                                       | The Trustees of the Philiphough Trust, per Messrs. A. J. & A. Graham, 198 West George Street, Glasgow, G2 2PB, & J. C. Lewis, Berwick Court Farm, Berwick, Nr. Polegate, Sussex, per John Sale and Partners, 18-20 | R. A. McClymont, Kirkstead Farm, Yarrow, by Selkirk, & W. Bell, Bowerhope Farm, Yarrow, by Selkirk, for their respective rights and interests. | Lessees                                                                    |

|                      |                                                                                                                                                                                                                                      |                                                                                             |                                                             |        |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|-------------------------------------------------------------|--------|
| 10<br>(Sheet No. 3)  | Area 0.97 hectare (2.4 acres) or thereby in farm road, arable land and bed of the Yarrow Water and left bank thereof comprising parts of the lands of Dryhope Farm.                                                                  | Glendale Road, Wooler, Northumberland, NE71 6DW, for their respective rights and interests. | James Robertson, Dryhope Farm, Yarrow, by Selkirk.          | Lessee |
| 11<br>(Sheet No. 3)  | Area 0.75 hectare (1.85 acres) or thereby in arable land and bed of the Yarrow Water and right bank thereof comprising parts of the lands of Altrieve Farm.                                                                          | The Buccleuch Estates Ltd, Thornybank, Dalkeith, Midlothian.                                | W. B. Barrie, Altrieve Farm, Yarrow, by Selkirk.            | Lessee |
| 11A<br>(Sheet No. 5) | <i>In the Parish of Manor and County of Peebles</i><br>Servitude 1130 metres (1235 yards) or thereby in length by 5 metres (5.4 yards) or thereby in width under rough grazing land comprising parts of the lands of Manorhead Farm. | C. M. Coubrough, Craigelea, Crawford, Biggar, ML12 6TW.                                     | Coubrough & Co. Ltd, Craigelea, Crawford, Biggar, ML12 6TW. | Lessee |
| 12<br>(Sheet No. 5)  | Servitude 2790 metres (3051 yards) or thereby in length by 5 metres (5.4 yards) or thereby in width under rough grazing land comprising parts of the lands of Langhaugh Farm.                                                        | John Maxwell, Langhaugh Farm, Kirkton Manor, by Peebles.                                    | None                                                        | Owner  |

| Reference on Deposited Plans | Quantity, description and situation of the land                                                                                                                                                                | Owners or reputed owners                                                                                                                                                                                                                                                                                 | Lessees or reputed lessees                           | Occupiers (other than tenants for one month or less period than one month) |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|----------------------------------------------------------------------------|
| 13<br>(Sheet No. 5)          | Area 6.4 hectares (15.8 acres) or thereby in rough grazing land and in the bed of the Manor Water and in the bed of the Newholm Hope Burn comprising parts of the lands of Langhaugh Farm.                     | John Maxwell, Langhaugh Farm, Kirkton Manor, by Peebles.                                                                                                                                                                                                                                                 | None                                                 | Owner                                                                      |
| 14<br>(Sheet No. 7)          | <i>In the Parish of Stobo and County of Peebles</i><br>Area 0.24 hectare (0.60 acre) or thereby in park land and bed of the River Tweed and left bank thereof comprising parts of the lands of Easter Happrew. | T. Hepburn & Sons, Easter Happrew, Farm, Stobo, Peeblesshire.                                                                                                                                                                                                                                            | None                                                 | Owners                                                                     |
| 15<br>(Sheet No. 8)          | <i>In the Parish of Eddleston and County of Peebles</i><br>Area 0.73 hectare (1.8 acres) or thereby in rough grazing land comprising parts of the lands of Westloch Farm.                                      | Mrs. Valerie Mary Raimondina Lane or Day, The Old Rectory, Lidgate, Newmarket, County of Suffolk, Mrs. Diana Valerie Hilda Scott or Humphrys, 20 Glencairn Crescent, Edinburgh, EH12 5BT, and Mrs. Maureen Angela Scott or Thomson, Boreland, Eddleston, Peebles, for their respective rights and inter- | W. Mitchell, Westloch Farm, Eddleston, Peeblesshire. | Lessee                                                                     |

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|  | ests per Messrs.<br>Robson, McLean<br>and Paterson, WS,<br>28 Abercromby<br>Place, Edinburgh,<br>EH3 6QF. |  |
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STATUTORY INSTRUMENTS

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1974 No. 2227 (S. 201)

**WATER SUPPLY, SCOTLAND**

**The South-East of Scotland Water Board (Megget  
Reservoir etc.) Water Order 1974**

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