

COMMISSIONERS:
NANCY ARGENZIANO, CHAIRMAN
LISA POLAK EDGAR
NATHAN A. SKOP

STATE OF FLORIDA



DIVISION OF
ADMINISTRATIVE SERVICES
APRYL C. LYNN
DIRECTOR
(850) 413-6330

Public Service Commission

June 11, 2010

Ms. Molly Merry
Bureau of Accounting
Financial Services
101 East Gaines Street
Tallahassee, Florida 32399-0354

RECEIVED-FPSC
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COMMISSION
CLERK

Dear Ms. Merry:

The Public Service Commission (PSC) has exercised reasonable efforts to collect fines from the utility referenced below. No response has been received, therefore further collection efforts by the PSC would not be cost effective.

DOCKET NUMBER	UTILITY NAME	TOTAL AMOUNT
971622-SU	Landmark Enterprises, Inc.	\$178,258.00

The Delinquent Accounts Receivable Transmittal form, a memorandum from the Commission's Office of the General Counsel, and other supporting documentation are enclosed. At your discretion, please grant this agency permission to write off the debt.

Sincerely,

A handwritten signature in cursive script that reads "Marcia Sharma, for".

Apryl C. Lynn

AL:vm
Enclosures

c: Office of the General Counsel (Brubaker)
Division of Economic Regulation (Slemkewicz, Maurey, Kaproth)
Office of Commission Clerk (Cole)

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Internet E-mail: contact@psc.state.fl.us

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: June 10, 2010
TO: Apryl C. Lynn, Director, Division of Administrative Services
FROM: Office of the General Counsel (J.Crawford) *JSC Alan JS*
Division of Economic Regulation (Slemkewicz, Maurey, Marsh, Kaproth)
RE: Docket No. 971622-SU - Initiation of show cause proceedings against Landmark Enterprises, Inc. in Highlands County for violation of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

Docket No. 080236-SU - Notice of abandonment of wastewater system in Highlands County by Landmark Utilities, Inc.

Docket No. 090471-SU - Application for transfer of wastewater facilities to City of Sebring by Landmark Utilities, Inc.

Request for Permission from Department of Financial Services to write-off the uncollected regulatory assessment fees, fines, and penalties, as well as penalties for annual reports that have not been submitted, imposed on Landmark Enterprises, Inc.

On December 16, 1997, Docket No. 971622-SU was established to address Landmark Enterprises, Inc.'s (Landmark) violations of Rule 25-30.110(3), F.A.C., Records and Reports; Annual Reports, and Rule 25-30.120, Regulatory Assessment Fees.

Landmark failed to remit the penalty levied by Order No. PSC-98-0269-FOF-SU, issued on February 10, 1998. By this Order, Landmark was to show cause, in writing, within 20 days, why it should not remit a penalty in the amount of \$10,116 for violation of Rule 25-30.110, F.A.C., for failing to file its annual reports from 1993 to 1996, remit a penalty in the amount of \$385.52 and interest in the amount of \$358.36 for violations of Rule 25-30.120(5)(b) F.A.C. Landmark was also ordered to immediately remit \$3,086.38 in delinquent RAFs for 1994 and 1995.

On April 25, 2008, Docket No. 080236-SU was established whereby Landmark filed notice of abandonment of wastewater facilities to the City of Sebring. On October 9, 2009, Docket No. 090471-SU was established whereby the City of Sebring applied for transfer of wastewater facilities to City of Sebring by Landmark Utilities, Inc., as the City of Sebring was appointed receiver on June 29, 2009, by the Tenth Judicial Circuit Court in Highlands County in Case No. GC-02-560. On September 3, 2002, Landmark filed its RAF returns for 1998, 1999, 2000, and 2001. The Company made a series of payments from September 3, 2002 through February 12, 2003, totaling \$4,841.54. No further payments have been made.

By Order No. PSC-10-0197-FOF-SU, issued March 30, 2010, the Commission acknowledged the abandonment of Landmark Enterprises, Inc., the appointment of the City of Sebring as receiver for the Utility, the sale of the Utility to the City, and cancellation of Certificate No. 487-S effective June 29, 2009. The Commission ordered that staff proceed to obtain approval from the Florida Department of Financial Responsibility to write-off the uncollected regulatory assessment fees, fines, and penalties as well as penalties for annual reports that have not been submitted.

Pursuant to Order No. PSC-10-0197-FOF-SU, the Commission found that the outstanding fees, penalties, and interest calculated through March 16, 2010, total as follows:

<u>DOCKET NUMBER</u>	<u>UTILITY NAME</u>	<u>PRINCIPLE/ PENALTY/INTEREST</u>	<u>TOTAL</u>
971622-SU	Landmark Enterprises, Inc.	RAFs: \$23,395 (principle) \$ 6,543 (penalty) \$15,529 (interest)	\$ 45,468
		Annual Reports: \$132,780 (penalty)	<u>\$132,790</u>
		Total:	\$178,258

Therefore, staff requests that the Division of Administrative Services/Fiscal Services Section take the appropriate steps to seek permission from the Department of Financial Services to write-off the uncollectible amounts identified above for Landmark Enterprises, Inc.

JSC/th

cc: Office of Commission Clerk

**STATE OF FLORIDA
DEPARTMENT OF FINANCIAL SERVICES
BUREAU OF ACCOUNTING
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL
(PLEASE PRINT OR TYPE)**

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION DATE: MAY 13, 2010 PAGE 1 OF 1
 CONTACT: KAREN BELCHER, DIRECTOR, FISCAL SERVICES
 PHONE NUMBER: 850-413-6273
 FLAIR ACCOUNT CODE: 61 50 2 573003 610100 00 000100, 61 74 1 000331 610100 00 001200

1. Docket Nos. 971622-SU, 080236-SU, 090471-SU

Landmark Enterprises, Inc., Mr. Bob Boggus, Adm. Coordinator

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
<u>c/o City of Sebring, 321 North Mango Street, Sebring, FL 33870-3555</u>					
<u>Last Known Address (Include Zip)</u>					
<u>(863) 471-5112</u>		<u>\$23,395.00</u>		<u>\$139,323.00 / \$15,529.00</u>	<u>\$178,248.00</u>
<u>Home Telephone</u>	<u>Work Phone</u>	<u>Principal Amount</u>		<u>Penalty/Interest Amount</u>	<u>Total</u>
<u>§367.145 F.S.,</u>	<u>§350.113(3)(4)F.S.,</u>	<u>and Rule 25-30.120(7)(a) F.A.C.</u>			<u>8</u>
<u>Penalty/Interest Authority</u>		<u>Date Debt Incurred</u>		<u>Debt Type</u>	
REGULATORY ASSESSMENT FEES, PENALTIES, INTEREST, AND ANNUAL REPORT FINES FOR FAILURE TO PAY					

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

2.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
<u>Last Known Address (Include Zip)</u>					
<u>Home Telephone</u>	<u>Work Phone</u>	<u>Principal Amount</u>		<u>Penalty/Interest Amount</u>	<u>Total</u>
<u>Penalty/Interest Authority</u>		<u>Date Debt Incurred</u>		<u>Debt Type</u>	

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

3.

Agency Reference #	Last Name	First	M	Social Security #	DFS use only
<u>Last Known Address (Include Zip)</u>					
<u>Home Telephone</u>	<u>Work Phone</u>	<u>Principal Amount</u>		<u>Penalty/Interest Amount</u>	<u>Total</u>
<u>Penalty/Interest Authority</u>		<u>Date Debt Incurred</u>		<u>Debt Type</u>	

Debt Description, e.g., Drivers License, Property Damage

Additional Information, e.g., Date of Birth, Drivers License Number, etc

****DEBIT TYPE CODE****

1. RETURNED CHECK 2. NONPAYMENT FOR STATE GOODS/SERVICES 3. DAMAGE TO STATE PROPERTY
 7. COURT ORDER 8. FINES 9. OVERPAYMENT OF STATE FUNDS

GENERAL INSTRUCTIONS

Provide as much information as possible for each account or returned check listed. Names should include legal entities as well as individuals. Principal Amount is the original amount of the debt excluding any service charge, penalty, and/or interest. Penalty/Interest Amount is the amount of the service charge, penalty, and/or interest due to date on the delinquent account or returned check. For those accounts subject to interest charges, please indicate the interest rate, method of calculation, and whether the rate is subject to change. Penalty/Interest Authority is the Florida Statutory and/or Florida Administrative Code citation authorizing the service charge, penalty, and/or interest on delinquent accounts and returned checks. Date Incurred is the date the account became delinquent; e.g., the date a check was returned marked NSF, the date an invoice was due to be paid, etc. Debt Type must be indicated using the codes listed at the bottom of the form.

In order to properly pursue a delinquent account the Bureau of Accounting and the collection agency, if used, require pertinent information about the debt and debtor. Such information regarding the debt should be provided in the area titled Debt Description and include the purpose of the original payment by check; type of goods/services provided; what, when, and where State property was damaged; when, why and what court ordered a payment; when and why a fine was issued; for what and when were State funds overpaid; etc. Additional Information about the debtor should include, if available, date of birth, driver license number, credit card type and number, names and addresses of relatives, and any other information that may be used to locate the debtor. The more the Bureau and the collection agency know about the debt and debtor the more likely the recovery of the debt.

To facilitate the transfer of moneys collected, each agency shall designate one FLAIR revenue account code to which all moneys will be transferred by the journal transfer. Agencies will be provided a detailed listing of amounts collected and collection fees charged for each amount. The Department will also provide instructions in accordance with Generally Accepted Accounting Principles on the appropriate method of recording the difference between any moneys collected and the amount of the delinquent account; i.e., treat the difference as cost of collection or provide approval for adjusting the balance of the account pursuant to Section 17.04, Florida Statutes.

Forms and Questions should be addressed to:

Department of Financial Services
Bureau of Accounting
Room 414 Fletcher Building
200 East Gaines Street
Tallahassee, Florida 32399-0354
(850) 410-9365 / SC 210-9365

IN THE TENTH JUDICIAL CIRCUIT COURT
IN AND FOR HIGHLANDS COUNTY, FLORIDA

HIGHLANDS COUNTY, a political subdivision of
the State of Florida,

Plaintiff,

vs.

Case No.: 09-766-GCS

LANDMARK UTILITIES, INC. d/b/a
Thunderbird Hills Wastewater Treatment Plant,

Defendant.

**ORDER APPOINTING RECEIVER
AND AUTHORIZING SALE**

This matter having come before the Court upon the Petition of Highlands County, and the Court after hearing the advice and recommendations of Counsel, and being fully advised in the premises, hereby finds:

Defendant Landmark Utilities, Inc. formerly known as Landmark Enterprises, Inc., operates a Wastewater Treatment Plant known as the Thunderbird Hills Wastewater Treatment Plant within the jurisdictional boundaries of Highlands County, pursuant to the provisions of Chapter 367, Florida Statutes. At the time of this action, that Wastewater Treatment Plant is operating without a Department of Environmental Protection Operating Permit. On or about April 23, 2008, Defendant Landmark Utilities, Inc., formally filed a Notice of Abandonment for the Wastewater Treatment Plant, pursuant to Section 367.165, Florida Statutes.

The City Council of the City of Sebring has taken formal action to accept appointment of the City of Sebring as Receiver for the Wastewater Treatment System of Defendant Landmark Utilities, Inc. and has entered into a contract to purchase the Wastewater Treatment System

contingent upon certain matters. Copies of the contract and addenda are attached hereto as Composite Exhibit "A."

SECTION 1. APPOINTMENT OF RECEIVER AND TERM. The City of Sebring is hereby appointed to act as Receiver for Defendant's Wastewater Treatment System (hereinafter referred to as the Wastewater Treatment System). The Receiver has party status and shall be entitled to receive copies of all pleadings, orders or other documents subsequently filed in this matter. The term of the receivership shall begin on the date of the Order and shall continue until such time as the Receiver sells or otherwise disposes of the property of the Wastewater Treatment System, and connects the Wastewater Treatment System, and/or the customers receiving service from the Wastewater Treatment System, to a regional or central wastewater utility, pursuant to paragraphs (9), (10), and (11) of this Order. Upon termination and expiration of the receivership as provided herein, the Receiver shall be released from all further obligations to operate and maintain the Thunderbird Hills Wastewater Treatment Plant.

SECTION 2. SURRENDER OF PROPERTY, ASSETS, DOCUMENTS, AND FACILITIES. Unless specifically authorized by subsequent order of this Court, the Defendant shall not sell, transfer, or dispose of any of the records, properties, assets, or liabilities of Landmark Utilities, Inc., except to produce, turn over, and surrender those records, properties, assets, and liabilities to the Receiver as directed in this Section 2. On or before June 1, 2009, the Defendant shall: (1) turn over and produce to the Receiver all customer account records, contracts, agreements, correspondence, legal pleadings, business records, easements, and any other documents related to the Wastewater Treatment System, including the Thunderbird Hills Wastewater Treatment Plant, to include the property, assets and liabilities associated therewith in order that the Receiver may operate and maintain the Wastewater Treatment System, and (2)

surrender control of all real and personal property to the Receiver. Upon entry of this Order, the Defendant shall turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances to the Receiver. If the Defendant fails to deliver all documents, property, assets, and access to the facilities and lands such that the Receiver can operate the Wastewater Treatment System, the Receiver may, at its option, elect to refuse to act as Receiver. In such event, Highlands County shall, upon written notice of such refusal, proceed to have a replacement receiver appointed by this Court.

SECTION 3. RECEIVER'S POWERS. Once the documents from the Wastewater Treatment System and the real and personal property associated therewith are surrendered to the Receiver in accordance with Section 2. above, the Receiver shall send written notice of receipt thereof to this Court, shall indicate its acceptance of appointment as Receiver, and shall commence operating the Thunderbird Hills Wastewater Treatment Plant until such time as provided for in Section 1. and continue the operation and maintenance of utility service to the customers of the Wastewater Treatment System. In order to effectively carry out its responsibilities under this Order, the Receiver shall have the following powers and authority:

(1) to provide and maintain sewer service, including permitting new connections to the Wastewater Treatment System, in the service area as described in any Certificate of Service, issued by the Florida Public Service Commission or for as long as the Public Service Commission Certificate may apply;

(2) to make extensions, expansions, repairs, replacements, and improvements to the Wastewater Treatment System as necessary;

(3) to fix and collect rates, fees, charges, and deposits for all services provided by the Wastewater Treatment System and the Receiver in accordance with applicable state law

(including, without limitation, the right to a fair rate of return on any such rates, fees, and charges);

(4) to borrow or advance money, and to pledge or encumber the facilities, assets and revenues of the Wastewater Treatment System for the repayment thereof;

(5) to enter into contracts with any public agency or any private entity providing for or relating to the operation and maintenance of the Wastewater Treatment System or the connection of the customers to any other public or private sewer system;

(6) to accept any gifts, grants, or contributions in kind in connection with the management, operation, and maintenance of the Wastewater Treatment System;

(7) to retain and pay the fees, costs, and salaries of accountants, architects, engineers, attorneys, employees, and other professional consultants as necessary or desirable in the management, operation, or maintenance of the Wastewater Treatment System and to ensure compliance with all the provisions of the Order for the rates, fees, and charges authorized under this Section 3;

(8) to pay from the revenues collected from the customers of the Wastewater Treatment System, all necessary and reasonable operating expenses (including payment on debt secured by the facilities, assets, and revenues of the Wastewater Treatment System and the costs and expenses contemplated in this Section 3) in a manner designed to continue the efficient, effective, and environmentally sound operation of the Wastewater Treatment System, to include the trucking of excess sewage flows to prevent drainfield leaching;

(9) to connect the customers of the Wastewater Treatment System to the City of Sebring System or any other public or private sewer system with adequate sewer service capacity

to accept the customers of the Wastewater Treatment System in accordance with and subject to applicable requirements and payment of fees to said public or private sewer system;

(10) upon connection as provided in paragraph (9) of this Section 3, the Receiver, with written approval from this Court, may discontinue the operation of the Thunderbird Hills Wastewater Treatment Plant and dispose of all lands, facilities, assets, and revenues to satisfy all outstanding obligations of the Wastewater Treatment System. The Receiver shall give due notice to all creditors and customers of the Wastewater Treatment System of its Receivership, and prior to any disposal of the facilities;

(11) close on the contract with the City of Sebring attached hereto if the contingencies set forth therein have been satisfied;

(12) to sue or be sued, to implead or be impleaded, to complain and defend in any court, and to seek legal or equitable relief in accordance with applicable federal, state and local laws;

(13) to apply for and obtain all necessary federal, state, and local governmental permits, certificates, licenses, or other approvals in order to operate and maintain the Wastewater Treatment System; and

(14) to perform generally any other lawful acts necessary or desirable to the express powers and authority granted and imposed herein.

SECTION 4. CONTINUING JURISDICTION AND APPROVAL OF SALE. This Court shall retain jurisdiction in this cause to enter such orders or take any such action as it deems appropriate. The Court hereby approves the contract for sale of the Wastewater Treatment System to the City of Sebring as shown on Composite Exhibit "A", and authorizes the closing of the sale pursuant to the contract. Upon closing of the sale of the Wastewater

Treatment System to the City of Sebring pursuant to that contract and connection of the Wastewater Treatment System, and/or the customers receiving service from the Wastewater Treatment System, to a regional or central wastewater utility, pursuant to paragraphs (9) and (10) of Section 3 of this Order, this Order shall terminate and expire, and this matter shall be closed. The Receiver shall file notification of the sale with this Court no later than ten (10) business days following the date of any such sale. Should the sale to the City of Sebring not close, the City of Sebring may file a Notice of Resignation of Receiver with this Court and the terms of Section 367.165, Florida Statutes, shall apply.

SECTION 5. IMMUNITY FROM LIABILITY AND VIOLATIONS. As consideration for Receiver assuming the responsibility for the continued operation and maintenance of the Wastewater Treatment System, the Receiver and its agents, employees and contractors are hereby declared to be held harmless and not legally responsible for any or all claims, liability, demands, damages, expenses, fees, fines, penalties, suits, proceedings, actions and fees, including attorneys' fees, that have arisen or may arise out of the past design, construction, operation, and maintenance of the Wastewater Treatment System. This immunity shall include but not be limited to immunity from injury to persons, damage to property or property rights, or violation of any governmental law, rule, regulation, or requirement that may arise from the design, construction, operation, or maintenance of the Wastewater Treatment System or extension thereof to any other regional or central wastewater utility.

SECTION 6. DEFENDANT'S LIABILITY. Defendant shall remain liable to the extent provided by applicable law for any claims, violations, demands, penalties, suits, proceedings, actions or fees occurring prior to the appointment and acceptance by the Receiver.

SECTION 7. RECEIVER'S SEPARATION OF FUNDS.

Receiver is hereby directed by this Court to maintain a separate account and records for the management of the Wastewater Treatment System. Additionally, this Court hereby directs that the revenues from the Wastewater Treatment System are to be considered the revenues of the Receivership, and not the revenues of the Defendant. Any revenues of the Receivership not expended during the term of the Receivership shall be transferred to the ultimate purchaser of the System, not to the Defendant.

SECTION 8. RECEIVER'S OBLIGATIONS FOR OPERATION.

The Receiver in this cause is hereby directed to operate the Wastewater Treatment System until the Wastewater Treatment System is disposed of as provided in this Order. The Wastewater Treatment System shall be operated by the Receiver in such a manner so as to provide efficient, effective, and environmentally sound continuous service to the customers of the Wastewater Treatment System during the term of the Receivership. In carrying out its responsibilities under this Order, the Receiver is not obligated to expend funds other than revenues of the Receivership and other funds received by the Receiver pursuant to Section 3 of this Order.

Ordered this 29, day of June, 2009.

/s/ OLIN W. SHINHOLSER

Olin W. Shinholser, Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order Appointing Receiver and Sale has been furnished by U.S. mail, postage paid this 29 day of June, 2009, to:

J. Ross Macbeth, Esq.
Attorney for Highlands County
2543 US 27 South
Sebring, FL 33870

Martin S. Friedman, Esq.
Rose, Sundstrom & Bentley, LLP
2180 W. State Road 434, Suite 2118
Longwood, FL 32779

Robert S. Swaine, Esq.
Swaine & Harris, P.A.
425 South Commerce Avenue
Sebring, FL 33870



Judicial Assistant

2009 JUN 29