



STATE OF MINNESOTA
MUNICIPAL BOARD

Suite 165 Metro Square
7th & Robert Streets
St. Paul, Minnesota 55101

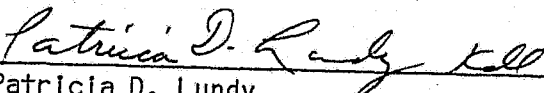
December 24, 1986

Secretary of State
c/o Donna Scott
State Office Building
St. Paul, Minnesota 55155

Re: Municipal Board Docket Number: A-4282 St. Cloud

The subject order of the Minnesota Municipal Board makes no changes in the population of the City of St. Cloud.

Official date of the "Interim Findings and Conclusions Directed to the Feasibility of the Incorporation Pursuant to Order of the Board Concerning the Presentation of Evidence Upon Proposed Settlement" is December 23, 1986.

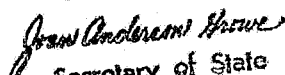

Patricia D. Lundy
Assistant Director

PDL:sg

cc: Wallace O. Dahl, Director
L.G.A. & A. Division
Department of Revenue
2nd Floor Centennial Building

R. Thomas Gillaspay, Ph.D.
State Demographer
200 Capitol Square Building

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A-4282 St. Cloud

BEFORE THE MUNICIPAL BOARD
OF THE STATE OF MINNESOTA

Kenneth F. Sette	Chair
Shirley J. Mihelich	Vice Chair
John W. Carey	Member
Henry J. Dickhaus	Ex-Officio Member
Meinrad Torborg	Ex-Officio Member

IN THE MATTER OF THE RESOLUTION)	<u>INTERIM FINDINGS AND CONCLUSIONS</u>
FOR THE ANNEXATION OF CERTAIN)	<u>DIRECTED TO THE FEASIBILITY OF THE</u>
LAND TO THE CITY OF ST. CLOUD)	<u>INCORPORATION PURSUANT TO ORDER OF</u>
PURSUANT TO MINNESOTA)	<u>THE BOARD CONCERNING THE</u>
STATUTES 414)	<u>PRESENTATION OF EVIDENCE UPON</u>
	<u>PROPOSED SETTLEMENT</u>

The above-entitled matter came on for hearing before the Minnesota Municipal Board pursuant to Minnesota Statutes 414, as amended, on August 27, 1986, at St. Cloud, Minnesota.

FINDINGS OF FACT

1. On December 3, 1985, a resolution of the annexing municipality was received by the Municipal Board, and amended resolutions were received on January 7, 1986, and January 30, 1986, requesting the board to order annexation. The resolutions contained all of the information required by statute including a description of the property subject to annexation.
2. Due, timely, and adequate legal notice of the hearing was published, served, and filed.
3. The Town of St. Cloud and the City of St. Cloud submitted to the Municipal Board at its April 23, 1986, hearing a Joint Resolution

and Agreement for Orderly Annexation and Incorporation, which was amended by the parties on July 21, 1986.

4. The joint resolution proposed, among other things, a three-phase joint orderly annexation of specified portions of the Town of St. Cloud to the City of St. Cloud on January 1, 1989, January 1, 1992, and January 1, 1995. Further, the settlement agreement contemplates that on January 1, 1995, the portions of the town not annexed to the city shall be incorporated into a new city.

5. It was anticipated that prior to that time, any annexation from the area proposed for incorporation would be ineffective since the board's order would be issued on or about January 1, 1987, with the effective date for the incorporation January 1, 1995.

6. Material presented at the hearings indicated, at most, that incorporation of some or all the proposed area may be feasible and appropriate on or before January 1, 1995.

7. Given the period of time involved, however, substantial uncertainty remains concerning whether or not other boundary adjustments within the area proposed for future incorporation or the leaving of some of the area unincorporated, will, between now and January 1, 1995, prove better to serve the needs of the town, the adjacent municipalities, and the property within the subject area.

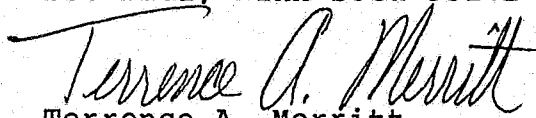
CONCLUSIONS OF LAW

1. The Minnesota Municipal Board, pursuant to M.S. 414.031, subd. 4 (m), has jurisdiction to consider the feasibility of incorporation of areas within a township pursuant to a hearing on an annexation request.

2. Ordering the incorporation of an area presently, while maintaining it as a township for approximately eight years, was not supported by the evidence presented.

Dated this 23rd day of December, 1986.

MINNESOTA MUNICIPAL BOARD
165 Metro Square Building
St. Paul, Minnesota 55101


Terrence A. Merritt
Executive Director

MEMORANDUM

The board notes that under M.S. 414.02 and M.S. 414.031, both allow the Minnesota Municipal Board to fix the effective date of the proposed incorporation at such later date as is fixed in its order.

The board finds that when faced with ordering an incorporation effective January 1, 1995, of the very specified area of land before it, under these circumstances, such a lengthy delay of the commencement of the new form of government is inappropriate. Boundary adjustments are generally sought by governmental entities or individuals because of a present or imminent need. The strength of such a need diminishes as the proposed effective date is stretched into the future.

As stated in Minn. Stat. § 414.01:

It is the purpose of this chapter to empower the Minnesota municipal board to promote and regulate development of municipalities to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; and to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.

Thus, if the conditions supporting municipal creation or boundary adjustment exist presently, such actions should be encouraged and supported presently or in the near future. If such conditions do not

exist then any such action should be deferred. Absent a strong showing of unique circumstances, not demonstrated here, it would be a virtual contradiction in terms of its mission for the board to conclude, on the basis of contemporaneous circumstances, that an order for incorporation of an area is justified, and at the same time to conclude that no incorporation or other boundry adjustment is or will be justified over the course of the next eight years.

The board is impressed with the efforts of the city and town at meeting to try and work out an agreement of their differences. It is hoped that this cooperation will continue so that issues of mutual concern can be dealt with for the good of the whole community. However, the board, in pursuing its interest in the alleviation of present controversy among cities, towns, and landowners, will not lose sight of its long-term mission of promoting sound urban development and the preservation of unincorporated areas not presently needed for non-urban uses. TAM 12-23-86

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