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Landmark Enterprises, Inc
62 Lake Henry Drive
Lake Placid, FL 33852
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February 28, 1998

PUBLIC SERVICE COMMISSION
DIRECTOR OF THE DIVISION OF RECORDS AND REPORTING
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Thunderbird Hills Wastewater Treatment Plant (Highlands County)
Docket No. 971622-SU
Order No. PSC-98-0269-FOF-su

Dear Sirs,

This letter is to respond to the cited PSC ORDER TO SHOW CAUSE AND REQUIRING IMMEDIATE PAYMENT OF REGULATORY ASSESSMENT FEES.

It is my claim that in fact Landmark Enterprises, Inc. did fail to file the required reports, and did fail to pay the required assessments; however it did not willfully do this, but did not have the resources comply with these requirements.

Landmark Enterprises, Inc. (LANDMARK), was a land development corporation owned by Lee Woods and my father, (Seth Plank). Landmark was formed when a tract of property was acquired to develop for a mobile home park, and an apartment complex. Before acquiring the property, LANDMARK had a contract where Highlands Utilities agreed to provide the needed sewer service. During development, after LANDMARK was formed and acquired the property; the FDER refused to allow Highlands Utilities to provide Sewer service to this project, or any other new projects; because they were behind on required plant construction. There were no other wastewater plants in the proximity that could provide this service to the project, and no other utility owners would agree to put in a sewer plant. LANDMARK was forced to either go bankrupt, or put in their own sewer plant. LANDMARK put in the plant, and supplied projects developed by LANDMARK. LANDMARK never intended to own or operate the plant for profit, but as a necessity until the plant could be sold. LANDMARK then contracted for Howard Short Utility Management Company, (SHORT), to purchase the plant, and applied for the FPSC to approve and License SHORT as the new owner. SHORT owned and operated other plants in the County. Highlands utilities protested the sale claiming they had some of the territory within their franchise territory. The disputed properties were grandfathered in as Highlands Utilities franchise territory, because Highlands Utilities described them as being served by them when Highlands County elected to give jurisdiction to the FPSC.

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FPSC-RECORDS/REPORTING

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When I protested to FPSC, I was told that Highlands Utilities' grandfather certificate was invalid if they were not actively processing waste from the property on the day FPSC received jurisdiction. The properties were undeveloped scrub land with no development plans when the FPSC received jurisdiction. Highlands Utilities described as properties they served; all properties within one-half mile of their force mains. The FPSC lawyer I spoke with told me that if my claim was correct, (and I offered immediate proof and documentation), that Highlands Utilities franchise was invalid. SHORT said that such a small plant could not justify a Tallahassee Legal Battle, and if we did not agree to pay all legal costs of such a battle, he would withdraw his contract to purchase the plant. FPSC refused to pursue our claim under that docket, but stated in the closure of that docket, that they would pursue the claim of the invalid franchise area under a future docket. FPSC never did.

I moved to Florida in 1988, and became a partner (1/4) of LANDMARK. At that time LANDMARK, still owned by my father and Lee Woods, was a successful property development corporation, and the sewer plant was a very minor involvement of LANDMARK. Six months later, with a declining Real Estate Market, Lee Woods requested to separate properties of LANDMARK, and he traded his stock for half of the assets. My Father and myself were left with two undeveloped tracts, and the Sewer Plant. We received the Sewer Plant, because I had the biological and mechanical abilities to operate it, and he did not. Neither of us wanted it, and especially not its' mortgage. I applied for a FPSC certificate, and received it. It still only served the projects developed by LANDMARK, and was operating as exempt from FPSC because of its' "operation by the Properties Owners Associations".

Property development hit an all time low, (Savings and Loan Crisis), and the parties LANDMARK had developed properties for defaulted, and LANDMARK became insolvent. My father recommended bankruptcy, but I refused because I am morally against it. I agreed that LANDMARK had a negative value, and I would gladly of sold it for debt. My only GOAL concerning LANDMARK since then, has been to liquidate LANDMARK's assets, and pay off its debts. My first two years with LANDMARK, I drew a \$400 a week salary, but since 1993, I have received nothing for my time or efforts. In fact, I have put thousands of dollars each year of my personal monies into LANDMARK to keep it from bankruptcy. My father chose to "walk out the door", leaving me with LANDMARK, and its two major holdings, (the Sewer Plant and 23 undeveloped mobile home lots), to "let the chips fall where they may". Since then I have carried LANDMARK as a cancer, eating away at my family's money, my time, and my health, and immeasurable other costs to my family. When LANDMARK was audited by the FPSC in 1994, I asked for relief, stating that LANDMARK was insolvent and incapable of paying for

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proper operations of the Sewer Plant. The rates were, (and still are), \$11.00 per month fixed rates. That is considerably less than any other Sewer Plant of which I am familiar. The auditor said I had to pay the +/- \$1,700 assessment I was in arrears for, before I could even apply for a Staff Assisted Rate Adjustment; or pay for private CPA's to do all that was necessary to get a rate change. I was told by my CPA that his charge for setting up my books under the FPSC, (as required for proper reporting), would be approximately \$5,000.

I have been suffering to tread water ever since. Never taking any money out for my time in operating and maintaining the facilities. I have borrowed all that I can against my home as a second mortgage, and from family, friends, and credit cards, to keep the sewer plant operating; going deeper and deeper in debt. I spoke to the FPSC auditor about a year latter, and told him I still did not have the monies to catch up on the assessments in order to start a Staff Assisted Rate Adjustment; and that I still needed one desperately. His advice to me was to try to raise the monies somewhere; that this was a serious issue. Every time I have received any extra monies, there are more breakdowns putting me back deeper in the hole.

My main employment is with Twyford Plant Laboratories, where I work 60 hours plus a week. The sewer plant obligations require me to be on call 24-hours a day, (pager on my side), for any plant problems. My normal time for leaving Twyford is 1:00 - 2:00 am, and I regularly have to go pull a sewer liftstation by hand afterwards. With my cash position, I cannot afford to pay others to run service calls, or boom trucks to pull the pumps. I have to get ladders to climb down into the liftstations and attach a come-a-long to the pump to pull it out. I cannot describe the unpleasantness of the work I have to do, nor the stress of not being able to leave town due to constant sewer equipment breakdowns, and especially the financial burdens. Each day, I try to attack the most urgent need of the day; but I get farther and farther behind. I do not want riches, but I have been damned with a sewer plant that is consuming all of my time, much of my family and children's money, and my mental and physical health.

I feel the sewer plant has made me just a shadow of the person I was ten years ago. Six years ago I was my^{own} Church's Board of Directors and was Chairman of the Local Christian School Board. Today its been three months since my last church attendance. I cannot go out of town overnight, and often my family's needs go unattended by me, all due to my obligations to the sewer plant. My mother has advanced Alzheimers, my stepmother has gone blind in the last five years, and now has emphysema, advanced arthritis, and Cancer in her chest, lymph system, and bone marrow, and my father lost sight in one eye last year, and is in poor health. My wife's

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father has spent 85% of the last six months in a VA hospital in Alabama with a dementia, inoperable cancer, and other health issues, and my wife's grandmother is in the hospital to die, after a stroke wiped out any chances of ever regaining consciousness. My wife's best friend has this month come home from experimental cancer treatment in the Bahamas, in order to be with her family to die. My oldest daughter is graduating with her masters in Special Education from University of Florida this May, and my sixteen year old daughter has been working every day after school to try and earn money for college. (I have numerous burdens to juggle!)

I have other urgent liabilities from past LANDMARK projects, regularly taking my time, but the main source of LANDMARK's problems is its Sewer Plant does not have the income to meet its expenses, snow-balling into consuming more money, time, and sanity than I have to spare. I have been told numerous times that LANDMARK cannot apply to raise the Sewer Rates until LANDMARK pays what it owes; and this has been a disastrous CATCH-22 for me. I live in a meager \$40,000 home, drive the same truck I bought in 1987, (when I'm not underneath it repairing it), have put in many tens of thousands of dollars, and thousands of hours of time; into the Sewer Plant with the one goal of selling it for debt.

I request that the FPSC allow LANDMARK to mitigate the problems it is in, with hopes of allowing LANDMARK to raise its rates enough to cover expenses, as necessary to make the plant sellable. I have two local utility owners interested in purchasing the plant, but only if the rates are raised. I am willing to sign any agreements binding LANDMARK and myself to selling at debt, (actually considerably less than debt), and am willing to prove LANDMARK and my self are both technically insolvent. I am willing to sell and bind my labor for no pay for a year, and willing to carry any personal debts, if I can just get loose. I am hoping that FPSC will take consideration of LANDMARK's ability to comply with the previous requirements. I have received a commitment from a CPA to help me on weekends to prepare the necessary reports. She helped me this weekend, and I am to get more information and get back with her this coming weekend. I think I can reliably promise for LANDMARK to produce some of the required reports by 3/15/98, and to complete all the reports by 4/1/98.

Can I please get these issues mitigated with the FPSC.

Sincerely,

Landmark Enterprises, Inc.
by: David Plank, President

David Plank

FAXED TO PSC on 3/2/98
MAILED TO PSC on 3/2/98