



In the Matter of Muggleswick Common,
Muggleswick, Derwentshire District,
Durham

SECOND DECISION

This decision is supplemental to a decision dated 30 April 1985 and made by the former Chief Commons Commissioner (G D Squibb QC) in which he considered the ownership of Muggleswick Common, being the land comprised in Register Unit No. CL75 in the Register of Common Land maintained by Durham County Council.

This second decision is occasioned by a clerical mistake or error arising from an accidental slip which in the following circumstances I think was made by the former Chief Commons Commissioner not in his said decision itself but in the plan in it referred to as follows in the first paragraph of page 2:-

"... shows that there were three small areas comprised in the Register Unit which were not included in the conveyances. With these small exceptions, which will be shown on a plan to be attached to my direction to the County Council I am satisfied that Sir Arthur Collins and Mr Dixon are the owners of the lands."

The former Chief Commons Commissioner who retired on 1 May 1985, left among the papers relating to this Register Unit a plan initialed "GDS1" which must be the plan intended by him to be so attached; such plan shows four such areas edged red. The plan ("the Decision Plan") being page 2 of this decision is an uncoloured copy of the said GDS1 plan, the red edging on the original thereon appearing as a thick black line and the four small areas thereon being by me marked A, B, C and D. The area I have marked A is on the original two pieces shown as separated by a narrow strip, being I suppose the line of the catchwater; I disregard the plurality of these pieces, it being I think obvious that the former Chief Commons Commissioner treated both pieces as one area for the purposes of his 1985 decision; they should be so treated for the purposes of this my 1986 decision.

On 8 August 1985, not noticing that the GDS1 plan had four areas marked on it and not three as stated in the April 1985 decision, I signed a direction to Durham County Council in the form a draft prepared by the former Chief Commons Commissioner directing the registration of Sir A J R Collins and Mr D M Dixon as owners of Muggleswick Common "with the exception of the land shown edged red on the plan marked GDS1 hereunto annexed".

In a letter dated 8 November 1985 Durham County Council called attention to the discrepancy and it was arranged that it should be mentioned at Durham on 5 February 1986 when I was holding hearings relating to other Register Units.

On 5 February 1986 the discrepancy was mentioned in the course of a hearing in which a claim was being made on behalf of Sir A J R Collins and Mr D M Dixon as the Lambton Trustees to Waskerley Park being the CL66 land which is south of and adjoins the CL75 land. Mr Gray who is their Agent pointed out that on the plan annexed to the conveyance of 22 May 1967 (being one of the conveyances mentioned in the said 1985 CL75 decision) the area marked "sheep dipper" is the same as that marked D on the Decision Plan, said that is what the area is, and contended that

CL75

MUGGLESWICK

Hedhope Reservoir
(Under Control Water Act)

(A)

(B)

CL75

(D)

(C)

CL75

CL75

G.D.91

CL75

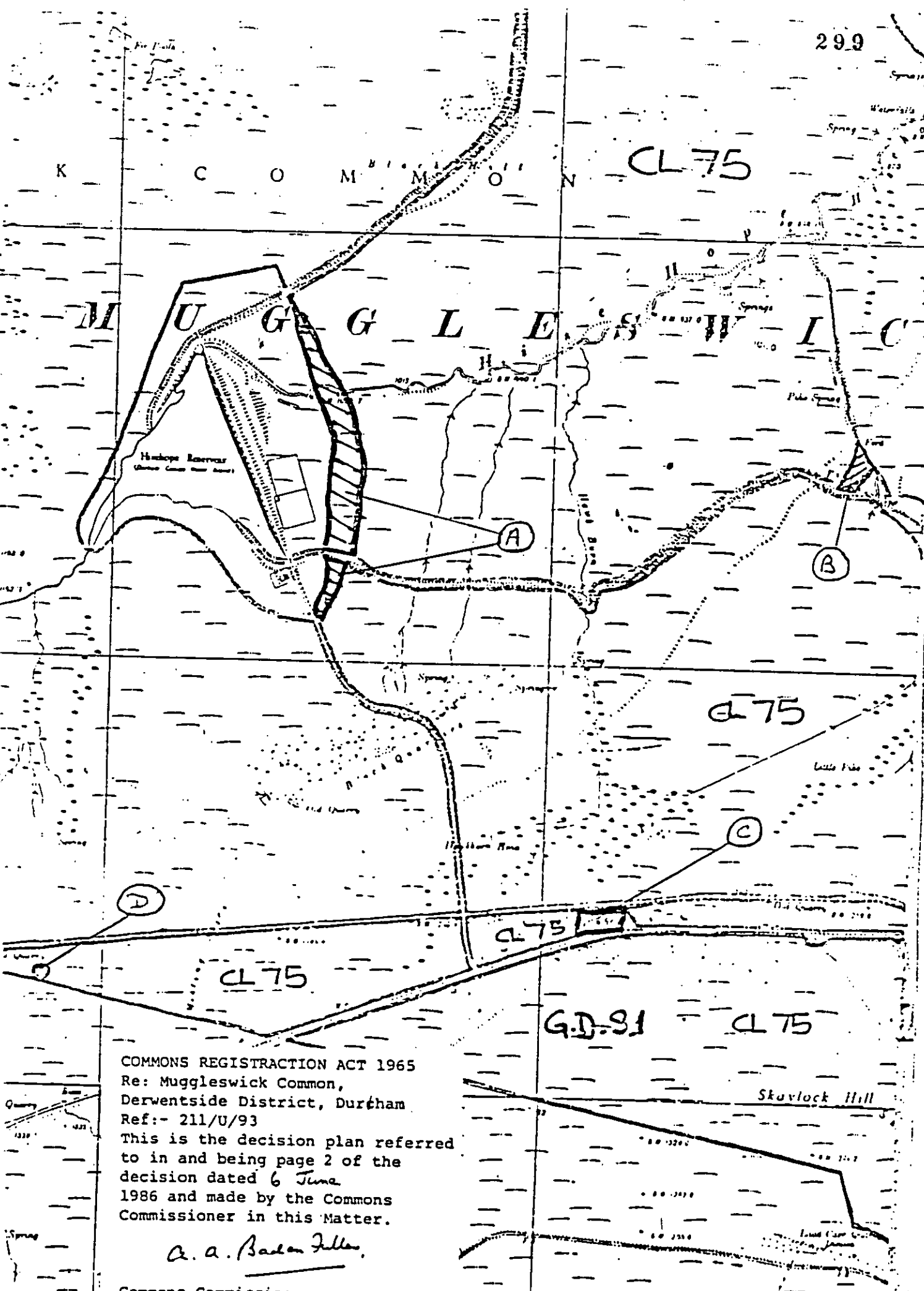
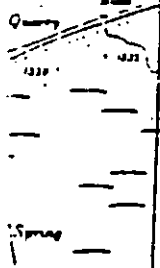
Skarlock Hill

COMMONS REGISTRATION ACT 1965
Re: Muggleswick Common,
Derwentside District, Durham
Ref:- 211/U/93

This is the decision plan referred
to in and being page 2 of the
decision dated 6 June
1986 and made by the Commons
Commissioner in this Matter.

A. A. Baden Fuller

Commons Commissioner





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it is under the conveyance in the ownership of the Trustees. This contention is I think correct; after my inspection on 11 April of the CL66 land, I looked at the area and saw the sheep dipper referred to, apparently in the same ownership as the surrounding land.

In these circumstances I conclude that the inclusion of the area marked D on the Decision Plan as part of the excepted land specified on the plan attached to the said August 1985 direction was a mistake or error arising from an accidental slip, and accordingly, subject to the liberty to apply hereinafter granted, I cancel such direction, and I shall in due course sign another in the same words save that there will be substituted for the words above quoted from the August 1985 direction: "with the exception, the land being the three areas edged with thick black lines and marked A, B and C on the Decision Plan which is page 2 of the Second Decision dated 6 ~~May~~^{June} 1986 and made by the Commons Commissioner in this matter".

Because this second decision is being given in extraordinary circumstances I give to any person who was entitled to be heard at the said March 1985 hearing or who was represented at it, liberty to apply to set aside this second decision. Such application should be made within THREE MONTHS of the date on which this decision is sent out (or within such extended time as a Commons Commissioner may allow) and should in the first instance be made by letter to the Clerk of the Commons Commissioners in London, specifying the alteration in this second decision which the applicant considers should be made.

Nothing in this second decision affects the said 1985 decision as to the ownership of the Northumbrian Water Authority or the other direction which I signed on 8 August 1985 directing their registration as owners of the land "shown red on the plan marked GDS2 hereunto annexed", such land being the area on the Decision Plan marked A. Nothing in this second decision affects the statement in the said 1985 decision that the "remaining 2 areas on the Decision Plan marked B and C" will remain subject to protection under section 9 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 this decision is sent to him, require me to state a case for the decision of the High Court.

Dated this 6th _____ day of June 1986.

A. A. Baden Fuller

Commons Commissioner