

Decision No. 91802 MAY 20 1980

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LAGUNA HILLS)
 SANITATION, INC. for authorization)
 to incur an indebtedness of)
 \$1,400,000 and to service such)
 indebtedness through a surcharge)
 resulting in an increase in)
 Applicant's rates and charges for)
 sewer service.)

Application No. 59033
 (Filed July 30, 1979;
 amended November 16, 1979)

ORDER DENYING MODIFICATION OF DECISION NO. 91339

In D.91339 dated February 13, 1980 we declined to impose a ban on applicant Laguna Hills Sanitation, Inc.'s paying dividends or to determine that the application of connection fees collected by applicant from developers could be diverted to the rebuilding of the existing sewage treatment plant, as advocated by the interested parties (Professional Community Management, Mutual Housing Corporations Inside Leisure World, and Golden Rain Foundation).

On March 13, 1980 the interested parties filed a Petition for Modification of D.91339. In that petition they requested that the decision be changed on both of the above counts to comport with their position.

The tactic employed in this proceeding by counsel for the interested parties was to urge the dividend ban, without presenting affirmative evidence, at virtually the close of the hearing and then pick up the matter for argument

in his brief. As a review of the Cal-American decision, 81 CPUC 204 (D.86807 dated January 5, 1977 in C.9530^{1/}), makes clear, our prohibiting payment of dividends is an action that requires a comprehensive supporting record.

Clearly, it is neither an appropriate nor necessary action on our part in the matter now before us. Indeed, applicant has neither paid dividends nor can it legally do so for the foreseeable duration of the reconstruction project or longer for that matter, pursuant to applicant's bond trust indenture. In pertinent part, the indenture provides that applicant may not declare or pay dividends (other than stock dividends), or purchase, redeem, or otherwise acquire any of its capital stock, until it has retained earnings of at least \$600,000. As of December 31, 1978 applicant's balance sheet shows an accumulated deficit of \$593,810. The bonds covered by the indenture are due October 1, 1984.

D.91339 as it relates to connection fees simply stands for the proposition that connection fees should be expended on what they are collected for.

1/ Also see D.87032 dated March 9, 1977 and D.87710 dated August 16, 1977 in C.9530.

Therefore, IT IS ORDERED that the modifications of D.91339 requested by the interested parties are denied.

The effective date of this order shall be thirty days after the date hereof.

Dated MAY 20 1980, at San Francisco, California.

John E. Byron
President

Deborah L. Stinson

Richard D. Howell

Charles J. D'Adamo

Edward M. Jones
Commissioners