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Over 50 Years of Service

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April 3, 2013

Mr. Kevin O'Brien  
State Boundary Commission  
P.O. Box 30254  
Lansing, MI 48909

VIA E-MAIL ([ObrienK@michigan.gov](mailto:ObrienK@michigan.gov)) and  
FIRST CLASS MAIL

**Re: Petition for Annexation of Land in Eureka Township to City of Greenville**

**SBC Docket #12-AP-2**

Dept. of Licensing & Regulatory Affairs  
**FILED**

**City of Greenville's Seven Day Rebuttal Statement**

~~APR 05 2013 12 AP 0 2~~

Dear Mr. O'Brien:

~~STATE BOUNDARY COMMISSION~~

Attached for filing is the Seven Day Rebuttal Statement submitted on behalf of the City of Greenville under Administrative Code, Rule 123.68. Please include the attached in the record of Docket #12-AP-2 pending before the State Boundary Commission.

Thank you for your attention in this matter.

Very truly yours,

**SCHOLTEN FANT**

Rodney L. Schermer,  
Attorneys for the City of Greenville

RLS/skc  
Attachment

cc: Mr. George Bosanic, City Manager, City of Greenville (w/attachments; via e-mail)  
Greenville 22 Ltr 04032013 O'Brien With City's Seven Day Rebuttal Statement

**RECEIVED**

APR 04 2013

OFFICE OF LAND SURVEY &  
REMONUMENTATION

APR 09 2013 '12 AP 0 2

Docket #12-AP-2

STATE BOUNDARY COMMISSION

Petition for Annexation of Land in Eureka Township to the City of Greenville (Montcalm County)

**CITY OF GREENVILLE'S SEVEN DAY REBUTTAL STATEMENT.**

The City of Greenville ("City") submits this Rebuttal Statement to reply to assertions made in Indexed Items #1, 2 and 4 of the "30-Day Public Comment Material."

Item #1 - Expansion.

In this section of Item #1, Eureka Charter Township ("Township") asserts that there are a number of available parcels within the City that could be used for industrial development. The Township urges that it is difficult to see any rational basis for concluding the City needs more territory for industrial expansion.

First, such an assertion is a mischaracterization of the situation. Most, if not all, of the vacant parcels in the City's Industrial Park are currently under speculation/options by prospective new manufacturing companies. Additionally, much of the acreage outside the Industrial Park identified in Exhibit #2 is not zoned for industrial purposes; nor is it reasonable to assume that such properties could be used for industrial purposes.

Second, and more significant, is that the focus in determining the reasonableness of annexation should be on the Petition and the Mersen property. The land to be annexed is owned by Mersen and adjoins its existing manufacturing facility. The annexed land is bounded on three (3) sides with developed property: to the west is the Mersen facility, to the south are other parcels having industrial uses, and partially to the north having another industrial use. Mersen obviously has determined that other properties that might be available are not reasonable alternatives to its current operations in Greenville, especially in light of its fairly recent establishment and expansion of its operations at its current location in the City's Industrial Park. It is not only reasonable, but also logical and cost effective to expand its growing operations to the east.

Finally, the Township objects to annexation because there are no present needs or plans to expand by Mersen. That is an example of backward thinking. If our recollection is correct, Mersen has explained to the Commission its intent to expand together with the process involved in requesting and obtaining the funding from its parent company. Mersen can address that matter in more detail. However, it seems a reasonable business judgment to secure a resolution of the annexation initially, rather than taking action to initiate an expansion and then face the attendant uncertainty and delays of a future annexation proceeding.

Items #1 and #2 - Adverse Tax Impact.

Clearly, there is no adverse tax impact here. The annexation will result in the City's higher tax rate being applied only to the annexed land. The land is owned by the Petitioner

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Mersen which seeks the annexation. Mersen is a very successful company in a competitive market. Presumably, it has made many strategic and successful business decisions to attain that status. Therefore, it is not logical to argue, as the Township attempts, that the burden of increased taxes outweighs any "speculative benefit" to accrue from annexation. There is nothing in the record suggesting that Mersen purchased the land and requested its annexation knowing it will have to pay higher taxes for more essential services while lacking any plan or intent to use the land for expansion of its manufacturing business. Mersen has weighed the tax burden and benefits of annexation and found them to support annexation. No other parcels are involved or affected. The residential lots and home on Backus Road are owned by Mersen with a lease arrangement with the former owner.

As noted in Mersen's 30-Day Additional and Supplemental Information, the current Township taxes amounted to \$151.08. That is insignificant. The fact the State owns 1,000 acres (approximately 1.5 square miles) of land in the Township and receives payments in lieu of taxes from the State is of no import to the annexation. Such land is only a small fraction of land in the Township. Such lands largely border the Flat River. Were such lands not State-owned it is doubtful that they would be put to any high taxable value use. Indeed, the Township's Zoning Ordinance and Master Plan indicate an intent to maintain a rural residential and agricultural character, with very limited area for "light" industrial development. Moreover, as the Boundary Commission is aware, there is nothing "unique" about having State lands in the Township. Many townships have State and Federal parks, forests and recreational areas within their boundaries.

The annexation of this small area will not exacerbate any problems. Indeed, annexation will bring with it the City's services and infrastructure that will enable Mersen to continue its successful growth, creation of jobs and investment in the community as a whole. The City understands that many of Mersen's current employees (and likely future employees) do not (and likely will not in the future) reside in the City. Mersen's continued growth and added jobs will provide a benefit to the Township in the event of Mersen's employees purchasing homes in the Township, resulting in an increase in the Township tax base.

Items #1 and #2 - Township Services.

First, the City disagrees with the Township's assertion that it provides the services that Mersen desires or needs for its expansion.

The City provides fire service to the Township. That is through an agreement between the City and the Township which can be terminated at any time.

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The Township touts its contract with the Montcalm County Sheriff's Department for law enforcement service. The Township leaves out that such contract is a supplemental service agreement that provides for limited hours for deputy patrol in the Township . There is no 24/7/365 service provided. It is not comparable with the level of full-time service the City provides.

The Township admittedly does not offer public water or public sanitary sewer service to the area. The Township also admits that the City has the right to refuse providing water and sewer service in the Township. That has been the general position taken by the City for many years, although the City has in the past extended water and/or sewer service into the Township in limited and special circumstances determined to be mutually beneficial.

Rather, the Township takes the approach that Mersen never indicated during the public hearing that it had a need for such services. With only 10 minutes to make a presentation to the Commission, one cannot be expected to present everything in detail. Mersen's existing facilities in the City's Industrial Park are currently serviced by City water and sewer. The City has made it clear that water and sewer service is available with adequate capacity for the annexed property expansion, which will certainly also require water and sewer services as essential to industrial manufacturing.

In Item #2, the Township attempts a different tack to address its lack of necessary water service. It suggests that the City does not use the full capacity of its water system which may allow for stagnation to occur. That is wholly unfounded. At present, the City's water supply turns over an average of three times per day. Very few "stubs" exist in the City's water system, and those that exist are not affected by volume. Further, the City has a consistent routine flushing program which is at a minimal cost for the City to administer and is common to most municipal water system maintenance programs. Finally, there is no evidence of any problems with its water system from any permitting agency or health department.

Accordingly, the Township is unable to provide certain essential public services to the annexed property. Moreover, there would be a number of services that would "overlap" one another such as assessing, zoning, building code permitting and enforcement, and building matters. Mersen has pointed out the concerns with having to deal with two different governmental units what is a single business operation on adjoining parcels. It is a reasonable view that this could present a problematic situation.

As to transportation services, the City's Industrial Park provides a multi-lane road through the Industrial Park of fairly recent vintage and constructed to handle truck traffic. It is adequately maintained and snow-plowed by the City. By its various complaints concerning the

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potential use of Backus Road, the Township has demonstrated the inability to meet the needs for adequate transportation infrastructure for industrial use of the annexed property.

Item #1 Backus Road, Also Items #2 and #4.

These three Items all decry the annexation of the Mersen property because the Township would no longer have a say over the use of Backus Road, that industrial truck traffic will then occur and the Township would be responsible for the repair and upgrade of the roadway. That position is pure speculation and lacks any merit for this Commission's consideration. First, it is conjecture that Mersen would ever desire to use Backus Road for industrial truck traffic because the City's Industrial Park Drive is directly available. It is also conjecture that the City, through its site plan review process, would not regulate the entrance/exit point for truck traffic from the Mersen manufacturing facilities by Industrial Drive, as it currently does.

Second, it is simply wrong to state the Township would have no say over the use of Backus Road. MCL 257.726 specifically authorizes a county road commission or a local authority, such as the Township, to prohibit the operation of trucks or other commercial vehicles on designated highways or streets. Accordingly, if there is a real and substantial concern about truck traffic on a local county road, that can be addressed through a reasonable truck route ordinance.

Items #1 and #2 - State Policy and Call for an Agreement.

In its 30-Day Additional and Supplemental Information, the City stated its past and continuing efforts to work with the Township cooperatively regarding annexation matters. That is evident from the list of annexations in the Questionnaire responses of the City. Such efforts are commendable, but they are not something that the Boundary Commission may require or consider in adjudicating the annexation petition. If local units cannot come to a reasonable, mutual agreement, the Boundary Commission is to determine whether the information and evidence warrants approval of the annexation request, as it clearly does here.

The City has to a great degree attempted to avoid such irrelevant discussions as part of these proceedings. However, the Township seems insistent upon raising the issue on every occasion claiming now the City is using "tactics" and by making assertions which are mischaracterizations, inaccurate or false, about meetings, negotiations, and discussions, with regard to most of which the author of Item 2 was not even present.

For a brief rebuttal, suffice it to say that for more than a decade the City and the Township were able to come together on a number of annexations by mutual consent involving an intergovernmental agreement and tax revenue sharing. When approached by Mersen

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regarding the subject property, the City attempted to proceed along that same line. However, the Township insisted upon a different approach, namely an Act 425 Agreement as opposed to an Act 108 Agreement. After a number of months of no communications coupled with failed negotiations, Mersen filed its petition for annexation. At the eleventh hour, the Township now believes that an Act 108 Agreement with regard to the property would be acceptable and seeks the delay or denial of the annexation to permit such an agreement. While the City is willing to work towards that end, to date no agreement has even been drafted for review and no final terms have been fully agreed to. What could have been accomplished eight months ago is not yet accomplished. If there are any "tactics" that the Boundary Commission should not be a part of, they are those of the Township.

In conclusion, the City believes annexation as requested by Mersen is warranted and supported by the record. The City supports such annexation of the subject territory.

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**SBC Docket No.: 12-AP-2**

Rather than repeat previous arguments, Eureka Charter Township is submitting this response to address several specific errors or misstatements contained in the City of Greenville and Petitioner’s recent filings with the State Boundary Commission (SBC) pursuant to Rule 123.68.

**Impact on Residential Backus Road Properties**

While acknowledging that the Backus Road properties are residential (see Scholten Fant letter of March 18, 2013, page 1), the City maintains that Backus is not paved for its entire length and, therefore, the likelihood of industrial businesses using Backus is unrealistic. In fact, however, Backus Road, a class B paved road, has a Class A road 1 mile to the north, (County Farm Road) that ties into the truck route, and a Class A road 1.5 miles to the south, (M-57) that also ties into the truck route. The Township guarantees that if access is allowed to flow from the industrial park in the City across the Backus Road parcels, then that access will be used by property owners in the industrial park (likely including the Petitioner) as it would be a quicker route to take to get onto M-57 in order to avoid industrial and other city congestion. To state otherwise is to ignore the obvious. (See attached Map, Exhibit “A”).

In an effort to minimize the likely impact that approving the annexation would have on the Backus Road parcels, the City next argues that the Township’s concerns are speculative. In fact, there is nothing “speculative” about the Township’s concerns. If the annexation is approved, and if that annexation includes the Backus Road parcels, the Township will forever lose control over access to that street through zoning review, etc. The City will completely control whether a connection is made from the industrial park to the (admittedly) residential road; further, there is no dispute that if this were permitted to occur it is largely the Township, not the City, that will be legally liable for repairs and reconstruction costs necessitated by use of the road by businesses in the City’s industrial park – businesses that pay no taxes to the Township.<sup>1</sup>

If the SBC approves Petitioner’s request to annex the residential properties, in addition to its industrial site, it will seriously undermine the Township’s ability to maintain its remaining road system as well. The cost to upgrade Backus Road (see above) is

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<sup>1</sup> Interestingly, when the Township brought this issue up during City/Township negotiations and asked that the parties agree in a 108 Agreement to not develop the residential parcels for access to Backus Road, the City stated it would consider waiting 10 years before allowing such use, but it did not want to agree to prohibit allowing ingress and egress of industrial vehicles from ever using Backus Road.

approximately \$250,000.00 per mile as estimated by the Montcalm County Road Commission (see Exhibit 3 of the Township’s 30-day submission). It is the Township that will be left “holding the bag” with responsibility for Backus Road, which will require funds that the Township does not have and which, if it had them, could otherwise be applied to improving other roads in the Township.

### **Continuing Public Opposition**

The City and Petitioner both argue, incorrectly, that the public’s comments did not express opposition to the annexation. In fact, there were no public comments made that supported *the annexation*; the public, repeatedly, said that they were amenable to transfer of some of the property pursuant to an agreement, with revenue sharing. Of the Township residents that spoke:

- Tom Lindeman stated that he and his neighbors living on Backus Road were not in favor of the residential property being annexed to the City as it would cease to be zoned residential and would provide a negative impact on residents and traffic on the road that is residential in nature.
- Duane Putnam stated that if Mersen expanded into the Township it would not impact their ability to operate and if the City was willing to share services as the state has promoted, it would allow their utilities to expand into the Township. He also stated that he did not understand why the City would not allow a 425 agreement as that was how the last annexation (Wal Mart) was drafted.
- Linda Weger stated that if annexation has to occur, then a fair and equitable tax basis needs to be established so the Township continues to have finances to pay for essential services.
- Dale Morlock stated that the City does not understand that the Township always loses in the long run when property is taken from the Township, which continues to erode the Township’s tax base. He also stated that this is poor planning and the City and the Township need to take a long, hard look into the future so both communities can plan and prosper.
- Rodney Roy stated that he hoped the City and Township could negotiate a “win-win” agreement by bargaining in good faith.<sup>2</sup>

### **Adverse Tax Impacts**

The City asserts that the aggregate taxable value is \$50,000.00 and the taxes lost would be \$151.00. (There was a technical error made as the property was still capped after it was purchased and the Petitioner received the benefit of the failure to “uncap.” The new assessment will be \$57,000 this tax year.) Although, the City’s attorney states that this is

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<sup>2</sup> Since the public hearing the Township has continued its efforts to negotiate a written agreement regarding the transfer to allow the Township’s industrially-zoned property to be transferred to the City when needed. The Township has now drafted a third 108 agreement, granting the City its previous requests, only to have the City demand that the Township also pay the City’s attorney fees for reviewing documents. This is not negotiating in good faith.

not a significant impact, from the Township's perspective it does equate to a tax loss it can ill afford and, more importantly, will result in a significant loss to the Township if the Petitioner's property is ever developed.

### **Services are Already Available**

The City asserts that the Township cannot provide services at any less cost or in a fashion that is more adequate; this is simply not correct. Eureka Township contracts for all other essential services such as fire, police, road maintenance, planning and zoning, public transportation, library, and emergency services; in reality the Petitioner Mersen would be better off if the plant was located in the Township given the significantly lower tax rate. The biggest cost that the Petitioner would have if it expanded at some point in the future, in order to upgrade the site, would be to move and expand the current retention pond that is located within the Township. This is a cost the Petitioner will have to incur in any event independent of whether annexation occurs.

Moreover, as the Township noted previously, it currently has an industry located within the City and the Township, and that business has had no issues to date with regards to having two property tax bills from two different taxing units. (In fact, many property owners request two tax bills for contingent property that is listed with separate parcel numbers and this does not equate to any more cost to the owner.)

Although Eureka Township does not have a municipal water or sewer system, it has many commercial and industrial operations and businesses that operate on well and septic systems that meet those companies' needs at less cost than an extension of the City systems would involve. The cost to install individual well and septic systems for a business like the Petitioner, that does not use water for its processing, would be minimal because it would only service those employees working within the plant. The estimated cost for well and septic installations would likely not exceed \$9,000.00, which is minimal to the cost the Petitioner will pay in the future in excess taxes.<sup>3</sup>

### **Development Potential in Township**

The factory floor "yellow line" argument made by the Petitioner (see Miller Canfield letter, page 3) is, at best, an overstatement. Since the Township already has an industrial business that pays taxes in the City and the Township, with no adverse effects, this is simply a non issue. Similarly, the City and the Township have already waved setbacks in the past so this is no issue to the Township. To imply that needing to keep separate accounting books somehow ought to justify the annexation of property is wholly without basis. (Why separate books would be needed is never explained.)

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<sup>3</sup> If for example the Petitioner constructs an expansion to its plant valued at \$2,000,000.00, it would pay approximately \$12,000.00 annually in City taxes, while if it remains within the Township, its tax rate would be approximately \$3,000.00. A well and septic system would pay for itself within the first year of operation and save the Petitioner \$9,000.00 a year for the life of the facility (and it would not be paying monthly water and sewer service and maintenance fees).

Mersen is a large, international corporation, and is presumably required to keep records on many different assets it owns. Presumably, the Petitioner's accountants have somehow managed to keep track of its Township property without significant corporate impact thus far. More importantly, the Township's zoning requirements are much simpler than the City's and each of the communities use the same construction code (as do other communities throughout the state). As stated previously, when the Petitioner added a retention pond in the Township in 2011, in order to facilitate Petitioner's plans the Township simply utilized the same engineering firm used by the City for the review and inspection services.

It is hard to fathom that the "yellow line" issue raised by the Petitioner (different parts of a facility in different jurisdictions) would dissuade a multimillion dollar international corporation from expanding a supposedly successful business operation.

### **Lack of Necessity for Action at the Present Time**

The City's submittal asserts that "action on the petition should not be delayed to Mersen's detriment" and that Mersen seeks to expand its operations by construction of new manufacturing buildings. As noted previously, however, the City's position (along with that of the Petitioner's, see below) places absolutely no timetable on when this "new" facility will be supposedly developed. In other words, both the City and the Petitioner ask the SBC to support an annexation based on an assumption that, at some time in the future, the Petitioner will seek to expand. But the criteria on which the SBC is to rely in making its decision look to the present need for services that are not presumably available through the Township. Neither the Petitioner nor the City has identified any present need for such services because, in fact, there is none.<sup>4</sup>

Accepting the rationale put forward by the City and Petitioner would conceivably apply to every existing commercial or industrial enterprise with contiguous property in the Township. That is, all such enterprises might expand and, therefore, all need to be annexed now.

The Township's position is that future goals are not a sufficient basis for approving an annexation; instead, a petitioner must show positive and manifest actions that have been made by it which prove that an expansion is under way and that this expansion necessitates the annexation. If this minimal standard is not required, then the SBC will be left to guess at what development might occur in the future and whether, in fact, a township's available services, etc. will be adequate at that time.

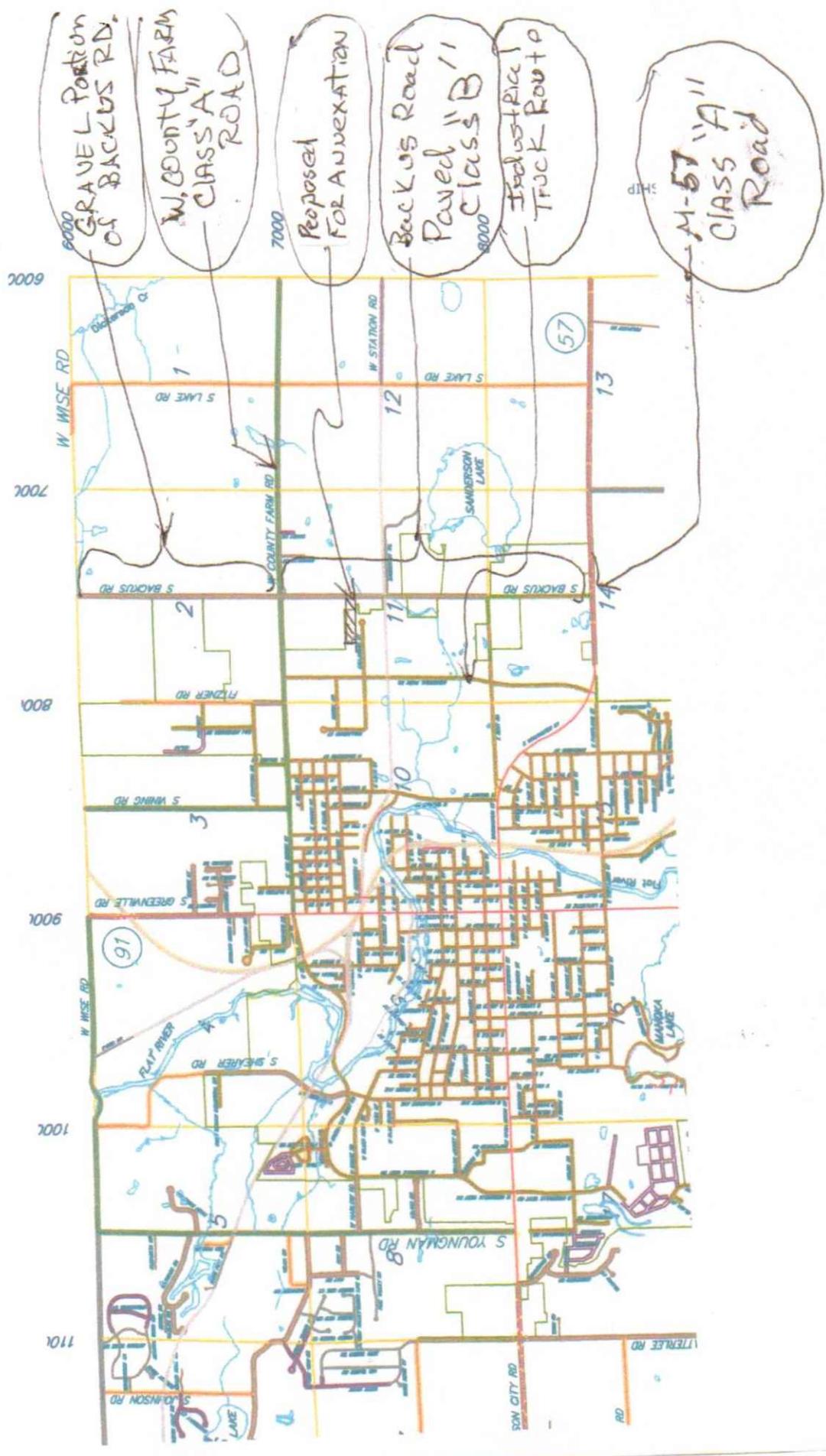
Date: March 25, 2013

Eureka Charter Township

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<sup>4</sup> The Petitioner, as repeatedly stated, has no immediate plans for expansion and if it did, it could begin implementing those immediately whether located in the Township or the City.

# EXHIBIT "A" Final Comments



**Eureka Charter Township**  
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3/25/13

Mr. Kevin O'Brien, P.S.  
State Boundary Commission  
Office of Land Survey and Remonumentation  
P.O. Box 30254  
Lansing, MI 48909

Re: **SBC Docket No. 12-AP-2**

Dear Mr. O'Brien:

This follow up letter is submitted on behalf of Eureka Charter Township in the captioned matter.

#### **Availability of Property and Services**

Forty percent (40%) of the vacant City industrial district land referenced in the Township's previous response **is located within the City's own industrial district**, which is zoned for industrial use. Moreover, **over 160 acres of vacant City property located north of the City's industrial district is zoned for industrial use** and has water and sewer adjacent.

Even if the City continues to refuse to extend public utilities to serve the Petitioner's property in the Township, the Petitioner still has the ability to install private water and sewer systems to handle its needs. (It merits noting that the Petitioner's most recent filing with the State Boundary Commission [SBC] is the **first** time that it asserts that it needs public water for "Supporting Functions" [whatever those may be].)

#### **Previous Comments by Petitioner**

Three Township employees attended the December 6, 2012, meeting at which Mr. Taylor made the comment about the need for annexation due to a desire to avoid personal property tax concerns. Unfortunately for the Petitioner, not all three Township representatives can credibly be accused of having "poor recollections" of Mr. Taylor's comments; the fact is that Mr. Taylor did make the comment and identified the Petitioner's true motivation in seeking annexation, and it is the Petitioner that now wishes to 'take back' what was said publicly.

## **Backus Road Access/Costs**

The Petitioner's attorney asserts that the Petitioner agreed it would use the existing ingress and egress onto the existing Class A road in the City's industrial park. Such a representation, while appreciated, gives the Township no additional assurance that it will not be left, as stated earlier, "holding the bag" for Backus Road improvements in the future. Clearly, statements made while this matter is pending before the SBC are one thing, but how is the Township to enforce such a promise when, at some point in the future, it becomes more convenient and profitable to start using Backus Road for access? The Township, as it has repeatedly stated, will have no legal authority to prohibit such access because those parcels would, if annexed, be located in the City. It is therefore critical, if the Township is to retain any degree of control over this residential segment, that the Backus Road parcels **not be included** even if the SBC were to approve the remainder of the Petitioner's annexation request.

The Petitioner's legal counsel goes further in its response, writing: "*Backus Road is also a County, not a Township road. It is not clear to Petitioner that the Township would be required to do anything*". Of course as the SBC (and any other party passingly familiar with road law in Michigan) knows, except for very minimal maintenance obligations, county roads in a township are and remain the financial responsibility of that township. This is not debatable or a matter of interpretation -- Eureka Charter Township **will be** responsible for improvements to Backus Road.

The Township contacted the Montcalm County Road Commission and it referred the Township to its Local Road Policy which provides in part:

### *BITUMINOUS SURFACING OR RESURFACING*

The township pays for all bituminous asphalt costs and aggregate shoulders. The Road Commission will not participate in any surfacing/resurfacing project costs except for Road Commission labor, fringe benefits, and road commission equipment costs.

The Township, in other words, will be responsible for any and all road upgrades to Backus Road necessitated by the Petitioner or other industrial users accessing Backus Road from the City's industrial park.

## **Good Faith Negotiations**

Finally, the Petitioner's attorney states that the Township has attempted to lobby the SBC to support the Township's attempt to convince the City to use Act 425 instead of Act 108. That is false. The Township is certainly aware of the fact that the SBC has no role, directly, in negotiations between the Township and the City. (Of course, neither does the Petitioner.) However, as stated at the public hearing **and repeated by all of the parties**, there is presumably a desire to mutually resolve the transfer of some of the Petitioner's

property by written agreement. The SBC appeared to want to be kept advised as to the on-going status of those discussions. This is not news to the Petitioner and it seems disingenuous, now, to claim that somehow the Township's communicating to the SBC the status of the negotiations is improper.<sup>1</sup>

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<sup>1</sup> If the Township's assertions as to the City's position in its negotiations with the Township are inaccurate (e.g., if the City is not, in fact, demanding that the Township pay the City's legal fees), then the Township invites the City to clarify its position.

Founded in 1852  
by Sidney Davy Miller

# MILLER CANFIELD

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April 1, 2013

**Via Email and U.S. Mail**

Mr. Kevin O'Brien P.S.  
State Boundary Commission  
Office of Land Survey and Remonumentation  
P.O. Box 30254  
Lansing, MI 48909

Re: Petition for Annexation of Land in Eureka Township to the  
City of Greenville (Montcalm County)

Dear Kevin:

I have attached the Petitioner's Seven Day Rebuttal Statement. Please incorporate them into the file on behalf of Mersen USA Greenville, MI-Corp. Thank you.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By:   
William B. Beach

WBB/sm  
Enclosure

cc: Mitch Taylor (Mersen)  
George Bosanic (City of Greenville)  
Jeff Sluggett, Esq.

DISCLOSURE UNDER TREASURY CIRCULAR 230: The United States Federal tax advice contained in this document and its attachments, if any, may not be used or referred to in the promoting, marketing or recommending of any entity, investment plan or arrangement, nor is such advice intended or written to be used, and may not be used, by a taxpayer for the purpose of avoiding Federal tax penalties. Advice that complies with Treasury Circular 230's "covered opinion" requirements (and thus, may be relied on to avoid tax penalties) may be obtained by contacting the author of this document.

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## PETITIONER'S

### SEVEN DAY REBUTTAL STATEMENT

#### **Expansion**

*"There is no probable future need for industrial property or services that is not already available in the City."*

The Township based this statement on data it presented representing that 40% of the City's industrial district is vacant land. The Township then goes on to say that "given the overcapacity of industrial and similar property that already exists in the City... there is no probable future need for industrial property or services that is not already available in the City."

Response:

The petitioner for annexation of the 9.7 acres in the Township is a current landowner and is not petitioning to "expand the City's industrial property of services." Petitioner is looking to annex the property adjacent to its existing manufacturing plant to continue the growth and expansion its business under one roof.

The Township does not offer information as to what of the 40% vacant industrial sites are actually available; whether they are properly zoned; if they are serviced with water and sewer; and if they have access to Class A roads. Without such additional information, such vacant industrials cannot be viewed as realistic alternative sites.

Even if one or more of the vacant industrial sites were reasonable alternatives, they cannot be considered as financial, economical or efficient alternatives to a site immediately adjacent to the Petitioner's existing plant site. The Township ignores the costs of purchasing one of these sites, the cost of constructing a new replacement plant large enough to accommodate its existing machinery and future expansion, the cost of moving that machinery, and the cost of selling the existing plant. The decision to expand into the adjacent 9.7 acres eliminates all of the aforesaid expenses and would appear to be the most rational and efficient business decision for Mersen.

#### **Adverse Tax Impact**

*"The burden of increased taxes outweighs any speculative benefit that might accrue sometime in the future if petitioner chooses to expand."*

Response:

Petitioner is curious as to the basis of this statement. Petitioner is a very successful international business whose seven expansions should negate any question about its ability to make its own plans about its financial future.

*“Further annexations, such as that proposed by petitioner on this matter only exacerbate those problems for the Township operations.”*

Response:

Petitioner agrees that the Township will lose \$151 in property tax revenues.

### **Township Services**

*“The City has chosen not to collaborate with the Township by providing City Services to Township residents.”*

Response:

The Petitioner is the owner of industrial property in the City. Petitioner is not empowered by the City to act on its behalf to “collaborate” with the Township on these matters. It cannot be held responsible or have such comments taken adversely to its petition

*“The Township already provides all presently needed services because the Petitioner has wholly failed to articulate in a credible manner why expansion requires public utilities.”*

Response:

Petitioner did clearly articulate on Exhibit VI subparagraph 4 the following about utilities:

“The existing facility is served by public facilities as provided by the City of Greenville. A future facility would tie into the City’s public utilities, and, in order to keep city utilities ...annexation would be necessary.  
”

The “need” for public utilities was therefore raised by Petitioner.

This statement assumes the Township provides services sufficient to attract a business of similar nature to Mersen. It does not.

*“Also, at the Dec 6<sup>th</sup> meeting, the General Manager for North American Mersen factories stated that Mersen had no objection to revenue sharing between the City and the Township. However, they wanted immediate annexation. When asked if*

*they had specific need for annexation, such as the need for utility extensions for their production, they stated no, as their tooling does not require water or sewer use. Mr. Taylor only stated that they didn't want to be concerned with having personal property tax requirements for property located in the City and the Township."*

Response:

Mersen attempted to coordinate a meeting with the City and the Township in order for the two governmental jurisdictions to reach a mutual agreement regarding the 9.7 acres being proposed for annexation. Mersen is not opposed to such an agreement between the City and the Township, as long as annexation is accomplished. The township official has misremembered what was actually said and what they wanted to be said. Although our direct process, which is machining, does not require water or sewer, our supporting functions within the facility require water and sewer.

Mersen is concerned about personal property taxes and how they are divided, but this is not our only concern as articulated by the townships poor recollection of the Dec 6<sup>th</sup> meeting. It was expressed that when Mersen does expand, it will be to install additional machine tools, which personal property taxes will be paid on. If in the future, however, it is decided to "rearrange the furniture" or move that machine or another machine in or out of the expansion area, Mersen would have to deal with the political ramifications of moving one piece of equipment from one jurisdiction to the other. This including the additional governmental tax audits that would accompany such a move would require time and resources by Mersen, most importantly time, which we do not have. We need to be efficient in order to compete with companies on a global scale, and wasting time for this type of auditing or assessing will degrade Mersen's world-wide competitiveness.

The conversations held at the December 6<sup>th</sup> meeting are evidence of Mersen's commitment to the local community, and willingness to work with all involved parties. Unfortunately, after nearly 6 months of no progress between the city and township, the only time any progress was made, was after Mersen petitioned the State Boundary Commission. Mersen is confident that the most efficient way for annexation is through the SBC. Mersen has been extremely patient with the city and the township but the clock is ticking for expansion plans to be submitted to the parent corporation. Any further delay will jeopardize the possibility of expansion in the state of Michigan.

**Backus Road**

*If Mersen were to annex the 9.7 acres abutting Backus Road, the Township would have to upgrade Backus Road from a Class B road to a Class A road at the cost of over \$250,000.00.*

Response

The Petitioner has clearly stated that it would use the existing ingress and egress onto the existing Class A road in the City industrial park. If the Petitioner did not clearly request that the Township perform such an upgrade, there would be no “need” to do so. Backus Road is also a County, not a Township road. It is not clear to Petitioner that the Township would be required to do anything.

**State Policies**

Mersen does not need to respond to the Township’s attempt to lobby the State Boundary Commission to support the Township’s attempt to convince the City to use Act 425 instead of Act 108 for a proposed intergovernmental agreement between the two municipalities.

**Petitioner’s Summary**

Petitioner believes that it has supplied the State Boundary Commission with sufficient information in its petition, at the public hearing and ensuing 30 day comments to warrant an approval of its petition to annex 9.7 acres from the Charter Township of Eureka to the City of Greenville. Petitioner requests that the Boundary Commission supports those facts as submitted and recommends approval of its petition.