

Network Rail

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Your Ref: SBJ/41.40  
Our Ref: RFTP/B/018/003/0023

04 August 2010

**EXERCISE OF POWERS UNDER SECTION 14 OF THE RAILWAY REGULATION ACT  
1842 BY NETWORK RAIL: EMERGENCY ACCESS AT**

**RAILWAY**

Dear

1. The Secretary of State has authorised the use of powers exercised by Network Rail under section 14 of the Railway Regulation Act 1842 ("section 14") to take emergency entry on the grounds of public safety, to land adjacent to the railway, to undertake certain works to stabilise the cutting slope.
2. The authorisation relates only to the land shown edged red on the attached plan (Annex A), being land owned and occupied by . The works to be undertaken will involve: removal of hedging and undergrowth, creation of a worksite, construction of a concrete crest beam, installation of soil nails and fitting of steel mesh and the re-instatement of the railway fence.
3. Under section 14, the Secretary of State may authorise Network Rail to access land adjoining its railway in order to carry out necessary works to repair accidental damage or to prevent an accident. Such works must cause as little injury to adjoining lands as possible, and must be executed as quickly as possible. Network Rail must at all times ensure that it does not act outside these powers. Network Rail must pay full compensation to the owners and occupiers of such adjoining land for any loss, injury or inconvenience sustained as a result of the works (and if there is a dispute about compensation, such a dispute is to be settled by the Lands Tribunal). Section 14 does not permit Network Rail to permanently take any land.
4. This decision has been made having considered the evidence submitted by Network Rail and the views of the Office of Rail Regulation (ORR) which in summary are as follows:
  - 4.1. Network Rail took emergency access to the land on 27 July 2010 under section 14 to enable works to be undertaken to stabilise the cutting face which had been

eroded by severe frost and rainfall. On 27 July, Network Rail notified the Secretary of State that it had taken emergency access, and advised of the condition of the cutting face, nature of the land slips and provided an engineering report with the details of the works necessary to repair the damage.

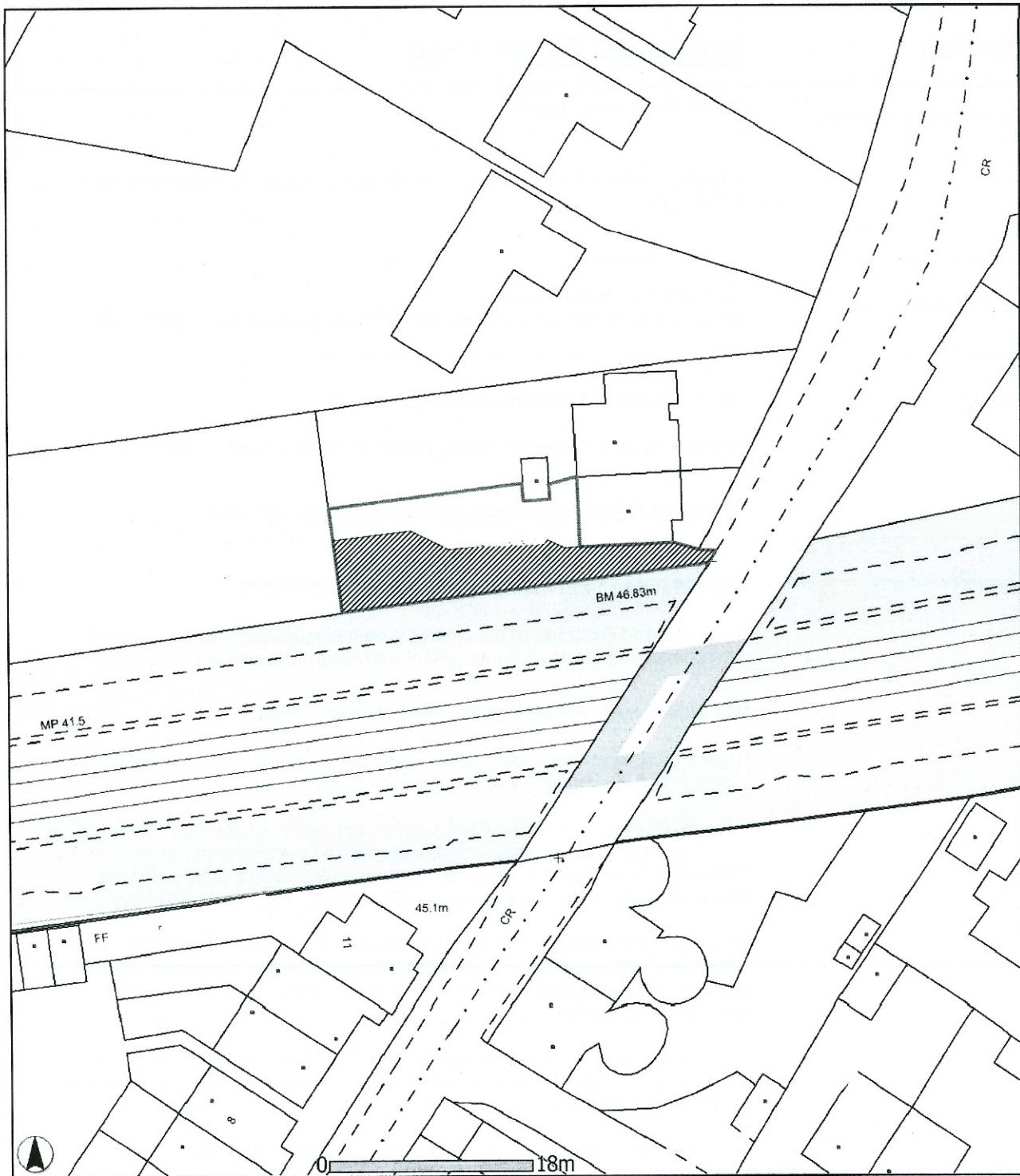
4.2. The ORR has advised that they are content that Network Rail is justified to have accessed the land under section 14 to carry out the emergency works and to continue working on the land as required in order to stabilise the cutting face and to ensure the operational safety of the railway and the safety of the public.

5. The granting of powers under section 14 shall not inhibit Network Rail from endeavouring to agree terms for access to the land and compensation for the same through negotiation.

6. Please contact \_\_\_\_\_ should you wish to discuss this matter further.

Yours sincerely





over which s.  
14 access is required



Working Area  
requiring vegetation  
removal

Proposed Land Occupation  
s. 14 Railway Regulation Act  
1842

Plot Scale 1:500

Plot Date 27/7/2010

**Network Rail**

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Centre of map window (E N) 578162, 155539

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**Notice**

**NOTICE TO ENTER LAND**

To (Adjoining Owner):

Name:

Address:

cc (Owner's Agent):

From:

Name: **Network Rail Infrastructure Limited**

Address: Suite 2, General Offices, Waterloo Station, London, SE1 8SW

Registered Office: Kings Place, York Way, London N1 9AG

**Notice:**

**Under Section 14 of the Railway Regulation Act 1842**

As Owner and Occupier of the land and premises adjacent to the unstable cutting affecting the

**NETWORK RAIL HEREBY GIVE YOU NOTICE THAT**

Network Rail intend to undertake immediate works of a critical nature to the length of railway cutting adjacent to the land you occupy.

Network Rail has authorised BAM Nuttall Contractors to carry out the works on the affected land, which may include land within your ownership or occupation. This authority will also be inclusive of taking direct access over your land, where required, to the area of works with vehicles, plant and machinery.

Included in the powers is the right for Network Rail (and their contractors) to temporarily occupy areas of your land ("the land") and to place and leave on or in the land apparatus for use in connection with the works and the right to remove the apparatus.

The power to undertake works may include the power to undertake surveys and bore holing on and in the land for the purpose of ascertaining the nature of the subsoil and the railway embankment.

It is intended to commence the work on or about **28th July 2010**

  
1, Earthworks Engineer.  
(for and on behalf of Network Rail)

Date: 27<sup>th</sup> July 2010

Floor 1, Suite 2, General Offices, Waterloo Station, London, SE1 8SW.

**Notes to the recipient:** This Notice is hereby given in a positive attempt to clarify the process under the Railway Regulation Act 1842 and to assist a landowner in understanding Network Rail's requirements. The Act places no duty upon Network Rail to serve a formal certificate of Notice to enter lands. Similarly, there is no requirement to provide a detailed plan delineating a proposed access route or land required as compound area for plant and equipment. Land use or access routes may be subject to change, any plan accompanying this Notice has been prepared from details known at the time and this may also be subject to amendment when the extent of failure and works required to stabilize the railway becomes known. The Act also places no requirement upon Network Rail to identify all affected land owners or to duly inform them of Network Rail's intention to take access by virtue of Section 14. Once access has been taken the Act gives no formal Appeals procedure for a landowner to make an objection. However, within 48 hours of taking access, Network Rail must report the exercise of the powers to the Department for Transport. The powers will only cease if the DfT are not satisfied that there is a need for the necessary works to be carried out.



## Report on the cutting failure at

The Kent area experienced exceptionally heavy rainfall in the latter half of the January, totalling in excess of 225% of long term average by the month end. This wet period followed on from an extended spell of snowy and frosty weather during January, which had the effect of damaging the cutting face by frost action, such that when the heavy rains came, the loosened material on the cutting face at \_\_\_\_\_ was mobilised.

t Control reported a train had become entangled with the debris catch fence at 41m 60c at around 20:00hrs on Friday 26 February. The train was released and the line re-opened with an Emergency Speed Restriction (ESR) of 20mph. The site was inspected the following morning when the substantial loss of rocky material off the cutting face alongside \_\_\_\_\_ was discovered as well as at other locations where smaller amounts of material had slipped down.

The local Maintenance Team arranged debris removal during the night of 27/28 February but reported that the continued heavy rainfall had caused more material to come down necessitating a lowering of the ESR to 5mph.

An Emergency Response site meeting was held on Monday 1 March, when the following initial actions were determined in order to get the line running, albeit at a reduced speed, until such time as the hazardous situation at \_\_\_\_\_ had been resolved;

1. Clear away debris from cess alongside the property
2. Re-instate debris fence, 'like for like' or upgraded.

Because of the amount of ground loss along the Network Rail boundary alongside \_\_\_\_\_ and the close proximity of the actual cottage to the failing cutting face, it has been deemed necessary to stabilise the cutting face and railway boundary by constructing a re-enforced concrete beam, or similar form of slope stabilisation, as a matter of urgency before the lifting of the emergency speed restriction can be considered.

This work requires the creation of a temporary worksite within the garden of \_\_\_\_\_ necessitating the removal of a hedge and other vegetation clearance, for the duration of the works.

Our Contractor identified suitable possessions within which the stabilisation works could be carried out. However, two opportunities to execute the emergency repairs have already been lost because of the abortive attempts to agree terms & conditions with the home owner's appointed Agent, \_\_\_\_\_. We are now looking to commence the works in the possession on the 31<sup>st</sup> July / 1<sup>st</sup> August, which will be the 3<sup>rd</sup> attempt to commence works at the \_\_\_\_\_ site.

These works are scheduled for completion on 17 September, subject to possession availability and no further impediment to executing these essential works.

The protracted negotiations to date have extended the period during which the hazard of continued debris falls threaten the safety of the line and, as a consequence, the period over which the line is subject to the ESR of 20mph. This ongoing restriction is causing considerable delay to train services on this busy commuting route.

Earthworks Engineer  
Network Rail  
Waterloo

