

WATER/RHG

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HILLVIEW)	
WATER COMPANY, INC. U-194-W, for)	Application 00-10-043
Authority to issue evidence of indebtedness)	(Petition for Modification
(Promissory Note and Loan Agreement) and to)	(filed March 18, 2003)
grant security interest in its assets.)	
_____)	

OPINION MODIFYING AUTHORIZATION TO ISSUE EVIDENCE OF INDEBTEDNESS

Summary

This decision grants Hillview Water Company, Inc. (Hillview) the authority requested in its petition for modification of Decision (D.) 01-05-006 (Petition), enjoined in this order with conditions.

Pursuant to Rule 47 of the Commission’s Rules of Practice and Procedure, Hillview seeks authorization to secure an additional planning loan in the amount not to exceed \$76,327.77 from the Department of Water Resources (DWR) under the Safe Drinking Water State Revolving Fund (SDWSRF) in order to complete the Environmental Impact Report (EIR) for its proposed construction project in the Oakhurst and Sierra Lakes districts.

Notice of the filing appeared on the Commission’s Daily Calendar of March 20, 2003. No protests have been received.

Background

Hillview, a Class C water utility, operates a water utility subject to the jurisdiction of this Commission.

Hillview owns and operates the Oakhurst-Sierra Lakes (OSL) water system, a community water system (OSL System). The OSL System serves the area in and around Oakhurst in the foothills of eastern Madera County. The water system serves a permanent population of over 2,000 through approximately 900 service connections. In addition, the community hosts an estimated one million visitors per year that pass through on their way to Yosemite National Park.

The OSL water system does not have adequate source of treatment capacity. In addition, the distribution system is unable to adequately distribute treated water and meet summer water demands. To prevent water outages, Hillview utilizes two sources that do not meet the primary drinking water standard for uranium. One of the two wells is treated; however, the existing treatment system cannot effectively remove the uranium to meet the drinking water standard. The distribution system does not have enough hydraulic capacity to efficiently distribute the treated water. Hillview has implemented mandatory water conservation measures.

On September 8, 1997, the Department of Health Services (DHS) issued Hillview Compliance Order No. 03-11-970-002 for failure to comply with the Uranium MCL and failure to insure that customers are provided with a reliable and adequate source of pure, wholesome, healthful and potable water.

On November 30, 1999, DHS completed a review of the water system and directed Hillview to develop additional source capacity. The problem has been adequately documented in DHS' files.

Hillview submitted a long-term construction loan application for the SDWSRF on May 10, 2000 for its OSL System. DHS approved the funding for the project on or about August 17, 2000. Pursuant to DHS' Technical Project Report approved on August 17, 2000, there is a lack of adequate production,

treatment, and distribution capacity within Hillview's Oakhurst-Sierra Lakes water system.

On October 19, 2000, Hillview filed A.00-10-043 requesting authority to enter into a loan agreement with DWR to borrow \$3,408,447 under the SDWSRF for construction of new wells, new raw water transmission line, new treated water transmission line, upgrade of treatment plants, new storage tank, and other water system improvements for the OSL districts; encumber its assets in connection with the loan; and to impose a surcharge to repay the principal and interest of the loan.

On March 15, 2001, Hillview filed an Amended Application requesting additional authority to enter into a funding agreement with DWR for a \$25,000 planning loan under the SDWSRF. The proceeds will be used for expenses already incurred in connection with a test well, which was part of the environmental impact study.

D.01-05-006 dated May 13, 2001 granted Hillview the authority to borrow \$25,000 under the SDWSRF at zero percent interest (Planning Loan No. 1). In all other matters, A.00-10-043, as amended was consolidated with Order Instituting Investigation (OII) dated July 16, 1997 in Investigation (I.) 97-07-018¹.

On August 19, 2002, DHS approved the \$3,408,447 loan² for Hillview at a zero-percent interest, payable in 30 years. The loan agreement requires among other things, a surcharge to cover the loan debt service and a reserve requirement.

A public meeting was held in Oakhurst on September 18, 2002 to address the \$3.4 million project, the SDWSRF loan, and the proposed surcharge rate. The meeting concluded with a positive support for the project from the majority of the customers.

¹ An investigatory proceeding on Hillview on possible violations of statutes and regulations in connection with, among others, utility investment in plant and dealings with customers obtaining water service.

² Hillview's estimated construction costs as shown in A.00-10-043 amount to a total of \$4,083,241. But due to the financial status of the OSL water system, DHS has set a maximum loan amount of \$3,408,447.

Subsequently, D.02-11-015 dated November 7, 2002 granted Hillview the authority to borrow up to \$3,408,447 under the SDWSRF and to impose a surcharge³ approximately thirty days prior to completion date of the project. D.02-11-015 did not prejudice any issue pertaining to I.97-07-018. A.00-10-043 was closed.

Pursuant to its March 17, 2003 Supplemental Data to the Petition, Hillview states that there are significant waste disposal issues associated with the uranium removal treatment process at the Sierra Lakes Well No. 4 which could not be satisfactorily resolved. Therefore, the project has been revised to delete the uranium removal improvements and instead add the construction of up to five more wells to replace the source capacity of Sierra Lakes Well No. 4. This change requires revision of the Draft EIR⁴.

³ The annual requirements for debt service for the \$3,408,447 loan are \$125,231 for years 1-10 and \$113,846 thereafter.

⁴ On February 24, 2003, Hillview requested DHS for a change of date for submission of plans and specifications for the changes in the project to be incorporated into the Draft EIR. On February 26, 2003, DHS revised the submission of the Plans and Specifications and the Draft EIR from March 1, 2003 to July 15, 2003. On February 27, 2003, Hillview filed its application with DHS for the additional \$76,327.77 planning loan to be used to revise and complete the Draft EIR.

Modification Sought

Hillview now requests authorization for another planning loan of \$76,327.77 to pay the costs of the additional work needed to complete the Draft EIR. Hillview expended \$23,672.33 of the first planning loan authorized by D.01-05-006.

The estimated expenses for the completion of the Draft EIR follows:

<u>Item</u>	<u>Amount</u>
Drilling of test well	\$ 19,299
Hydrogeologic evaluation	12,860
Vegetation and wildlife	4,898
Civil engineering work on EIR for proposed wells, storage, and distribution system improvements	13,800
Planning consultant for preparation of EIR	22,475
Radiological consultant for calculations and analysis for uranium removal	<u>1,295</u>
Total	<u>\$ 74,627</u>

According to Hillview, DWR has committed to provide the utility with Planning Loan No. 2 at zero-percent interest. The repayment will commence six months from the date the draft planning report is received and approved and shall be fully repaid within five years from when the repayments begin.

The Petition states and DWR has confirmed that the planning loans and the construction loan may be combined into one loan with repayment beginning at the same time the repayment of the construction loan would normally commence. The maximum loan amount that DHS will extend to Hillview is \$3,408,447. This total includes a maximum allowable amount in planning loans of \$100,000.

This Petition raises no questions that should dissuade us from giving favorable consideration to the modification requested. There is actually no new

money authorization associated with the Petition. Pursuant to § 816 *et. seq.* of the Public Utilities (PU) Code, D.02-11-025 authorized the whole \$3,408,447 that DHS has earmarked for Hillview's project. As noted on page 3 of this order, Hillview's estimated construction costs as shown in D.02-11-025 amounts to \$4,083,241, but due to the maximum loanable amount of \$3,408,447, Hillview's project components have to be prioritized. With the two planning loans estimated at \$100,000, Hillview would have to further prioritize and defer part of its construction program.

This Petition then serves only to furnish the information to this Commission on the amount of the planning loans and the resulting change in the use of proceeds under the authority granted in D.02-11-015. Effectively, the original \$3,408,447 authority in D.02-11-015 (which is inclusive of the \$25,000 authority granted in D.01-05-006, and the requested amount in this Petition) prevails.

Therefore, Pursuant to PU Code § 823(a), we will authorize Hillview's Petition.

PU Code § 823(a) states:

No public utility shall, without the consent of the Commission, apply any part of the issue of any stock or stock certificate or other evidence of interest or ownership, or bond, note, or other evidence of indebtedness, or any proceeds thereof, to any purpose not specified in the Commission's order, or to any purpose specified in the order in excess of the amount authorized for such purpose, or issue or dispose thereof on any terms less favorable than those specified in the order, or a modification thereof.

DWR requires a dedicated source of revenue as part of its conditions in a loan agreement. Therefore, if the construction program which is to be funded by the authority granted by D.02-11-015 should be declared not feasible or unviable, Hillview may, by advice letter filing, on or after the date the construction program is cancelled as verified by DHS, request this Commission implement a rate surcharge to repay only the planning loan principal and interest.

We will require Hillview the following conditions:

1. Hillview shall file with the Audit & Compliance Branch (ACB) of the Water Division, a copy of the planning loan agreements and promissory notes within 15 days after execution.
2. Hillview shall provide ACB a copy of the Environmental Impact Report and/or Notice of Determination.

Hillview has previously paid the fee associated with the \$3,408,447 authority pursuant to PU Code § 1904(b). No additional fee is required for this Petition.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is waived.

We approve Hillview's Petition in this order.

FINDINGS

1. Hillview, a California corporation, is a public utility subject to the jurisdiction of this Commission.
2. On September 8, 1997, DHS issued Compliance Order No. 03-11-970-002 for failure to comply with the Uranium MCL.
3. On November 30, 1999, DHS directed Hillview to develop additional source capacity.

4. On May 10, 2000, Hillview filed a long-term construction loan application and DHS approved the funding for the project about August 17, 2000.

5. On October 19, 2000, Hillview filed A.00-10-043 requesting authority to enter into a loan agreement with DWR for \$3,408,447.

6. On March 15, 2001, Hillview filed an Amended Application requesting a \$25,000 planning loan under the SDWSRF.

7. D.01-05-006 dated May 13, 2001 granted Hillview the authority to borrow the \$25,000 planning loan under the SDWSRF.

8. On August 19, 2002, DHS approved Hillview's \$3,408,447 loan at zero-percent interest, with a term of 30 years.

9. D.02-11-015 dated November 7, 2002 granted Hillview the authority to borrow \$3,408,447 under the SDWSRF and to impose a surcharge prior to completion date of the project.

10. The Petition seeks Commission approval of Planning Loan No. 2 to fund the costs associated with the completion of the EIR in light of the revision of the project.

11. DWR has committed to provide Planning Loan No. 2 as part of the \$3,408,477 loan package.

12. Planning Loan Nos. 1 and 2 may be combined into the construction loan authorized by D.02-11-015.

13. Planning Loan No. 2 is at a zero percent interest rate.

14. Planning Loan No. 2 is for proper purposes and is not adverse to the public interest.

15. Notice of the filing of the Petition appeared on the Commission's Daily Calendar of March 20, 2003, and no protests have been received.

CONCLUSIONS

1. A public hearing is not necessary.
2. The Petition should be granted to the extent set forth in the order that follows.
3. PU Code § 823(a) provides that no public utility shall, without the consent of the Commission, apply any part of the issue of any stock or stock certificate or other evidence of indebtedness, or any proceeds thereof, to any purpose not specified in the Commission’s order.
4. Hillview has previously paid the fee as required by PU Code § 1904(b) for the \$3,408,477 borrowing authority granted in D.02-11-015.
5. The following order should be effective on the date of signature.

ORDER

THEREFORE, IT IS ORDERED that:

1. Hillview Water Company, Inc. (Hillview), on or after the effective date of this order, is authorized to borrow an additional planning loan of \$76,327.77 from the State of California under the Safe Drinking Water State Revolving Fund (SDWSRF) at zero percent interest, upon terms and conditions substantially consistent with those set forth or contemplated in its Petition to Modify Decision (D.) 01-05-006 (Petition). This authorization is part of, and is to be deducted from the \$3,408,447 authority granted in D.02-11-015 in Application (A.) 00-10-043, as amended.
2. Hillview is authorized to execute and deliver the loan agreement and promissory note with the California Department of Water Resources (DWR).
3. Hillview shall use the proceeds of the planning loan for the purposes specified in the Petition.

4. Hillview shall file with the Audit & Compliance Branch (ACB) of the Water Division, a copy of the DWR planning loan agreements and promissory notes within 15 days of execution.

5. Hillview shall file a copy of the Environmental Impact Report and/or Notice of Determination to ACB.

6. If the construction program which is to be funded by the authority granted by Decision 02-11-015 is declared not feasible or unviable, Hillview may, by advice letter filing, on or after the date the construction program is cancelled as verified by the Department of Health Services, request this Commission implement a rate surcharge to repay only the planning loan principal and interest.

7. The matter relating to the planning loan set forth in A.00-10-043, as amended, is closed.

8. The Petition is granted as set forth above.

9. In all other respects, D.01-05-006 remains in full force and effect.

This order is effective today.

Dated _____, at San Francisco, California.