

# ( M C B R A Y E R )

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September 9, 2013

RECEIVED  
SEP 11 2013  
PUBLIC SERVICE  
COMMISSION

Mr. Jeff Derourer, Executive Director  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40602-0615

RE: Case No.: 2012-00499  
Alleged Failure of Longview Land Company, LLC to File Required Reports

Dear Mr. Derourer,

Enclosed is the original and ten (10) copies of Longview Land Company, LLC's Motion to Waive Penalties which we request be filed in the above-styled case.

Please call if you have questions or require additional information. Thank you for your assistance in this matter.

Sincerely,



Christine N. Westover

CNW/klm  
Enclosures

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED  
SEP 11 2013  
PUBLIC SERVICE  
COMMISSION

In the Matter of:

ALLEGED FAILURE OF )  
LONGVIEW LAND COMPANY, LLC )  
TO FILE REQUIRED REPORTS )

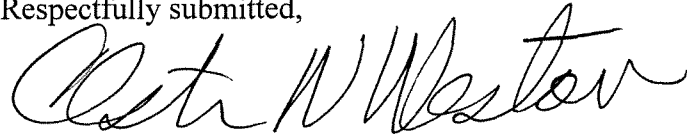
CASE NO. 2012-00499

MOTION TO WAIVE PENALTIES

Comes Longview Land Company, LLC (“Longview”) through counsel, and moves the Public Service Commission (“PSC”) to waive the penalties assessed against Longview in its Order dated March 19, 2013 for Longview’s alleged willful failure to file its 2011 report as required by KRS 278.230(3). As grounds for this Motion, Longview asserts that the failure to file the required report was completely unintentional, but arose from the confusion and lack of information in the current manager’s possession after the death of the former manager who had previously handled such matters. The current manager, James A. Donaldson, was hampered by the lack of access to Longview’s records after the son of the former manager removed the records after his father’s death. Mr. Donaldson’s affidavit, which is attached hereto as Exhibit “A”, attests to his good faith efforts to sort out Longview’s affairs in the wake of the former manager’s death and his recent filing of the required report for 2011 as was the one for 2012. Longview is now in full compliance with the PSC’s filing requirements and fully intends to comply with any requirements in the future. Also attached as Exhibit “B” is a copy of a letter dated April 22, 2013 to Jeff Derouer setting out Mr. Donaldson’s attempt to organize Longview’s records and the confusion surrounding the penalty hearing last January.

In conclusion, based on the fact that Longview's manager has acted diligently and in good faith to file the require reports for 2011 and 2012, and the circumstances outlined in Mr. Donaldson's letter and affidavit, Longview requests that the PSC enter into an Order waiving the penalty imposed in its March 2013 Order.

Respectfully submitted,

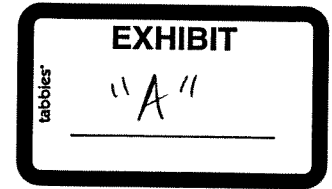
A handwritten signature in black ink, appearing to read "Christine N. Westover". The signature is fluid and cursive, with the first name being the most prominent.

Christine N. Westover  
McBrayer, McGinnis, Leslie & Kirkland, PLLC  
201 E. Main Street, Suite 900  
Lexington, Kentucky 40507

NOTICE

The foregoing Motion will be hard at the convenience of the PSC.

AFFIDAVIT OF JAMES A. DONALDSON



After being duly sworn, Affiant, James A. Donaldson, states as follows:

1. My name is James A. Donaldson. I am the majority owner and manager of Longview Land Company, LLC ("Longview"), with an address of 2021 Longview Drive, Georgetown, Kentucky 40324.
2. Longview was organized in 1999 with five members, including my wife, Shannon Ellis Donaldson (now deceased), two other family members and William R. Pulliam, II (now deceased). I have been Longview's majority owner and manager since June, 2012.
3. Longview was created to develop a large lot residential subdivision and golf course in Scott County. The development included a wastewater treatment plant which is regulated by the PSC.
4. Over time, Longview experienced a number of setbacks related to the operation and management of the business, including the death of two of its members, and the downturn in the economy.
5. In particular, William R. Pulliam, II's death in January of 2011 created management and oversight problems for Longview. Mr. Pulliam was Longview's manager, PGA Pro, and record keeper. Subsequent to his death, Mr. Pulliam's son, Rick Pulliam, executor of his father's estate, removed all of Longview's records, allegedly for the purpose of settling the estate. To date, they have not been returned. The lack of records has made it difficult to properly organize and manage the company's records.
6. I assumed responsibility as Longview's manager in June of 2012.

7. Prior to Mr. Pulliam's death it was his responsibility to file reports, manage day to day affairs, and keep Longview's records. Mr. Pulliam's death and the unavailability of Longview's records caused considerable delay in my ability to develop an understanding of day to day operations and maintain currency on record keeping and filing responsibilities

8. Longview did not file its required PSC report for 2011 and the PSC issued an order to Longview on November 21, 2012 to show cause for failing to file the report. The PSC held a hearing on January 23, 2013, at which no Longview representatives were present to speak to the matter. Subsequently the PSC entered an order on March 19, 2013 imposing a penalty for failure to file its required report for 2011.

9. Brad Pulliam, son of Bill Pulliam, is a CPA, and he had in previous years prepared PSC reports for Longview operations. Following his father's death, Brad retained Longview records in his possession, and continued to receive all PSC documents and act on behalf of Longview despite his lack of authority to do so. Therefore I had no knowledge of pending or delinquent information due to the PSC, as the new manager I had not received any notice of a PSC hearing.

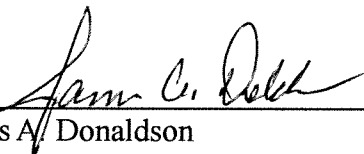
10. I first learned of the PSC's order imposing a penalty after the March order was entered. I immediately contacted the PSC in an effort to understand reasons for and seek to overturn the penalty.

11. Over the last several months I have been working diligently and in good faith to compile the information and file the required reports for 2011, as well as for the 2012 report. These reports were tendered to the PSC on August 30<sup>th</sup>, 2013.

12. At all times I have acted in good faith to organize Longview's records and provide the PSC with information Longview is required to file.

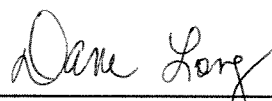
13. I respectfully request that the penalty imposed by the PSC's March 23, 2013 order be waived. The required reports are now filed. Also the penalty is an undue hardship, because the company is struggling financially and pending bank foreclosure. The amount of the penalty otherwise due would be much better used in the actual operation and maintenance of the sewer treatment plant. The omission of Longview's filing the 2011 report was not done knowingly or maliciously. Now that I am aware of Longview's responsibility to file annual reports with the PSC, I fully intend to file such reports on a timely basis as long as I am involved with managing Longview.

Further the Affiant sayeth naught.

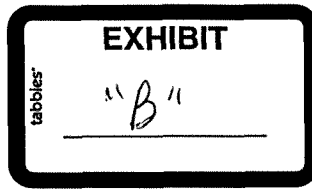
  
\_\_\_\_\_  
James A. Donaldson

COMMONWEALTH OF KENTUCKY  
COUNTY OF FAYETTE

The foregoing Affidavit was signed, sworn to and acknowledged before me this the  
6<sup>th</sup> day of ~~August~~ September 2013 by James A. Donaldson.

  
\_\_\_\_\_  
NOTARY PUBLIC, STATE AT LARGE, KY

My Commission Expires: 4-18-16  
IDA# 462684



*Jamie Donaldson*

2021 Longview Dr.  
Georgetown, KY 40324  
502-863-0168  
[JDonaldson14@aol.com](mailto:JDonaldson14@aol.com)

Mr. Jeff Derouen, Executive Director  
KY Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

April 22nd, 2013

Dear Mr. Derouen,

I have received a letter emailed (copy included) from Brad Pulliam and addressed to you, which verifies that Brad has again meddled in the operations of Longview Land Co. LLC, over which he has no authority. Following the death of his father, William Pulliam II in Jan. 2011, there was no manager in place at Longview until I was appointed trustee manager in June 2012, and as majority owner/partner I am also responsible for all administration pending foreclosure. In Dec. 2011, all company records were removed from the Longview office and stored as documentation pending settlement of the Pulliam estate. This meant I had no access to records of the past or daily operations, meaning I now often have to respond to situations after they have occurred. Brad's erratic letter mentions a PSC hearing held on Jan. 23<sup>rd</sup> at which no Longview representative was present, but I cannot attend functions when I have not received advance notice of same.

I would appreciate your future Longview related correspondence be addressed to me as agent for all Longview related business at address above. I would also appreciate receiving any background information you can provide relating to a PSC citing for said "willful failure to comply" and fine mentioned in Brad's letter.

Sincerely,

Jamie Donaldson

CC: James Frazier, III