

STATE OF MICHIGAN

DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH

BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission  
Docket #09-AP-1

The proposed annexation of certain territory  
in the Charter Township of Eureka to the  
City of Greenville, Montcalm County.

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SUMMARY OF PROCEEDINGS,  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

SUMMARY OF PROCEEDINGS

- A. On June 22, 2009, a petition was filed with the State Boundary Commission requesting that certain territory in the Charter Township of Eureka (as described in *Attachment A*) be annexed to the City of Greenville.
- B. On July 16, 2009, at an adjudicative meeting, the State Boundary Commission examined the petition for legal sufficiency at a meeting held in Okemos. The Commission voted unanimously to declare this petition legally insufficient, pursuant to 1968 PA 191.
- C. On July 16, 2009, at an adjudicative meeting, the state and local commissioners present voted unanimously to adopt the Summary of Proceedings, Findings of Fact and Conclusions of Law on the rejection of legal sufficiency and also that the Findings be signed by the Chairman.

FINDINGS OF FACT

1. The petition material does not comply with the required Commission form. Parts I, II, III, IV, V, VI, and VII are either not included or not properly identified.
2. The first page of the petition is labeled "Petition for Annexation," and is addressed to the City Council of Greenville and the Board of Eureka Township. This is inconsistent to filing a petition with the State Boundary Commission.
3. The petition does not contain an authorization to file and recorded property ownership documents, as required by Commission Rule 25.

4. The territory proposed for annexation is the subject of a PA 425 Agreement executed between the City of Greenville and Eureka Township on March 29, 2007, and filed with the Office of the Great Seal on April 2, 2007. According to the cover letter submitted with the petition from legal counsel for the petitioner, the 425 Agreement has terminated.
5. Section 2.1(A) of the 425 Agreement provides that “On the Effective Date of this Agreement, jurisdiction over the Subject Property shall be transferred fully from the Township to the City.” Furthermore, Section 4.3 of the 425 Agreement states that:

“Upon the expiration of this Agreement, the Subject Property including all Outlots and the Triad Parcel shall automatically, unconditionally and without further action by the parties remain and be included within the corporate limits and under the permanent jurisdiction of the City for all purposes....”

6. A letter dated August 26, 2008 from Chief Deputy Carol Isaacs (Office of Attorney General) to Senator Michelle McManus pertaining to 1984 PA 425 states that:

“...if and when the conditionally transferred parcel becomes a part of the city following the expiration of the contract, that parcel would then meet the contiguity requirement for annexation to the city of an adjoining parcel of land in the township.”

7. Based upon the provisions of the 425 Agreement between the City of Greenville and Eureka Charter Township, the provisions of 1984 PA 425 in transferring jurisdiction of property from a township to a city, and the foregoing statutory and legal references, the Boundary Commission has no statutory authority to consider annexation of the subject property as requested in this petition.

#### CONCLUSIONS OF LAW

1. The Findings of Fact in this docket support the unanimous decision of the Commission to reject this petition for legal sufficiency on the grounds that it fails to conform to the Boundary Commission Act, the Boundary Commission Administrative Rules, and any other statutory requirements that govern the determination of legal sufficiency.
2. Pursuant to Section 8 of 1968 PA 191, the Commission shall transmit a copy of this Summary of Proceedings, Findings of Fact and Conclusions of Law to the petitioners, and to the clerks of the City of Greenville, the Township of Eureka, and the County of Montcalm.

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Kenneth VerBurg, Chairperson  
State Boundary Commission

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Date

# ATTACHMENT A

## Store Parcel (Wal-Mart)

"Part of the West 1/2 of the Southwest 1/4 of Section 8 Town 9 North - Range 8 West, Charter Township of Eureka, Montcalm County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Southwest corner of said Section 8; thence N00°21'30"E along the West line of said Section 8, 225.00 feet to the point of beginning of this description; thence continuing N00°21'30"E along said West line 203.61 feet; thence N89°11'43"E parallel with the South line of said Section 8, 391.23 feet; thence N00°46'18"W 353.36 feet; thence S89°11'43"W parallel with said South Line 384.25 feet to said West line; thence N00°21'30"E along said West line 70.01 feet; thence N89°11'43"E parallel with said South line 382.87 feet; thence N00°46'18"W 322.81 feet; thence S89°11'43"W parallel with said South line 376.50 feet to said West line; thence N00°21'30"E along said West line 300.06 feet; thence N89°11'43"E parallel with said South line of said Section 8, 670.18 feet to the East line of the West 1/2 of the Southwest 1/4 of said Section 8; thence N00°27'58"E along said East line 384.66 feet to the North line of the South 7/10ths of the East 1/2 of the West 1/2 of the Southwest 1/4 of said Section 8; thence N89°12'07"E along said North Line 670.90 feet to the East line of the West 1/2 of the Southwest 1/4 of said Section 8; thence S00°34'25"W along said East line 1784.70 feet to the North line of Michigan State Highway M-57; thence S89°11'43"W along the North line of Michigan State Highway M-57 and parallel with the South line of said Section 8 a distance of 309.34 feet; thence N00°48'17"W perpendicular to said South line 288.38 feet; thence S89°11'43"W parallel with said South line 669.91 feet; thence S00°21'30"W parallel with said West line of said Section 8, 138.45 feet; thence S89°11'43"W parallel with said South Line of said Section 8, 350.00 feet to the point of beginning; said parcel containing 37.29 acres of land; said parcel subject to the Westerly portion thereof as the Right-of-Way for Satterlee Road; said parcel subject to all other easements and restrictions if any"

## The Outlots (Wal-Mart)

### **Outlot#1:**

"Part of the West 1/2 of the Southwest 1/4 of Section 8 Town 9 North - Range 8 West, Charter Township of Eureka, Montcalm County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Southwest corner of said Section 8; thence N89°11'43"E along the South line of said Section 8, 351.52 feet; thence N00°48'17"W perpendicular to said South line 75.00 feet to the North right-of-way line of Michigan State Highway M-57; thence N89°11'43"E along said North right-of-way 337.88 feet, parallel with said South line and the point of beginning of this description; thence N00°13'22"W 288.40 feet; thence N89°11'43"E parallel with said South Line 334.95 feet; thence S00°48'17"E perpendicular to said South line 288.38 feet to said North right-of-way line; thence S89°11'43"W along said North right-of-way line and parallel with said South line of said Section 8 a distance of 337.88 feet to the point of beginning; said parcel containing 2.23 acres of land; said parcel subject to all easements and restrictions if any"

### **Outlot#2:**

"Part of the West 1/2 of the Southwest 1/4 of Section 8 Town 9 North - Range 8 West, Charter Township of Eureka, Montcalm County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Southwest corner of said Section 8; thence N89°11'43"E along the South line of said Section 8, 351.52 feet; thence N00°48'17"W perpendicular to said South Line 75.00 feet to the North right-of-way line of Michigan State Highway M-57 and the point of beginning of this description; thence N00°21'30"E parallel with the West Line of said Section 8 a distance of 288.44 feet; thence N89°11'43"E parallel with said South Line 334.95 feet; thence S00°13'22"E, 288.40 feet to said North right-of-way line; thence S89°11'43"W along said North

right-of-way line and parallel with said South line of said Section 8 a distance of 337.88 feet to the point of beginning; said, parcel containing 2.23 acres of land; said parcel subject to all easements and restrictions if any"

**Outlot#2a:**

"Part of the South 7/10ths of the East 1/2 of the West 1/2 of the Southwest 1/4 of Section 8, T 9 N, R 8 W, Charter Township of Eureka, Montcalm County, Michigan, described as Commencing at the Southwest corner of Section 8; thence N00°21'30"E, along the West line of Section 8, 225.00 feet to the Point of Beginning; thence continuing along said section line N00°21'30"E, 138.45 feet; thence leaving said section line N89°11'43"E, 350.00 feet; thence parallel to said section line S00°21'30"W, 138.45 feet; thence S89°11'43"W, 350.00 feet to the Point of Beginning containing 1.112 acres (48448.10 square feet)"

**Outlot#3:**

"Part of the West 1/2 of the Southwest 1/4 of Section 8 Town 9 North - Range 8 West, Charter Township of Eureka, Montcalm County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Southwest corner of said Section 8; thence N00°21'30"E along the West line of said Section 8, 428.61 feet to the point of beginning of this description; thence continuing N00°21'30"E along said West line 353.43 feet; thence N89°11'43"E parallel with the South line of said Section 8, 384.25 feet; thence S00°46'18"E, 353.36 feet; thence S89°11'43"W parallel with said South line 391.23 feet to the point of beginning; said parcel containing 3.15 acres of land; said parcel subject to the Westerly portion thereof as the right-of-way for Satterlee Road"

**Outlot #4:**

"Part of the West 1/2 of the Southwest 1/4 of Section 8 Town 9 North - Range 8 West, Charter Township of Eureka, Montcalm County, Michigan, the surveyed boundary of said parcel described as: Commencing at the Southwest corner of said Section 8; thence N00°21'30"E along the West line of said Section 8, 852.05 feet to the point of beginning of this description; thence continuing N00°21'30"E along said West line 322.88 feet; thence N89°11'43"E parallel with the South line of said Section 8, 376.50 feet; thence S00°46'18"E, 322.81 feet; thence S89°11'43"W parallel with said South line 382.87 feet to the point of beginning; said parcel containing 2.81 acres of land; said parcel subject to the Westerly portion thereof as the right-o f-way for Satterlee Road"

**Triad Parcel (Triad)**

"Township of Eureka, County of Montcalm, and State of Michigan to-wit: The South 225 feet of the West 350 feet of the Southwest 1/4 of the Southwest 1/4, Section 8, T9N, R8W, Except the South 75 feet and also Except that part dedeed to the State Highway Department as recorded in Liber 423, Page 505"

**Road Right-of-Way**

"That portion of M-57 (Carson City Road) right-of-way for its entire width adjoining the above-described parcels."