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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH  
LANSING

STANLEY "SKIP" PRUSS  
DIRECTOR

To: State and Montcalm County Boundary Commissioners

From: Christine Holmes  
Commission Specialist

Date: July 8, 2009

Subject: **DOCKET #09-AP-1**  
**Legal Sufficiency Review**  
Petition for Annexation of Certain Territory in  
Eureka Township to the City of Greenville

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Based upon my review, the following comments are for your consideration in determining the legal sufficiency of this petition:

1. A petition requesting the annexation of certain territory in Eureka Township to the City of Greenville was filed with the Boundary Commission on June 22, 2009.
2. The petitioners are identified as Wal-Mart Stores East, L.P., and Triad Exchange, L.L.C.
3. 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.
4. 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 with filing a petition to the State Boundary Commission.
5. The petition does not contain an authorization to file and recorded property ownership documents, as required by Commission Rule 25.
6. 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.

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7. Section 2.1(A) [on page 4) 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 [on page 6] 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....”

8. A letter dated August 26, 2008 from Chief Deputy Carol Isaacs (Office of Attorney General) to Senator Michelle McManus (a copy that state commissioners received on September 11, 2008 via email), 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.”

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