

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF ADMINISTRATION

In the Matter of the Petition of the City of  
Mountain Iron for Municipal Boundary  
Adjustments with Adjoining Unorganized  
Territory (A-6741)

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

The above-entitled matter initially came on for hearing before Christine Scotillo, Executive Director, Municipal Boundary Adjustments, on October 23, 2002 in the City Council Chamber of the City of Mountain Iron, Minnesota. The hearing was continued to allow for the gathering of additional evidence, and reconvened before Administrative Law Judge Allan W. Klein at 9:30 a.m. on Thursday, February 20, 2003, in the Council Chambers of the City of Mountain Iron, Minnesota. The hearing concluded that day. Interested persons were encouraged to submit additional information for the record. Additional information was submitted by the City of Mountain Iron (City) and the U.S. Department of Agriculture. On March 25, 2003, Craig Wainio, City Administrator for Mountain Iron requested that the Order in this matter be delayed to allow the City Council to consider the impact of the requested boundary adjustment. On July 24, 2003, Mr. Wainio submitted a letter indicating that the City desired to go forward with the Petition. The record closed with the receipt of the City's letter.

Craig Wainio, City Administrator, 8586 Enterprise Drive South, Mountain Iron, Minnesota 55768-8260, appeared on behalf of Petitioner, the City of Mountain Iron. Christine Scotillo, Municipal Boundary Adjustment Group, 50 Sherburne Avenue, Room 200, Saint Paul, Minnesota 55155, appeared on behalf of the Minnesota Department of Administration. Dale Irish, a member of the City Council of Mountain Iron, also participated in the hearing.

**NOTICE**

This Order is the final administrative decision in this case under Minn. Stat. § 414.031, and the Order of the Acting Director of the Office of Strategic and Long Range Planning dated November 8, 2002. Any person aggrieved by this Order may appeal to Saint Louis County District Court by filing an Application for Review with the Court Administrator within 30 days of the date of this Order. An appeal does not stay the effect of this Order.<sup>1</sup>

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<sup>1</sup> Minn. Stat. § 414.07, subd. 2.

Any party may submit a written request for an amendment of these Findings of Fact, Conclusions of Law and Order within seven days from the date of the mailing of the Order.<sup>2</sup> However, no request for amendment shall extend the time of appeal from these Findings of Fact, Conclusions of Law, and Order.

### **STATEMENT OF ISSUE**

At issue in this proceeding is whether or not the Petition for Municipal Boundary Adjustment should be granted or denied based upon the factors set out in statute.<sup>3</sup>

Based upon all of the testimony, exhibits and the record in this proceeding, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

#### **Procedural History of this Proceeding**

1. On August 26, 2002, the City of Mountain Iron (City) filed a petition with the Minnesota Office of Strategic and Long Range Planning (OSLRP) seeking annexation of approximately 11,700 acres of unincorporated property located along the City's northern border. The petition was in the form of a City Council resolution passed on August 19, 2002. The area proposed for annexation (subject area) is described as follows:

All of sections 1 through 18, Township 59 North, Range 18 West, Saint Louis County, Minnesota.<sup>4</sup>

2. OSLRP set the City's petition on for hearing for October 23, 2002.<sup>5</sup> Notice of the hearing was published in the Mesabi Daily News. The hearing was opened on October 23, 2002 and immediately continued indefinitely pending completion of the agency review process and delegation to the Minnesota Office of Administrative Hearings (OAH).<sup>6</sup>

3. A Notice of Reconvened Hearing in this matter was issued by OAH on January 7, 2003 and duly published in the Mesabi Daily News on February 9 and 12,

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<sup>2</sup> Minn. Rule pt. 6000.3100.

<sup>3</sup> Minn. Stat. § 414.031.

<sup>4</sup> Ex. 1.

<sup>5</sup> Ex. 8. The OSLRP was included in the Department of Administration as part of an agency reorganization. The functions of the OSLRP that are pertinent to this proceeding are conducted by the Municipal Boundary Adjustment Group.

<sup>6</sup> Ex. 13.

2003.<sup>7</sup> In addition, the Notice was mailed to all known landowners in the subject area on January 9, 2003.<sup>8</sup>

4. The reconvened hearing was conducted on February 20, 2003. On February 24, 2003, the City submitted additional information regarding the impact of the subject area's status as part of the Superior National Forest.

5. On March 26, 2003, the City Administrator requested that the ALJ ruling in this matter be delayed. The delay was requested to allow newly elected members of the City Council to examine the reasons for the boundary adjustment. The ALJ granted the City's request to delay the ruling.

6. On July 22, 2003, the City Administrator informed the ALJ that the City Council had decided that the petition for boundary adjustment would not be withdrawn.

### **Physical Features**

7. The City and the subject area are located in central Saint Louis County. The Township of Great Scott abuts the City and the subject area on the west. Great Scott has a population of 423 in 161 households. The Township of Wuori abuts the City and the subject area on the east. Wuori has a population of 548 in 216 households. The land to the north of the City (including the subject area) is unincorporated.

8. The City and the subject area have a minimal network of roadways serving the community. The two major roads are U.S. Highways 169 and 53. U.S. 169 serves the City proper and merges with U.S. 53 on the east of the City. U.S. 53 extends northward along the eastern border outside of the subject area and provides access to that portion of the subject area that is currently populated. There are approximately 33 miles of state, county and town roads in the Town. Approximately five miles of roads are located in the subject area.

9. The area in the City is approximately 52 square miles.<sup>9</sup> The subject area is approximately 11,700 acres (18 square miles). The Township of Great Scott is 75 square miles. The Township of Wuori is 36 square miles. The unincorporated area to the north of the subject area is 36 square miles. The subject area's topography consists of glacial till, clay, gravel, and mine tailings. Current uses in the subject area are mining waste disposal and a few residences. These residences are served by wells for their water supply and individual sewage treatment systems (ISTS) for waste disposal. The primary public waters in the subject area are Sandy Lake, Little Sandy Lake, Dark River and Sandy River.

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<sup>7</sup> Hearing Ex. 2.

<sup>8</sup> ALJ Letter, January 9, 2003.

<sup>9</sup> Hearing Ex. 2, Summary.

10. All of the subject area is located within the boundaries of the Superior National Forest. Approximately one-fifth of the City falls within the Superior National Forest.

## **Population**

11. In 1980, the City's population was 4131. In 1990, the City's population was 3362. The current population of the City is 2999, in 1326 households. The subject area has a population of 20 (unchanged throughout this period) in 8 households. The neighboring townships have current populations of 423 in Great Scott and 548 in Wuori. The projected populations for the City, the subject area, and the townships are not significantly different from the current population figures.<sup>10</sup> There is no information available on the unincorporated area north of the subject area.

## **Land Use**

12. Saint Louis County established the existing zoning of the subject area. Two-thirds of the subject area is zoned as industrial. One-quarter of the subject area is zoned as forest agricultural management. The remainder is zoned residential or multiple use nonshoreland.

13. Uses in the subject area are 5 percent residential, 45 percent industrial, and the remainder is vacant. The industrial uses are almost exclusively tailing basins for disposal of mining waste from the MinnTac operation of the United States Steel Corporation (formerly USX). The nature of the subject area is dominated by its use for mine tailings disposal.

14. In the City, uses are 25 percent residential, 5 percent institutional, 10 percent commercial, 30 percent industrial, 10 percent agricultural, and 20 percent vacant lands. There is an older town center that contains the landmark structures in the City and a newer town center providing much of the commercial activity of the City near U.S. 169. United States Steel mining operations are situated to the north, west, and south of the town centers.<sup>11</sup>

## **Planning**

15. The City has adopted a comprehensive plan.<sup>12</sup> The plan includes methods of controlling growth, establishing a historic district, preserving small town identity, maintaining the existing mix of land uses, and preserving the northern portion of

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<sup>10</sup> The City's Comprehensive Plan projected a population of 4,500 by 2019, but the population trend actually experienced suggests no growth in the City's population. Hearing Ex. 2, Mountain Iron Comprehensive Plan, at 1.

<sup>11</sup> Hearing Ex. 2, City Zoning Ordinance, at 75-76.

<sup>12</sup> Hearing Ex. 2, Mountain Iron Comprehensive Plan.

the City for mining uses.<sup>13</sup> Policies are set out regarding housing, commercial activities, and educational, natural and cultural resources.

16. The City adopted zoning regulations in 1975.<sup>14</sup> These regulations include subdivision regulations (adopted in 1975), official zoning map (2002), and shoreland management (1988). The City has a fire code that was adopted in 1975. The City has an individual sewage treatment system (ISTS) ordinance (adopted in 2002) that governs the installation and operation of septic systems. All of these regulations and the comprehensive plan will apply to the subject area upon annexation.

17. Saint Louis County zoning, shoreland, and ISTS regulations currently govern the subject area. The City characterized its regulations as generally being "less onerous than those of St. Louis County."<sup>15</sup> There are no conflicts between the City's proposal and the existing land use controls.

### **Water and Sewer**

18. The City zoning ordinance establishes residential districts designated rural residential (RR), urban residential-sewered (UR-S), urban residential-nonsewered (UR-NS). The provision of water and sewer services is limited to the two town centers and a narrow corridor between them.<sup>16</sup> There is no water or sewer service in the subject area. The City will not be extending water or sewer service to the subject area.

### **Police and Fire**

19. Police service to the City is currently provided by a contract with the Saint Louis County Sheriff's Office.<sup>17</sup> The City intends to extend its contracted law enforcement coverage to include the subject area. The City provides fire protection through its own fire department. The subject area contracts with Pike-Sandy-Britt Township to obtain fire protection.<sup>18</sup> Depending upon the impact on response times, the City will provide fire protection or continue the contractual arrangement with Pike-Sandy-Britt Township.

### **Administration**

20. The City is organized as a statutory city governed by a City Council consisting of a mayor and four council members with the mayor having the same voting authority as all other council members.<sup>19</sup> All of the City Council members are elected

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<sup>13</sup> *Id.*

<sup>14</sup> Hearing Ex. 2, City Zoning Ordinance.

<sup>15</sup> Hearing Ex. 2, Summary.

<sup>16</sup> Hearing Ex. 2, City Zoning Ordinance, at 75-76.

<sup>17</sup> Hearing Ex. 2, City Financial Statements and Supplementary Information, at 38

<sup>18</sup> City Letter, February 24, 2003.

<sup>19</sup> *Id.* at 14.

at-large. Day-to-day operations are overseen by a City administrator. The City employs staff for parks and recreation, the library, and public works.<sup>20</sup>

### Fiscal Matters

21. For the year 2001, the City had tax revenues of \$733,408, intergovernmental revenues of \$1,606,209, and revenues from other sources (fines, fees, etc.) of \$442,199.<sup>21</sup> For 2002, the tax capability and rates<sup>22</sup> are:

	<b>City</b>	<b>Subject Area</b>
<b>Tax Capability</b>	\$1,319,359	\$13,809
<b>Tax Rates</b>		
County	91.332%	95.878%,
City	8.435%	-0-
School District	6.23%	47.655%
Special Taxing Districts	<u>2.251%</u>	<u>1.422%</u>
<b>Total</b>	108.248%	144.955%

22. The City uses tax increment financing (TIF) as a tool for development and redevelopment in the City. The City has approximately \$670,000 in outstanding TIF bonds (as of December 31, 2001).<sup>23</sup> The City has also organized a housing and redevelopment authority (HRA) to utilize bonding to finance projects. HRA bonds are not obligations of the City.<sup>24</sup> The City has entered joint ventures for biosolids disposal with the Cities of Eveleth and Gilbert. These three cities have entered into a joint venture with the City of Virginia for the operation of a biosolid disposal site.<sup>25</sup> All four of these cities participate in a joint powers agreement for operation of the Quad Cities Recreational Authority.<sup>26</sup>

23. At the end of 2001, the City had a general fund balance of \$1,104,747.<sup>27</sup> The City had a special revenue fund balance of \$7,088. The City's Capital Projects

<sup>20</sup> *Id.* at 39-40.

<sup>21</sup> *Id.* at 8.

<sup>22</sup> Hearing Ex. 2, Summary, at 2-3.

<sup>23</sup> Hearing Ex. 2, City Financial Statements and Supplementary Information, at 28-29.

<sup>24</sup> *Id.* at 23.

<sup>25</sup> *Id.* at 30.

<sup>26</sup> *Id.* at 31.

<sup>27</sup> *Id.* at 8-9.

Fund had a balance of \$1,652,307 at the end of 2001. The debt service fund had a balance of \$242,687. The City's four enterprise funds (electric, water, waste water, and refuse removal-recycling) had a net working capital balance of \$699,883 at the end of 2001.<sup>28</sup> The firm of Walker, Giroux, and Hahne, Ltd. audited the City's financial statements for 2001.

### **Extension of Services to Subject Area**

24. Upon annexation, the City proposes to provide to the subject area services including solid waste collection and disposal, fire protection, law enforcement, street improvements, street maintenance, administrative services, and recreational services.<sup>29</sup>

### **Benefits to Subject Area**

25. Upon annexation, property taxes in the subject area will modestly decrease. Improved levels of service in law enforcement, street improvements, street maintenance, and administrative services can be expected upon annexation.

26. U.S. 53 has been proposed for re-routing. One of the City's reasons for annexation of the subject area is to increase the City's input into the decision-making regarding that new routing. Including the subject area in the City would increase the likelihood that the interests of the subject area will be addressed in the re-routing process. The City also has significant development resources that could be used to establish commercial activity in the vicinity of the subject area.

### **Impact of National Forest Status on Annexation**

27. Allan Bier, District Ranger for the Laurentin Ranger District of the U.S. Forest Service testified at the hearing. The Laurentin Ranger District consists of 750,000 acres (of which 350,000 acres is federally-owned land). There is no prohibition against adjusting municipal boundaries to include federally owned land.<sup>30</sup> Federal land ownership is not affected by such an adjustment.<sup>31</sup>

### **Environmental Impact**

28. No significant environmental problems have been identified that would affect the proposed boundary adjustment. A question was raised at the hearing regarding the size of buffer zones for blasting in mine pits, but no blasting is conducted in the subject area.

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<sup>28</sup> *Id.* at 27.

<sup>29</sup> Hearing Ex. 2, Summary, at 2.

<sup>30</sup> U.S. Department of Agriculture Letter, March 31, 2003.

<sup>31</sup> *Id.*

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### CONCLUSIONS OF LAW

1. The Administrative Law Judge has jurisdiction in this matter through the Minnesota Department of Administration under Minn. Stat. §§ 414.01, 414.02, 414.031, 414.11-12 and the Order of the Acting Director of the Office of Strategic and Long Range Planning, dated November 8, 2002.<sup>32</sup>
2. Proper notice of the hearing in this matter has been given.
3. The subject area described in the City's Petition (A-6741) is not about to become urban or suburban in character.
4. Municipal government in the subject area proposed for annexation in the City's Petition is not required to protect the public health, safety and welfare.
5. Annexation of the subject area described in the Petition to the City is in the best interest of the subject area.
6. The increase in tax revenues for the City bears a reasonable relationship to the monetary value of the benefits conferred upon the subject area annexed.
7. No municipality will suffer undue hardship by virtue of the annexation of the subject area.
8. An election is not required under Minn. Stat. § 414.031. Due to the disparate size of the populations involved, holding an election upon annexation would not be equitable.
9. Citations to transcripts or exhibits in these Findings of Fact do not mean that all evidentiary support in the record has been cited.
10. That these conclusions are arrived at for the reasons set out in the Memorandum which follows and which is incorporated into these conclusions by reference.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

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<sup>32</sup> Ex. 14.



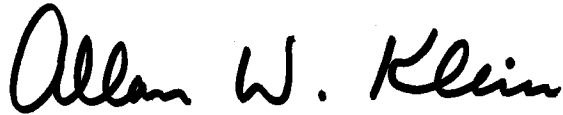
## ORDER

1. IT IS HEREBY ORDERED that the subject area described as all of sections 1 through 18, Township 59 North, Range 18 West, Saint Louis County, Minnesota, is annexed to the City of Mountain Iron as requested in Petition A-6741.

2. IT IS FURTHER ORDERED that the population of the post annexation City of Mountain Iron is approximately 3,019 and that the Office of Strategic and Long Range Planning retains jurisdiction for the purpose of determining the population of the new municipality, if the present population determination is found to be incorrect.

3. IT IS FURTHER ORDERED that the effective date of this Order is November 3, 2003.

Dated this 9<sup>th</sup> day of September 2003.



ALLAN W. KLEIN  
Administrative Law Judge

Reported: Taped. One tape. No transcript prepared.

## MEMORANDUM

This is a proceeding under Chapter 414 to consider the Petition of the City of Mountain Iron to adjust the northern boundary of the City to encompass 11,700 acres of unincorporated land.

### Statutory Factors for Annexation of Unincorporated Land

Minnesota Statutes, § 414.031, subd. 4, sets out fourteen factors to be considered when determining whether or not a petition for annexation of unincorporated land should be granted or denied. Of the fourteen, five factors are particularly relevant to the City's petition. The other factors have been adequately addressed in the Findings of Fact set out above.

**(b) Quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs.**

All of the municipalities bounding the subject area share the characteristics of large area and small populations. The nature of the land in the subject area is consistent with the adjacent land in the City. While the quantity of land is substantial, (increasing the size of the City by approximately 35 percent of its current size), the impact on population is negligible. There are no natural terrain features that present a natural boundary with the City or that would interfere with the proposed annexation. Accordingly, this statutory factor does not argue against the annexation of the subject area.

**(e) The present transportation network and potential transportation issues, including proposed highway development.**

Transportation was identified by the City as a reason for pursuing the annexation. There is a proposed rerouting of U.S. 53 that will affect both the City and the subject area. The City expressed a desire to have a larger impact the outcome of that process. The only road access to the residential portion of the subject area depends upon U.S. 53. The limited population of the subject area renders their likely impact on the reroute process to be minimal, despite their reliance on that highway. There is no adverse impact to the present or potential transportation network arising out of the proposed annexation.

**(g) Existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service; fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services.**

This factor examines the existing governmental services provided within the subject area and the City and analyzes what impact the proposed annexation of the subject area will have on the delivery of those services. The subject area, if annexed to the City, will have access to a higher level of service in a number of different areas, including street maintenance, law enforcement, and administration.

#### Street Maintenance

The subject area's roadways are maintained by the County. The City has its own street maintenance staff. The size of the street network existing in the City is not overly large. The frequency of maintenance is likely to be improved by a transfer of responsibility to the City.

## Law Enforcement Services

The City contracts with Saint Louis County to provide law enforcement services. The City has established a law enforcement center with dedicated staffing through that contract. The subject area has no arranged law enforcement, relying instead on the general responsibility of the Saint Louis County Sheriff. Dedicated law enforcement services are a distinct improvement over the current situation. There is no evidence in the record showing that calls for outside assistance have not been responded to by the Sheriff's office in a timely fashion. Nevertheless, the possibility of delayed response makes reliance on the City's law enforcement arrangement a positive benefit to the subject area.

### **(i) Plans and programs by the annexing municipality for providing needed governmental services to the subject area.**

The record strongly supports the conclusion that the City's current land use regulations, waste disposal services, and comprehensive development plan meet the present needs of the subject area. The City has demonstrated that its street maintenance system is adequate to meet the needs of the subject area. The City has park and recreation programming that will be available to the residents of the subject area.<sup>33</sup> The City will administer applicable regulations for the subject area locally after annexation, rather than having administration by Saint Louis County.

### **(j) Fiscal impact on the annexing municipality, the subject area, the adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township.**

The annexation of the subject area would have a small fiscal impact on the residents of that area by reducing their property tax rates. Those residents would join in the bonded indebtedness of the City, but there is no indication that such participation would cause any economic harm to those residents. Based on the evidence presented, the only possible economic impact is to the City with regard to possible changes in how the mining property is taxed. Currently, the tax is paid based on the volume of mine production. If that system is discontinued, the tailings basins could become property eligible for inclusion in the property tax system. Any such change is too speculative upon which to base a conclusion regarding fiscal impact. The annexation of the subject area is unlikely to impose significantly greater costs on the City.

## **Annexation Standard**

Minn. Stat. § 414.031, subd. 4(b) allows for annexation if "the subject area is now, or is about to become, urban or suburban in character." The subject area is not,

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<sup>33</sup> It must be noted that there is no evidence that the residents of the subject area were excluded from the use of City's parks and recreation programs.

and will not, meet this requirement. Annexation is also allowed if "municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare."<sup>34</sup> There has been no showing that municipal government is required for this reason. The third standard permits annexation if it "would be in the best interest of the subject area."<sup>35</sup>

As the Findings of Fact and the foregoing discussion set out, there are some factors that modestly support annexation. There are no factors that weigh against annexation. While the benefits to the twenty residents of the subject area are not much greater than their current situation, the record as a whole supports a conclusion that annexation would be in the best interest of the subject area. The residents are likely to receive more consideration of their needs in the U.S. 53 re-routing process with the City acting on their behalf. The commercial development capacity of the City will be essential if non-mining business is to come to the subject area. The City's Comprehensive Planning and Land Use Controls can be used to guide development in the subject area, particularly any commercial development that may result from the re-routing of U.S. 53. The City's police presence, while contracted from the Saint Louis County Sheriff, is locally based. Similarly, the street maintenance and permit administration will be locally based, which is more likely to be responsive to the needs of the residents in the subject area.

### **Summary**

This order grants the Petition of the City seeking to annex the subject area. The extreme disparity between the population of the City and that of the subject area renders an election inequitable, therefore no election has been ordered.

A.W.K.

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<sup>34</sup> Minn. Stat. § 414.031, subd. 4(b).

<sup>35</sup> *Id.*