

Eau Claire SSA Amendment Comments and DNR Responses

June 2023

This document presents a summary of public comments received on a proposed amendment to the Chippewa Falls-Eau Claire Urban Sewer Service Area Plan for 2025. Responses from the Department of Natural Resources (DNR, sometimes referred to by commenters as WDNR or department) are provided below.

Overview

On October 4, 2022, the department received a request from the West Central Wisconsin Regional Planning Commission (WCWRPC) to review a proposed sewer service area amendment for the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025 (SSA Plan) requested by the City of Eau Claire (City).

The proposed Type 1 Sewer Service Area (SSA) amendment (or “land swap”) would not significantly change the overall acreage of the SSA. It would remove from the current SSA 219.8 acres (the ‘donor’ area) located within Sections 2, 35, and 36, T27N, R10W within the Town of Brunswick, and it would add to the SSA 219.64 acres (the ‘receiving’ area) located within Sections 8 and 9, T26N, R9W within the City of Eau Claire. The receiving area is contiguous with the SSA boundary on two sides, while the donor area is not contiguous with the current SSA boundary.

The proposed receiving area is part of the planned Orchard Hills development, of which 18.6 acres are located within the current SSA. This proposed development is compact with a density of 6.68 units per acre and 1,550 residential units in total.

The MPO Policy Council conducted a public hearing regarding this SSA amendment request on September 28, 2022. At the conclusion of the public hearing, the MPO Policy Council acted on a resolution recommending to WDNR that the amendment application be denied.

The department sent a letter to WCWRPC dated November 28, 2022, stating a final determination on the request could not be done at the time because the request contradicted Policy 1.1.9 of the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025 (SSA Plan or Plan).

The department stated in the letter dated November 28, 2022 “For the Department to make a final determination on this amendment request, the City would either need to submit an amendment to the application proposing a new donor area that follows the SSA Plan’s policies or withdraw its request and resubmit its application.

The City submitted an amended application to WCWRPC. The MPO Policy Council conducted a public hearing regarding this SSA amendment request on May 3, 2023. At the conclusion of the public hearing, the MPO Policy Council acted on a resolution recommending to WDNR that the amendment application be denied. On May 17, 2023 the department received a Supplemental Staff Report from WCWRPC requesting review of the amended application to the amendment request on behalf of the City.

The only proposed modification to the City’s original application is a change to the donor area. The additional amendment is summarized:

The proposed Type 1 Sewer Service Area (SSA) amendment (or “land swap”) would not significantly change the overall acreage of the SSA. It would remove 221.0 acres from the Sewer Service Area located within Sections 1, 2, 35, and 36, T27N, R10W within the Town of Brunswick (the “donor” area) and it would add 219.64 acres to the Sewer Service Area located within Sections 8 and 9, T26N, R9W, within the City of Eau Claire (the Orchard Hills “receiving” area). The receiving area is contiguous with the SSA boundary on two sides, while the donor area has a small inlet connection with the current SSA boundary.

Public Comments on Proposed Amendment

The department received written public comments from 15 entities/individuals during the 30-day comment period, extending from September 28, 2022 through October 28, 2022, following the MPO’s advisory decision. Comments were also received on behalf of the Town of Washington, the City of Eau Claire, and the development team. The department received written public comment from 11 entities/individuals after the comment period had closed. The department then received written public comment from 17 entities/individuals during the 30-day comment period following receipt of the amended application (submitted May 17), extending from May 3, 2023 through June 3, 2023. The department and WCWRPC asked that comments regarding the amended application be focused on the change in the application (new proposed donor area). All comments were reviewed and considered by the department.

The following is a summary of comments received (condensed) and the department’s response.

Public Comment Summary and Responses

The comments received by the department are categorized into “general support” or “opposition,” then combined into the following topics:

1. Water Quality
2. Environmentally Sensitive Areas
3. Urban Sprawl
4. Amendment Consistency with SSA Plan Policies and Procedures
5. Need for comprehensive SSA Plan update
6. Cost-Effectiveness
7. Density
8. Donor Area

Appendix: Comments outside the scope of SSA Planning

- A. Annexation
- B. Traffic Safety/Hazard Concerns
- C. Development
- D. Miscellaneous Comments

A. General Support of the Amendment

Comments:

1. Water Quality

- Comments on behalf of the City of Eau Claire, CDPG Developers LLC, and an Eau Claire resident/development team member describe that the amendment meets all federal and state water quality standards, properly addressing water quality. It is their expectation the DNR will review the amendment under the Clean Water Act. The City and WCWRPC findings on water quality impact were not contested by MPO members.
- Comments also stated neighbor's biggest concern is water quality and the best way to protect water quality is with public sewer and water. The area is categorized as having the least capacity to attenuate or treat wastes discharged from private septic systems. More private septic systems are a concern if the amendment is denied.

Response: The department's review authority is under chs. 281 and 283, Wis. Stats., ch NR 121, Wis. Adm. Code, and the Chippewa Falls Eau Claire Urban Sewer Service Area Plan for 2025 by which the department will abide. The department considered all advisory recommendations from WCWRPC's Staff Report while reviewing the SSA amendment proposal.

2. Environmentally Sensitive Areas (ESAs)

- Comments on behalf of CDPF Developers LLC and the City describe that the property will be developed in an environmentally conscious, sustainable manner, incorporating trails and green space. The City wants growth to occur in area of low environmental impacts, the development will take advantage of existing topography and avoid impacting environmentally sensitive areas
- The City further supports the 'swap' amendment and protection of ESAs by describing that the donor area excludes an ESA (floodway), protects ESA and creates a buffer from the development near the Chippewa River

Response: Environmentally Sensitive Areas (ESAs) are defined in the SSA Plan (Chapter 3.4.1). In short, the ESAs are surface waters, floodplains, wetlands, steep slopes, and endangered or threatened species and natural communities. Wetlands are located immediately adjacent to the proposed donor area, yet none are known to be located within the donor area itself. The donor area is almost entirely 100-year floodplain. The receiving area contains approximately 12 acres of wetlands, no 100-year floodplains, and no shorelands or navigable waters. Although there are two stretches of intermittent unnamed drainage ways located in part in the area, they were determined not navigable. About 25 percent of the receiving area has steep slopes, the SSA Plan has additional definitions regarding what constitutes a 20+% steep slope ESA. WCWRPC is not aware of any endangered resources within the receiving area. The department has reviewed the Surface Water Data Viewer and concludes WCWRPC's Staff Report correctly identified the ESAs in the proposed amendment area. WCWRPC has also recommended conditions for the 208 conformance review that will further address these concerns, and the department considered these recommendations while reviewing the amendment proposal.

3. Urban Sprawl

- Comments on behalf of CDPG Developers LLC, the City and Eau Claire resident/development team member describe concerns of urban sprawl if the amendment is denied, stating approval

of the amendment is a critical step in the orderly and reasonably compact future development of Eau Claire's south side.

- The City provides explanation of the amendment's orderly and compact development. The Orchard Hills subdivision related to the amendment has about 234 acres, some of which is already within the SSA. The amendment area borders the current SSA on 2 sides and borders existing rural pattern development. The area is a transitional residential area of the community.

Response: The proposed development is compact with a density of 6.68 units per acre and 1,550 residential units in total. From a water quality perspective, providing municipal sewer and water to 1,500+ homes on a smaller footprint affords a higher level of water quality protection overall. The City and Town have conflicting interpretations on whether the proposed boundary change is consistent with Goal 1 (and its objectives and policies). It has not been the role of WCWRPC or the MPO to interpret individual, community plans or what makes good or efficient development when administering or applying the SSA Plan. Policy 1.1.3 "Sewer extensions that reflect the contiguous and compact pattern of development should receive priority over extensions that will contribute to urban sprawl" is advisory and not binding.

4. Amendment Consistency with SSA Plan Policies and Procedures

- Comments on behalf of CDPG Developers LLC and City show commitment that property is developed in a manner that furthers the City's vision of "smart" growth and meets a variety of socio-economic and demographic goals. The expectation is that it will feature an overall moderate population density and diverse mixture of housing units
- Comments described that the MPO issued an advisory recommendation against the amendment based on concerns that were not grounded in water quality and have nothing to do with the nature of SSAs. Further, the City's amendment application properly addresses water quality and no evidence to the contrary was presented to the MPO, therefore, none of articulated rationales to reject the amendment had anything to do with regional water quality or protection of local ground or surface waters.
- On behalf of CDPG Developers LLC and City: WCWRPC staff concluded the amendment is consistent with policies and procedures applicable to SSA. The amendment meets objectives for the extension and service of public sanitary services. It is expected DNR will review amendment under the Clean Water Act. The City describes that the amendment does not create a void because development in ESA is restricted throughout the SSA and these areas are not considered "voids" under regional planning guidelines.

Response: The department has read the meeting minutes and found some comments to be outside of the scope of water quality, yet other comments regarding SSA Policies, the donor area and a void in the SSA, are within the scope of review under the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025. The department is delegated authority under the Clean Water Act to run the state program. The department's review authority is under chs. 281 and 283, Wis. Stats., ch. NR 121, Wis. Adm. Code, and the Chippewa Falls Eau Claire Urban Sewer Service Area Plan for 2025 by which the department will abide. The SSA Plan does not define a void or provide any related standards. WCWRPC states in the Supplemental Staff Report that the modified donor area brings the City's amendment application into conformance with SSA Plan Policy 1.1.9.

5. Need for comprehensive SSA Plan update

- On behalf of CDPG Developers LLC and City: No review or revision of this SSA Plan has occurred for more than 15 years, meaning the Plan has not kept up with the area's growth. A full plan update should begin after the amendment.

Response: The department has discussed with WCWRPC the need for a plan update and is willing and able to provide support during the Plan update process. The SSA Plan projected that the incorporated municipalities would grow by 14.8% between 2005 and 2025. Population estimates suggest that these communities, combined, have grown by 14.1% through 2022. This suggests that these communities may be "pushing the limits" of the existing SSA boundary, supporting the need for a plan update. This amendment may help to serve the unanticipated growth in a timelier fashion than an entire plan update.

6. Cost-Effectiveness

- On behalf of City: Fiscal and environmental water quality cost associated with as many as one thousand or more new residential units in this area far exceeds costs of providing necessary sanitary sewer and potable water through the existing City utilities. The City is well suited and capable to provide sanitary service in a cost-effective manner. The proposed development is partially within the current SSA and the entire trunk line or interceptor of the planned sewer extension is already within the SSA.

Response: From WCWRPC's standpoint "determining whether proposed services or development is efficient or cost-effective has historically been the responsibility of the municipality providing the sanitary sewer service." From the information provided to WCWRPC in the amendment application, the Staff Report concludes, "The compact nature of the proposed Orchard Hills development increases the cost-effectiveness of providing municipal services." The department will evaluate the cost-effectiveness of providing sanitary sewers for the Orchard Hill development as part of reviewing the SSA amendment request under chs. NR 110 and 121, Wis. Adm. Code. Installing a single trunk sewer also greatly reduces potential environmental -water quality impacts when compared with the potential risks from one thousand or more onsite systems that would have to be maintained by individual property owners.

Note that the approval was conditioned to apply only to Orchard Hill Development as proposed (i.e., with one thousand plus units). If the number of proposed housing units decreases substantially, the results of the cost-effectiveness analysis could also change. At a lower density, septic or other individual onsite systems may be more cost-effective than sanitary sewers.

7. Density

- On behalf of City: need for transitional housing areas to transition to more urban city low-moderate density mix, project density is considered low density by the City. A project density of 2.5 – 6.0 dwelling units/acre is considered low density by the City of Eau Claire.

Response: The proposed development is compact with a density of 6.68 units per acre, which is slightly greater than Eau Claire’s definition of low density. From a water quality perspective, providing municipal sewer and water to 1,500+ homes on a smaller footprint affords a higher level of water quality protection overall. The proposed development’s density plays a role in determining the cost-effectiveness of providing sanitary sewer.

B. General Opposition of the Amendment

Comments:

1. Water Quality

- From both comment periods, 18 comments received by residents of the area all voiced concerns with the proposed development causing an increase of impervious surfaces, which would increase runoff and decrease infiltration. Some residents already experience flooding/ponding (in yards) issues, stating the increased runoff and decreased infiltration will only contribute to the issues they are already facing. Another concern with decreased infiltration is the diminishing effect it will have on the aquifer and groundwater supply from which residents obtain drinking water through their wells. The water quality of these wells is also of concern. Residents are concerned with how runoff will impact the nearby Lowes Creek County Park wetlands and trout stream.

Response: The proposed development will have to be in compliance with Administrative Code chapter NR 151, Runoff Management. This chapter of code addresses total suspended solids, peak discharge, and infiltration. WCWRPC’s Staff Report states “No designated wellhead protection or groundwater recharge areas have been adopted that intersect the area” as well as “if new development at the property were to occur, the provision of municipal water and sanitary sewer service, instead of private wells and onsite wastewater treatment systems, would enhance groundwater quality protection” (pg. 12). WCWRPC recommends “The 208 conformance review application must include documentation that the WDNR Fisheries Biologist for the Eau Claire region was consulted in determining an appropriate design and related mitigation measures within the water body and the adjacent riparian zone to prevent any degradation to the fishery as a result of the sewer extension” (pg. 17). The department considered all comments and advisory recommendations while reviewing the SSA amendment proposal.

2. Environmentally Sensitive Areas

- From both comment periods, 24 comments expressed concern about the impacts the proposed development will have on Environmentally Sensitive Areas, including steep slopes, wetlands, and streams. Lowes Creek County Park contains wetlands, a trout stream, woodlands, and meadows that provides habitat for many aquatic and wildlife species. Many voiced concerns with the diminishing of the natural landscape and impacts to wildlife and water quality.

Response: The Chippewa Falls/Eau Claire Urban Sewer Service Area Plan identifies criteria for review of SSA Amendments, one of the criteria is “There will be no significant adverse water

quality and/or environmental impact associated with providing sewer service to the area.” WCWRPC’s ESA review is summarized in the Staff Report. Evaluation of this criteria does not include the preliminary route of the sanitary sewer extension and is constrained to the proposed land of the amendment ‘swap.’ For a SSA boundary amendment, the focus is on whether a property or area, as a whole, could or should support sewered development. The existence of ESAs is just one factor in this decision. A 208 conformance review is required once a sewer extension is proposed. It is during the 208 conformance review that the ESAs are considered more closely and the applicant must demonstrate and/or ensure that any known ESAs will not be encroached upon by intensive land disturbances, subject to SSA Plan policies. It is not uncommon for 208 conformance letters to include conditions regarding water quality and ESA protection.

Environmentally Sensitive Areas are defined in the SSA Plan (Chapter 3.4.1). In short, the ESAs are surface waters, floodplains, wetlands, steep slopes, and endangered or threatened species and natural communities. Wetlands are located immediately adjacent to the proposed donor area, yet none are known to be located within the donor area itself. The donor area is almost entirely 100-year floodplain. The receiving area contains approximately 12 acres of wetlands, no 100-year floodplains, and no shorelands or navigable waters. Although there are two stretches of intermittent unnamed drainage ways located in part in the area, they were determined not navigable. About 25 percent of the receiving area has steep slopes, the SSA Plan has additional definitions regarding what constitutes a 20+% steep slope ESA. WCWRPC is not aware of any endangered resources within the receiving area.

Lowes Creek County Park is located approximately 0.45 miles to the northeast of the receiving area. There are no trout streams within or immediately adjacent to the Orchard Hills area. Lowes Creek, about 0.67 miles to the northeast, is a Class 2 trout stream. These resources are outside of the scope of SSA amendment ESA review.

The department received a letter on behalf of CDPG Developers LLC that expressed the development will be constructed in a manner that takes advantage of existing topography and avoids impacting any environmentally sensitive areas.

The department has reviewed the Surface Water Data Viewer and concludes WCWRPC’s Staff Report correctly identified the ESAs in the proposed amendment area. WCWRPC has also recommended conditions of the 208 conformance review that will further address these concerns, the department considered these advisory recommendations while reviewing the amendment proposal.

3. Urban Sprawl

- From both comment periods, 23 comments received mentioned the location and distance from the City of the proposed amendment and concerns with urban sprawl. Residents argue that the amendment contributes to urban sprawl by explaining that land between the amendment area and the city is not developed, making the area far/isolated from essential services. Comments state that the amendment is not a contiguous and compact pattern of development, pointing

out the area is 2 to 3 miles from the City. Residents are concerned that approval of this amendment will set precedent to uncontrolled expansion of urban areas into locale that is rural. Some of these comments also align with comment topic 'Amendment Consistency with SSA Plan Policies and Procedures.'

- The Town of Washington expressed that the amendment does not align with Goal 1 of the SSA Plan (Policy 1.1.3) stating the amendment is a prime example of urban sprawl because the proposed amendment is 1.8 miles from the City border. The Town of Washington reiterated these comments during the May thru June comment period. Another comment mentioned the Western Wisconsin Comprehensive 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, expressing that this amendment would "leap" over approximately 1,160 acres.

Response: The proposed SSA amendment area to be added is contiguous along two sides with the current SSA boundary. WCWRPC's Staff Report describes there is existing residential development to the north and multiple residential subdivisions about a quarter-mile to the east of the proposed amendment area. The proposed development is compact with a density of 6.68 units per acre and 1,550 residential units in total. From a water quality perspective, providing municipal sewer and water to 1,500+ homes on a smaller footprint affords a higher level of water quality protection overall. The City and Town have conflicting interpretations on whether the proposed boundary change is consistent with Goal 1 (and its objectives and policies). It has not been the role of WCWRPC or the MPO to interpret individual, community plans or what makes good or efficient development when administering or applying the SSA Plan. Policy 1.1.3 "Sewer extensions that reflect the contiguous and compact pattern of development should receive priority over extensions that will contribute to urban sprawl" is advisory and not binding.

4. Amendment Consistency with SSA Plan Policies and Procedures

- The Town of Washington expressed and reiterated that the MPO and DNR approved the policies and procedures of the Plan, which the City is required to comply with. The Town mentions that reversing an MPO decision would have negative ramifications and would undermine the entire purpose of the SSA Plan. Plans are devalued if standards they create and apply can be overruled. The Town further expressed that the City's requested amendment did not comply with the SSA Plan and provided examples:
 - Plan at 103-104, 'using the words 'will' or 'shall' are mandatory and regulatory aspects; Plans at 82, Policy 1.1.9 'Proposed plan amendments... shall not create a void within the service area.' Removed land creates a void within SSA.
 - Plan (at 82) requires '[s]ewer extensions that reflect the contiguous and compact pattern of development should receive priority over extensions that contribute to urban sprawl.' Area proposed to be added is 1.8 miles from City border, required installation of utilities a significant distance from City's current boundary, Lowes Creek and farmland separate proposed area from the City, prime example of urban sprawl, not contiguous or compact pattern of development.
 - Plan (at 83) '[f]uture residential development should occur adjacent to existing development to contain costs of public service provisions..' amendment would result in

high costs to extend municipal services, City would need to extend miles of infrastructure to reach the area.

- Further, the Town of Washington expressed “The City’s second application has same deficiencies as the first...”
- Many residents voiced that the SSA amendment would create a void in the sewer service area and not contribute to a contiguous and compact pattern of development, which is not consistent with the Plan policies. Many residents expressed that the new ‘donor’ area still creates a void. The MPO TAC and MPO determined the amendment did not merit approval, these residents support the MPO’s vote against the amendment.
- Some residents commented on the amendment’s consistency with other local plans, noting inconsistencies with the Comprehensive Plan. One resident noted that the amendment area is outside of the planning area designated in the Comprehensive Plan. Another resident commented that the Comprehensive Plan designates the area as low density and a requested modification to the density in the Comprehensive Plan was rejected by the City Commission.
- On behalf of the Town of Washington the Chairman wrote “out of 221 acres slightly more than the side of one acre is all that Eau Claire uses to make a connection. It may technically be a connection, but it certainly doesn’t satisfy the spirit of the rule. 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.”
 - “The DNR stated ‘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.’ Well now that the new donor area includes a gravel pit lake, I think the DNR statement would be even more applicable.”

Response: The Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025 defines criteria for review of SSA amendments, one criterion is “The proposed amendment is in compliance with the policies and goals of this plan.” (pg. 89). WCWRPC concluded in their Staff Report that the proposed amendment met all of the review criteria outlined in the SSA Plan and was consistent with the policies and goals of the SSA Plan, with one exception, Policy 1.1.9. However, to further the SSA Plan’s overall goals, the WCWRPC staff recommended the MPO approve the proposed amendment. The MPO TAC and MPO Policy Council did indeed recommend denial of the amendment.

WCWRPC’s Staff Report concludes that all local comprehensive plans envision that the area would be developed (pg. 15). The proposed amendment area to be added is contiguous with the current SSA boundary on two sides and part of the proposed development is currently located within the SSA.

The department concluded, as stated in the Administrative Decision Letter dated November 28, 2022, “[r]emoval 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.” The department gave the City an opportunity to submit an amendment to the application proposing a new donor area that follows the SSA Plan’s policies or withdraw its request and resubmit its application. The department will consider all comments and advisory recommendations while reviewing the amendment proposal.

WCWRPC concluded in the Supplemental Staff Report “The SSA Plan does not define “void” or provide any related standards. 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. This change appears to bring the City’s amendment application into conformance with SSA Plan Policy 1.1.9. The SSA Plan also does not define a Type 1 amendment Land Swap.

The MPO plays an important role in representing communities in the SSA decision-making process and is advisory to the DNR. The department considered and weighed the MPO’s advisory decision and comments made during the meetings on September 28, 2022 and May 3, 2023 as part of our final decision.

5. Need for comprehensive SSA Plan update

- Some comments expressed that an entire Plan Update is needed, with long term plan in mind. “Passing the amendment specifically for a development, without updating the entire SSA with a long term plan in mind, creates a disorganized and dangerous precedent for future amendments being introduced for the purpose of new developments. This behavior of proceedings is expressly advised against” Many wrote the department “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.”

Response: The City, WCWRPC and the department are in agreement that the entire Chippewa Falls/ Eau Claire Urban Sewer Service Area Plan for 2025 needs a comprehensive update. The department is willing and able to provide support during this process and has discussed an update with WCWRPC. Plan Updates are based on a 20-year planning period. The complexity and time to complete the plan update approval process, does not make it feasible to delay this amendment request. The Plan is intended to be flexible and accommodate growth, provided by the amendment process. The SSA Plan projected that the incorporated municipalities would grow by 14.8% between 2005 and 2025. Population estimates suggest that these communities, combined, have grown by 14.1% through 2022. This suggests that these communities may be “pushing the limits” of the existing SSA boundary, supporting the need for a plan update. This amendment may help to serve the unanticipated growth in a timelier fashion than an entire plan update.

6. Cost-Effectiveness

- Many residents are concerned with the cost of extending and maintaining sewer to the amendment area, noting it is approximately 2 miles from the city and cost estimated by the city would be \$3 - \$4 million.

Response: The Chippewa Fall/Eau Claire Urban Sewer Service Area Plan for 2025 defines criteria for review of proposed SSA amendments, one criterion is that “[s]uch sewerage service can be provided in a cost-effective manner.” (pg. 89). WCWRPC addresses this criterion in their Staff Report. WCWRPC’s cover letter to the DNR states “the City of Eau Claire had conducted some additional field survey work and determined that the entire length of the preliminary route of the sanitary sewer extension would likely be located within existing SSA.” Following the initial cost-effectiveness assessment performed during review of the SSA amendment request, the

DNR will conduct additional cost-effectiveness assessments during facility planning and design phases of this project. DNR will conduct these assessments during review of the facility plan (if applicable) and plans and specifications for the proposed sewer infrastructure under ch. NR110, Wis. Adm. Code.

7. Density

- Residents are concerned with the proposed development's density in the amendment area. There are concerns that the high-density development will negatively impact the environment and wildlife.
- Many comments noted that the amendment area and surrounding land use is currently rural and agricultural, that the Town of Washington Land Use Plan identifies it as rural residential, and the land is zoned as Rural Transition area.
- Residents voiced that development density should be similar to the surrounding acreage. One commented the density of development is 6 times that of the City's and 100 times greater than the Town of Washington which entirely surrounds the amendment area. A population density comparison was submitted to the Department, the proposed development density was compared to larger cities in Wisconsin.
- One resident commented the unprecedented move to bypass long term city and township planning and create a community of high population in the countryside is not wise.

Response: The SSA Plan does not regulate the types or layout of land uses. Density of proposed developments may be used in determination of cost-effective wastewater treatment alternatives. Policy 1.1.2 in the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025 states "Urban development should be encouraged to "infill" vacant developable lands within city boundaries, then be staged outward according to local plans." Also within the Plan, 6.3.1 Type 1 Amendment, "This "swap" requirement will keep the locally approved population density figures unchanged." WCWRPC's Staff Report concludes that all local comprehensive plans envision that the area would be developed (pg. 15), and that "Rural Transition" anticipates "that over time these lands may be transitioned to more intensive residential development." (pg. 12). With regard to concerns of development impacts on the environment, this is better addressed in the next step of the process, the 208 conformance review. WCWRPC states in their Staff Report "The 208 conformance review application must include a site plan with building footprints, and any other areas of proposed intensive land disturbances must be included as part of the 208 review application. The existing ESAs in the Orchard Hills development area have the potential to limit the development density, subdivision plat, and final site design." (pg. 18). The SSA Plan also defines and protects Environmentally Sensitive Areas (ESAs), and the WCWRPC Staff Report evaluated the ESAs within the amendment area.

8. Donor Area

- Recent comments from residents expressed "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. The current SSA is adjacent to the city limits and would require minimal cost.

Response: WCWRPC's Supplemental Staff Report concludes "The donor area boundary appears to be drawn in a manner to exclude nearby buildings and subdivisions to the east and south. As such, the donor area does not create a barrier to providing municipal sanitary sewer services to existing or planned nearby development in the future should the need arise. The donor area is included within a larger area in the Town of Brunswick that was planned for development and added to the SSA Plan boundary in 2005 in order to provide sewer service for this potential development. The City's proposal to remove the donor area from the SSA boundary is effectively a declaration that there are no current plans to provide sanitary sewer to the donor area and no plans to develop this area at urban densities."

Appendix

A. General Support of the Amendment

A. Annexation

- On behalf of CDPG Developers LLC: Amendment of the SSA is independent from- and not contingent upon-the annexation

Response: The department agrees with this comment. The annexation process is separate from the SSA Amendment process. Annexation is in the scope of authority of the Department of Administration (DOA).

B. Traffic Safety/Hazard Concerns

- On behalf of CDPG Developers LLC: will address traffic safety issues and related concerns in due course

Response: The traffic safety/hazard concerns are outside of the scope of SSA Amendment review. The department encourages CDPG Developers LLC to communicate and work with the appropriate authorities and affected parties to resolve these concerns.

C. Development

- On behalf of CDPG Developers LLC: MPO raised development concerns
- Development team member: past developments were agricultural lands in townships at one point

Response: This is outside the scope of the SSA amendment review.

D. Miscellaneous Comments

- A letter received on behalf of City addresses the concern that the Town of Washington is missing out on growth by explaining that growth in County has and is occurring in such neighboring communities as the Town.

Response: The department encourages the City of Eau Claire to communicate and work with surrounding townships to satisfy growth needs.

B. General Opposition of the Amendment

A. Annexation

- Town of Washington: Annexation is invalid has been challenged by the Town. Despite invalidity of annexation petition, City proceeded with SSA Amendment. SSA Plan and boundary should not be used to promote or hinder annexation petitions, City only sought amendment because attempting to annex.
- Many comments were received that voiced opposition to the annexation.

- Some comments requested that DNR decision not be made until after the litigation on the annexation was complete.
- Recent comment received noted “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.

Response: Policy 1.1.7 in the Chippewas Falls/Eau Claire Urban Sewer Service Area Plan for 2025 states “Furthermore, the Sewer Service Area Plan and boundary should not be used to promote nor hinder annexation petitions or urban density development.” The annexation and SSA Amendment process are separate processes, handled by different agencies. Annexation concerns are outside of the scope of department authority and review of SSA Amendments. Annexation concerns would be better addressed being brought to the attention of the Department of Administration (DOA). As it relates to the DNR waiting to make a decision until after litigation regarding the annexation is complete, the SSA Plan establishes deadlines for department review of amendments, which the department is obligated to abide by.

B. Traffic Safety/Hazard Concerns

- Several residents commented on their concerns with increased traffic from the proposed development of the amendment area. Concerns include the safety of neighbors and wildlife, stating that a traffic impact analysis identified inadequate site distance concerns.
- Recent comments expressed that “The adjacent county highway has been identified as not meeting Intersection Site Distance requirements by the Eau Claire County Highway Commission.” Some comments included that the City has expressed the roads would be the responsibility of the Town and County.

Response: Traffic hazard and safety concerns are outside of the scope of DNR review of SSA Amendments. Developers should work with the appropriate agencies and affected parties to resolve these concerns.

D. Miscellaneous Comments

- Residents of the surrounding Towns express feelings that the Town of Washington can protect the land and would like to grow with housing and other opportunity amenities.
- Residents expressed feelings that Eau Claire needs to be a good neighbor and “approval of the SSA land swap would encourage Eau Claire to completely cancel its gentlemen’s long time agreement with the Town of Washington, as well as other towns surrounding Eau Claire, to work together as land is annexed in a controlled and judicious manner.”
- A comment from the Town of Wheaton expressed that the SSA Amendments does not meet any intergovernmental agreement benefits from a township level. The Town of Wheaton voted ‘no’ to the amendment.
- The Town of Brunswick, where the ‘donor’ area is located voted ‘no’ to the SSA amendment.

Response: The department encourages the City of Eau Claire to communicate and work with surrounding townships to satisfy growth needs.