

March 7, 1988

To: Members of Valley Interfaith

From: Ann W. Richards

Subject: Report on Colonias Issues

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As I promised you when I was in the Valley February 1 and 2, my staff and I have spent some time looking at ways we might help you identify and remove some of the obstacles that prevent residents of the Colonias from having basic sewer and water services.

In particular, we agreed to look into three specific issues: 1) the movement of pending federal legislation, 2) the ability of cities to use special districts for financing water and sewer improvements and 3) the effect of Bond Counsel's opinion on the ability of the Public Utility Board to charge the same rate for utilities to in-city and out-of-city customers.

The bottom line on these three issues is:

1. Federal Legislation -- Congressional hearings on conditions in the Colonias are to be held March 11 in El Paso and March 12 in Brownsville. As yet no hearings are scheduled for HR 3524, the Colonias Water and Sewage Act. The Colonias Water and Sewage Act would provide grants and loans for construction and maintenance of water supply and sewers distributed through the Farmers Home Administration.
2. Texas Special Districts -- Special District Legislation amended during the last legislative session would not provide a new vehicle for issuing bonds. The bill gives cities the power to make improvements in their Extra Territorial Jurisdiction. However, any bonds issued would remain city debt.
3. Bond Counsel Opinion on Rates -- Discussions with bond counsel indicate that the issue of whether an in-city rate could be charged Cameron Park customers might be worked out.

The attached pages discuss these issues in greater detail.

1. FEDERAL LEGISLATION -- HR 3524 by Oritz and SR 1838 by Bentsen, the Colonias Water and Sewer Act.

The two identical bills amend the Consolidated Farm and Rural Development Act to direct the Secretary of Agriculture to make grants (\$25 million annually) for construction and maintenance of water supply and sewer facilities.

The bills also amend the Housing Act of 1949 to direct the Secretary of Housing to make loans and grants to low income individuals for housing repairs and improvements for water and sewer. (\$20 million total)

Co-sponsors in the House include Coleman, Bustamente, Bryant, Foster, Torres, de la Garza, Garcia, Richardson and Gonzales.

The House bill has been referred to the Agriculture Committee and is currently in the Conservation Credit and Rural Conservation subcommittee. The bill was also referred to a second committee in the House -- the Committee on Banking, Finance and Urban Affairs. It has been referred to the subcommittee on Housing and Community Development.

There have been no specific hearings scheduled on HB 3524. However, the House Public Works and Transportation Subcommittee on Water will hold hearings on general problems facing the Colonias. These hearings are scheduled in El Paso March 11 and in Brownsville March 12. Ideas for new and/or different legislation could be generated during these hearings. However, at this time, the House Public Works Committee has no specific bill pending which deals with problems of the Colonias.

On the Senate side, SR 1838 has been referred to the Environment and Public Works Committee. However, no action is expected on the Senate bill until after the House has taken action.

I went to Washington and met with the staff of Representative Solomon Ortiz and spoke with Senator Lloyd Bentsen, Speaker Jim Wright and Congressman Ron Coleman. Speaker Wright suggested that an entity like the Border States Economic Commission be revived and used as a vehicle to address the problems of the Colonias, as well as other economic problems along the Texas-Mexico border. While I was in his office, Speaker Wright spoke by phone with Governor Mike Dukakis and enlisted his support for a program that would address the problems of the Lower Rio Grande valley and the border. He suggested a comprehensive plan similar to that developed to assist the Appalacian Community. We have supplied materials to the "issue" staff of Governor Dukakis and will continue to pursue the development of a plan. Speaker Wright has pledged to assist in passage of legislation creating a border/valley commission. Congressman Ron Coleman also expressed support for such legislation and I believe Senator Bentsen will help as well.

2. TEXAS SPECIAL DISTRICTS -- One possibility under consideration for funding sewer and water improvements has been the use of special districts created under the Public Improvement Assessment Act. HB 2011, passed during the last Texas legislative session, gives cities the power to make improvements in their extra territorial jurisdiction (ETJ). However our discussions with the Legislative Council staff which drafted the bill indicated that it would not be possible for these special districts to issue debt for sewer improvements in the Colonias. The bill did not set up any new kind of governmental unit or debt authorization power. Even without bonding authority however, the law may be useful. Cities may now undertake capital improvement projects in their ETJ without full-scale annexation which can be prohibitively costly.

3. BOND COUNSEL -- Another issue raised was the ability of the Public Utility Board of Brownsville to charge out-of-city customers in Cameron Park the same rates as charged residents of the City of Brownsville. Current policy is that all customers outside the city limits pay one and one-half times the rate charged inside the city. The question asked was whether the PUB could make an exception for Cameron Park in light of agreements made relating to the payback of bonds issued by PUB.

I spoke with a representative of McCall, Parkhurst & Horton which served as bond counsel on some of the PUB's bond issues in the past. We discussed the possibility of charging the in-city rate to people in Cameron Park.

Bond counsel indicated to me it might be possible to charge the in-city rate to residents of Cameron Park without jeopardizing the legality of bonds. Attorneys at McCall Parkhurst are continuing to research this issue. Before making a final determination, however, they would have to receive a letter from the PUB outlining a specific plan and requesting an opinion.

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In addition to the three areas my office explored, we also looked into the possibility of state grant money for connecting individual homes to sewer and water lines. In the past, Community Development Block Grants from the Department of Community Affairs have been used for similar projects. However with the reorganization of the Texas Department of Commerce, there may now be a change in the way these CBDG funds are allocated. It is important we act to insure that CBDG funds remain available for hookups if and when the main sewage lines are in place.

Beginning this spring, regulations for Community Development Block Grants will be revised. Draft regulations will be circulated for comment in the Texas Register. Then hearings will be held at which public testimony will be taken. Final regulations will then be drafted, adopted and sent to the Federal Department of Housing and Urban Development, which has final approval. The date for issuance of regulations and public hearings has not yet been set. It will be important to follow the progress of new regulation development in order to maintain some source of state funding for the kind of improvements that would assist individuals in receiving basic services such as plumbing and street improvements.

My office will continue to monitor the progress of federal legislation and our discussions with bond counsel about the PUB utility rate charges. In addition, Frank Raines, General Partner of Lazard Frere in New York, is providing information about funding mechanisms that may prove helpful to deal with a range of problems in the Colonias.

I appreciate the opportunity members of Valley Interfaith have given me to see the problems of the Colonias and to understand the willingness and determination of residents to solve those problems. My office stands ready to continue to work with you in any way we can.