



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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Account: _____
by the Office of _____



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The Honorable Richard (Dick) Stone
United States Senate

RELEASED

Dear Senator Stone:

In response to your June 8, 1976, letter and a later request from your office on September 16, 1976, we have reviewed the actions taken by the Department of Agriculture's Office of Investigation in its investigation of a loan made by the Farmers Home Administration (referred to as agency) to the Collier County Sewer District A, Collier County, Florida, to construct a sewer system. Its investigation was prompted by allegations one of your constituents made concerning the loan.

Your request was based on allegations made by your constituent that the Office of Investigation and the agency covered up the original investigative report and that the final report, dated March 19, 1976, differed from the report prepared by the special agent who conducted the investigation. Your office agreed with our review objectives which were to determine (1) if the Office of Investigation's final report differed materially from the draft report prepared by its special agent, (2) whether certain specific allegations your constituent made were investigated by the special agent, and (3) whether a court judgment declaring the district a legal entity could be successfully challenged.

We held discussions with Office of Investigation officials in Washington, D.C. and Atlanta, Georgia, agency headquarters officials in Washington, D.C., and your constituent in Naples, Florida. We made a detailed comparison of the special agent's draft report with the final report. All Office of Investigation files and workpapers associated with its investigation were reviewed.

This report summarizes the information presented to you in an oral briefing on September 16, 1976, and information requested on that date concerning the court judgment declaring the district a legal entity. As agreed with your office, Department of Agriculture comments were obtained and considered in preparing the report.

DOES FINAL REPORT DIFFER
MATERIALLY FROM DRAFT
AND WERE ALLEGATIONS
INVESTIGATED BY SPECIAL AGENT?

Your constituent alleged that the following statement made by the Office of Investigation in its final report is false.

"* * * claims of possible conflicts of interest by FmHA [Farmers Home Administration] personnel, questionable ownership of land, and political pressures regarding the approval of the loan to Collier County Water/Sewer District were not further pursued at this time."

Although this statement was incorrect since an investigation was made and results were discussed in the draft report prepared by the special agent, we do not believe the purpose of the statement was to cover up any material findings. The matters developed by the special agent but not included in the final report are discussed below.

The special agent concluded in the draft report that no information was developed or learned to indicate that any conflicts of interest existed on the part of agency personnel. To determine if agency personnel were improperly involved with the sewer loan, the special agent (1) examined documents in the Collier County Court House to determine whether agency personnel involved in the approval of the loan had purchased land in Collier County before the installation of the sewer system, (2) listened to tapes of meetings of the Collier County Board of Commissioners, and (3) read minutes of its meetings.

The special agent also discussed rumors of possible conflicts of interest by elected officials of Collier County. This information was referred to the Florida State Attorney's office for possible followup.

Concerning the allegation of questionable ownership of land, the Office of Investigation, in a letter to the Regional Attorney, Office of the General Counsel, Department of Agriculture, noted a claim filed in Federal Court by your constituent regarding whether a portion of Vanderbilt Beach, one of the areas served by the district's sewer system, actually belonged to the Federal Government. Legal advice was requested on the effect the claim would have on the agency loan, if supported. The Regional Attorney's opinion as cited in the draft report was that:

"* * * were these contentions to prove valid and the property determined to be vested in the United States, as in similar instances, it might be presumed that the Government would convey title to the parties who have erroneously, but in good faith, constructed improvements upon this property."

Therefore, the special agent stated in the draft report that this matter was not pursued further.

In response to the allegation that political pressure was being applied to obtain agency approval of the sewer loan, the special agent stated that his examination failed to disclose any indications of political pressure being involved in the loan processing. The special agent (1) interviewed Collier County officials, (2) reviewed loan documents at Collier County and agency offices, and (3) questioned agency personnel associated with the loan.

Also omitted from the final report were references to comments made by the Collier County consulting engineer that the official of the agency's Texas State office, who reviewed the loan application on behalf of the national office, was not in Collier County long enough to make an adequate review.

Other changes made to the draft report were editorial.

Your constituent told us that the allegations made were directed toward omitted material as opposed to falsified material. He said the omitted facts were:

1. The Naples Park-Vanderbilt Beach Water and Sewer District was created in 1966 by referendum of the people. In 1967 this district entered into an agreement to obtain water from the city of Naples, Florida.
2. The Clam Bay Water and Sewer District (name later changed to Pelican Bay Improvement District) was created in 1973 by special act of the Florida legislature.
3. There are lawsuits pending which challenge the legality of acts by the agency and by the Department of Agriculture's Office of the General Counsel, the legal existence of the district, and the validity of a court judgment declaring the district a legal entity.

Your constituent contends that it is legally impossible for the district to be a legal entity since the Naples Park-Vanderbilt Beach Water and Sewer District and the Pelican Bay Improvement District, both within the geographic boundaries of the Collier County Sewer District, were also declared legal districts. Although all pending lawsuits were not addressed in detail in the Office of Investigation report, this question of legal entity was considered by the Office of Investigation and the Office of the General Counsel. It was discussed in detail in the final report and in a one-page supplemental report issued on April 14, 1976.

CAN JUDGMENT DECLARING THE
DISTRICT A LEGAL ENTITY BE
SUCCESSFULLY CHALLENGED?

The Regional Attorney, Office of the General Counsel, addressed this question in a December 9, 1975, letter to the Office of Investigation. He explained that to assure the propriety of agency loans to public bodies, it is required that the bonds of public bodies be validated through judicial proceedings before they are purchased by the agency. In accordance with this requirement, a bond validation judgment was issued in the Collier County Circuit Court, East Naples, Florida, on June 25, 1974, declaring the district a legally organized and existing public corporation of the State of Florida with authority to issue \$11 million of sewer revenue bonds for a new sewer system.

The Regional Attorney cited a Florida statute (FSA 75.09) which provides that if judgment is obtained validating public body bonds, and no appeal is taken within the time prescribed, such judgment is forever conclusive and the validity of said bonds shall never be questioned in any court by any person or party. He also cited a Florida State Supreme Court decision (Lipford vs. Harris, 212 So. 2d 766 (1968)) which stated that public policy demands court adherence to its many holdings that a validation decree, once final, puts at rest all questions raised in the validation as well as all questions which could have been raised.

Despite this statute, the recent discovery of inadequate public notice of the 1974 validation proceedings might require revalidation proceedings. According to officials of the Department's Office of the General Counsel, attorneys for Collier County discovered in December 1976 that the legal

