

May 5, 2023

**TO:** Mr. Tim Asplund, Natural Resources Program Manager

**Reference:**

"An application titled Type 1 Sewer Service Area Plan Amendment-Orchard Hills dated August 4, 2022 and modified January 10, 2023, from the City of Eau Claire to modify the boundary of the Chippewa Falls-Eau Claire Urban Sewer Service Area."

**The Town of Wheaton** attended the Chippewa-Eau Claire Metropolitan Planning Organization meeting on Wednesday, May 5, 2023. The Town of Wheaton has an Intergovernmental Agreement with the City of Eau Claire.

**Benefits of Intergovernmental Cooperation**

There are many benefits to engaging in partnerships. The most common are:

**Cost Savings:** Areas in which services can be shared can be identified and acted upon.

**Consistency:** Plans and goals may be developed that are consistent with neighboring visions and reduce land use conflicts.

**Understanding:** Understanding the goals of other governmental agencies lets you anticipate and address potential problems before they happen.

**Trust and Respect:** Positive experiences lead to trust and respect between jurisdictions and make disagreements easier to work through.

The recent Chippewa Falls-Eau Claire Urban Sewer Service Area (SSA) amendment meets none of these intergovernmental benefits from a township level. At the meeting, the Town of Wheaton voted **NO** on the recommendation to move forward with the above mentioned SSA amendment.

Please consider this as a written comment.

Thank you,

Steve Harmon

Chair, Town of Wheaton

MPO - May 3, 2023

Good evening. My name is Bob Solberg. I am the newly elected Chairman and I will be speaking of behalf of the Town of Washington.

To start, I would suggest that we shouldn't be here at all and we also should not have been here last fall either.

The SSA Plan is crystal clear that an SSA boundary change should not be used to promote nor hinder annexation petitions. And maybe it could be argued that it both "promotes" and "hinders" annexation.

The city brought this SSA amendment forward only after it received an annexation petition for the first time. The TOW challenged it and won. A second petition was submitted and approved by the EC city council as well. The TOW is currently formulating a challenge. So here we are yet again under the same circumstances. Does anyone in this room really think we would be here except for the annexation activity?

An example that supports this common understanding was demonstrated when the attorney for the Orchard Hills developer spoke before the EC city council a few weeks ago when they were considering the annexation ordinance, he said, and I quote "Annexation remains the most likely way to force the DNR to actually complete the SSA review". Oops, someone said it out loud.

I say that we should deny this SSA amendment and not see another submission until this annexation mess is fully resolved and the Town of Washington has either won or exhausted its challenges.

Second, the donor area is not supposed to create a void. It was found by the DNR that the previous application did in fact create a void. The city has tried to fix this by attaching the area to an existing SSA with a tiny little connection of approximately 240 feet. To put that in perspective, one acre is 208 feet on a side. So out of 221 acres slightly more than the side of one acre is all that EC uses to make a connection. It may technically be a connection, but it certainly doesn't satisfy the spirit of the rule.

And there is still clearly a void. Note that the SSA rules say that there must be a connection AND it shall not create a void. The use of the word "and" means both conditions must be met. And guess what, we still have a void. I mean just look at it. If this isn't a void, then someone needs to show me what a void looks like. It certainly does not meet the eye test.

Thirdly, for the previous attempt at an amendment, the DNR stated "that portions of the donor area may not be suitable for sewered development which suggests that this may not be an appropriate area to consider for a Type 1 land swap. Well, now that the new donor area includes a gravel pit lake, I think the DNR statement would be even more applicable.

MPO - May 3, 2023

I've only been the town Chairman for about 2 weeks, but I have a couple of impressions. The city of Eau Claire's application for an SSA amendment seems wholly deficient. It seems so out of wack that it gives me pause. Why?

I can only assume that the city must expect to get favorable treatment, so they really don't have to work too hard to follow the rules or give up too much. (link to annexation, tiny little connection to existing SSA, still obviously a void, etc) And that impression seem to be supported by, with all due respect, the contortions displayed in the MPO staff report to recommend this amendment. There's no mention of the annexation conflict at all, even though it's the elephant in the room. And then waving away the 'shall not create a void' requirement simply because there is now a 240 foot connection. They said: "The west side of the City's modified donor area is physically connected to the existing SSA boundary, so a void would no longer be created by the proposed amendment" But that's not what the rule says as I've already discussed. Having a connection doesn't mean you don't have a void.

Lastly, and I know this isn't something the MPO staff considers, but there are real world consequences to granting the SSA change at this time. If we grant Eau Claire's request and then the Town of Washington wins another challenge to the annexation, the city still wins. The intergovernmental agreement that the Towns have with Eau Claire essentially makes any area within the SSA undevelopable by the towns due the the 10 acre minimum land division. Therefore, the Town of Washington would no longer have the freedom to consider almost any kind of development here. It would essentially be reserved for the city of Eau Claire to annex at some time in the distant future. The city already enjoys over a 1000 of acres undeveloped land within the TOW SSA for annexation and development.

So to conclude: Right and wrong matter. Rules matter. Integrity matters. Please join the TOW and deny this SSA amendment.

Thank you.

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**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** FW: Comments on the SSA boundary amendment requested by the City of Eau Claire  
**Date:** Monday, May 15, 2023 7:12:06 AM

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**Tim Asplund**

Pronouns: he/him/his

Cell Phone: (608) 438-9401

[tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

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**From:** Jennifer Seibel <jenseibel@gmail.com>  
**Sent:** Friday, May 12, 2023 6:37 PM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Subject:** Re: Comments on the SSA boundary amendment requested by the City of Eau Claire

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Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear Mr. Asplund:

Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. I am a resident of the Town of Washington, and we respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. **Location:** The existing sewer service area (SSA) “donor area” is on Hwy 37 and adjacent to I-94 which makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
  - a. Proposed location “recipient area” is over 2.25 miles from the nearest city street/neighborhood. The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission. The recipient area in this proposed swap would be surrounded by rural township developments.
2. **Cost:** The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4

million as the distance is nearly 2 miles from the nearest Water and Sewer. As stated above, the current SSA is adjacent to the city limits and would require minimal cost.

3. **Environmental impact:** The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal consists of high density apartment complexes and commercial zoning.
  - a. Proposed land consists of Environmentally Sensitive Areas (ESA) – ridges, steep slopes that flow into wetlands. Those wetlands feed the Lowes Creek trout stream.
  - b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.
4. **The Town of Washington is considering another legal challenge to the recent annexation.** Should the Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town. If that happens, this land will need to be removed from the SSA in order for a Township development to occur. At a minimum, the WDNR should delay its decision until any and all legal challenges on the recent annexation are resolved.
5. **Unprecedented opposition:** The State of Wisconsin Department of Administration did not recommend the annexation of this land due to the location, irregular shape. They felt this land was best supported by the Township. The MPO voted 8-3 in opposition.
  - a. 550 Eau Claire City and Township residents don't feel this is in the best interests of the public.
6. **The SSA Plan is going to be updated as soon as 2025.** A SSA swap of this magnitude should not be done piecemeal and should be studied and discussed during a comprehensive update of the entire SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,  
Jennifer L Seibel, MD  
Eau Claire, WI 54701

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

May 14, 2023

**Re: Comments on the SSA boundary amendment requested by the City of Eau Claire**

Dear Mr. Asplund:

Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. My wife and I own a residential lot (Parcel # 1802422609092409005) which is adjacent to the "recipient area", referred to below. We respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. **Location:** The existing sewer service area (SSA) "donor area" is on Hwy 37 and adjacent to I-94 which makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
  - a. Proposed location "recipient area" is over 2.25 miles from the nearest city street/neighborhood. The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission. The recipient area in this proposed swap would be surrounded by rural township developments.
2. **Cost:** The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4 million as the distance is nearly 2 miles from the nearest Water and Sewer. As stated above, the current SSA is adjacent to the city limits and would require minimal cost.
3. **Environmental impact:** The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal consists of high density apartment complexes and commercial zoning.
  - a. Proposed land consists of Environmentally Sensitive Areas (ESA) – ridges, steep slopes that flow into wetlands. Those wetlands feed the Lowes Creek trout stream.
  - b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.
4. **The Town of Washington is considering another legal challenge to the recent annexation.** Should the Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town. If that happens, this land will need to be removed from the SSA in order for a Township development to occur. At a minimum, the WDNR should delay its decision until any and all legal challenges on the recent annexation are resolved.

5. **Unprecedented opposition:** The State of Wisconsin Department of Administration did not recommend the annexation of this land due to the location, irregular shape. They felt this land was best supported by the Township. The MPO voted 8-3 in opposition.
  - a. 550 Eau Claire City and Township residents don't feel this is in the best interests of the public.
6. **The SSA Plan is going to be updated as soon as 2025.** A SSA swap of this magnitude should not be done piecemeal and should be studied and discussed during a comprehensive update of the entire SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,

John and Diane Sleizer

May 12, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

Sent electronically to: tim.asplund@wisconsin.gov

**Re: Comments on the SSA boundary amendment requested by the City of Eau Claire**

Dear Mr. Asplund:

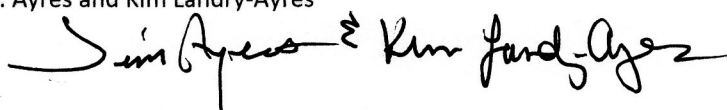
Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. I am a resident of Brunswick, and we respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. **Location:** The existing sewer service area (SSA) "donor area" is on Hwy 37 and adjacent to I-94 which makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
  - a. Proposed location "recipient area" is over 2.25 miles from the nearest city street/neighborhood. The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission. The recipient area in this proposed swap would be surrounded by rural township developments.
  - b. As citizens of Brunswick, the "donor" township, we do not want this land removed.
2. **Cost:** The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4 million as the distance is nearly 2 miles from the nearest Water and Sewer. As stated above, the current SSA is adjacent to the city limits and would require minimal cost.
3. **Environmental impact:** The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal consists of high density apartment complexes and commercial zoning.
  - a. Proposed land consists of Environmentally Sensitive Areas (ESA) – ridges, steep slopes that flow into wetlands. Those wetlands feed the Lowes Creek trout stream.
  - b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.
4. **The Town of Washington is considering another legal challenge to the recent annexation.** Should the Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town. If that happens, this land will need to be removed from the SSA in order for a Township development to occur. At a minimum, the WDNR should delay its decision until any and all legal challenges on the recent annexation are resolved.
5. **Unprecedented opposition:** The State of Wisconsin Department of Administration did not recommend the annexation of this land due to the location, irregular shape. They felt this land was best supported by the Township. The MPO voted 8-3 in opposition.
  - a. 550 Eau Claire City and Township residents don't feel this is in the best interests of the public.
6. **The SSA Plan is going to be updated as soon as 2025.** A SSA swap of this magnitude should not be done piecemeal and should be studied and discussed during a comprehensive update of the entire SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,

James F. Ayres and Kim Landry-Ayres





May 15, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

Re: Comments on the SSA boundary amendment requested by the City of Eau Claire

Dear Mr. Asplund:

Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. As a resident of Eau Claire, I respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. Location: The existing sewer service area (SSA) “donor area” is on Hwy 37 and adjacent to I-94 which makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.

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Intersection Site Distance requirements by the Eau Claire County Highway Commission. The recipient area in this proposed swap would be surrounded by rural township developments.

2. Cost: The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4 million. The distance is nearly 2 miles from the nearest Water and Sewer. As stated above, the current SSA is adjacent to the city limits and would require minimal cost.

3. Environmental impact: The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal consists of high density apartment complexes and commercial zoning.

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b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.

4. The Town of Washington is considering another legal challenge to the recent annexation. Should the Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town. If that happens, this land will need to be removed from the SSA in order for a Township development to occur. At a minimum, the WDNR should delay its decision until any and all legal challenges on the recent annexation are resolved.

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a. 550 Eau Claire City and Township residents don't feel this is in the best interests of the public.

6. The SSA Plan is going to be updated as soon as 2025. A SSA swap of this magnitude should not be done piecemeal and should be studied and discussed during a comprehensive update of the entire SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,

Catherine Sultan

Eau Claire, WI 54701

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** Fwd: Lowes Creek Park-please do not allow Sewer & water to huge development!!!  
**Date:** Tuesday, May 16, 2023 9:26:29 AM

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**From:** PATRICIA schroeder <pschroeder2004@yahoo.com>  
**Sent:** Monday, May 15, 2023 9:25:57 AM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Subject:** Fwd: Lowes Creek Park-please do not allow Sewer & water to huge development!!!

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>  
> Dear Mr. Asplund, DNR  
>  
> The animals, birds, and plants vital to this area do NOT just live in a small 250 acre Lowes Creek park. You know this being in WI DNR management. Have you spent any time in the Lowes Creek area? Animals and birds migrate constantly to find food, water and to nest.  
> It's ridiculous to even believe our park won't be impacted by this Orchard Hills development. Many houses are planned on the several important smaller waterways that dump into Lowes Creek. Why do you think old man Kris Haugue had it locked in a Conservation Wildlife for over 30 years!?!?  
> He knew because he taught DNR courses at Stevens Point perhaps even you had him for a professor? I'm sure he is rolling over in his grave knowing what his son Todd has done but you can make a difference if you have guts (I know you do!) and care one bit about land conservation (I know you do!) over money & foolish developments in a wetlands!!  
> There are several suitable areas for development (if Eau Claire even needs ANOTHER DEVELOPMENT!!!) that would NOT impact such a valuable diminishing wildlife resources! Not to mention water and sewer pipelines that have to go over 2.5 miles from the city border! Ridiculous indeed!  
Thank you for hard work and never ending dedication to our natural resources in Wisconsin. Please vote NO!

> Kindest Regards,

> Patty Schroeder and Family  
~Lowe's Creek Area Family for over 30 years~

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** Fwd: Save Nature  
**Date:** Tuesday, May 16, 2023 9:05:18 AM

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**From:** Justin Yarrington <rocdot222@gmail.com>  
**Sent:** Tuesday, May 16, 2023 7:46:47 AM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Subject:** Save Nature

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May 16, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921  
Sent electronically to: [tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)  
Re: Comments on the SSA boundary amendment requested by the City of Eau Claire

Dear Mr. Asplund:

Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. I am a resident of the township of Brunswick, we respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter. Please help everyone that has invested in a peaceful and quiet living within nature to keep that. This area of Eau Claire was not designed to be a City and has allowed for us to remain with larger lots and live among the animals and keep away from the ongoing growth of the City that only threatens the animals and our own way of life. This needs to stop and you have the ability to do so.

1. Location: The existing sewer service area (SSA) “donor area” is on Hwy 37 and adjacent to I-94 which makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least

since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.

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The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission. The recipient area in this proposed swap would be surrounded by rural township developments.

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4. The Town of Washington is considering another legal challenge to the recent annexation. Should the

Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town.

If that happens, this land will need to be removed from the SSA in order for a Township development to

occur. At a minimum, the WDNR should delay its decision until any and all legal challenges on the recent annexation are resolved.

5. Unprecedented opposition: The State of Wisconsin Department of Administration did not recommend

the annexation of this land due to the location, irregular shape. They felt this land was best supported

by the Township. The MPO voted 8-3 in opposition.

a. 550 Eau Claire City and Township residents don’t feel this is in the best interests of the public.

6. The SSA Plan is going to be updated as soon as 2025. A SSA swap of this magnitude should not be done

piecemeal and should be studied and discussed during a comprehensive update of the entire

SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,

Concerned Citizen Justin Yarrington

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** Fwd: City of Eau Claire SSA boundary amendment proposal  
**Date:** Tuesday, May 16, 2023 9:25:42 AM

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**From:** Andrey Yeatts <andrey.yeatts@gmail.com>  
**Sent:** Tuesday, May 16, 2023 4:19:18 AM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Cc:** Jane Mohler <mjanemohler@gmail.com>  
**Subject:** City of Eau Claire SSA boundary amendment proposal

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May 15, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

Dear Mr. Asplund,

Regarding the Sewer Service Area (SSA) boundary amendment proposed by the city of Eau Claire, we are residents of Washington Township and respectfully request that the Wisconsin Department of Natural Resources honor the recommendations of the area Metropolitan Planning Organization and reject the SSA request. This is a flawed proposal for several reasons:

- The existing SSA donor area is already adjacent to high capacity roadways (state 37 and interstate I-94) and close to existing development and adjacent to the city. The proposed SSA parcel is more than two miles from any part of the city and 4 or more miles from existing services and surrounded by farmland and rural township areas. The Eau Claire County Highway Commission has found the county highway adjoining the recipient area as not meeting Intersection Site Distance requirements.
- The remoteness of the parcel entails much higher costs for service investments than the donor area, from an estimated \$3-4 million for the 2 mile sewer extension to unstated but required future expenditures on transportation, emergency services and other needs.
- The proposed high density urban apartment complexes and commercial-retail zoning will have an enormous impact environmentally. There are black bear, cranes, foxes, Karner Blue butterflies and other keystone species that currently travel through from the park through the proposed area to nearby habitat. The sewer and fresh water service have to be routed across Lowes Creek park and through a valued trout stream and the stream itself will be impacted by runoff from the adjacent high-density/commercial development.
- This is strongly opposed by the MPO in its recent 8-3 vote, with the town of Washington considering a further legal challenge after the overturning of the previous



annexation attempt. The state Department of Administration cautioned the city about the ramifications of balloon-on-a-string annexations, and hundreds of neighbors and residents have voiced opposition to the city's proposals.

- If the Township's claim is sustained in court, both donor and recipient areas will be required to revert back to their previous SSA status. This substantial and questionable request by the city so near to the revision of the area SSA plan should be deferred for consideration under a comprehensive review.

Please consider these points – there is well-justified disapproval and concern about this project at every level – and reject this flawed SSA request.

Andrey Yeatts  
Jane Mohler  
Town of Washington, WI

**Rick Manthe**

222 West Washington Avenue, Suite 900  
P.O. Box 1784  
Madison, WI 53701-1784  
RManthe@staffordlaw.com  
608.259.2684

May 19, 2023

*VIA EMAIL*

Tim.Asplund@wisconsin.gov

Tim Asplund  
Natural Resources Program Manager  
WI Department of Natural Resources  
P.O. Box 7921  
Madison, WI 53707-7921

Re: Town of Washington's Support for MPO Decision Denying Eau Claire  
SSA Amendment

Dear Mr. Asplund:

The Town of Washington provides this written comment in support of the West Central Wisconsin Regional Planning Commission ("MPO") decision to deny the City of Eau Claire's request to amend the sewer service area. The MPO made the correct decision, and the DNR should adopt it.

The MPO relied upon the water quality plan approved by the member communities and the DNR. Wis. Admin. Code NR § 121.04(2)(c)5. requires that a water quality plan have an amendment process. Both DNR and the MPO approved the SSA amendment process applicable to the City of Eau Claire's request, meaning that process controls SSA amendments. The City's requested amendment did not comply with the SSA Plan. Consequently, DNR should uphold the MPO decision and deny the SSA amendment.

0522231457

**Madison Office**

222 West Washington Avenue 608.256.0226  
P.O. Box 1784 888.655.4752  
Madison, Wisconsin Fax 608.259.2600  
53701-1784 www.staffordlaw.com

**Milwaukee Office**

1200 North Mayfair Road 414.982.2850  
Suite 430 888.655.4752  
Milwaukee, Wisconsin Fax 414.982.2889  
53226-3282 www.staffordlaw.com

## **Factual Background to SSA Amendment Request.**

In June 2022, the City attempted to annex the territory included with this SSA amendment petition. Before adopting the annexation ordinance, the City began the process of obtaining an SSA amendment. In November 2022, the DNR determined it could not approve the SSA amendment because:

1. The Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025 clearly states “Those policies that direct action using the words “will” or “shall” are mandatory and regulatory aspects of the Chippewa-Eau Claire Urban Sewer Service Plan” (pg. 82). Policy 1.1.9 reads as follows: “Proposed plan amendments shall be located within or have a common boundary with the current sewer service area and shall not create a void within the service area.” Removal of the proposed donor area would create a void within the service area, which contradicts Policy 1.1.9. The Department finds the City did not make a sufficient case for allowing an exception to this policy.
2. In addition, WCWRPC recognized in their staff report that portions of the donor area may not be suitable for sewer development, which suggests that this may not be an appropriate area to consider for a Type 1 “land swap” amendment under the 2018 SSA plan.

Then, in February 2023, an Eau Claire Circuit Court judge declared the City annexation ordinance invalid. Since then, the City has adopted a new annexation ordinance and continued to seek approval of the SSA amendment. However, on May 3, 2023, the MPO recommended denial of the SSA amendment.

## **The SSA Amendment does not Comply with the Water Quality Plan.**

The City’s second SSA application suffers from the same deficiencies as its first and should be denied. All Eau Claire SSA amendments must comply with the goals and policies of the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan-2025 (“Plan”). Plan at 103-104. The Plan specifies that “using the words ‘will’ or ‘shall’ are mandatory and regulatory aspects of the *Chippewa-Eau Claire Urban Sewer Service Plan*.” Plan at 82. Policy 1.1.9, in turn, requires that “Proposed plan amendments ... shall not create a void within the service area.” Plan at 83 (emphasis added). The term “void” commonly means “a large hole or empty space” (<https://dictionary.cambridge.org/us/dictionary/english/void>) or “opening, gap” (<https://www.merriam-webster.com/dictionary/void>). Thus, using these common meanings of the

word “void,” no SSA amendment can create any gaps, empty space, or holes within the existing SSA.

The City proposes to remove land from the SSA in the Town of Brunswick that results in a void. Despite the proposed area having a small border with the current SSA boundary, it nonetheless creates an enormous empty space within the SSA. That small border leads to a narrow corridor extension that balloons into a massive opening within the SSA. Moreover, the new area is not a compact space, thus exacerbating the void and effectively cutting off entire areas currently within the SSA. The territory is almost completely surrounded on all sides, leaving a massive empty space in the SSA. The request therefore violates the mandatory and rudimentary requirement of not creating a void. That alone justifies denying the City’s request.

Moreover, the City still has not addressed the shortfall of its original application regarding the suitability of the donor area in the Town of Brunswick. The staff report acknowledges that “the donor area has significantly more ESA acreage” than the receiving area. *Supplemental Staff Report* at 8. While the City states there were plans to develop the area in the mid-2000’s that would have only been possible through “floodplain mitigation strategies.” That does not make the donor area developable. Given the overwhelming uncertainties with permitting wetland fill for development, it is not even plausible to label the property developable. If implementation of floodplain mitigation strategies means the land is developable, then there would be no point in differentiating environmentally sensitive areas from other types of land. The City has not provided any additional information to address this shortcoming. Therefore, the application must be denied.

The Plan also requires “[s]ewer extensions that reflect the contiguous and compact pattern of development should receive priority over extensions that will contribute to urban sprawl.” *Id.* at 82. The area proposed to be added to the SSA is approximately 1.8 miles from the City’s border. Any residential development that occurs will require installation of utilities a significant distance from the City’s current boundary. The word “contiguous” means “next to or touching another.” <https://dictionary.cambridge.org/us/dictionary/english/contiguous>. This proposed development would not touch any portion of existing City development. Lowes Creek Park and acres of farmland separate current City development from the proposed area. This would constitute urban sprawl and not a contiguous or compact pattern of development.

The Plan also requires that “[f]uture residential development should occur adjacent to existing development to contain costs of public service provisions, and reflect compact and orderly development.” Plan at 83. This amendment would result in high costs to extend municipal services and would be the antithesis of compact and orderly development. There are no nearby City developments. The City would need to extend miles of infrastructure just to reach the area.

A nearby residential subdivision already has private onsite water systems and will not hook up to City utilities. Therefore, the proposal does not comply with this policy.

Finally, the “the Sewer Service Area Plan (SSA Plan) and boundary should not be used to promote nor hinder annexation petitions....” *Id.* The City only sought an SSA amendment to annex the territory. The SSA amendment and annexation petition are inextricably linked. There is no doubt the City is using the SSA amendment process to promote annexation.

These policies cannot be ignored. The policies were important enough to the MPO member communities to specifically incorporate them as requirements for all SSA amendments. The DNR specifically approved the MPO’s SSA plan. Therefore, the City must be required to comply with the policies chosen by the member communities. The MPO determined the City’s application did not, and the DNR should affirm the MPO decision.

Reversing the MPO decision would have negative ramifications. SSA plans help guide decision-makers. Here, the MPO applied the facts to its policies and found the application deficient. Reversing that decision would undermine the entire purpose of SSA plans: to guide decision-making. SSA plans would be devalued if the standards they create and apply could be overruled. It would also remove any incentive towns have to work with cities and villages on regional planning efforts, as their adopted policies could be ignored by incorporated municipalities. These factors all favor adopting the MPO decision.

The Town of Washington appreciates the opportunity to provide comments in favor of the MPO decision. Please feel free to contact me if you have any questions or need additional information.

Sincerely,

STAFFORD ROSENBAUM LLP

A handwritten signature in black ink, appearing to read "Rick Manthe", with a stylized flourish extending to the right.

Rick Manthe

RAM:mai

May 23, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

Sent electronically to: tim.asplund@wisconsin.gov

**Re: Comments on the SSA boundary amendment requested by the City of Eau Claire**

Dear Mr. Asplund:

Thank you for the opportunity to provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. We are residents of the Town of Washington. We respectfully request the WDNR follow the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. **Location:** The existing sewer service area (SSA) "donor area" is on Hwy 37 and adjacent to I-94 which is likely why the area has been included in the SSA for at least 17 years. High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
  - a. Proposed location "recipient area" is over 2.25 miles from the nearest city street/neighborhood. The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commissioner. The recipient area in this proposed swap would be surrounded by rural township developments.
2. **Cost:** The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4 million as the distance is nearly 2 miles from the nearest water and sewer. The current SSA is adjacent to the city limits and would require minimal cost.
3. **Environmental impact:** The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal includes high density apartment complexes and commercial zoning.
  - a. Proposed land consists of Environmentally Sensitive Areas (ESA) – ridges, steep slopes that flow into wetlands. Those wetlands feed the Lowes Creek trout stream.
  - b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.
4. **The Town of Washington is considering another legal challenge to the recent annexation.** Should the Town succeed in its legal challenge like the February 2023 challenge, the land would revert to the Town. If that happens, this land will need to be removed from the SSA in order for a Township development to occur.
5. **Unprecedented opposition:** The State of Wisconsin Department of Administration did not recommend the annexation of this land due to the location and irregular shape. They felt this land was best supported by the Township. The MPO voted 8-3 in opposition.
  - a. 550 Eau Claire City and Township residents don't feel this is in the best interests of the public.
6. **The SSA Plan is going to be updated as soon as 2025.** A SSA swap of this magnitude should not be done piecemeal and should be studied and discussed during a comprehensive update of the entire SSA Plan.

We request that you take the MPO's recommendation and vote NO to the SSA swap.



Keith and Debra Zehms

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** FW: SSA Plan in Eau Claire County  
**Date:** Tuesday, May 23, 2023 1:11:21 PM

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Tim Asplund  
Pronouns: he/him/his  
Cell Phone: (608) 438-9401  
[tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

-----Original Message-----

From: Melissa Marjamaa <[heavenandearthgardens@gmail.com](mailto:heavenandearthgardens@gmail.com)>  
Sent: Tuesday, May 23, 2023 12:02 PM  
To: Asplund, Tim - DNR <[Tim.Asplund@wisconsin.gov](mailto:Tim.Asplund@wisconsin.gov)>  
Subject: SSA Plan in Eau Claire County

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Dear Mr. Asplund,

The development titled Orchard Hills on County Road II has been in dispute for almost 3 years. I am among the hundreds in the city and county of Eau Claire and the Township of Washington that have signed a petition against the development. I have been part of the opposition from the start. There are many concerns regarding the development but I will express some personal reasons in this letter because I reside on County Road II. I am blessed to be able to watch the Sandhill cranes raising their young every spring through autumn on the pond I live next to. Unfortunately the cranes walk across County Road II regularly and I fear for their safety if a city density development of 900 units with 2000 inhabitants are driving on the “country road”, not a “city street” every day! I am also old enough to remember the counts each spring when the Sandhill cranes were endangered. We are losing so much to urban sprawl in Wisconsin, nationally, and internationally, so I ask that you offer protection for these amazing birds and the other wildlife in this area. We have lost count of the smashed turtles already this year on II.

Also, among your many responsibilities is to determine whether a site is environmentally appropriate to be developed. This site is environmentally sensitive due to its topography. Amidst the rolling hills are steep slopes that flow into wetlands. The SSA proposal will also disturb an existing natural area and Class 2 trout stream in Lowes Creek County Park that is a popular and dear to so many Eau Claire residents and many visitors.

People are part of the environment too and I am sure you have to be sensitive to their needs as well as our precious shrinking natural lands. But putting 2000 inhabitants on less than 240 acres just isn't logical, 2 miles from the City of Eau Claire. The resources needed and will continue to be expanded are too great, environmentally, financially, and socially so I respectfully request you deny the SSA. Please do what I admire you do best, protecting our beautiful land.

Thank you kindly, Melissa Marjamaa  
Sent from my iPhone

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** FW: SSA Boundary Amendment for the City of Eau Claire  
**Date:** Wednesday, May 24, 2023 12:32:59 PM

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Tim Asplund  
Pronouns: he/him/his  
Cell Phone: (608) 438-9401  
[tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

-----Original Message-----

From: Marc A Hagel <[marc.hagel@gmail.com](mailto:marc.hagel@gmail.com)>  
Sent: Tuesday, May 23, 2023 10:58 PM  
To: Asplund, Tim - DNR <[Tim.Asplund@wisconsin.gov](mailto:Tim.Asplund@wisconsin.gov)>  
Subject: SSA Boundary Amendment for the City of Eau Claire

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Dear Mr Asplund:

Thank you for listening to my concerns on the proposed SSA swap being requested by the City of Eau Claire.

I am a resident of the Town of Washington. My property borders directly north of the proposed Orchard Hills development. I have sent you letters, pictures and videos in the past explaining my concerns for this development.

Please deny the SSA amendment request as recommended by the Metropolitan Planning Organization.

The donor sewer service area makes more sense as it's location to the current sewer system is without obstruction. The cost of installing the water and sewer would be much less compared to the costs of the Orchard Hills development. The proposed Orchard Hills area requires over 2 miles of sewer and water pipes to be built through and under Lowes Creek County Park and a class 2 Trout stream. The proposed development would be built on Environmentally Sensitive Areas that feed into the Lowes Creek Flowage. Double the chance for pollution to the stream and disruption of the aquifer to the surrounding homes that would still be in the Township of Washington.

The permeable surface area would be drastically reduced at the density the developers propose to build. 12 unit apartment complexes and multi family homes. Disrupting the aquifer that all of the surrounding homes rely on for their wells and the flow to supply Lowes Creek. I have personally dealt with this same problem with the Interlachen Development just 5 miles south of this area. I believe you received a letter from me explaining this in my previous correspondence on this development. This would be an additional hardship and non reimbursed expense to all the home owners surrounding this proposed development.

The density of this development would not be well serviced by the current servicing roads and the hilly nature of the terrain. The safety issues of the road development would be shouldered by the Township of Washington without the tax revenues for the costs. Once again, costs not shared by the City of Eau Claire but burdened to the surrounding neighbors in the Township.

The Township of Washington is the best steward for the development of this farmland. Though, the hilly nature and the water flowage to Lowes creek would be better served by leaving it as farmland. (See attachment)



There are many other issues that I'm leaving up to my neighbors to share to prevent me from requiring you to read it twice.

The State of Wisconsin Department of Administration did not recommend the annexation.

The MPO did not approve of this by a 8-3 vote in opposition.

The Township of Washington is pursuing another legal action to challenge the annexation.

550 Eau Claire City and Township residents don't feel this is in the best interest of the public.

Please vote NO to the SSA Swap. The Township of Washington should control this development.

Marc & Roxi Hagel, Eau Claire, WI 54701







**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** FW: Eau Claire SSA proposal  
**Date:** Wednesday, May 24, 2023 12:34:46 PM

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Tim Asplund  
Pronouns: he/him/his  
Cell Phone: (608) 438-9401  
[tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

-----Original Message-----

From: Bradley Grewe <[outlook\\_8C98BC944A64C562@outlook.com](mailto:outlook_8C98BC944A64C562@outlook.com)> On Behalf Of Bradley Grewe  
Sent: Tuesday, May 23, 2023 9:38 PM  
To: Asplund, Tim - DNR <[Tim.Asplund@wisconsin.gov](mailto:Tim.Asplund@wisconsin.gov)>  
Subject: Eau Claire SSA proposal

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Dear Mr Asplund,

I am a resident of the City of Eau Claire and have been closely following the annexation of land south of the city for the proposed Orchard Hills development. The development plan has failed to have support from the Metropolitan Planning Organization (twice) and the City's own Planning Commission. Despite lack of support from those key committees and others, the City has forged ahead with annexation and arrogantly stated that the previous failure to obtain WIDNR SSA approval was due to technicalities and misunderstanding on your committee's part. To that end, the City of Eau Claire is proposing a land swap with the Town of Brunswick's SSA to supply City water and sewer to an island of land via traversing a forested county park and a Class II trout stream.

To me, this is problematic on multiple levels. First the entire annexation and development project has been conducted without careful ordered planning of supporting infrastructure from sewer & water, roads, police & fire plans, community transportation, schools, and careful environmental impact assessments. Currently the City is struggling with lack of funds to maintain their current infrastructure and I am concerned that SSA approval is a "green light" for a project that may not even make sense yet. Even though the area concerned is in the wider development zone for the city, it would be better accessed by city sewer and water via the southeast and going around the large county park after further development of the southeast corridor of Highway 93 which already has SSA approval and isn't being fully utilized.

From your WIDNR standpoint, besides obtaining SSA approval, there are two (possibly three) bridges that cross Lowes Creek that will need to be widened to support the project. These are in deep ravines and cross a healthy Class II trout stream. These bridges are both in the Town of Washington (as was the annexed land), which has opposed the entire project. The City has said these road issues aren't their problem and said it's up to the County and Township to address. This is just another example of the City dumping it's problems and lack of future planning on someone else (you, the County, the Township, etc) rather than getting their ducks in a row and building support first (hence the lack of support from the various planning committees).

Also, from the WIDNR perspective, this is a questionable swap of "like" land. The current SSA is along relatively flat topography and an existing highway corridor (Highway 37) and adjacent to city land vs the proposed rural site that is miles from the nearest city street and city limits. The existing SSA plan was created as such in 2005 for a

reason and any significant shift should be carefully studied via the usual process for the best overall outcome. The update to the SSA master plan is apparently scheduled to be done in 2025. This also fails to account for the Town of Brunswick, which loses SSA approval for its own development which has been on the plan for over 15 years, without its input. Doesn't it make sense to review and update the plan with all usual inputs first?

Finally, SSA approval may go to an area that may not get developed for some time. The State of Wisconsin Department of Administration has been on record that it does not support the annexation and development. The Town of Washington has already taken the City to court on the annexation (and won), with potential additional lawsuits pending. Given the lack of support from the State, the County & City planning teams and very real potential of additional law suits, there is a strong possibility that the area in question will revert back to the Town of Washington. Then the SSA will need to be changed back for potential Township development. Shouldn't all of this be sorted out before changing the current SSA plan?

Where I worked, we had a saying that "poor planning on someone's part should not create a crisis in another's part to manage". This whole issue is being fast tracked without going through proper steps and disregarding valid input from multiple fronts. Whenever we deviate from careful planning in crisis mode, we invariably encounter unintended consequences. I strongly urge you and your colleagues to heed the recommendations from the MPO, City Planning Commission, and the State Department of Administration and VOTE NO on the SSA land swap proposal.

Thank you for your consideration,

Bradley Grewe  
Eau Claire, WI. 54701

Sent from my iPhone

May 27, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921



Sent electronically to: tim.asplund@wisconsin.gov

**Re: Comments on the SSA boundary amendment requested by the City of Eau Claire**

Dear Mr. Asplund:

My name is Brian Binczak, President of the Friends of Lowes Creek Neighborhood Association (FLCNA). I wanted to share our Association's opposition to the City of Eau Claire SSA Amendment. FLCNA and hundreds of township and county residents in and around the area surrounding Lowes Creek, respectfully request the WDNR heed the recommendations of the Metropolitan Planning Organization and deny the SSA amendment request for the many reasons described in this letter.

1. **Location:** The existing sewer service area (SSA) is on Hwy 37 and adjacent to I-94; makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). High density developments should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
  - a. Proposed location is over 2.25 miles from the nearest city street/neighborhood. The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission. This proposed swap would be surrounded by rural township developments.
2. **Cost:** The cost to extend water and sewer to this area is estimated by the city to be \$3 - \$4 million as the distance is nearly 2 miles from the nearest Water and Sewer. As stated above, the current SSA is adjacent to the city limits and would require minimal cost.
3. **Environmental impact:** The proposed new location would require running water and sewer pipes through/under Lowes Creek County Park and a Class 2 Trout stream. The current development proposal consists of high density apartment complexes and commercial zoning.
  - a. Proposed land consists of Environmentally Sensitive Areas (ESA) – ridges, steep slopes that flow into wetlands. Those wetlands feed the Lowes Creek trout stream.
  - b. Loss of habitat to wildlife (Sandhill cranes, black bear, fox, Karner blue butterfly, etc.) – by placing high density apartment complexes in ESA's and surrounded by residential township housing.
4. **Unprecedented opposition:** The State of Wisconsin Department of Administration did not recommend the annexation of this land due to the location, irregular shape. They felt this land was best supported by the Township. The MPO voted 8-3 in opposition.

We request that you take the MPO's recommendation and vote NO to the SSA swap.

Thank you,

Brian Binczak  
President, Friends of Lowes Creek Neighborhood Association

**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** FW: Orchard Hills - Eau Claire - Please say NO  
**Date:** Thursday, June 1, 2023 9:35:17 AM

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**Tim Asplund**

Pronouns: he/him/his

Cell Phone: (608) 438-9401

[tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

---

**From:** Dori M. Pulse <doripls@yahoo.com>  
**Sent:** Thursday, June 01, 2023 7:38 AM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Cc:** lisa.gaumnitz@sossaveoursongbirds.org  
**Subject:** Orchard Hills - Eau Claire - Please say NO

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Tim Asplund, NR Program Manager  
WDNR  
PO Box 7921  
Madison, WI 53707-7921  
[Tim.Asplund@wisconsin.gov](mailto:Tim.Asplund@wisconsin.gov)

Good morning, Mr. Asplund,

Recently I noticed signs posted on the corner of Hwy 93 and CTH II/Deerfield Rd from the Save Our Songbirds organization. I feel it is an additional indication of the huge error that the City of Eau Claire is attempting in annexing the Orchard Hills property which is beautiful farmland hosting wildlife and birds. Therefore, I am including the contact from the SOS website, Lisa Gaumnitz.

The builders for this project are going to build apartments and townhomes to increase high density in a small acreage. There will not be any gorgeous "country living" because the builders have shown us plans for buildings to house more than 1,500

people!

The land as you know, is NOT connected with the city, it is over two miles away from any city limit. Additionally, the Metropolitan Planning Organization voted unanimously to deter further plans for the city to annex and build on the Orchard Hills property. Regarding the SSA land swap, the Town of Brunswick (chosen land to swap) voted "No" along with every other Town Chair except Eau Claire and Altoona.

The city is already clearing wooded blocks in the city and building many new apartment complexes. They have over 1,000 acres at their disposal to build and offer homes and living spaces.

I am begging you as the Wisconsin Department of Natural Resources to SAVE this land from being raped and pillaged by the city. I have many bird feeders and bird houses on our land off Lowes Creek and enjoy Robins, Finches, Grosbeaks, Woodpeckers, Humming Birds, Orioles, just to name a few of the wildlife our neighborhood enjoys. Fox, bear, and turkeys also enjoy the woods and area.

Orchard Hills will destroy peace and harmony we all enjoy. Two of my neighbors on corner lots off Lowes Creek are putting up yard fences to protect their small children and cut down on noise from current road traffic. The city has brazenly said that the Town of Washington will pay for roads that need work or repair. The city is causing disparaging conflict with the townships.

Why would the WDNR allow the city to disrupt our County Park, burrow under a beautiful trout stream, and attempt to connect to an island of land over two miles away?

Please, Save Our Songbirds, our wildlife, and our neighborhood. Please avoid setting a precedent for Wisconsin townships to be bullied.

Thank you for your time reading my email and realizing our concerns as neighbors.

Blessings,  
dori:)

Dori Pulse  
Eau Claire, WI 54701

**Dori M. Pulse, MAS**

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**For the Scripture says, "Whoever believes in Him will not be disappointed." Romans 10:11**

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**From:** [Asplund, Tim - DNR](#)  
**To:** [Howe, Betsyjo M - DNR](#)  
**Subject:** Fwd: MPO SSA swap  
**Date:** Monday, June 5, 2023 12:42:09 PM

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**From:** douglas reace <douglasreace@yahoo.com>  
**Sent:** Friday, June 2, 2023 1:05:48 AM  
**To:** Asplund, Tim - DNR <Tim.Asplund@wisconsin.gov>  
**Subject:** Fw: MPO SSA swap

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Tim, sorry for the first email I sent you yesterday without a proper included signature.

Dear Mr. Asplund,

My wife and I are residents of the city of Eau Claire. We recently sold a home that was adjacent to the proposed Orchard Hills development. We were remodeling the house and were planning on moving in after my wife retired. We sold the house however, because of density that was projected for the development. We were also unwilling to have our peace and quiet disturbed for years to come as the heavy construction unfolded.

I attended the MPO meeting and voiced my opposition to the service swap, based on additional information that was presented in the City Council's public hearing in March of this year.

Irregardless where this ill-conceived annexation goes, the MPO meeting was a huge victory in my opinion. It's unclear to me what this crushing defeat against the annexation will have in the long term, but it certainly showcased just how the township leaders feel about the city of Eau Claire, both in tenor and tone. There were legitimate expressions of contempt and mistrust for the way the City of Eau Claire Plan Department, and unfortunately by those elected city representatives, in their shameless complicity on behalf of this unscrupulous developer. The vote was swift and decisive.

I know there will be many letters in opposition to this service swap, but I would like to share with you some background information as I see it.

As a tax payer of Eau Claire, I voted against both city and school referendums last fall, but I became convinced I voted correctly after the city council vote in

March. When one of the council members questioned the City staff on how this proposed development was to be serviced, the City's reply was without hesitation, that the recently passed two referendums would take care of that. I was shocked. Most people last fall were totally unaware where this tax increase was earmarked. It appeared that there was a premeditated effort by all three parties in one form or another during different stages of this annexation process, starting first last spring, then through the following fall, to use these two referendums to basically service Orchard Hills when it hadn't even been annexed yet.

So suddenly there was a financial 'emergency' in order to push through an expensive school and city referendum to eventually divert funds for the essential services for this development.

Later in the summer of 2022, a dishonest disinformation campaign then ensued organized by city officials and some city council members to benefit only those few individuals who have much to gain at tax payers expense against the wishes of the Town of Washington residences.

As the saying goes pertaining to their actions, they have used a continuous string of "lies by omission", a point I brought up in my presentation to the MPO members.

I request that you take the MPO'S recommendation and vote NO to the SSA swap.

Thank you.

Sincerely,

Douglas Reace

May 30, 2023

Mr. Tim Asplund, Natural Resources Program Manager  
Wisconsin Department of Natural Resources  
PO Box 7921  
Madison, WI 53707-7921

*Sent electronically to:* [tim.asplund@wisconsin.gov](mailto:tim.asplund@wisconsin.gov)

## **Re: Comments on the SSA boundary amendment requested by the City of Eau Claire**

Dear Mr. Asplund:

We appreciate the opportunity to again provide comments on the proposed Sewer Service Area (SSA) swap being requested by the City of Eau Claire. We are adjacent landowners to the “recipient” area and are **opposed to the SSA swap**. The reasons we opposed the swap originally in 2022 have not changed and are reiterated here.

### **A. Original Concerns**

1. The location of the existing sewer service area (SSA) on Hwy 37 and adjacent to I-94 makes a lot of sense and is likely why the area has been included in the SSA for so many years (at least since 2005). Developments of nearly 1000 housing units for several thousand people (as is being proposed by the city) should be located on and near substantial roadways and adjacent to the city providing walking access to essential services including health care, work, and schools, to name a few.
2. The cost to extend water and sewer to the Orchard Hills receiving area is estimated by the city to be \$4 - \$5 million as the distance is over 2 miles from the city limits and the existing infrastructure. A sewer extension of this magnitude is certainly not cost-effective especially when compared to the cost to extend city sewer to the donor area.
3. The land being proposed for the swap is surrounded by two local roads (22' wide, unlined Township roads) and a one-mile stretch of a hilly county road with inadequate site distance concerns identified in a Traffic Impact Analysis by an outside consultant (TADI) in 2020. This is not a suitable area for a large city development for thousands of people.
4. The land being proposed for the swap is surrounded by 500 acres of land with 26 homes. Over 85% of the land surrounding this SSA recipient land is zoned A-1, A-2 or AP. This land has been identified in all planning documents (Town, County, City) as a Rural Transition area anticipating an eventual development density similar to that of the surrounding acreage and surrounding area of anywhere from 45 – 117 homes, less than 10% of what is being proposed by the city.
5. The Western Wisconsin Comprehensive Plan (Plan) indicates planning at the urban fringe should be done using a staged annexation process to prevent leap-frog development, irregular boundaries, and service delivery problems. **According to the documents submitted by the city with these SSA amendment requests, there are approximately 1,160 acres of land already in the planned sewer service area, most of which are north of this land and south of the city's boundary that are being “leaped” over to get to this land.**

6. Approving this land swap is precedent-setting. That is, if this swap is allowed, developers will **only** pursue land outside the current SSA to avoid the 10-acre minimum lot size requirement - one elderly landowner at a time. This will create a large void between the real city limits and land 2 miles or more from the actual city.
7. The land being proposed for the swap was recently annexed into the city illegally. As such, the annexation was challenged by the Town and was overturned in court on February 3, 2023. The judge cited the City's action to support this land grab as "inexcusable and sanctionable" when she overturned the annexation. That is part of what's prompting our new concerns as described below.

## B. New Concerns:

This annexation is being pushed through with reckless abandon by money-driven developers and a city with a checkered history on managing its resources and maintaining its infrastructure. The article attached to this letter will describe a failure of Eau Claire's waste management system that went unnoticed for a shocking 11 months resulting in an estimated **100 million gallons of raw sewage** being dumped into the Chippewa River. If a similar situation were to occur in the area proposed for the water and sewer extension, raw sewage would instead impact hundreds of individual drinking wells, not to mention a Class II Trout stream. The decision-makers have completely ignored the recommendations of thoughtful planning documents, planning committees, and agencies, which is not only dangerous, but disgraceful.

1. Thankfully, the WDNR neglected to make a final determination on the original SSA swap request in its November 28, 2022 response. Had the WDNR ruled in favor of the swap prior to the February 3rd court decision, the land would currently be in the Sewer Service Area making it very difficult for the Town to reverse. The WDNR's decision to not make that determination prior to the court ruling apparently frustrated the developers as is evidenced by the verbal testimony of the developer's attorney (please click on link attached to this e-mail) in front of the City Council. The same situation is taking place now. That is, the Town is once again considering a challenge to this annexation and a decision to put this land in the SSA prior to the court's ruling would be very problematic for the Township.
2. After listening to the developer's attorney and his complete contempt for the WDNR, I hope you will see that they are not concerned about your authority in this matter, nor are they concerned about the environment, the neighbors, or even the landowner's desires for his land. According to the landowner himself, he is under the threat of a lawsuit from the developers should he state that his desire is to develop his land as a Township development and not to have it annexed into the city.
3. Please be aware that the WDNR is being used as another pawn in the developer's ruthless grab of this land. Here are the events that have occurred since the original SSA swap request in September 2022 as evidence.
  - a. SSA request sent to WDNR on September 28, 2022, with a final decision expected by November 28, 2022.
  - b. November 28<sup>th</sup> letter received from WDNR indicating the swap was not approved. Developers began working with the city and corresponding with WDNR in late December of 2022 through January of 2023 to try to force a decision on the SSA swap prior to the February 3<sup>rd</sup> court hearing. That did not occur, and you heard the frustration in the developer's attorney's voice.
  - c. The day of the court decision on February 3<sup>rd</sup>, the paperwork was already completed by the developers to annex the land again as they knew they were going to lose in court.

- d. A mere 2 months from the court decision to overturn the annexation where the city was reprimanded by the judge, the land was again annexed into the City, and the SSA swap request has again been sent to you for approval, even though once again the Metropolitan Planning Organization does not recommend it be approved.
4. The WDNR has not only the ability but an obligation to slow this down and allow a more thoughtful process to occur to truly ensure the environment is protected and the concerns of the Town and the neighbors are addressed. In our correspondence earlier this year, you indicated to me that the WDNR is not under any regulatory obligation to decide on the SSA swap in any given timeframe. Specifically, you indicated, “the timelines and process for review of SSA amendments are specific to each individual SSA plan and are not specified in state statutes or administrative codes.” Given the unique and precedent-setting nature of this SSA swap (i.e., over 1100 acres of land inside the SSA are being leaped over to get to these 234 acres that are outside the SSA and over 2 miles from the city limits), we ask that the determination on putting this land in the Sewer Service Area be made as part of the upcoming comprehensive update to the area’s Sewer Service Plan set to begin shortly to be final in 2025. At a minimum, the SSA swap decision should not occur until and unless all legal challenges to the annexation have been exhausted.
5. The WDNR has unfortunately been put in the center of a very contentious situation that has been going on since December of 2020. There is too much at stake for this decision to be made solely by the WDNR instead of by a Planning Commission and those familiar with the area who will be comprehensively updating the area’s Sewer Service Planning Area shortly. Several other agencies and Planning entities have already looked at this and do not support the annexation, the pace at which this is occurring and the lack of thoughtful planning and decision-making, as follows:
  - a. The Department of Administration in its 2022 review of the annexation petition and in its 2023 review of the annexation petition found both to be of irregular shape, not in the public interest, and better able to be served by the Town;
  - b. The City’s Planning Commission voted to not support the annexation in March of 2023;
  - c. The Metropolitan Planning Organization Policy Committee voted overwhelmingly (9-3 this time and 10-2 last fall) to not support the SSA swap.

In addition to agency reviews, nearly 600 residents have signed a petition to oppose the use of this land for a large city development.

Decisions of this magnitude, especially regarding such a precedent-setting outcome in such an already contentious environment must be thoroughly scrutinized as part of the overall planning for this area as determined in the comprehensive update of the area’s SSA Plan and not left to a single agency viewing the area only on paper.

Thank you for your consideration of our concerns and for your denial of this SSA swap request in accord with the MPO’s recommendation.

Respectfully,

*Gary and Tina Ball*

Gary and Tina Ball and family