



COMMONS REGISTRATIONS ACT 1965

Reference No. 220/U/22

In the Matter of land (Birchen Holts) near to
and on the north-west of Naden Higher
Reservoir, Rochdale Borough, Lancashire

DECISION

This reference relates to the question of the ownership of land (Birchen Holts) near to and on the north-west of Naden Higher Reservoir, Rochdale Borough being the land comprised in the Land Section of Register Unit No. CL173 in the Register of Common Land maintained by the Lancashire County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference no person claimed to be the freehold owner of the land in question and no one claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Burnley on 8 April and 9 December 1986. North West Water Authority were at the December part of the hearing represented by Mr J D Prytherch assistant solicitor of their legal department: he claimed that they are the owners of all the said land.

In the course of his oral evidence in support of the claim Mr Prytherch produced the conveyance specified in the First Schedule hereto (copy enclosed with NWW letter of 12 August 1986, filed on 220/U/24) and identified the land in this Register Unit with that by the conveyance first expressed to be conveyed and on the plan thereon coloured blue. He said that the land held by the Heywood Corporation being the grantee under the said conveyance was transferred to Heywood and Middleton Water Board by the Heywood Water Works Transfer Act 1898, that such Board was absorbed in the West Pennine Water Board under West Pennine Water Order 1968 (SI 1968 No. 512) and the land devolved on the North West Water Authority in 1974 under the Local Authorities (England) Property etc Order 1973 (SI 1973 No. 1861).

On this evidence I am satisfied that North West Water Authority are the owners of the land, and I shall accordingly direct the Lancashire County Council, as registration authority, to register North West Water Authority of Dawson House, Great Sankey, Warrington, WA5 3LW as the owners of the land under section 8(2) of the Act of 1965.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

TURN OVER



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SCHEDULE
(Document produced)

JDP/6

1 September 1888

Conveyance by (1) Henry Gerard Hoare as trustee, and (2) Henry Seymour Hoare tenant for life under the will of Henry James Hoare who died 16 February 1859 to (3) the Mayor Alderman and Burgesses of the Borough of Heywood of "First ... parcels of land situate at Birchenholts in the Township of Spotland ... together with erections and buildings ... particulars specified in the First Schedule ... delineated on plan in the margin of these presents and thereon coloured blue and secondly, all the estate and interest ... (the said H G Hoare with the consent of H S Hoare) had power to convey ... piece of unenclosed land ... estimated to contain (135 acres) ... delineated on said plan and defined by a red dotted line". The Schedule comprised:-

No	Description	a.	r.	p.
44	Meadow & Buildings	3	3	22
45	Field & Croft	5	0	13
46	Copy	32	2	39
47	Pasture	32	3	11
48	Moor Piece	1	3	34
	Less coloured green previously sold to Heywood Water Works Co	76	1	39
		2	2	2
		<u>A73</u>	<u>3</u>	<u>37</u>

Note: That Naden Head was in 1883 considered to be in the Township of Spotland appears from a conveyance dated 19 November 1883 and made by James Lord, referred to in a Commons Commissioner decision dated 12 March 1982 relating to Register Unit CL173 under Reference 220/D/260-262.

Dated this 3rd —

day of January — 1987.

A. A. Baden Fuller

Commons Commissioner