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ORIGINAL

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SIERRA ORGANIZATION OF CITIZEN)
COMMITTEES ON WATER (SOCCOW),)

Complainant,

vs

LINTON E. FORRESTER, ELEANOR)
FORRESTER, dba HILLVIEW WATER)
COMPANY,)

Defendants.)

Case 10937
(Filed January 2, 1981)

Joseph C. Gasperetti, Attorney at Law,
for Sierra Organization of Citizen
Committees on Water, complainant.
Richard L. McMechan and Robert B. Lindley,
Attorneys at Law, for Hillview Water
Company, Inc., defendant.
Gunter D. Redlin, for California Department
of Public Health, and Daniel J. Corrigan,
for Department of Water Resources,
interested parties.
William Jennings, Attorney at Law,
James M. Barnes, and John J. Gibbons,
for the Commission staff.

INTERIM OPINION

By its complaint filed January 2, 1981 Sierra Organization of Citizen Committees On Water (SOCCOW), which consists of 25 customers of Hillview Water Company, Inc. (Hillview), requests an order of the Commission finding that in the matter of a Safe Drinking Water Bond Act (SDWBA) loan, issued to Hillview under a contract with the Department of Water Resources (DWR) and approved by the Commission in

Decision (D.) 91560 dated April 15, 1980, in Application (A.) 58816, ✓
that:

1. The loan should be rescinded or in the alternative that complainant be required to pay only an amount reasonably required to provide upgrading of the system as opposed to expansion of the system.
2. There was not a majority of public support for the loan.
3. An investigation should be commenced relating to a possible conflict of interest among various parties.
4. An investigation should be commenced relating to the activities of the Department of Health Service (DHS) and DWR.
5. The California Public Utilities Commission (CPUC) should file a complaint against Hillview for criminal fraud.
6. All books and records concerning the loan should be audited.
7. No new loan or additional funds under the current loan should be approved.
8. All new connections should be required to pay an amount equal to that paid by existing users.
9. The surcharge should be reduced annually in accordance with the number of new connections.
10. The surcharge should be based upon a "uniform cents per hundred cubic feet."

During the course of hearing the complaint was amended by deleting all reference to the requests for investigations of state agencies and the filing of criminal complaints by this Commission.

On February 17, 1981 Hillview filed its answer admitting that it applied for and was issued a SDWBA loan and denying all of the other allegations.

Public hearing was held before Administrative Law Judge Daly at Oakhurst and San Francisco and was submitted on November 10, 1981.

Background

Hillview provides water service to five subdivision areas in the unincorporated communities of Oakhurst, Raymond, and Coarsegold, approximately 45 miles northeast of Madera in Madera County. The separate water systems within these subdivisions are: (1) Sunnydale-Royal Oaks-Hidden Oaks (Sunnydale) which serves 189 customers; (2) Raymond (Raymond) which serves 46 customers; (3) Hillview-Goldside (Goldside) which serves 101 customers; (4) Sierra Lakes (Sierra) which serves 76 customers; and (5) Coarsegold-Highlands (Coarsegold) which serves 20 customers.

The record indicates that Sunnydale's supply of water was derived from two radial wells located near the Fresno River. Because of effluent from a nearby county sewer disposal system and from mountain creeks that feed into the river, the wells were found to be producing contaminated waters in a check conducted by DHS in 1977. DHS ordered immediate chlorination and directed Hillview to drill a new well away from the river. As part of a program to interconnect and upgrade its various systems and to develop an adequate quality of water away from the river, Hillview in 1977 applied to DWR for a \$700,000 SDWBA loan. The application was denied because DWR was of the opinion that the amount was excessive and more than Hillview could repay. After consulting with DHS Hillview developed a revised program of improvements with the main emphasis on developing a new source of water and adequate storage facilities. To solve the contamination problem Linton Forrester,

Hillview's president, suggested that such facilities be located near the Yosemite High School, which is situated approximately two miles from the river. As a result a second application was filed with DWR for a loan of \$442,797. With this amount Hillview proposed to install approximately 10,000 feet of new water mains, drill or repair eight wells, add 1,130,000 gallons of water storage facilities, and install or improve water treatment equipment.

Before a loan is granted the applicant must demonstrate to DWR its ability to repay the loan and show that it has instituted measures that will maximize water conservation. Under Public Utilities (PU) Code §§ 816 through 851 public utility water companies must obtain authorization from the CPUC to enter into a long-term loan and under PU Code § 454 Commission approval is required for rate increases. On April 23, 1979 Hillview filed A.58816 requesting authority to borrow \$442,797 and for authority to add a surcharge to water rates to repay the principal and interest on such loan.

As a matter of internal procedure SDWBA applications are referred to the Commission's Finance Section (Finance) of the Revenue Requirements Division for consideration and when requested, reviewed by the Commission's Hydraulic Branch (Hydraulic). By memo dated April 26, 1979 Finance asked Hydraulic to review the application of Hillview. On April 26, 1979 Hydraulic informed Finance that it was concerned:

"...about what appears to be a construction program that has not been well planned, that may be using public funds inappropriately to finance plant for future expansion or personal gain. A plan that will result in inequitable surcharges to repay the loan and an overall proposal that is misleading to the general public. All these issues should be clarified on the record at a public hearing rather than an informal public meeting." (Exhibit 8.)

On May 4, 1979 Hydraulic wrote a letter to Hillview (Exhibit 9) expressing its concern and suggested a meeting with the staff. It also requested that Hillview provide a suitable scale map showing all the facilities it proposed to construct and the source of supply it proposed to develop, including plant that would be constructed with other sources of funds. Hillview made no response to this letter.

On June 13, 1979 Finance also wrote to Hillview and suggested a meeting to further assist the staff in its review (Exhibit 10). Finance made a request for specific information similar to that made by Hydraulic. Although Hillview met with the Finance staff in San Francisco on July 2, 1979, it failed to provide any engineering data to support the need for the specific improvements or to support its cost estimates. To facilitate matters a meeting was held in Oakhurst in August 1979 which was attended by Hillview's president and personnel from Hydraulic, Finance, and DHS. Although no agreement was reached the meeting resulted in certain revisions to the program which were made by letter dated December 7, 1979. (Exhibit 6).

The differences between the initial and revised estimates are as follows:

| <u>System</u> | <u>Initial</u> | <u>Revised</u> | <u>Difference</u> |
|------------------------|----------------|----------------|-------------------|
| Sunnydale | 44,000 | 86,000 | + 42,000 |
| Royal Oaks-Hidden Oaks | 256,400 | 210,400 | - 46,000 |
| Raymond | 38,400 | 43,000 | + 4,600 |
| Goldside | 55,000 | 47,000 | - 8,000 |
| Sierra | 10,000 | 10,000 | 0 |
| Coarsegold | 5,000 | 5,000 | 0 |
| Fees and Permit | 20,200 | 28,500 | + 8,300 |

The total amount of the loan remained the same, but the scope of the project was reduced. The major revision was the deletion of approximately 19,000 feet of 6" and 8" diameter pipe that would have run from the Sierra system to Oakhurst.

On February 7, 1980 representatives of Finance conducted a public meeting at the Oakhurst Community Center. Prior to the meeting and at the direction of the Commission, Hillview sent letters to all customers notifying them of the time and place of the meeting. (Exhibit 22.) Approximately 55 customers were present at the beginning of the meeting and approximately 35 customers were present at the end. Also participating were representatives of DHS, DWR, and Hillview. During the course of the meeting the SDWBA loan program was explained and questions were answered on a system-by-system basis. At the conclusion 26 customers expressed approval of the proposed improvements, 5 were in opposition, and 4 took no position.

By D.91560 dated April 15, 1980 the Commission approved the following program:

SUNNYDALE

| <u>Item</u> | <u>Cost</u> |
|---|-----------------------|
| 1. Construction of an interconnection between the Sunnydale System and the Royal Oaks-Hidden Oaks System- 5,000 feet of 12" mains @ \$14 per foot of which 5,000 feet of 8" mains @ \$11 per foot is SDWBA funding. | \$ 55,000 |
| 2. Improvements to the Sunnydale well including installation of water treatment facilities. | 31,000 |
| 3. Construction of two 500,000-gallon concrete storage tanks @ \$60,000 each. | 120,000 |
| 4. Installation of 5,000 feet of 12" mains @ \$14 per foot, to connect an existing well to new storage site to existing distribution system. | 70,000 |
| 5. Installation of new meter for Royal Oaks well. | 400 |
| 6. Construction of a new well and installation of a transmission main. | 20,000 |
| 7. Engineering and other contingency costs. | <u>21,090</u> |
| Subtotal | 317,490 |
| 8. DWR administrative fee, 3% of loan. | <u>9,544</u> |
| Total - Sunnydale | <u><u>327,034</u></u> |

RAYMOND

| <u>Item</u> | <u>Cost</u> |
|--|----------------------|
| 1. Construct a new 100,000-gallon tank. | \$25,000 |
| 2. Install a used 30,000-gallon storage tank. | 5,000 |
| 3. Rehabilitate and redevelop the Spring and Well 1. | 5,000 |
| 4. Improve chlorination facilities at North Well Field. | 8,000 |
| 5. Engineering and other contingency costs. | <u>3,135</u> |
| Subtotal | 46,135 |
| 6. DWR administrative fee, 3% of loan. | <u>1,419</u> |
| Total - Raymond | <u><u>47,554</u></u> |

GOLDSIDE

| <u>Item</u> | <u>Cost</u> |
|---|----------------------|
| 1. Install three new vertical wells and transmission main. | \$45,000 |
| 2. Install meters for all three wells. | 2,000 |
| 3. Engineering and other contingency costs. | <u>3,420</u> |
| Subtotal | 50,420 |
| 4. DWR administrative fee, 3% of loan. | <u>1,547</u> |
| Total - Goldside | <u><u>51,967</u></u> |

SIERRA

| <u>Item</u> | <u>Cost</u> |
|--|----------------------|
| 1. Construct two vertical wells @ \$5,000 each. | \$ 10,000 |
| 2. Engineering and other contingency costs. | <u>570</u> |
| Subtotal | 10,570 |
| 3. DWR administrative fee, 3% of loan. | <u>258</u> |
| Total - Sierra | <u><u>10,828</u></u> |

COARSEGOLD

| <u>Item</u> | <u>Cost</u> |
|---|---------------------|
| 1. Construction of a new vertical well. | \$ 5,000 |
| 2. Engineering and other contingency costs. | <u>285</u> |
| Subtotal | 5,285 |
| 3. DWR administrative fee, 3% of loan. | <u>129</u> |
| Total - Coarsegold | <u><u>5,414</u></u> |

SUMMARY OF PROJECT COSTS

| | |
|--------------------------------|-----------------------|
| Sunnydale | \$327,034 |
| Raymond | 47,554 |
| Goldside | 51,967 |
| Sierra | 10,828 |
| Coarsegold | <u>5,414</u> |
| Total estimated project costs. | <u><u>442,797</u></u> |

The loan provides for a 35-year repayment schedule with equal semiannual payments of principal and interest, at an interest rate of 4 1/2% per annum. To meet these payments the Commission authorized the following surcharges for residential service in addition to regular charges for water:

| <u>System</u> | <u>Monthly Surcharge</u> |
|----------------------------------|--------------------------|
| Sunnydale-Royal Oaks-Hidden Oaks | \$8.80 |
| Raymond | 6.15 |
| Goldside | 3.00 |
| Sierra | .85 |
| Coarsegold | 1.60 |

Hillview's annual gross revenues for 1980 were estimated to be \$52,200. It was expected that the surcharges would increase revenues by \$31,471 or approximately 60%.

As a condition to its approval the Commission required Hillview to establish separate balancing accounts for each system and to engage the services of a fiscal agent to manage the accounts and to pay the principal and interest on the loan when due. The Commission also indicated that the surcharges should be adjusted periodically to reflect changes in the number of connections, and resulting overages or shortages in the balancing accounts. Hillview was authorized to place the surcharges in effect beginning May 1, 1980.

On October 10, 1980 Hillview informed DWR that because of the time lapse and increased costs in materials, labor, and fuel it would be necessary to borrow an additional \$132,000 to complete the project as approved by the Commission. (Exhibit 6).

Attached to the letter was a work progress report relating to the Sunnydale-Royal Oaks-Hidden Oaks improvements, as follows:

| <u>Item</u> | <u>Percent of Completion</u> | <u>Approved By Comm.</u> | <u>Cost to Date</u> | <u>Estimated To Complete</u> | <u>Difference</u> |
|---------------------------------------|------------------------------|--------------------------|---------------------|------------------------------|-------------------|
| 1. Sunnydale Interconnect | 100% | \$ 55,000 | \$113,952 | \$ 0 | \$ - 58,952 |
| 2. Improvements to well | 100% | 31,000 | 39,501 | 0 | - 8,501 |
| 3. Construct two 500,000-gallon tanks | 0 | 120,000 | 0 | 84,000 | + 36,000 |
| 4. Install 5,000' of 12" main | 50% | 70,000 | 137,750 | 62,211 | -129,961 |
| 5. Install new meter for Royal Oaks | 0 | 400 | 0 | 400 | 0 |
| 6. New well & transmission | 100% | 20,000 | 17,454 | 0 | + 2,546 |
| 7. Engineering & other contingencies | 100% | <u>21,090</u> | <u>13,588</u> | <u>2,207</u> | <u>+ 5,294</u> |
| Total | | 317,490 | 322,245 | 148,818 | -153,574 |

The report also indicated that upon completion of these improvements the Sunnydale-Royal Oaks-Hidden Oaks System would be capable of providing services for an additional 200 customers and that at least 150 potential customers had indicated an intention to connect to the system. Hillview expressed the opinion that these new connections would provide sufficient revenue in surcharges to pay for the additional loan and possibly to reduce the surcharge of \$8.80.

On March 16, 1981 DWR informed Hillview that its request to increase its loan from \$442,797 to \$578,757 had been approved. (Exhibit 7). DHS has indicated that any additional funds should be made contingent upon completing specific improvements in all five districts including the following for the Sunnydale System:

1. Construct an additional new well, or provide 200-300 gpm of water near the site of the proposed storage tank near Yosemite High School.

2. Install a meter on the Sunnydale well.
3. Complete the pipeline to the Yosemite High School storage site and construct the major portion of the 500,000 gallons of storage at that site. The remaining portion of the storage should be installed in the Royal Oaks-Hidden Oaks subdivision.
4. Reactivate the Royal Oaks well (elevate the well out of the pit above opened level, install a chlorinator, a 10,000-gallon tank and a booster pump). (Exhibit 12.)

These recommendations include changes from the improvements authorized by D.91560 in that Items 2 and 4 previously had not been required, the proposed storage would be reduced from 1,000,000 gallons to 500,000 gallons, and the length of 12" pipe would be increased from 5,000 to 11,500 feet. As of the time of hearing no application had been filed with the Commission for approval of the additional loan. ✓

Staff Reports

An Interim Report of Examination was prepared by the Division of Audits, State Controller's Office and was filed with DWR on September 18, 1981. (Exhibit 24). The report indicates that Hillview submitted claims for reimbursement of project costs totaling \$429,850, which have been paid by DWR. The report noted adjustments totaling \$71,769, which included \$41,509 in ineligible costs and \$30,260 in costs which could not be verified as paid. It also noted that Hillview had not complied with contract provisions requiring competitive bidding, a project sign, and accounting separately for project expenditures. The report further noted that DWR had made no engineering reviews on the eligibility of project costs claimed by Hillview. Such costs were merely verified as paid, but the eligibility of such costs will be verified from the engineering review to be supplied by DWR during a final audit. The report finds that subject to the effects of such adjustments, the payment of only \$358,081 to Hillview was proper and recommends that the excess amount of \$71,769 should be refunded or

applied against the final claim of construction costs to be incurred by Hillview.

In response DWR offered the following comments to clarify its role and procedure: (Exhibit 25).

- "1. Often a utility with limited cash flow will submit invoices to us on the basis of credit extended by a supplier. Upon receipt of the state's warrant, the utility is expected to pay such invoices promptly, as required by our loan agreement. Nonpayment may not be discovered until post audit which we normally request after completion of the project.
- "2. The Report suggests that the Department does not provide for an engineering review of project costs claimed. Because of the restrictive 3 percent limitation of state bond proceeds for administration costs in this program, neither the Department of Water Resources nor the Department of Health Services are able to make frequent on-site inspections. For this reason, we require a certification by the licensed project engineer that every Partial Payment Estimate is a true and correct statement of work performed and/or material used, and that an inspection was made. (See attached form DWR 3813A, Part D, Item 2, 'Certification of Architect or Engineer'.) Under the Safe Drinking Water Program all engineering review is the responsibility of DHS, including approval of final plans and specifications, issuance of a permit for project, intermittent full inspection during construction, and final inspection after completion. If either DWR or DHS finds evidence of a project engineer's failure to meet the requirements of his or her license, we would pursue action against the engineer's license."

An Associate Governmental Program Analyst of DWR testified that of the 150 loans handled by DWR, Hillview was the first multi-system loan and it was considered and processed as one to a single system. According to this witness DWR acts like a banker in the

administration of the loan program by accepting requests for funds, reviewing them and, if appropriate, providing funds, but there is no requirement that improvements be specifically itemized before payments are made. As a result checks are sent out as requests for reimbursements are received. He stated that the responsibility for distributing funds between various work projects within a system is that of the utility and the supervising engineer.

The staff introduced two reports, one by Finance (Exhibit 30) and the other by the Hydraulic Branch (Exhibits 1 and 27).

In its report Finance points out that under the provisions of D.91560 Hillview was authorized to install 5,000 feet of 12" water main to connect Royal Oaks and Sunnyvale upon the condition that Hillview was to pay the difference between the cost of the 12" main and an 8" main. The 12" main was installed by November 12, 1979, but the entire cost was paid with SDWBA funds assertedly because the larger main was needed to meet county fire flow requirements.

According to Finance, Hillview presently has 8,260 feet of 12" main in inventory that was purchased with SDWBA funds. An additional 1,500 feet that was purchased with SDWBA funds was used to extend service to the Jamison Tract for which Hillview received \$18,900 as a contribution in aid of construction.

The Report indicates that Hillview, prior to the SDWBA loan, applied for and received three loans for the emergency construction of wells and a treatment plant to correct the water supply problems resulting from the pollution of the Fresno River. The loans are as follows:

| <u>Lender</u> | <u>Loan Amount</u> | <u>Period</u> | <u>Interest</u> |
|---------------------------|--------------------|---------------|-----------------|
| Crocker Bank, Fresno | \$40,000 | 12 months | \$ 5,000 |
| Golden Oak Bank, Oakhurst | 35,000 | 6 months | 3,062 |
| L. Forrester | 65,000 | 18 months | <u>12,193</u> |
| Total | | | \$20,255 |

The \$20,255 was subsequently charged to DWR and paid with SDWBA funds.

The Report further indicates that the accumulative amount of billing for the surcharge from May 1, 1980 through June 30, 1981 was \$28,700. The balance in Hillview's bank account as of June 30, 1981 was only \$343.31 and the Commission holds \$1,300 from customers protesting the surcharge. In addition the report noted that:

1. No balancing accounts are maintained.
2. Surcharge collections were not deposited with the fiscal agent.
3. No consideration was given to investment tax credits.

Hydraulic's Report covers many of the same deficiencies set forth in the Finance Report and also found among other things that in the case of the Sunnydale-Royal Oaks System that:

1. The 12-inch transmission line and storage facilities yet to be constructed will benefit properties which are now outside the service area.
2. Hillview will gain many new customers from the proposed extension.
3. The proposed extension and storage facilities near the Yosemite High School could be substantially financed under Rule 15 if Hillview diligently negotiates to provide water to prospective customers.
4. Hillview should be required to apply all unauthorized expenditures toward the necessary projects yet to be completed.
5. The unauthorized expenditures together with Rule 15 financing should be more than adequate to complete the necessary projects.
6. Based upon Hillview's own prediction of new customers and the fact that its present customers have not received the benefits promised, the Sunnydale-Royal Oaks surcharge should be reduced to \$1.50 per month.
7. The Goldside surcharge should be discontinued because the three wells that were authorized to be installed were actually developed by the subdivider as a condition of approval from the

Madera County Board of Supervisors and service to the subdivision was authorized under a deviation from the standard Rule 15 contract in that all facilities were to be contributed instead of refunded. Hillview reimbursed the subdivider \$32,000 from SDWBA funds.

8. Hillview has extended outside of its authorized service area in violation of D.78170 dated January 13, 1971 in A.52239.
9. There is no written agreement between Hillview and its fiscal agent specifying how the surcharge balancing and reserve accounts are to be invested or what is to be done with the earnings.
10. The balance of all accounts relating to the SDWBA loan as well as the total customer accounts should be reported to the Commission annually by the fiscal agent and the surcharge should be reviewed annually and adjusted for customer growth.

Defense

Hillview's president testified that:

1. In 1977 he was informed by DHS that because the County of Madera had allowed effluent from the Oakhurst Sewer Plant to run into the Fresno River and contaminate the wells in Royal Oaks and Goldside, the wells would have to be relocated away from the river.
2. As part of an overall program to relocate the wells and update the systems it was decided to apply to DWR for a SDWBA loan.
3. The first application was for \$714,000, but DWR did not believe the system could repay such a high loan and suggested that the project be modified.
4. When the loan for \$442,797 was approved Hillview knew the project was underfunded, but DWR implied that other funds would be made available.

5. To comply with the orders of DHS and Madera County to immediately correct the pollution problems at Sunnydale, Royal Oaks, Hidden Oaks, and Goldside, Hillview sold a piece of property, took out personal loans, and was assured by DWR that the loans and interest could be paid out of SDWBA funds.
6. In making the interconnection between Sunnydale and Royal Oaks, Hillview was told by the County of Madera that an 8" main could not be used and that a 12" main would be required to meet fire flow requirements.
7. The additional cost of the 12" main over the 8" main was \$25,000, but the larger main not only meets fire flow requirements, it also enabled Hillview to serve 21 new connections that could not have been served by an 8" main. These additional customers pay a total of \$350 a month in surcharges which will enable Hillview to pay off the \$25,000 cost difference in 6 years and to use such funds to reduce the surcharge.
8. Surcharge funds were used to pay power bills and system repair, but have since been replaced.
9. As of September 16, 1981 there was a total of \$33,284 on deposit with the Golden Oak Bank in Oakhurst of which \$30,000 was in six months' time certificates. (Exhibit 33). When the time certificates come due they will be placed in a special account with the bank which will act as Hillview's fiscal agent.
10. Approximately 75% of the authorized improvements have been completed. About 11,000 feet of 12" main to connect the Sunnydale System with the proposed storage facilities in the area of the Yosemite High School have been purchased and paid for and about one-half has been installed. If the additional loan is refused, Hillview over the next few months will install the remaining pipe using its own men and equipment.
11. Hillview had a verbal understanding with Curtis, a subdivider in the Goldside area, that Curtis would pay for the development of the three wells and be repaid with SDWBA funds.

12. A stock control transfer of Hillview is presently being arranged whereby Linton Forrester will transfer his interest to his son, Roger Forrester, after which Linton Forrester will take no official part in the operation of Hillview. An application seeking Commission approval of such transfer is in the process of preparation and will be filed in the near future.

Discussion

It is clear that the primary intent and purpose of the program was, and still is, to relocate Hillview's water supply facilities away from the contaminating effects of the Fresno River. Funds from the original SDWBA loan have been exhausted. Because Hillview failed to maintain a proper accounting system, especially an appropriate work order system, and because an engineering study had not, and will not, be conducted by DWR until the project is completed, it was not possible for the Controller's Office in its interim audit to categorize SDWBA funds spent on the approved projects for each of the five systems. For the same reason it is not possible, at this point, to determine to what extent the authorized projects have been completed. In any event, Hillview believes that an additional loan of \$135,900 is necessary to complete installation of the 12" pipeline from the Junction area to the Yosemite High School area, a distance of approximately 3 miles.

Although an application requesting Commission approval for the additional loan has not as yet been filed and the issue that would be raised not properly before us at this time, it is essential to the disposition of this proceeding that we consider the possibilities of completing the installation of the 12" pipeline. To do so we must first consider the Junction area and the effect that its growth and development will have upon Hillview.

The Junction area is located at the junction of State Highways 41 and 49 and is the subject of three proposed developments,

which will include an extensive number of commercial and residential units. All of the property was originally located in the service area of District 22C, which presently has no plant or facilities. Also, included in the area is a hospital, which operates four wells.

The developer of the Golden Oak Village Shopping Center was able to withdraw from District 22C and Hillview recently extended service to two of the estimated 40 commercial customers in that development. Although Hydraulic contends that the extension was in violation of the condition imposed by D.78170, Hillview relied upon an Advice Letter, which contained a tariff filing change that provided for an extension of services to the Junction area. Hillview was notified by Commission letter that the revised service area maps and table of contents had been filed and made effective on January 27, 1981. The shopping center will result in a contribution to Hillview of approximately \$60,000 for in-tract facilities.

The same developer is also going to develop another subdivision north of Highway 49, which is also in the District 22C area, and will contain 350 residential and commercial lots. All of the water plant of this development, consisting of a 500,000-gallon water tank, a source of water supply and in-tract facilities will have to be contributed to District 22C. Similarly, the Jamison subdivision, a proposed 400 commercial and residential-unit development located across from the Junction, will also require the contribution of a 500,000-gallon reservoir, source of supply, and in-tract facilities to District 22C.

It is obvious that with the installation of these facilities in addition to those of Hillview, there will be an expensive duplication ✓ of facilities. It is the opinion of this Commission that it would be in the public interest from both an economic and practical point of view if the Junction area were served by a single system. We suggest

that Hillview, with the cooperation of the Commission's Policy and Planning Division, meet with the directors of District 22C and other county officials to discuss this possibility.

According to Hillview the 12" pipe from the Junction area to Yosemite High School has been installed for one-half of the 3-mile distance and all of the pipe has been purchased. Hillview also claims that there are over 200 new customers ready to connect to Hillview and provide the additional funds necessary to complete the installation and to reduce the amount of the surcharge.

According to Finance, Hillview has obtained a site for a storage tank near the high school and has done some preliminary work in preparation for erecting a tank. In addition, Hillview has acquired three wells with a combined production estimated at 120 gpm. From a safety point of view it appears that the high school area is a reasonable location for developing and storing a new source of water, but until it can be demonstrated that an adequate source can be developed and that there is a sufficient number of committed new customers to make the development economically feasible, no further burden should be placed upon the Sunnydale-Royal Oaks customers. In fact their burden should be reduced because the record clearly demonstrates that they have not received all of the plant improvements that the \$8.80 per month surcharge was supposed to provide. Substantial expenditures of SDWEA funds were made on other than approved projects and in amounts that far exceed the amounts estimated for approved projects. Although Hillview attributes overruns to the inflationary spiral that was experienced during the one-year period that expired from the time the application for Commission approval was filed to the time that a decision was finally rendered, the delay was primarily attributable to Hillview's repeated failure to supply the necessary information requested by the staff. It was because of this same cavalier indifference to Commission rules, regulations, and

directives that Hillview failed to maintain proper records of work performed in connection with SDWBA funds that were expended.

Before we can make any determination on whether the remaining improvements are economically and practically feasible and whether an adjustment to the surcharge is justified, and if so to what extent, it is necessary that certain information be made a part of this record including approved costs on an actual or, if such information is not available, on some reasonable allocation basis. Because the interim audit of the Controller's Office was not based upon an engineering study and there was no detailed system-by-system analysis of the authorized work completed against which recorded or approximated costs could be determined, and because it is unlikely that DWR will provide an engineering study and final audit until all projects have been completed, it is essential to the proper disposition of this proceeding that Hydraulic conduct such a study and, upon its completion, that Finance conduct an audit.

Also required for proper disposition of this proceeding is a determination by DWR, as the duly authorized agency charged with the responsibility for administering SDWBA loans, that Hillview properly used SDWBA funds for:

1. Pipe used to extend service to the Jamison Tract.
2. Pipe currently held in inventory but not earmarked for SDWBA-approved projects.
3. Interest paid by L. Forrester on personal loans.
4. Oversizing an 8-inch main.
5. Expenditures which lack adequate documentary support.

To facilitate matters we will direct Hillview to seek, and we request DWR to make, such a determination. In addition, we will direct Hillview to correct those irregularities as more specifically set forth in this interim opinion and order. With the full support and cooperation of Hillview's proposed new owner and manager

these irregularities will be corrected and the information requested expeditiously provided so that a new staff report can be prepared and subsequently considered at a further public hearing on this matter.

Although the complaint alleged a conflict of interest between certain unspecified parties the record fails to support the allegation. The only connection between Hillview and any developer was through a consultant engineer who had been the original owner of several of the Hillview systems. According to the record he has since performed limited professional services for Hillview and is presently engaged as engineer for the Pierce Lake Estate Subdivision in which his wife has an interest. This development is located near the Yosemite High School area and will be the subject of a new county water district. Both Hydraulic and Finance recommend that steps be taken to make this subdivision a part of the Hillview system by way of a main extension agreement.

Findings of Fact

1. By D.91560 dated April 15, 1979 in A.58816, Hillview was authorized to enter into a long-term SDWBA loan with DWR for \$442,797 and to add a surcharge to water rates to repay the principal and interest on such loan.

2. On October 10, 1980 Hillview informed DWR that because of increased costs in materials and labor it would be necessary to borrow an additional \$132,000 to complete the projects authorized by D.91560.

3. On October 10, 1980 DWR authorized the additional loan, but DHS has indicated that the loan should be made subject to the condition that a new source of supply be developed in the range of 200-300 gpm near the site of the proposed storage tank in the vicinity of the Yosemite High School.

4. Except for \$50.34 all of the funds from the original SDWBA loan for \$442,797 have been expended and the improvements approved by D.91560 have not been completed.

5. Hillview used SDWBA funds to pay the total cost of a 12" line connecting the Sunnydale and Royal Oaks Systems instead of using Hillview funds to pay the cost difference over and above the cost of an 8" line as required by D.91560.

6. Hillview used SDWBA funds to purchase an additional 8,260 feet of 12" main.

7. Hillview used SDWBA funds to pay interest on prior loans taken by Hillview's president to do work on the system.

8. Hillview has engaged the Golden Oak Bank in Oakhurst as its fiscal agent, but has failed to enter into an agreement with the bank on how the surcharge balancing and reserve accounts required by D.91560 are to be handled.

9. As of October 20, 1981 Hillview had \$33,364 on deposit with the Golden Oak Bank to cover surcharge collections and \$1,300 in surcharges were on file with this Commission.

10. Hillview failed to maintain adequate records of SDWBA expenditures and failed to maintain other records in accordance with the Commission's prescribed Uniform System of Accounts.

11. DWR failed to maintain adequate control over the funds paid out and failed to finalize a fiscal agent agreement that would have given it control over the surcharge revenues collected.

12. Although Hillview extended service to the Junction area on reliance of its Advice Letter 5 filing and the Commission's letter of response, it failed to seek and receive formal Commission approval as required by D.78170 in A.52239.

13. The 12" line, water supply, and storage facilities to be completed in the Yosemite High School area could benefit properties which are now outside the service area of Hillview.

14. The record contains no evidence demonstrating a conflict of interest between Hillview and any other party.

Conclusions of Law

1. Hydraulic should prepare an engineering study of the work completed under D.91560 and upon its completion, Finance should prepare an audit report.

2. Hillview should adopt the double-entry accounting method along with a work order system. The accounting should be in accordance with the Uniform System of Accounts prescribed for water companies by the CPUC.

3. The surcharge collected from the customers for SDWBA repayment should be administered in the manner prescribed by D.91560 and DWR contract E.51014. Accordingly, Hillview should:

- a. Maintain a balancing account for each system.
- b. Execute an agreement with Golden Oak Bank as its fiscal agent, have it approved by DWR, and send a copy to the Commission.
- c. Deposit all surcharges collected each month with the fiscal agent and refrain from using any of such money for operating expenses, plant construction, or for personal purposes.
- d. Immediately transfer the \$33,364 on deposit with the Golden Oak Bank to the special account for surcharge collections.
- e. On or before March 31, 1982, and annually after, provide the Commission with all information necessary to determine whether SDWBA loan surcharges should be adjusted.

4. Hillview should file a request for authority to accept contributions in aid of construction from the developers in the Junction area and from the developer of the Jamison Tract.

5. Hillview should compile a realistic list of potential customers along the proposed 12" line to Yosemite High School and investigate the possibility of connecting the Pierce Lake Subdivision.

6. Hillview should explore the possibility of providing water service to the three developments and the hospital in the Junction area.

7. Hillview should determine from DWR whether it properly used SDWBA funds for:

- a. Pipe used to extend service to the Jamison Tract.
- b. Pipe currently held in inventory but not earmarked for SDWED-approved projects.
- c. Interest paid by L. Forrester on personal loans.
- d. Oversizing an 8" main.
- e. Expenditures which lack adequate documentary support.

8. Hillview with the cooperation of the Commission's Policy and Planning Division, should immediately meet with the directors of District 22C and other interested county officials to resolve questions of overlapping service areas and possible duplication of facilities.

9. Hillview should not make any further extensions of service without a formal order of the Commission until:

- a. All issues relating to questionable SDWBA loan expenditures have been resolved.
- b. Questions of overlap of service areas and facilities with District 22C have been settled.
- c. An overall plan has been prepared that identifies the remainder of the plant items to be constructed, the cost of each, and the manner in which the construction will be financed.
- d. An adequate accounting and work order system has been installed.

10. Hillview should place funds representing expenditures disallowed by DWR in a separate bank account to be used for the purpose of completing SDWBA projects only.

11. Upon receipt of a copy of the agreement between Hillview and its fiscal agent the Executive Director should deposit all of the funds relating to this matter and held by the Commission in the special account for surcharge collections.

12. An interim order should be issued and this matter continued to a time and place to be set.

INTERIM ORDER

IT IS ORDERED that:

1. The Commission's Hydraulic Branch shall prepare an engineering study of the work that has been done under the provisions of D.91560 and upon its completion, Commission's Revenue Requirements Division shall conduct an audit report of such work.

2. Within 60 days after the effective date of this order Hillview Water Company, Inc. (Hillview) shall comply with the following provisions and shall file a written report setting forth the action taken and the results in addition to filing the documents and information specified:

- a. Adopt the double-entry accounting method in accordance with its Uniform System of Accounts prescribed for water companies and an appropriate work order system.
- b. Administer the Safe Drinking Water Bond Act (SDWBA) surcharges collected for repayment in accordance with the provisions of D.91560 and Department of Water Resources (DWR) contract E.51014 and more specifically by:

- (1) Maintaining a balancing account for each of its water systems.

- (2) Providing an executed copy of the fiscal agent agreement with Golden Oak Bank to this Commission and DWR. ✓
 - (3) Depositing all monthly surcharges collected with the fiscal agent and refrain from using such funds for any purpose except for payment on the SDWBA loan.
 - (4) Transferring \$33,364 on deposit with the Golden Oak Bank and any amounts since acquired in such accounts to the special account for surcharge collections. ✓
- c. File a request for authority to accept contributions in aid of construction from the developers in the Junction area and from the developers of the Jamison Tract.
 - d. In cooperation with Commission's Policy and Planning Division meet with the directors of District 22C and other interested county officials to resolve questions of overlapping service areas and possible duplications of facilities.
 - e. Provide a realistic list of potential customers along the proposed 12" line to Yosemite High School and investigate the possibility of connecting the Pierce Lake Subdivision.
 - f. Determine the possibility of providing service to the three developments and the hospital in the Junction area.
 - g. Determine from DWR whether it properly used SDWBA funds for:
 - (1) Pipe currently held in inventory but not earmarked for SDWBA-approved projects.
 - (2) Interest paid by Linton Forrester on personal loans.

- (3) The additional cost of the 12" over and above the cost of the 8' pipe approved by D.91560.
- (4) Expenditures which lack adequate documentary support.
- h. Place funds representing expenditures disallowed by DWR in a special account for the purpose of completing SDWBA projects only.
- i. Prepare and file an overall plan that identifies the remainder of the plant items to be constructed, the cost of each, and the manner in which the construction will be financed.
- j. Analyze all SDWBA expenditures to date and identify the total charges assignable to each of the five water systems.

A copy of this compliance filing shall be served by mail on all parties to this proceeding.

3. Hillview shall not make any further extensions of service without formal order of the Commission until:

- a. All issues relating to questionable SDWBA loan expenditures have been resolved.
- b. Questions of the overlap of service areas and facilities with District 22C have been determined.
- c. An adequate accounting and work order system has been installed.

4. Upon receipt of a copy of the agreement between Hillview and its fiscal agent the Executive Director shall deposit all surcharge funds relating to this proceeding, presently held or received later by the Commission, in the special account for surcharge collections.

5. Based upon the engineering study and audit report required by Ordering Paragraph 1, as well as the report to be filed by Hillview as required by Ordering Paragraph 2, the staff shall, within 90 days after the effective date of this order, prepare a new staff report containing appropriate findings and recommendations. When completed, copies shall be served upon all parties of record to this proceeding.

6. Further hearing in this proceeding will be held at a time and place to be set.

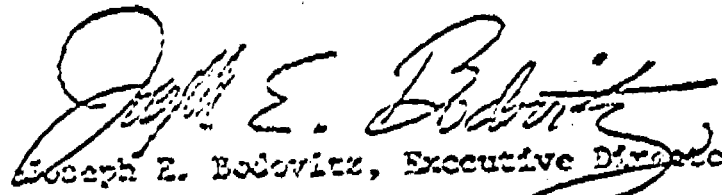
This order becomes effective 30 days from today.

Dated JAN 21 1982, at San Francisco, California.

RICHARD D. CRAVELLE
LEONARD M. GRIMES, JR.
VICTOR CALVO
PRISCILLA C. GREW
Commissioners

Commissioner John E. Bryson
present but not participating.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bobovitz, Executive Director