STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket #99-AP-3

The proposed incorporation of
territory in **Fayette Township**
into the **City of Hillsdale.**

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SUMMARY OF PROCEEDINGS
FINDINGS OF FACT AND CONCLUSIONS

This matter of the proposed annexation, consisting of the following territory in Fayette Township into the City of Hillsdale, is described as follows:

A parcel of land in Section 15, and the East ½ of Section 16, T6S, R3W, Fayette Township, Hillsdale County, Michigan, described as beginning at the South 1/4 Corner of Section 15; thence N89°19'17"W 1024.76 feet along the South Section line to the east line of the Hillsdale County Railroad Right Of Way; thence N43°09'31"W 1828.79 feet along said east line: thence Northwesterly 754.81 feet along the arc of a 6050.00 foot radius curve to the right, whose chord bears N46°48'58"W 754.32 feet along said east line; thence N50°18'25"W 1600.85 feet along said east line; thence Northwesterly 692.11 feet along the arc of a 2815.00 foot radius curve to the right whose chord bears N43°15'48"W 690.36 feet along said east line; thence N22°47'00"E 379.23 feet thence N18°43'20"W 1573.36 feet to the centerline of Moore Road; thence N63°19'40"E 252.70 feet along said centerline to the North line of the NE 1/4of Section 16; thence along said North line to the approximate centerline of the St. Joseph River; thence along said centerline and the centerline of Beebe Creek, which crosses through the NE 1/4 of Section 16, the SE 1/4 of 16, and the West ½ of Section 15 to the North line of the South ½ of the NW 1/4 of Section 15; thence S89°14'19"E along said North line to the North-South 1/4 line of Section 15; thence S89°02'38"E 491.50 feet along the North line of the South ½ of the NE 1/4; thence S00°08'04"E 818.48 feet; thence N89°51'56"E 297.00 feet to the centerline of Moore Road; thence S00°08'04"W 400.48 feet along said centerline; thence N89°10'33"W 377.14 feet; thence S00°08'04"E 115.50 feet to the East-West 1/4 of Section 15; thence N89°10'33"W 417.09 feet along said 1/4 line to the Center of Section 15; thence S00°05'56"W 2647.38 feet along the North-South line to the point of beginning, containing 210 acres more or less.

SUMMARY OF PROCEEDINGS

A. On **March 10, 1999,** a petition was filed by William C. Van Engelenburg, President of World Wide Real Estate Consultants, Inc., asking for the annexation of a portion of Fayette Township into the City of Hillsdale.

B. On **April 15, 1999,** an adjudicative meeting of the State Boundary Commission was held in Okemos to determine the legal sufficiency of the petition. The petition was declared to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended.

C. On **July 22, 1999,** a public hearing was held in the City of Hillsdale to receive testimony given pursuant to Public Act 191 of 1968, as amended.

D. On **October 7, 1999**, at an adjudicative meeting held in Okemos, State Boundary Commissioners Rutledge and Walker and Hillsdale County Boundary Commissioner Brown voted in favor of a motion to recommend that the Director of the Department of Consumer & Industry Services approve the annexation of the subject territory as described herein and staff was directed to prepare draft Findings of Fact and Conclusions of Law.

E. On **January 13, 2000**, at an adjudicative meeting held in Lansing, State Boundary Commissioners VerBurg and Rutledge and Hillsdale County Boundary Commissioner Brown voted to recommend approval of the Draft Summary of Proceedings and Findings of Fact and Conclusions, as amended, and to recommend that the Director of the Department of Consumer & Industry Services sign the attached Order approving the annexation and adopting the Summary of Proceedings and Findings of Fact and Conclusions.

FINDINGS OF FACT

1. **The Petitioner testified that annexation of the subject property is necessary because:**
- Public water and sanitary sewer service are needed for development of the property
- Fayette Township does not have public water or sanitary sewer services.
- The City of Hillsdale has public water and sanitary sewer services but will only provide them to properties within the City's boundaries.
- Several attempts to negotiate an agreement with the Township to allow for development of the property without annexation failed.
- 150 -200 acres of the area proposed for annexation (area where City wellheads are located) would be purchased by the City for creation of a park which would also allow City control of their wellhead recharge area.
- Water and sewer lines could be provided to the area by boring under the wetlands.
- The Petitioner has a certified mail receipt indicating that Fayette Township received a letter requesting his property be zoned residential.

2. **Testimony from representatives of the City included:**
- The City is very interested in acquiring 150-200 acres of the area petitioned for annexation for the purpose of developing outdoor recreational programs.
- the City wants control over the land in which their wellheads and recharge areas are located.

- The City has initiated at least two attempts to negotiate an Act 425 Agreement with Fayette Township concerning the area petitioned for annexation but the Township has not responded.
- If this annexation petition is approved, access to property in Fayette Township would not be necessary in order to provide public water and sanitary sewer to the subject property.
- The City of Hillsdale's public water system is currently operating at 24% of capacity and the City's sanitary sewer system is at 64% of capacity.

3. **Testimony from Fayette Township included:**
- The Township is willing to negotiate an Act 425 Agreement with the City for the area petitioned for annexation but first wants to know details about the type of development planned for the area.
- A formal rezoning request was never presented to the Township.
- The Township is concerned about how public water and sanitary sewer can be provided to the property because of the need to go through wetlands if lines aren't put on Township property.

4. **Additional information in the record includes:**
- The City's population increased from 7,432 in 1980 to 8,170 in 1990.
- There are no residents in the area proposed for annexation.
- Development within in the City in the planning stage includes 96 apartment units, 104 subdivision lots, 18 condominium units, and 200 acres of industrial park.
- Development within the City currently under construction or completed in the last three years includes 6 condominium units, 20 acres of industrial park and 22 assisted care units.
- Development within the Township during the last three years includes construction of 48 subdivision units.
- The City millage rate is 15.0; the Township millage rate is .9235.
- The Township collects approximately $55.00 in taxes per year for the subject area.
- The City reports a net gain of 165 jobs in the last 5 years.
- The City's public water system is currently operating at 24% of capacity and the City's sanitary sewer system is at 64% of capacity.

THE COMMISSION FINDS THAT

1. Land uses, population statistics, the past and probable future urban growth of the community, including commercial and industrial development, indicate a need for additional housing opportunities.

2. The probable future needs for organized community services in the area petitioned for annexation include water, sanitary sewer, fire protection and police and other urban type services.

3. Comparative data for the City of Hillsdale and Fayette Township show the probable effect of the proposed annexation on the remaining portion of the Township would be minimal.

4. The topography, natural boundaries and drainage basins of the area proposed for annexation do not preclude residential development of approximately 40-50 acres of the property. The remaining acreage is largely wetlands and planned for outdoor recreational development.

5. The proposed annexation will not have a deleterious effect on the broader community.

6. The City of Hillsdale has the ability and the capacity to provide public water and sanitary sewer service to the subject area.

7. The Petitioner and the City testified that they will work together to help finance outdoor recreational opportunities within the subject area not suitable for development. Approximately 150-160 acres of the area petitioned for annexation is planned for outdoor recreational purposes.

8. The City of Hillsdale should have control over the area containing its public water well fields and recharge areas.

IN CONCLUSION:

1. After considering and evaluating all of the testimony and the public record regarding the incorporation petition in accordance with the criteria stipulated under Section 9 of the Public Act 191 of 1968, as amended, the Commission recommends that the Director of the Department of Consumer & Industry Services issue an Order approving the annexation petition.

Kenneth VerBurg

Kenneth VerBurg, Chairperson
State Boundary Commission

Jan 21, 2000

Date

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FINAL ORDER

IT IS ORDERED THAT the described subject territory in Fayette Township, Hillsdale County, be annexed to the City of Hillsdale.

IT IS FURTHER ORDERED THAT the attached Summary of Proceedings and Findings of Fact and Conclusions and this Order shall be effective thirty days after the Director of the Department of Consumer and Industry Services signs the Order.

IT IS FURTHER ORDERED THAT the State Boundary Commission shall transmit a certified copy of this Order and the attached Summary of Proceedings and Findings of Fact and Conclusions to the petitioner and to the clerks of the City of Hillsdale, Fayette Township, and Hillsdale County and to the Secretary of State.

Kathleen M. Wilbur

Kathleen M. Wilbur, Director
Michigan Department of Consumer & Industry Services

2/25/2000
Date