

# West Central Wisconsin Regional Planning Commission (WCWRPC) Supplemental Staff Report

## Chippewa Falls/Eau Claire Urban Sewer Service Area Plan Request for Type I (“Land Swap”) Amendment

**Project Name:** Orchard Hills SSA Plan Boundary Amendment Request, as modified  
**Locations:** Removing 221.0 acres in the T. of Brunswick (donor area)  
Adding 219.64 acres in the City of Eau Claire (receiving area)  
**Requesting Entity:** City of Eau Claire  
**Request Received:** 8/4/22; modified by City 1/10/23  
**Staff Report Date:** 4/11/23; modified 4/21/23 to include additional information in Appendix 5

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### Overview

Policy 1.1.8 on page 83 of the Sewer Service Area (SSA) Plan states that:

“Sewer extensions will not be made beyond the 20-year urban sewer service area, unless the plan is amended.”

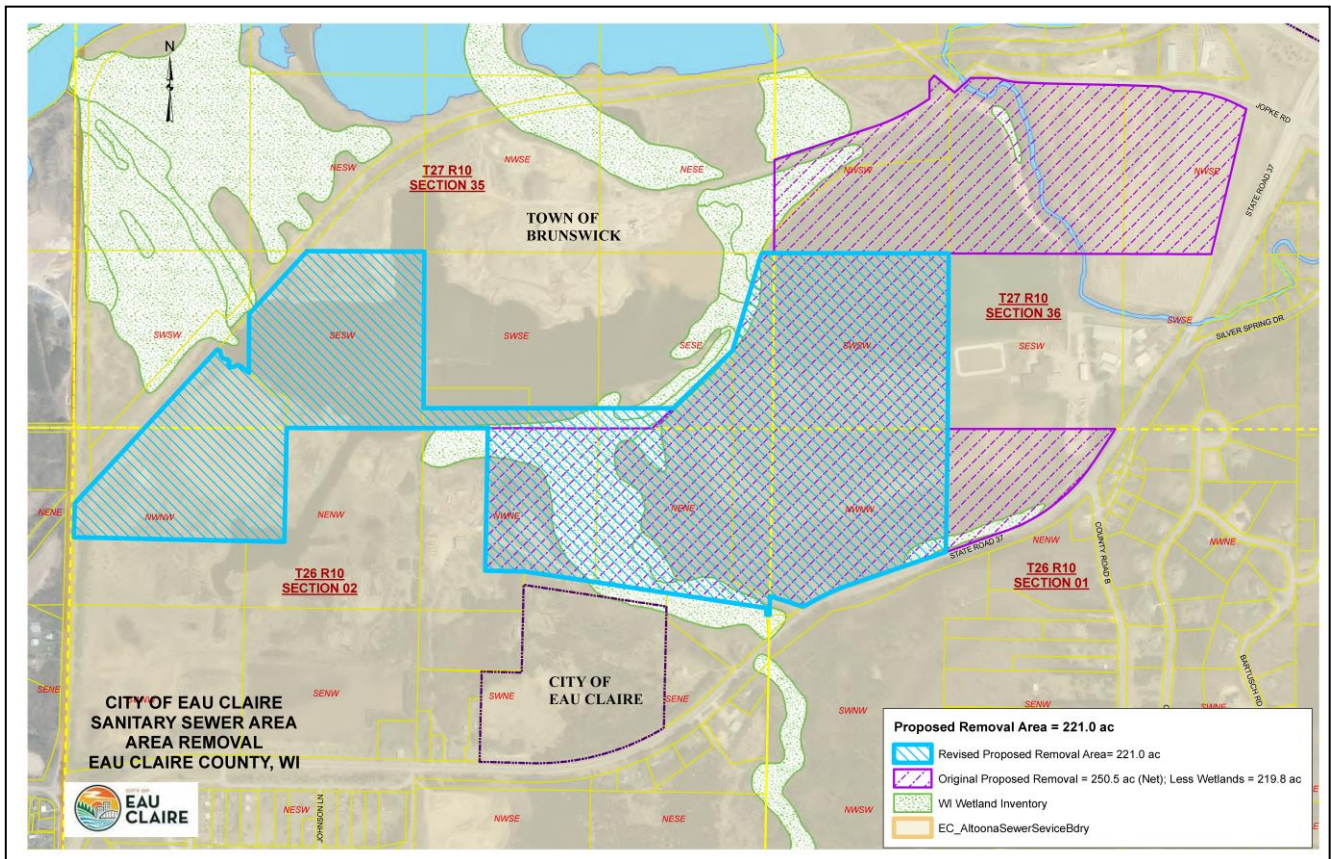
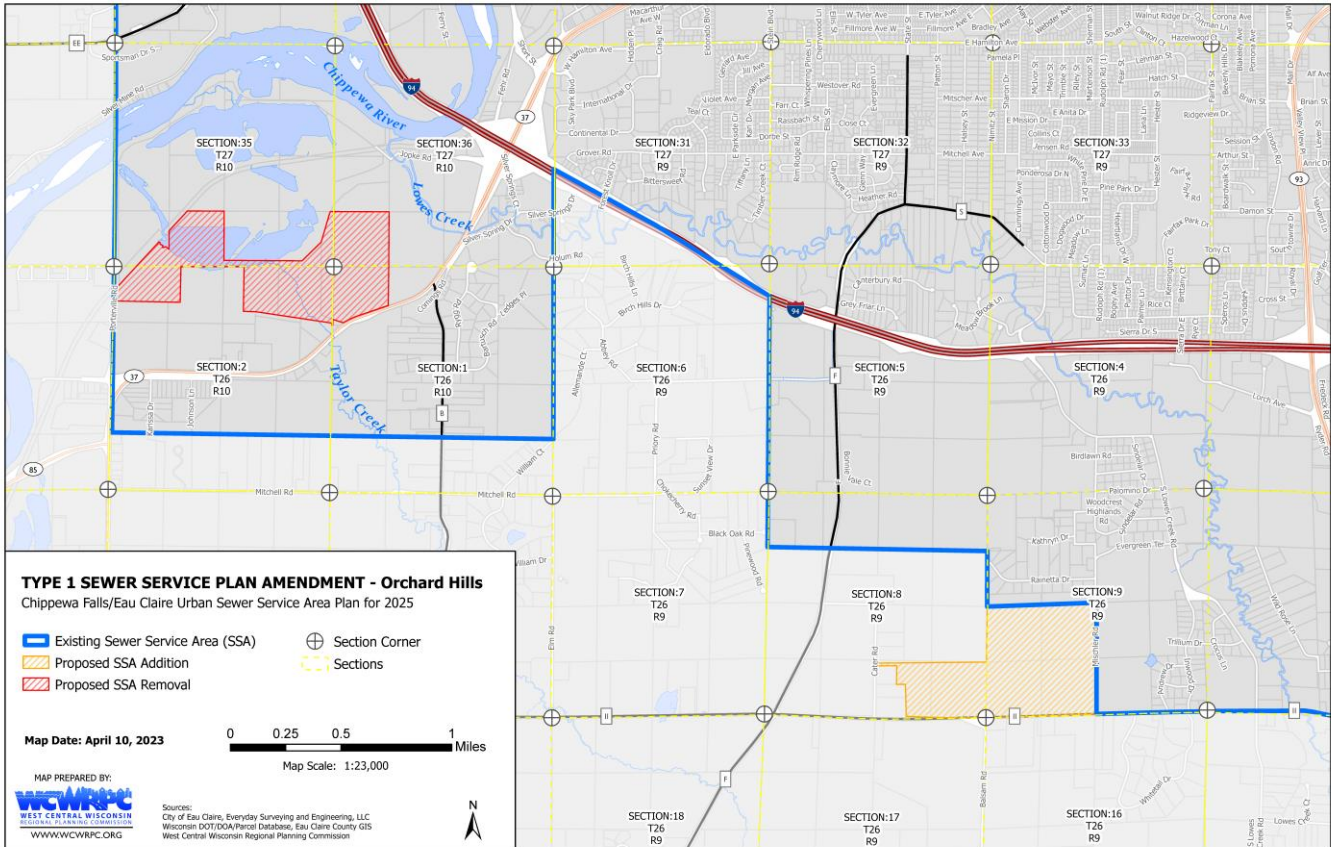
The City of Eau Claire has requested a Type I SSA Plan Amendment (or “land swap” amendment) that will not significantly change the overall acreage of the SSA. The City proposes that the SSA boundary be modified (or swapped) as generally described below and shown on the map on the following page:

- As proposed on 1/20/23, **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*).
- As originally proposed on 8/4/22, **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*).

This supplemental staff report modifies and amends the original WCWRPC staff report dated 9/7/22 and replaces the staff report amendment dated 9/16/22. The only proposed modification to the City’s original application is a change to the donor area.

WDNR expressed that all parties and the public have had an opportunity to provide comment on the City’s original application and WCWRPC’s original staff report. WDNR is requesting that WCWRPC, the Metropolitan Planning Organization (MPO), and the public limit this additional review and comments to any new aspects or changes since the original application, which is the modified donor area.

This staff report is focused on the change in donor area, which is shown on the map on the following page of this report. This report is in addition to, and does not modify or duplicate, the other elements of the 9/7/22 report.



## Amendment Application History

The flowchart to the right outlines the general SSA Plan amendment process.

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|----------|--|
| 8/4/22   | Step 1: WCWRPC receives the original amendment application from the City of Eau Claire.  |
| 9/7/22   | Step 2: WCWRPC prepares the original staff report after consultation with Wisconsin Department of Natural Resources (WDNR). The staff report is limited to a technical review and comparison of the application to the SSA Plan requirements.  |
| 9/14/22  | Step 3: The Technical Advisory Committee (TAC) of the MPO reviewed the application and WCWRPC staff report and voted against an advisory motion to approve the amendment. The MPO-TAC is advisory to the MPO Policy Council.   |
| 9/16/22  | Step 3: WCWRPC prepared an amendment to the original staff report to provide additional background information regarding the donor area.   |
| 9/28/22  | Step 4: The MPO Policy Council conducted a public hearing on the proposed amendment and considered written public comments.  |
| 9/28/22  | Step 5: The MPO Policy Council acted on a resolution recommending to WDNR that the amendment application be denied.  |
| 10/4/22  | Step 5: WCWRPC provided all key materials, including the application, reports, agendas, minutes/resolution, and written comments, to WDNR.   |
| 30+ days | Step 6: Comments were accepted by WDNR on the MPO's advisory decision. As part of our presentation during the 9/28/22 public hearing, attendees were notified of the opportunity to provide public comments to WDNR within 30 days of the MPO advisory decision and the appeals process.   |
| 11/28/22 | Step 7: WDNR issued a letter ( <b>Appendix 1</b> ) to WCWRPC stating that "it cannot make a final determination on the request as submitted" due to: <ul style="list-style-type: none"> <li>1. The original donor area "would create a void within the service area, which contradicts Policy 1.1.9 of the SSA Plan." The Department found "the City did not make a sufficient case for allowing an exception to this policy."</li> <li>2. "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."</li> </ul> <p>The WDNR letter states that "if the City chooses to amend their request, the amendment should be submitted to WCWRPC for evaluation of the additional information to ensure consistency with the SSA Plan and determine next steps."</p> |
| 1/20/23  | WCWRPC received supplemental information from the City of Eau Claire ( <b>Appendix 2</b> ) in response to the 11/28/22 WDNR letter, which modified the proposed donor area to the 221 acres shown on the previous maps.  |

### General SSA Plan Amendment Process



- 1/25/23 WCWRPC forwarded the City’s supplemental information and modified donor area to WDNR for action. As stated in WCWRPC’s 1/25/23 cover letter (**Appendix 3**), even though on 11/28/22 WDNR requested that WCWRPC should evaluate the additional information for SSA Plan consistency, the SSA Plan amendment procedures “do not contemplate or allow for additional local action at this time (i.e., returning to earlier steps in the process to treat a modification similar to a new application) and WCWRPC has taken great care to follow the procedures laid out in the SSA Plan throughout the amendment process.” For this reason, it was WCWRPC’s interpretation of the SSA Plan procedures that the City’s proposed amendment remained on Step 7 of the amendment process requiring WDNR action.
- 1/30/23 WCWRPC received an administrative appeal from the Town of Washington (**Appendix 4**) appealing WCWRPC’s action in not bringing the City’s modified application back to the MPO Policy Council and stating that “the City’s new SSA amendment application must begin the approval process anew.” Administrative appeals of a WCWRPC action to the MPO Policy Council are allowed under Section 6.6 of the SSA Plan, which makes an advisory recommendation to WDNR for appropriate action on the appeal. The Town’s appeal was not received in time to be added to the 2/1/23 agenda of the MPO Policy Council meeting, with the Council next meeting on 5/3/23.
- 4/5/23 WDNR and WCWRPC received confirmation from the City of Eau Claire that the City is requesting that the SSA Plan amendment application review move forward with the modified donor area, that the receiving property is within the City limits, and that there are no other substantial changes to the original application.
- 4/7/23 WDNR and WCWRPC conferred regarding the review process moving forward. Given current circumstances and procedural uncertainty under the SSA Plan’s amendment process, it was agreed for clarity and transparency that the review process should effectively return to Step 2 with WCWRPC preparing this supplemental staff report focused on the donor area. WDNR also believes that this proposed approach would “remedy” the request by the Town of Washington in their 1/30/23 administrative appeal. WDNR also stated that they “are still in possession of all of the documentation and public comments originally submitted, and any further analysis/comments can be focused on the new aspects of the submission.”

## **Sewer Service Area (SSA) Planning and NR 121**

When considering any SSA Plan amendment, it is important to emphasize that SSA Plans are, at their core, water quality plans driven by Section 208 of the Federal Clean Water Act and Chapters NR 110 & 121 of the Wisconsin Administrative Code. Under Chapter NR 121:

- These are plans for “managing, protecting and enhancing groundwater and surface water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydraulic political, or other).”
- “The purpose of this planning process is to systematically evaluate alternative means of achieving state and federal water quality goals and related standards”, including “water pollution abatement.”
- This is in an undesignated area in which WDNR is responsible for preparing and revising the SSA Plan. WCWRPC’s role in administration of the *Chippewa Falls-Eau Claire Urban Sewer*

*Service Area (SSA) Plan* is voluntary and advisory to WDNR. WCWRPC does not have a contract with WDNR or any local unit of government to provide this administrative service.

- The MPO Policy Council serves as the local water quality policy advisory committee to act in an advisory role to WDNR “in matters concerning the implementation of the plan.”

## **WCWRPC Staff Review of the Modified Amendment Request**

Section 6.4.1. of the Chippewa Falls-Eau Claire Urban Sewer Service Area Plan states that WCWRPC staff will review a proposed Type I amendment based on the following five criteria.

As stated in the original 9/7/22 WCWRPC staff report, many of the SSA Plan goals, objectives, and policies are aspirational, intended to lend guidance for community decision-making. WCWRPC takes no position on comprehensive plan consistency, what is orderly or efficient development, whether a service is cost-effective, or what types of development (or which geographic areas) should receive priority. In past SSA planning efforts, local units of government have expressed that such decisions should be up to each community and the SSA Plan should not used as a “top-down” mandate on such matters.

### **CRITERIA 1. Such sewerage service can be provided in a cost-effective manner.**

This criteria is pertinent to the receiving area and the WCWRPC analysis is unchanged from the original staff report issued on 9/7/22.

The City of Eau Claire has not modified the boundary of the receiving area. Nor has the City provided information that the proposed land use and density of development within the receiving area has substantially changed. It is WCWRPC’s understanding that the developer may be working with nearby residents to mitigate potential use conflicts, which may impact final development plans and platting, but detailed development reviews are conducted as part of other permitting processes and is outside the scope of this SSA Plan amendment review.

As mentioned in the original staff report:

1. Detailed development plans, subdivision plats, construction/engineering plans, etc., are not required as part of a SSA Plan amendment application. More detailed plans will be required and reviewed as part of any future 208 conformance review. Other State and City reviews and permitting will also be required prior to construction; decisions under the SSA Plan do not duplicate these other planning and approval requirements.
2. Determining whether proposed services or development is efficient or cost-effective has historically been the responsibility of the municipality providing the sanitary sewer service and not WCWRPC.

### **CRITERIA 2. There will be no significant adverse water quality and/or environmental impact associated with providing sewer service to the area.**

There are no changes to the original 9/7/22 WCWRPC staff report for the receiving area, which is the focus of Criteria 2.

The revised donor area in the Town of Brunswick includes areas of WDNR-mapped wetlands and wetland indicator soils and is all (or nearly all) mapped as 100-year floodplain. Removing the donor

area from the SSA boundary suggests that the donor area is not expected to be developed at urban densities in the near future. This is further discussed in Criteria 3, Goal 2 below.

**CRITERIA 3. The proposed amendment is consistent with the policies and goals of the SSA Plan.**

Goal 1. Create an orderly and planned pattern of community growth

Regarding the revised donor area, the City’s 1/20/23 letter states:

“The reasonable adjustment in the donor area removes 5 parcels, adds 3 parcels, adds no new property owners, increases area compactness, does not materially change the amendment request, and remains entirely within the Town of Brunswick. The adjustment in the donor area is reasonable as it creates a more compact donor area, allows existing structures near the donor area to remain in the SSA in the event they need to connect to City of Eau Claire sanitary sewer, and does not create a “void” in the overall SSA boundary.”

Regarding the revised donor area:

- It is entirely located within the current SSA boundary, making it eligible as an area to be swapped.
- The revised donor area has the same four landowners as the original donor area. The donor area boundary largely follows existing parcel or section/sub-section lines, which is preferred for reporting and tracking purposes. Following existing parcel lines is not a SSA Plan requirement and there may be reasons to “split parcels” such as development barriers, existing or proposed development, and the acreages involved.
- 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 boundary would not significantly impact or restrict the SSA boundary as a whole. The 221-acre donor area is relatively small, when compared to the 65,264 acres of land in the overall Sewer Service Area.
- 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. Additional related discussion is included under Goal 2 below.

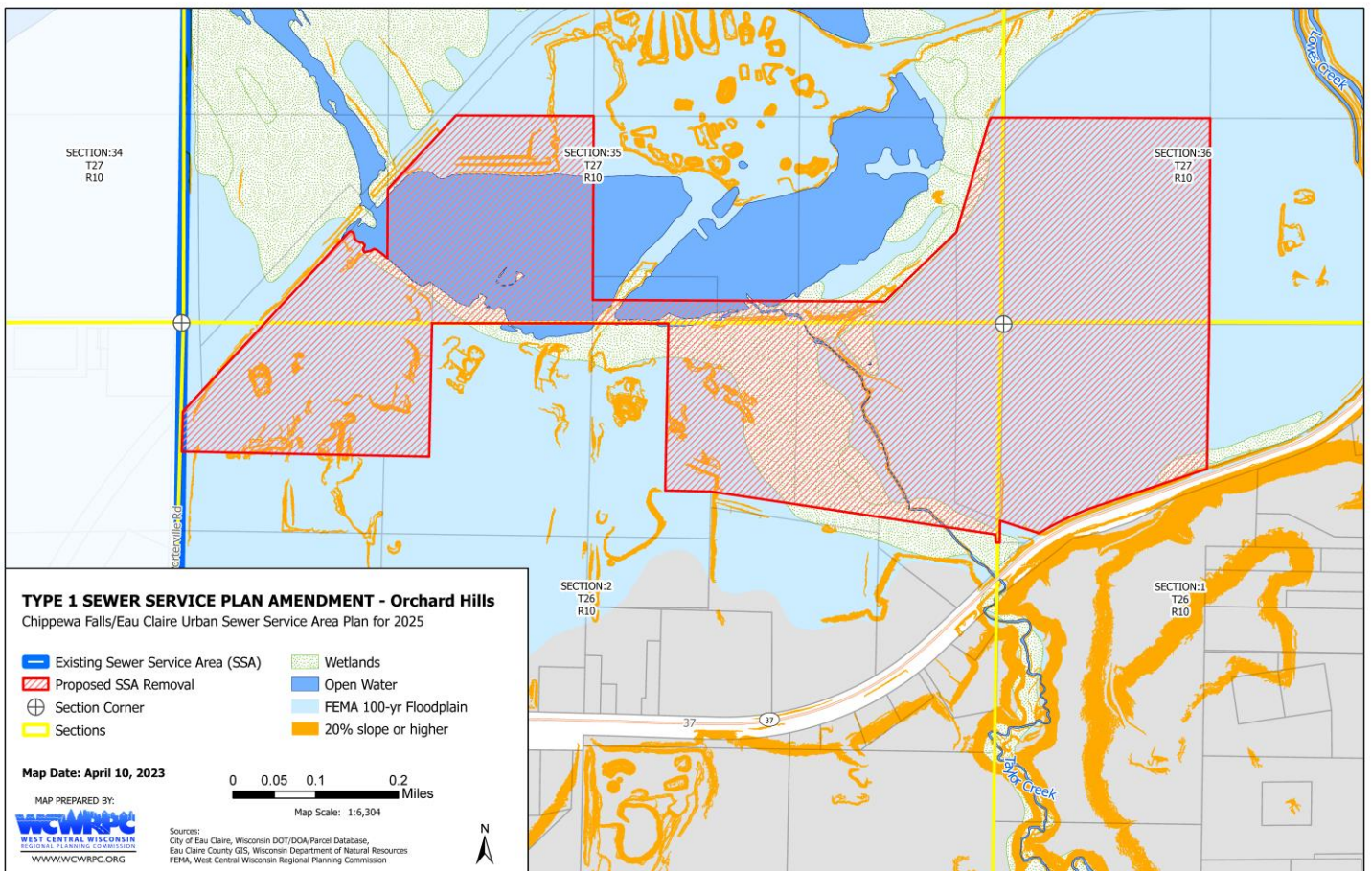
As mentioned previously, WCWRPC does not make an overall determination on whether a SSA Plan amendment would create orderly and planned growth. However, under this goal, Policy 1.1.9 states that a boundary amendment shall not create a void within the SSA. The original donor area did not conform to a strict interpretation to this policy, which is a primary reason the WDNR has been unable to make a final determination on the proposed SSA boundary amendment. 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.

Though the revised donor area’s shape is irregular, there are no SSA Plan requirements or limitations pertaining to the shape of proposed amendment areas. The City’s 1/20/23 letter provides their reasoning into why the boundary of the donor area was selected, asserting that the revised boundary was not determined solely in order to eliminate the void.

**Goal 2. Protect water quality, natural resources, and sensitive natural areas.**

Overall, this sub-section is essentially unchanged since the original staff report—all of the revised donor area is an environmentally sensitive area. As shown on the map below:

- The entire area is 100-year floodplain. Roughly, the east half is an AE-mapped floodplain while the west half is AE-mapped as floodway. A very small portion of the original donor area (< 1 acre) may have been outside the 100-year floodplain.
- Taylor Creek transects the donor area. This is not a WDNR-designated outstanding or exceptional water, nor is it a 303(d)-listed water.
- WDNR-mapped wetlands also exist within the donor area, largely along Taylor Creek and its tributary.
- The donor area also includes part of a lake, which may be in use by Mathy Construction as part of a non-metallic mining operation. Other ponds and open waters also exist in the donor area. No additional information regarding this lake or other open waters is available at the WDNR .



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; the environmentally sensitive areas would not be encroached upon by sewered development, which is consistent with Goal 2.

WDNR’s 11/28/22 letter suggests that the donor area may not be appropriate for a swap given that it is “unsuitable for development” when compared to the receiving area. While both the donor and receiving areas have environmentally sensitive areas (ESAs), the donor area has significantly more ESA acreage, so the WDNR’s comment is understandable. However, as suggested in the City’s 1/20/23 letter, at least part of the donor area had been proposed for development when the SSA Plan boundary was last revised. In fact, this area of the Town of Brunswick was specifically and purposefully added to the SSA Plan boundary in anticipation of future flood mitigation measures and planned development as reflected by the documents included in **Appendix 5** prepared by WCWRPC staff at the WDNR’s request in December 2006 and May 2007. This area is also discussed in the third paragraph on page 77 of the SSA Plan. In short, in terms of the SSA Plan, the donor area is planned for development, at least in part.

WCWRPC does not have any proposed development plans from 2005-2006 to estimate how much of the revised donor area would be developed. While sewered, clustered development was proposed for the donor area, we cannot state whether the densities of the donor and receiving areas would be similar. However, there is no specific requirement in the SSA Plan that the areas being swapped need to be comparable in any characteristics (e.g., land use, development density, ESA vs. non-ESA acreage), except for their being contained within the SSA and total acreage. Adding such “comparability” standards for areas to be potentially swapped should be considered as part of the next SSA Plan update. The SSA Plan also does not specify that ESAs shall be excluded when calculating acreages for amendment areas. This may be due to a number of reasons, including: (i) when the SSA Plan boundary was last updated, the accuracy of mapped ESA was much less than it is today, (ii) how the future needed acreage for the SSA was forecasted, and (iii) requiring that ESA acreage be tracked separately from developable acreage would require significantly more application, administrative, and tracking time. In some cases, such as steep slopes, additional surveys or field work may be required to determine the extent of any ESAs, which often does not occur until later in the development process. These related policies should also be revisited as part of the next SSA Plan update.

Goal 3. Provide facilities and services in an efficient and environmentally sound manner.

No change from 9/7/22 WCWRPC staff report.

**CRITERIA 4. Existing or planned sewerage systems have sufficient capacity to treat projected flows.**

No change from the 9/7/22 WCWRPC staff report.

**CRITERIA 5. The areas to be swapped are of the same acreage.**

This criteria is reasonably met. The size difference between the areas to be swapped is less than 1.5 acres.



## **WCWRPC Staff Recommendations**

WCWRPC staff technical review and recommendations are limited to the SSA Plan requirements and whether it is appropriate to provide municipal sanitary sewer service to the receiving area (and remove the donor area) in the context of protecting water quality within the overall Sewer Service Area. WCWRPC staff recommendations are advisory for consideration by the MPO and WDNR, and do not constitute legal opinion or legal advice.

WCWRPC staff recommendations are essentially unchanged from the 9/7/22 staff report:

**In furtherance of the SSA Plan’s water quality goals as a whole, WCWRPC recommends to the MPO the approval of the Type I SSA Plan amendment for Orchard Hills with conditions as described in the 9/7/22 report.**

As part of this recommendation, the following text replaces, in its entirety, subsection 3.i. on page 19 of the 9/7/22 staff report and replaces the entirety of the 9/16/22 staff report amendment:

- i. Given the extensive 100-year floodplain area, the importance of flood storage, the proximity to wetlands, and the lack of known plans to provide sanitary sewer service to the 221-acre donor area within the Town of Brunswick, it is agreed that the donor area is an environmentally desirable candidate to be removed from the Sewer Service Area. In this case, the removal of the donor area acreage from the SSA is a possible recognition that the donor area is not appropriate for sewered development at urban densities given the preponderance of 100-year floodplain and wetlands. As noted previously, this change would be consistent with Goal 2 of the SSA Plan. During the next SSA Plan update, it is recommended that large, continuous environmentally sensitive areas be removed from the SSA if such ESAs would otherwise intersect with or span the border of the SSA.

All other parts of the WCWRPC Staff Recommendations, including suggested conditions, found on pages 16-20 of the 9/7/22 WCWRPC staff report are unchanged.

**Appendix 1:**

**WDNR Letter – 11/28/22**



November 28, 2022

DNR No. WC0014

Mr. Chris Straight, Senior Planner  
West Central Wisconsin Regional Planning Commission (WCWRPC)  
800 Wisconsin St. Mailbox 9  
Eau Claire, WI 54703-3606

*Subject: Amendment Request for Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025*

Dear Mr. Straight:

On October 4, 2022, the Wisconsin Department of Natural Resources (WDNR or 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).

#### Description of Amendment Area

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.

#### Local Review & Public Involvement

WCWRPC evaluated the amendment request based on the following five criteria, which are outlined in [the SSA Plan](#) (pgs. 103-104):

- Such sewerage service can be provided in a cost-effective manner.
- There will be no significant adverse water quality and/or environmental impacts associated with providing sewer service to the area.
- The proposed amendment is consistent with the policies and goals of [the SSA] plan.
- Existing or planned sewerage systems have sufficient capacity to treat projected flows.
- The areas to be swapped are of the same acreage.

WCWRPC’s staff review concluded that the proposed amendment met all of the above criteria and was consistent with the policies and goals of the SSA Plan, with one exception. Policy 1.1.9 (pg. 83) states that a “[p]roposed plan amendment 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” (emphasis added). Even though the proposed donor area is near the SSA boundary (approximately 0.5 miles), its removal would create a void noncontiguous with the SSA boundary. However, to further the SSA Plan’s overall goals, the WCWRPC staff recommended the MPO approve the Type 1 SSA Plan amendment with conditions described in the staff report (Pg. 16-20).

On September 14, 2022, the Technical Advisory Committee (TAC) of the Chippewa-Eau Claire Metropolitan Planning Organization (MPO) held a meeting. Following review of the draft Staff Report the MPO-TAC voted against an advisory motion to approve the amendment application. WCWRPC issued the finalized Staff Report on September 18, 2022, with the addition of a brief amendment dated September 16, 2022, and letters on behalf of the development company and the Town of Washington.

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 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. All comments were reviewed and considered by the Department.

#### Department Review

Step 7 of the SSA plan states that “WDNR will make the final and official determination on all plan amendments based on consideration of public comments, written comments, official action taken by the MPO, standards, policies and procedures of the Sewer Service Area Plan, and NR 121 of the Wisconsin Administrative Code. WDNR will inform the applicant and WCWRPC of its decision on amendment requests within 60 days of the MPO’s decision.”

At this time, the Department has concluded that it cannot make a final determination on the request as submitted for the following reasons:

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” (emphasis added). 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.

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.

If the City chooses to amend their request, the amendment should be submitted to WCWRPC for evaluation of the additional information to ensure consistency with the SSA Plan and determine next steps. The WDNR will be glad to meet with the City of Eau Claire and WCWRPC staff to discuss this letter, status of our review, and potential paths forward.

A handwritten signature in black ink, appearing to read "Tim Asplund". The signature is fluid and cursive, written in a professional style.

Tim Asplund  
Monitoring Section Chief  
Bureau of Water Quality

e-cc:

Jason Knutson, P.E. - Wastewater Section Chief  
Mark Hazuga – Water Resources Field Supervisor, DNR Eau Claire  
Geisa Thielen, P.E. – Wastewater Field Supervisor, DNR Eau Claire  
BetsyJo Howe – Water Resources Management Specialist, DNR Madison  
Gunilla Goulding, P.E. – Wastewater Engineer, DNR Madison  
Alixandra Burke – Staff Attorney, DNR Madison

**Appendix 2:**

**City of Eau Claire Supplemental Information Letter – 1/20/23**



CITY OF  
**EAU  
CLAIRE**  
Engineering

Phone: (715) 839-4934  
Fax: (715) 552-7288  
engineering@eauclairewi.gov

January 20, 2023

Mr. Chris Straight  
**WEST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION**  
800 Wisconsin Street  
Building D-2, Room 401  
Mail Box 9  
Eau Claire, WI 54703

RE: Supplemental Information, Chippewa Falls/Eau Claire Sewer Service Boundary Change

Dear Mr. Straight

The Wisconsin Department of Natural Resources requested additional information from the City of Eau Claire, following their review of the proposed amendment to the boundary of the Chippewa Falls/Eau Claire Sewer Service Area, to allow them to make a final determination on the request. The City of Eau Claire submits this unique de minimis amendment at the request of WDNR. This unique de minimis amendment removes the potential issue of a so-called "void" in the donor area. WCWRPC staff raised this as a possible issue although finding the donor area otherwise consistent with the intent of SSA plan, as well as the Clean Water Act, to protect drinking water quality and public water resources. The DNR requested a donor area that doesn't create a void. The City submits this unique de minimis amendment to meet that request, and the revised donor area complies with policy 1.1.9 of the Chippewa Falls - Eau Claire Urban SSA plan.

The reasonable adjustment in the donor area removes 5 parcels, adds 3 parcels, adds no new property owners, increases area compactness, does not materially change the amendment request, and remains entirely within the Town of Brunswick. The adjustment in the donor area is reasonable as it creates a more compact donor area, allows existing structures near the donor area to remain in the SSA in the event they need to connect to City of Eau Claire sanitary sewer, and does not create a "void" in the overall SSA boundary. The acreages of both areas are calculated in the same manner with equivalent total acreage of donor and recipient areas. The adjustment in the removal boundary is reasonable. The property owners have been notified of this inclusion via certified mail.

This unique de minimis amendment is the type of unique amendment request that the Chippewa Falls – Eau Claire Urban Sewer Service Plan allows for "an administrative review from WDNR, thus skipping Steps 3-6" as stated policy on page 101 of the plan. The legal description and removal boundary maps are attached with this letter.

The City of Eau Claire is providing clarification to address the DNR inquiry of whether proposed donor territory is developable, and therefore comparable for a Type 1 Land Swap. When discussed



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with staff from the WCWRPC, this area was validated as an appropriate area to offer in a “swap” and also had similar attributes of the “add” area. This area was documented as similar in the WCWRPC staff report of the amendment request. The donor lands proposed for removal from the SSA by the City’s Type 1 amendment request are developable. During the most recent SSA boundary revision in 2005, the owner of the land containing the donor area requested the area be included in the SSA boundary at that time. Development would include floodplain mitigation strategies. It is anticipated the housing unit densities of the two referenced planned urban developments would be similar. The proposed donor territory was one of nine areas included into the SSA during the last update to the plan. The Chippewa Falls – Eau Claire Urban Sewer Service Plan is long overdue for an update, resulting in the need for amendments to adjust to changes in development plans and patterns. The donor territory still has the potential for future regional growth; however, it is reasonable and appropriate at this time to remove the donor area from the SSA through this amendment, and amend the SSA boundary in another area with the “add” area which has a more immediate demand for urban sewer service. Utilities are able to be economically and efficiently extended to lands north and south of the donor areas utilizing existing streets and rights of way remaining within the amended SSA boundary.

The entire region is in great need of an updated review and revision of the SSA plan to account for strong regional growth in a manner that is protective of our shared groundwater resources and environmentally sensitive areas. The City’s Type 1 Amendment balances present real growth needs and landowner development rights with water quality protection and should be promptly approved. We look forward to engaging with local, regional, and state partners in a broader and complete Urban Sewer Service Plan review in the coming months.

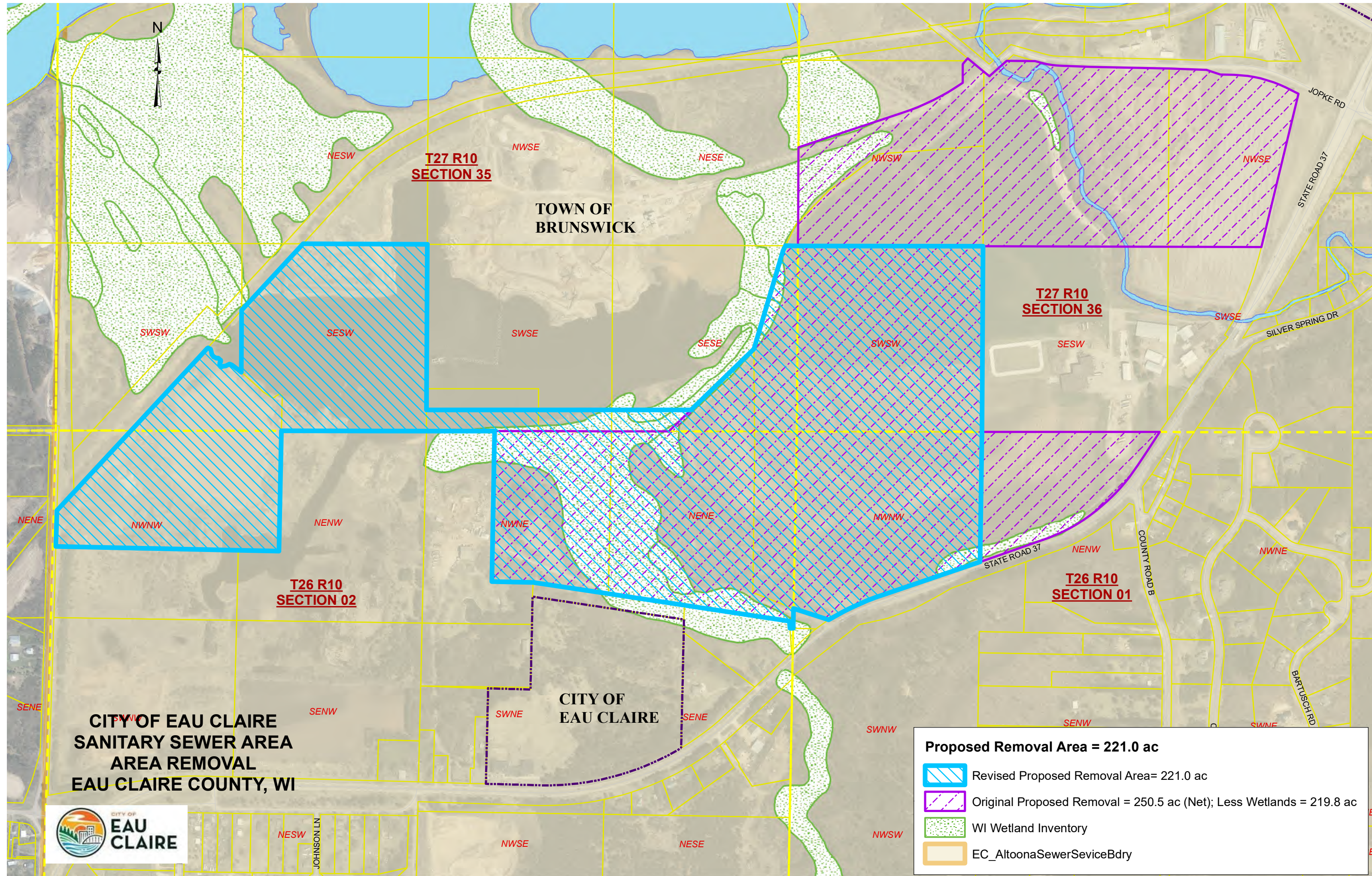
Thank you for your consideration of this clarifying information. Should you have any further questions or comments please feel free to contact me.

Sincerely,

David A. Solberg, PE  
Deputy City Manager  
Engineering Director & City Engineer

Attachments:  
SSA Boundary Map  
Amended SSA Boundary Amendment Legal Description  
Notice Letters to Property Owners (4)  
Certified Mail Receipts





**CITY OF EAU CLAIRE  
SANITARY SEWER AREA  
AREA REMOVAL  
EAU CLAIRE COUNTY, WI**

**Proposed Removal Area = 221.0 ac**

- Revised Proposed Removal Area= 221.0 ac
- Original Proposed Removal = 250.5 ac (Net); Less Wetlands = 219.8 ac
- WI Wetland Inventory
- EC\_AltoonaSewerServiceBdry



That part of the SW1/4 of the SW1/4, the SE1/4 of the SW1/4, the SW1/4 of the SE1/4, and the SE1/4 of the SE1/4 of Section 35, T27N, R10W and part of the SW ¼ of the SW ¼ of Section 36, T27N, R10W, lying South of road right-of-way, and lying West of State Highway 37 and 85 and part of the NW ¼ of the NW ¼ in Section 1, T26N, R10W, lying Northwesterly of State Highway 37 and 85, subject to the rights acquired therein by School District No. 1, Town of Brunswick, Eau Claire County, Wisconsin, under that certain quit-claim deed recorded in Volume 139 of Deeds, Page 269 and part of the NW1/4 of the NW1/4, the NE1/4 of the NW1/4, the NW1/4 of the NE1/4, and the NE1/4 of the NE1/4 of Section 2, T26N, R10W, all in the Town of Brunswick, Eau Claire County, Wisconsin, described as follows:

Commencing at the corner common to Sections 35 & 36, T27N, R10W and Sections 1 & 2, T26N, R10W;

Thence S 89°55'30" E along the line between Section 36, T27N, R10W, and Section 1, T26N, R10W, 1311.21 feet to the southeast corner of the SW1/4 of the SW1/4 of said Section 36 and the point of beginning;

Thence N 00°17'53" E, 1313.13 feet to the northeast corner of said SW1/4 of the SW1/4;

Thence N 89°51'04" W, 1310.25 feet to the northwest corner of said SW1/4 of the SW1/4;

Thence N 89°45'59"W, along the north line of the SE1/4 of the SE1/4 of said Section 35, T27N, R10W, 78.47 feet;

Thence S 25°32'30" W, 36.37 feet;

Thence S 16°55'10" W, 726.24 feet;

Thence S 46°16'56" W, 631.79 feet to a point 150 feet north of the south line of said SE1/4 of the SE1/4;

Thence N 89°55'30" E, along a line parallel with and north 150 feet of the south line of the SE1/4 of the SE1/4 and the SW1/4 of the SE1/4 of said Section 35, 1867.07 feet to the west line of said SW1/4 of the SE1/4;

Thence N 00°18'06" E, along the west line of said SW1/4 of the SE1/4, 1172.09 feet to northeast corner of the SE1/4 of the SW1/4 of said Section 35;

Thence N 89°45'59" W, along the north line of the said SE1/4 of the SW1/4, 879 feet, more or less, to the southeasterly right of way line of the abandoned Railroad;

Thence Southwesterly along the southeasterly right of way line of the abandoned Railroad, 640.5 feet more or less, to the west line of said SE1/4 of the SW1/4;

Thence S 00°16'56" W, along the west line of said SE1/4 of the SW1/4, 493.2 feet, more or less, to the southwesterly water's edge of a pond and to a point 20 feet from the water's edge, a meander line along the pond ;

Thence Northwesterly along the southwesterly water's edge of said pond to the to a point located 20 feet from the water's edge, the end of the meander line along the pond and a point on the southeasterly right of way line of the abandoned Railroad;

Thence S 43°06'09" W, along said abandoned right of way line, 1571.0 feet more or less, to the east right of way line of Porterville Road and the northwesterly corner of Lot 1 of Certified Survey Map Number 910, recorded in Volume 5 of Certified Survey Maps, Pages 32-33, Document Number 639045;

Thence S 01°29'21" W, along the east right of way line of Porterville Road, 253.90 feet to the southwest corner of said Lot 1;

Thence S 88°30'15" E, along the south line of said Lot 1, 1578.00 feet to the southeast corner of said Lot 1;

Thence N 01°29'45" E, along the east line of said Lot 1, 860.0 feet more of less to a point on the north line of the NE1/4 of the NW1/4 of Section 2, T26N, R10W;

Thence S 89°55'30" E, along said north line, 1022.0 feet, more or less, to the N1/4 corner of said Section 2;

Thence S 89°55'30" E, along the north line of the NW1/4-NE1/4 of said Section 2, 487.15 feet;

Thence S 01°16'45" W, 1070.66 feet;

Thence S 89°55'29" E, 291.20 feet to the northwesterly corner of Outlot 1 of Certified Survey Map Number 2355, recorded in Volume 13 of Certified Survey Maps, Pages 23-24, Document Number 940192;

Thence S 81°24'26" W, along the northerly line of said Outlot 1, 1083.75 feet to the northeasterly corner of said Outlot 1 and the northwesterly corner of Lot 1 of Certified Survey Map Number 3197, recorded in Volume 18 of Certified Survey Maps, Pages 33-34, Document Number 1134086;

Thence S 81°24'26" E, along the northerly line of said Lot 1, 752.34 feet to the northeasterly corner of said Lot 1;

Thence S 03°51'28" E, along the easterly line of said Lot 1, 51.20 feet to the south line of the NE1/4 of the NE1/4 of Section 2, T26N, R10W;

Thence S 89°09'23" E, along the south line of said NE1/4 of the NE1/4, 23.45 feet to the southeast corner of said NE1/4 of the NE1/4;

Thence N 01°03'10" E, along the east line of said NE1/4 of the NE1/4, 220.04 feet;

Thence S 73°09' E, 258.78 feet to the Northwesterly right-of-way line of Highway 37;

Thence along said right-of-way line, along the arc of a curve, concave southerly, whose chord bears N 63°09' E, 364.70 feet;

Thence N 70°10' E, along said right-of-way line 800.11 feet to a point on the east line of the NW1/4 of the NW1/4 of Section 1, T26N, R10W;

Thence N 0°50'50" E, along the East line of the NW ¼ of the NW ¼ of Section 1, T26N, R10W, 795.08 feet to the southeast corner of the SW1/4 of the SW1/4 of Section 36, T27N, R10W and the point of beginning;

Total lands contain 220.9 acres.



CITY OF  
**EAU  
CLAIRE**  
Engineering

Phone: (715) 839-4934  
Fax: (715) 552-7288  
engineering@eauclairewi.gov

December 27, 2022

Laverne Stewart  
5902 Mischler Road  
Eau Claire, WI 54701-9128

RE: Amendment to Type I Sewer Service Plan Amendment – Orchard Hills  
Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025

Dear Laverne:

The City of Eau Claire has received a request from a private party to amend the sewer service area (SSA) for future growth on the south side of Eau Claire. The sewer service area amendment request accompanies a recent annexation approved by the City Council. The proposed Type I Amendment amends the service area plan by adding the requested area to the SSA while then removing a corresponding number of acres from the identified service area. The overall SSA acreage will remain unchanged. At this time, the City is looking to remove parcels of land west of STH 37 and south of Jopke Road and add parcels requested that lie adjacent to the existing SSA boundary on the south side of Eau Claire. See enclosed map.

The WDNR has requested the City submit an amendment, or modification, to the Type I Sewer Service Plan Amendment to address the proposed removal area's compliance with the WCWRPC's amendment policy 1.1.9, which states that proposed amendment boundaries shall share a current boundary (i.e., not create a void situation). To meet this policy, the boundary of the SSA removal area has been amended to share a common boundary with the western edge of the existing SSA boundary.

The WCWRPC has oversight of the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan; please reference the information at the following link: <https://www.wcwrpc.org/sewer-service-area-planning>

Please contact me at 715-839-4934 if you would like to discuss these issues further or if you would like additional information.

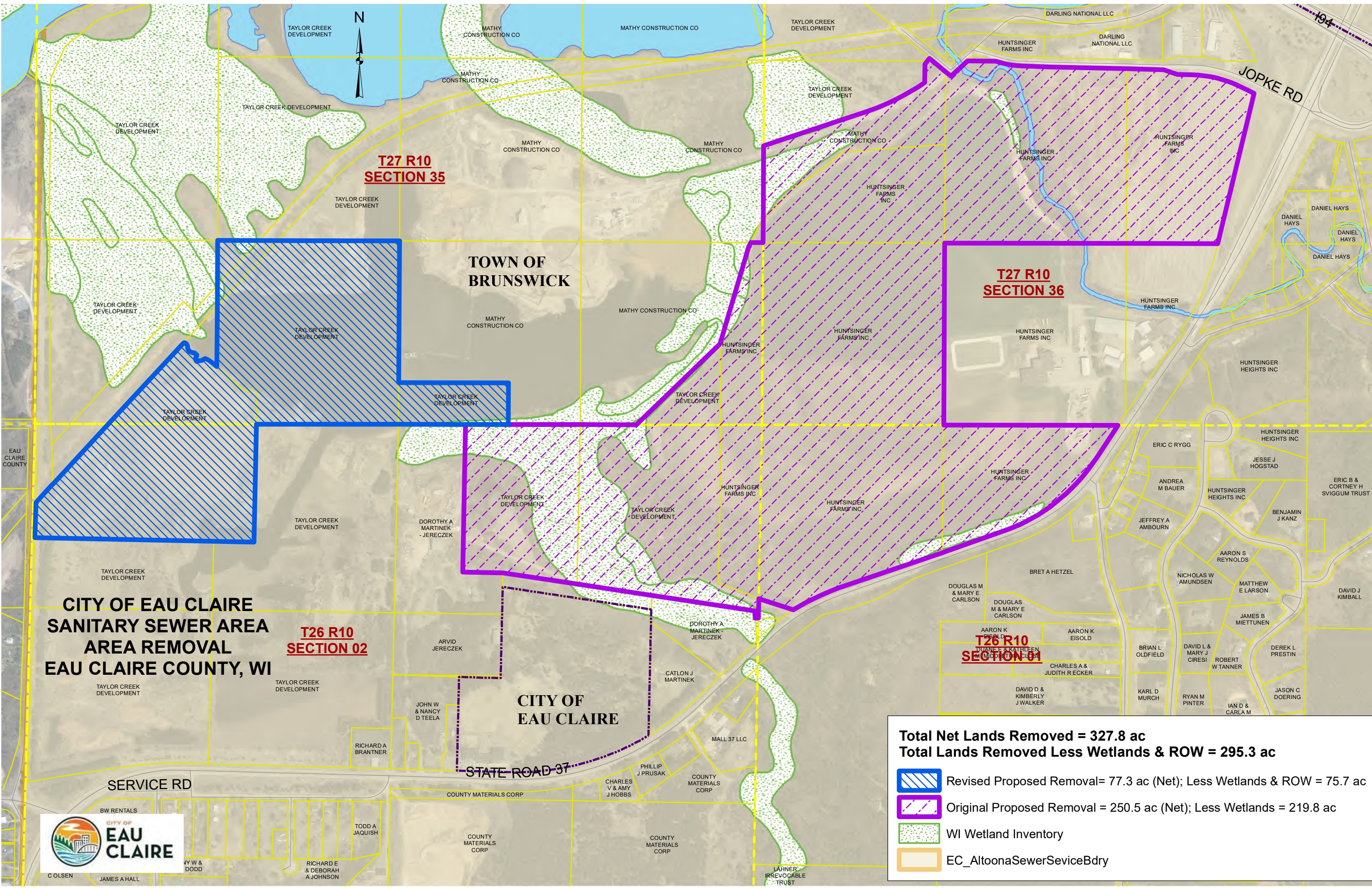
Sincerely,

CITY OF EAU CLAIRE

David A. Solberg, PE  
Deputy City Manager / Engineering Director

mlb

Enclosure



**CITY OF EAU CLAIRE  
SANITARY SEWER AREA  
AREA REMOVAL  
EAU CLAIRE COUNTY, WI**

**T26 R10  
SECTION 02**

**T27 R10  
SECTION 35**




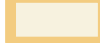
**T27 R10  
SECTION 36**

**T26 R10  
SECTION 01**

**CITY OF  
EAU CLAIRE**

**TOWN OF  
BRUNSWICK**

**Total Net Lands Removed = 327.8 ac**  
**Total Lands Removed Less Wetlands & ROW = 295.3 ac**

-  Revised Proposed Removal= 77.3 ac (Net); Less Wetlands & ROW = 75.7 ac
-  Original Proposed Removal = 250.5 ac (Net); Less Wetlands = 219.8 ac
-  WI Wetland Inventory
-  EC\_AltoonaSewerSeviceBdry





CITY OF  
**EAU  
CLAIRE**  
Engineering

Phone: (715) 839-4934  
Fax: (715) 552-7288  
engineering@eauclairewi.gov

December 27, 2022

Huntsinger Farms, Inc.  
PO Box 360  
Eau Claire, WI 54702-0360

RE: Amendment to Type I Sewer Service Plan Amendment – Orchard Hills  
Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025

To Whom it May Concern:

The City of Eau Claire has received a request from a private party to amend the sewer service area (SSA) for future growth on the south side of Eau Claire. The sewer service area amendment request accompanies a recent annexation approved by the City Council. The proposed Type I Amendment amends the service area plan by adding the requested area to the SSA while then removing a corresponding number of acres from the identified service area. The overall SSA acreage will remain unchanged. At this time, the City is looking to remove parcels of land west of STH 37 and south of Jopke Road and add parcels requested that lie adjacent to the existing SSA boundary on the south side of Eau Claire. See enclosed map.

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The WCWRPC has oversight of the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan; please reference the information at the following link: <https://www.wcwrpc.org/sewer-service-area-planning>

Please contact me at 715-839-4934 if you would like to discuss these issues further or if you would like additional information.

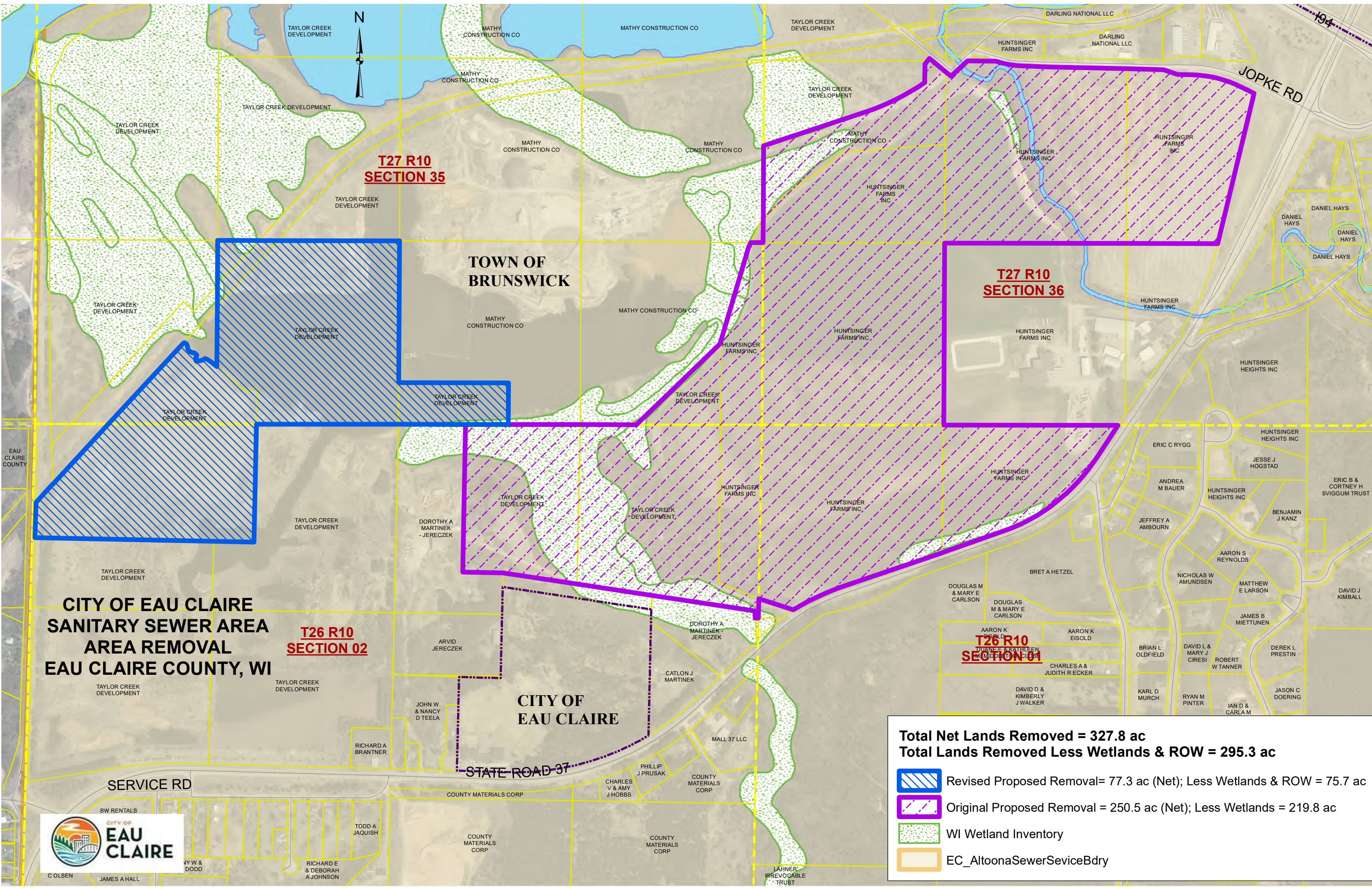
Sincerely,

CITY OF EAU CLAIRE

David A. Solberg, PE  
Deputy City Manager / Engineering Director

mlb

Enclosure



**CITY OF EAU CLAIRE  
SANITARY SEWER AREA  
AREA REMOVAL  
EAU CLAIRE COUNTY, WI**

**T26 R10  
SECTION 02**

**T27 R10  
SECTION 35**




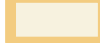
**T27 R10  
SECTION 36**

**T26 R10  
SECTION 01**

**CITY OF  
EAU CLAIRE**

**TOWN OF  
BRUNSWICK**

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-  EC\_AltoonaSewerSeviceBdry







CITY OF  
**EAU  
CLAIRE**  
Engineering

Phone: (715) 839-4934  
Fax: (715) 552-7288  
engineering@eauclairewi.gov

December 27, 2022

Taylor Creek Development  
PO Box 688  
Eau Claire, WI 54702-0688

RE: Amendment to Type I Sewer Service Plan Amendment – Orchard Hills  
Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025

To Whom it May Concern:

The City of Eau Claire has received a request from a private party to amend the sewer service area (SSA) for future growth on the south side of Eau Claire. The sewer service area amendment request accompanies a recent annexation approved by the City Council. The proposed Type I Amendment amends the service area plan by adding the requested area to the SSA while then removing a corresponding number of acres from the identified service area. The overall SSA acreage will remain unchanged. At this time, the City is looking to remove parcels of land west of STH 37 and south of Jopke Road and add parcels requested that lie adjacent to the existing SSA boundary on the south side of Eau Claire. See enclosed map.

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Please contact me at 715-839-4934 if you would like to discuss these issues further or if you would like additional information.

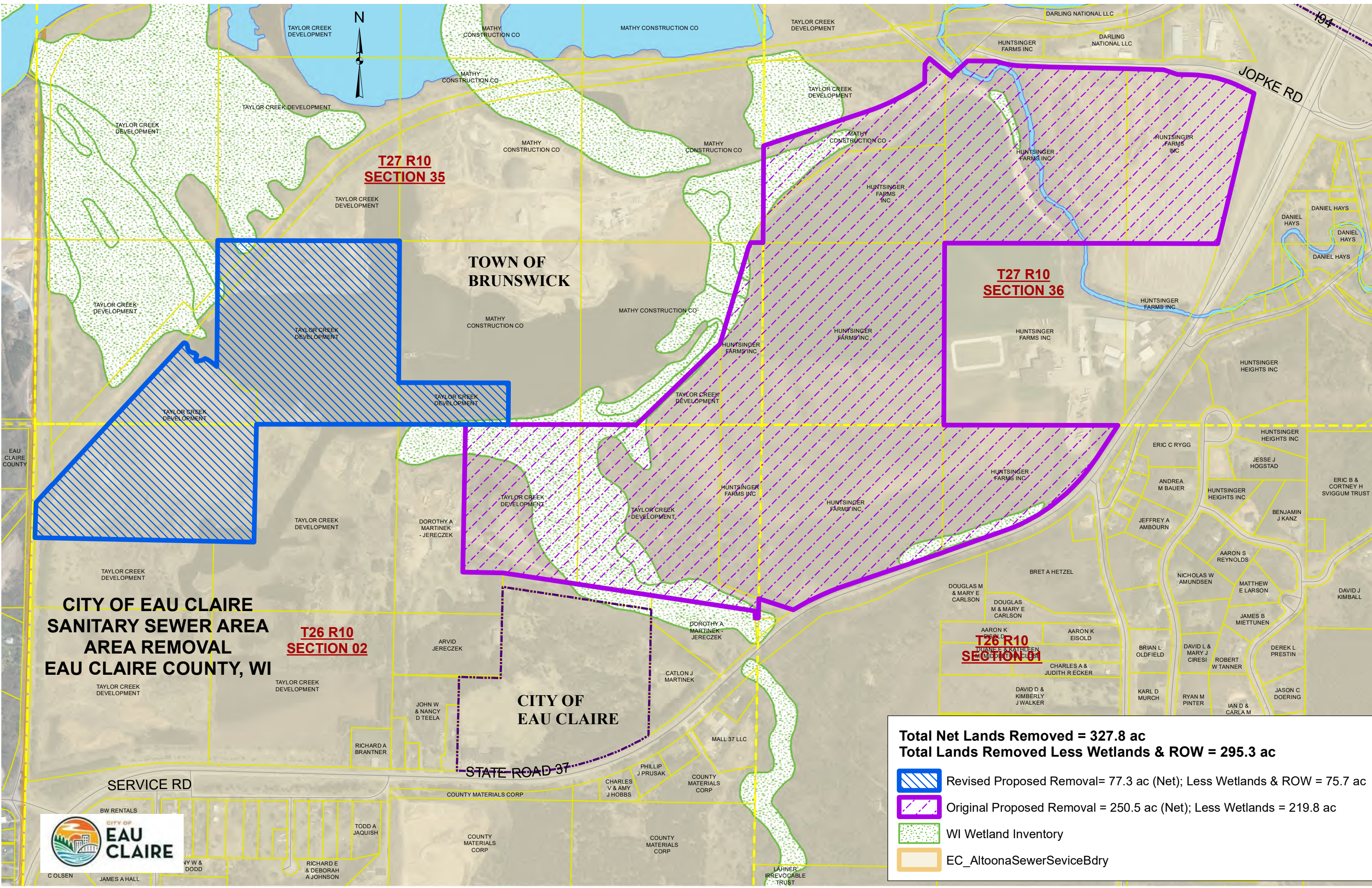
Sincerely,

CITY OF EAU CLAIRE

David A. Solberg, PE  
Deputy City Manager / Engineering Director

mlb

Enclosure



**T27 R10  
SECTION 35**

**T27 R10  
SECTION 36**

**T26 R10  
SECTION 02**




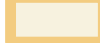
**T26 R10  
SECTION 01**

**TOWN OF  
BRUNSWICK**

**CITY OF  
EAU CLAIRE**

**CITY OF EAU CLAIRE  
SANITARY SEWER AREA  
AREA REMOVAL  
EAU CLAIRE COUNTY, WI**

**Total Net Lands Removed = 327.8 ac**  
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-  Original Proposed Removal = 250.5 ac (Net); Less Wetlands = 219.8 ac
-  WI Wetland Inventory
-  EC\_AltoonaSewerSeviceBdry



EAU CLAIRE COUNTY, WISCONSIN



CITY OF  
**EAU  
CLAIRE**  
Engineering

Phone: (715) 839-4934  
Fax: (715) 552-7288  
engineering@eauclairewi.gov

January 20, 2023

Mathy Construction Co.  
920 10<sup>th</sup> Avenue N.  
Onalaska, WI 54650-2166

RE: Amendment to Type I Sewer Service Plan Amendment – Orchard Hills  
Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025

To Whom it May Concern:

The City of Eau Claire has received a request from a private party to amend the sewer service area (SSA) for future growth on the south side of Eau Claire. The sewer service area amendment request accompanies an annexation petition submitted by the same private party. The proposed Type I Amendment amends the service area plan by adding the requested area to the SSA while then removing a corresponding number of acres from the identified service area. The overall SSA acreage will remain unchanged. At this time, the City is looking to remove parcels of land west of STH 37 and south of Jopke Road and add parcels requested that lie adjacent to the existing SSA boundary on the south side of Eau Claire. See enclosed map.

The WDNR has requested the City submit an additional amendment, or modification, to the Type I Sewer Service Plan Amendment to address proposed removal area's compliance with the WCWRPC's amendment policy 1.1.9, which states that proposed amendment boundaries shall share a current boundary (i.e., not create a void situation). To meet this policy, the boundary of the SSA removal area has been amended to share a common boundary with the western edge of the existing SSA boundary. This amendment amends the boundary map previously mailed to you in December of 2022; the enclosed revised map includes a minimal change in the amendment boundary footprint on your property holdings.

The WCWRPC has oversight of the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan; please reference this document located at the following website: <https://www.wcwrpc.org/sewer-service-area-planning>

Please contact me at 715-839-4934 if you would like to discuss these issues further or if you would like additional information.

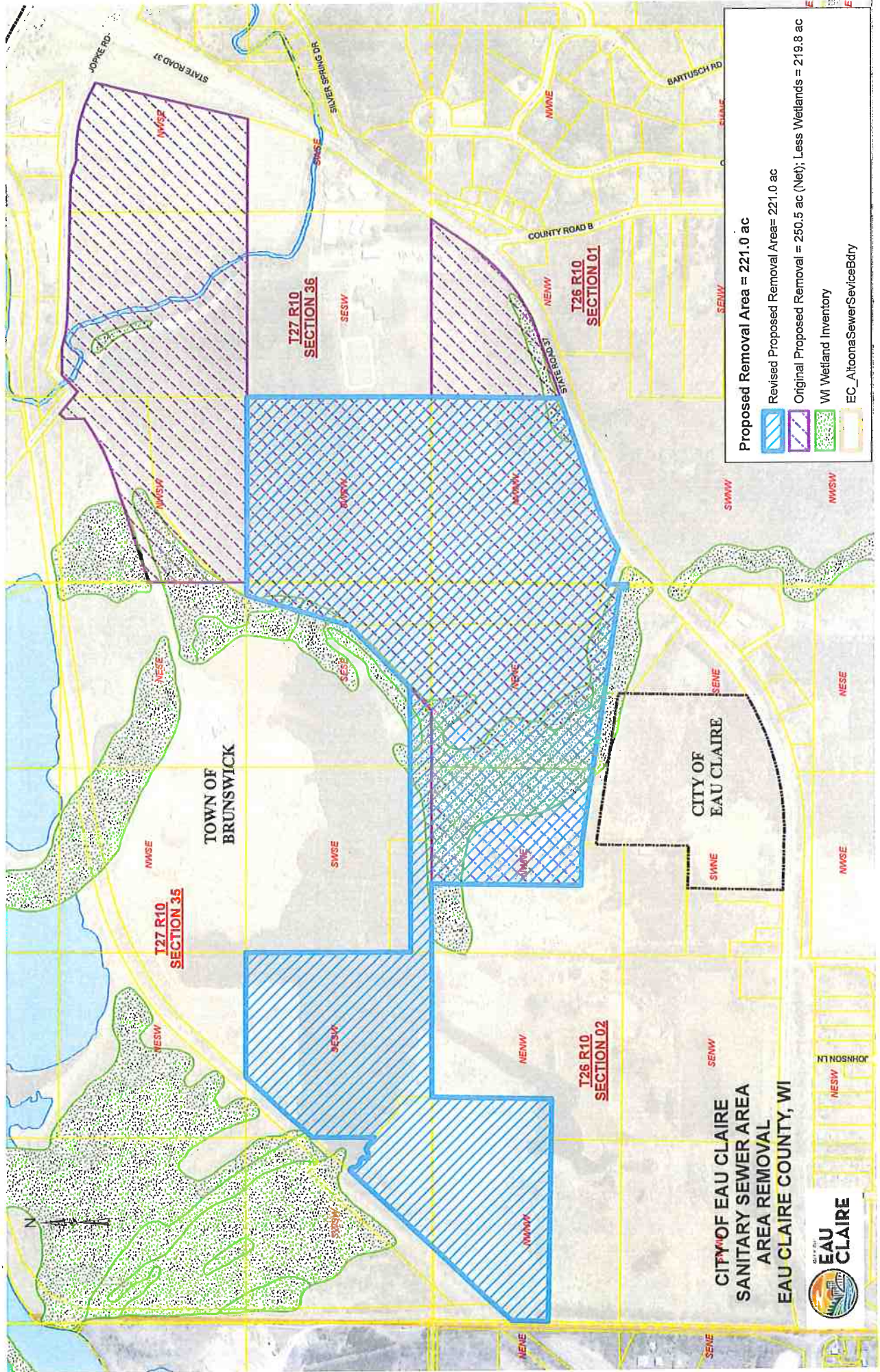
Sincerely,

CITY OF EAU CLAIRE

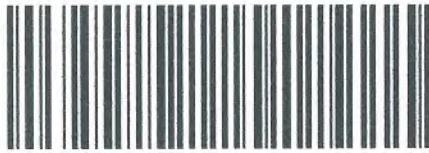
David A. Solberg, PE  
Deputy City Manager / Engineering Director

mlb

Enclosure



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CITY OF

**Eau Claire**

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920 10th Ave N

City, State, ZIP+4®  
Oshkosh, WI 54601-2166

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CITY OF  
**EAU  
CLAIRE**

Department of Engineering  
203 S. Farwell Street • P.O. Box 5148  
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Huntsinger Farms, Inc

Street and Apt. No., or P.O. Box No.

PO Box 360

City, State, Zip+4®

Eau Claire, WI 54702-0360

PS Form 3800, April 2015 PSN 7530-02-000-9047

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<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$
Postage	\$
Total Postage and Fees	\$

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Street and Apt. No., or PO Box No.	PO Box 360
City, State, ZIP+4®	Eau Claire, WI 54602-0360

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



**Department of Engineering**  
203 S. Farwell Street • P.O. Box 5148  
Eau Claire, WI 54702-5148

Address Service Requested

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<input type="checkbox"/> Adult Signature Required	\$	
<input type="checkbox"/> Adult Signature Restricted Delivery	\$	

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Postage	\$	
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Street and Apt. No., or PO Box No.	920 10th Ave N
City, State, ZIP+4®	Onalaska, WI 54650-2166

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



**Department of Engineering**  
203 S. Farwell Street · P.O. Box 5148  
Eau Claire, WI 54702-5148  
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 PO Box 360  
 Eau Claire, WI 54702



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2. Article Number (Transfer from service label)

7021272000049170069

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- Agent
- Addressee

B. Received by (Printed Name)

C. Date of Delivery

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 If YES, enter delivery address below:  No

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- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mathy Construction Co  
 920 10th Ave N  
 Onalaska, WI 54650



9590 9402 7344 2028 3107 18

2. Article Number (Transfer from service label)

7021 2780 0000 4912 0074

PS Form 3811, July 2020 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- Adult Signature Restricted Delivery
  - Adult Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Insured Mail
  - Insured Mail Restricted Delivery (over \$500)
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

Domestic Return Receipt

**Certified Mail**

- A receipt (this portion)
- A unique identifier for
- Electronic verification
- A record of delivery (signature) that is retained for a specified period

**Important Reminders**

- You may purchase Certified Mail™, First-Class Mail™, First-Class Mail® service or Priority Mail® service
- Certified Mail service International mail
- Insurance coverage is available with Certified Mail service
- For an additional fee, certain Priority Mail International mail insurance coverage is available
- Return receipt service of delivery (including electronic version) - You can request a complete PS Form 3800, April 2019 Receipt; attach PS Form 3800, April 2019

**Appendix 3:**

**WCWRPC Letter – 1/25/23**



January 25, 2023

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

RE: Chippewa Falls-Eau Claire Urban Sewer Service Area (SSA)  
City of Eau Claire Response to 11/28/22 WDNR Letter regarding the  
Orchards Hills Type I Boundary Amendment proposed by the City of Eau Claire

Dear Mr. Asplund,

West Central Wisconsin Regional Planning Commission (WCWRPC) has received from the City of Eau Claire the attached supplemental information dated January 20, 2023, in response to the concerns noted in the Wisconsin Department of Natural Resources (WDNR) letter dated November 28, 2022. In your letter, it is stated that WDNR was unable to make a final determination on the proposed Type I boundary amendment due to two concerns with the donor area: (1) the creation of the void and (2) whether the donor area is appropriate for a Type 1 "land swap."

The City of Eau Claire consulted with WCWRPC when modifying their donor area, during which WCWRPC staff confirmed that the revised donor area is located within the urban sewer service area boundary. WCWRPC further advised the City:

- That the total acreage of the revised donor area should be similar to the total acreage of the receiving area in order to qualify as a Type I amendment.
- The Chippewa Falls-Eau Claire Urban Sewer Service Area Plan (the "SSA Plan") does not specify that environmentally sensitive areas (ESAs) should be included or excluded when calculating the total acreages being swapped. In this case, both the donor and receiving areas include ESAs.
- The SSA Plan does not include a definition of a "void" and that the SSA Plan does not require that the sewer service area boundary include whole parcels or must conform to section lines or certain shapes.
- Describe why/how the revised donor area was selected and how the removal might impact remaining nearby areas (e.g., can remaining areas still be efficiently served?).
- Describe and provide justification as to why the City believes the areas being swapped are comparable.

The City of Eau Claire has proposed to partially modify the donor area; the City's 1/20/23 letter does not include any changes to the proposed Orchard Hills receiving area. WCWRPC has not further reviewed the City's modification nor have we made any determination that confirms or invalidates the appropriateness or attributes of the modified donor area.

A modification to a boundary amendment application at this point in the process is a unique circumstance not addressed in the SSA Plan. Since WDNR has not made a final determination on the City's amendment request, the City's amendment application is still active or unresolved. Under the SSA Plan, the proposed amendment remains on Step 7 of the amendment procedures (i.e., WDNR decision) as described on page 102 of the Plan. We recognize that WCWRPC's local discretion and authority on this matter is limited given that we are a non-designated region and that WDNR has ultimate decision making authority over SSA Plan approvals and amendments.

The WDNR's 11/28/22 letter suggests that the amended portion of the City's application "should be submitted to WCWRPC for evaluation of additional information to ensure consistency with the SSA Plan and determine next steps." However, the amendment procedures in the SSA Plan do not contemplate or allow for additional local action at this time (i.e., returning to earlier steps in the process to treat a modification similar to a new application) and WCWRPC has taken great care to follow the procedures laid out in the SSA Plan throughout the amendment process. Further, the City's 1/20/23 letter and modification to the donor area is being provided in response to concerns raised by WDNR in your 1/28/22 letter. In short, it is our opinion that the City's proposal remains on Step 7 of the amendment process as described in the SSA Plan.

Given the above, WCWRPC is requesting that WDNR make a final determination on the City's proposed amendment as modified or, if needed, request additional information from the City to enable WDNR to make its determination.

We appreciate your support during the amendment process and we look forward to hearing from you soon regarding funding for the SSA Plan update. Thank you.

Sincerely,



Lynn Nelson,  
Executive Director

enclosed: Supplemental Information from the City of Eau Claire, 1/20/23

cc: David Solberg, Deputy City Manager, City of Eau Claire  
Debra Grinde, Clerk, Town of Brunswick  
Janelle Henning, Administrator/Clerk/Treasurer, Town of Washington  
Chris Straight, Senior Planner, WCWRPC

**Appendix 4:**

**Town of Washington Administrative Appeal – 1/30/23**



**Rick Manthe**

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

January 30, 2023

*VIA EMAIL*  
[lnelson@wcvrpc.org](mailto:lnelson@wcvrpc.org)

Ms. Lynn Nelson  
Executive Director  
West Central Wisconsin Regional Planning Commission  
800 Wisconsin Street,  
Building D-2, Room 401  
Mail Box 9  
Eau Claire, WI 54703-3606

RE: Chippewa Falls-Eau Claire Urban Sewer Service Area (SSA)  
Orchards Hills Type I Boundary Amendment proposed by the City of Eau Claire  
Appeal of Administrative Decision

Dear Ms. Nelson:

My office represents the Town of Washington in this matter. Pursuant to Section 6.6 of the West Central Wisconsin Regional Planning Commission's Sewer Service Area Plan, the Town formally requests an appeal of the administrative decision not to bring the City of Eau Claire's sewer service area ("SSA") amendment application back to the MPO. In accordance with section 6.6, this appeal must be heard by the MPO Policy Committee.

The Town's believes that the City's changes to its SSA amendment proposal must be evaluated by the MPO, for a number of reasons. First, the Department of Natural Resources ("DNR") made clear that the application must go back to the MPO for consideration. Its letter unequivocally provided the following mandate:

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.

0130231648

**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

**If the City chooses to amend their request, the amendment should be submitted to WCWRPC for evaluation....**

This passage, was taken from the November 28, 2022, letter from Tim Asplund (re *Amendment Request for Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025*). DNR made clear that any amendment to the City's application, whether it is a new application or an amendment to the original application, must go back to the MPO for consideration. Eau Claire has either amended its application, or submitted a new application, and, therefore, the application must go the MPO for evaluation.

Second, the content of the application itself mandates that the City start at Step 1 of the SSA amendment process. Rather than adding information regarding its original donor area, Eau Claire has significantly *modified* the donor area. That significant change mandates beginning the process anew, because this is a new application. The new proposed donor area requires further analysis from all interested parties, thus allowing DNR to benefit from added input and analysis from everyone involved.

Moreover, WCWRPC staff only have discretion to avoid steps 3-6 of the plan amendment review process if the amendment affects less than one acre of an environmentally sensitive area. That does not apply here. Additionally, the City's amendment request is precisely the type of application that the MPO's policies are designed to address, as the MPO has already gone through the process of evaluating the first application. Further, skipping the entire review process stifles public participation. Interested property owners will have no notice of this action. They all have valuable input to offer, and the MPO should hear those opinions.

Therefore, the City's new SSA amendment application must begin the approval process anew. There is no basis for the MPO to skip the critical, and mandatory, steps to this process.

Best regards,

STAFFORD ROSENBAUM LLP



Rick Manthe

RAM:mai

**Appendix 5:**

**Supplemental SSA Plan Information for WDNR, December 2006**

**and**

**Land Use Summary for WDNR, May 2007 (pages 1, 9, 10 only)**



## Supplemental Information for the Chippewa Falls/Eau Claire Urban Sewer Service Area Plan for 2025

prepared by West Central Wisconsin Regional Planning Commission  
12/07/06

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### **Background**

As of the date of this report, the updated Sewer Service Area (SSA) Plan for the Chippewa Falls/Eau Claire urban remains under review by the Wisconsin Department of Natural Resources (WisDNR). Due to the proposed increase in acreage of the 2025 SSA, it appears that an Environmental Assessment will be required prior to WisDNR final approval. The purpose of this supplemental report is to provide further data for those amendment areas which are proposed to be added or subtracted when comparing the current urban SSA to the proposed 2025 SSA.

### **Comparison of Boundaries**

The first map included at the end of this report shows a comparison of the SSA boundaries between the 2005 SSA and the proposed 2025 SSA.

2005 SSA Total Acres:	58,206
2025 SSA Total Acres:	<u>65,245</u>
Net Increase:	7,039 acres

### **Existing Land Uses in Amendment Areas**

The land-use data was largely taken from the MPO's Long-Range Transportation Plan, supplemented by the Water Quality Technical Advisory Committee and limited field inventories as needed. Land uses are also based on parcel data and not land coverage.

The table below estimates the existing land uses for the proposed amendments areas (to be added or subtracted) as part of the 2025 SSA as of 1/1/05. These amendment areas and their land uses are also shown on the second map at the end of this report.

	L-U Acreage for Areas to be ADDED	L-U Acreage for Areas to be SUBTRACTED	Net Acreage
Residential	55.3	259.2	-203.9
Commercial	19.4	13.4	+6
Industrial	130.3	0.0	+130.3
Governmental	100.6	4.3	+96.3
Recreational	867.3	5.9	+861.4
Roads & Rail	303.9	0.7	+303.2
Vacant/Undeveloped	5,798.4	183.9	+5,614.5
Various or Unknown	231.1	0.1	+231
Total Acreage	7,506.3	467.5	<u>+7,038.8</u>

### **Environmental Limitations to Development**

Not all of the vacant or undeveloped acreage is developable. During the SSA planning process, environmentally sensitive areas such as floodplains, wetlands, and steep slopes were identified for which development should be avoided, limited, or carefully planned.

The third map at the end of this report shows the generalized environmental limitations to development in the urban areas, along with the proposed areas to be added or subtracted as part of the 2025 SSA boundary. Specific site conditions will vary, and additional barriers to development certainly exist, while some of the areas identified on the map may be developed with appropriate precautions.

Of the net 7,038.8 acres proposed to be added as part of the 2025 SSA...

...3,747.6 acres (or 53%) have environmental limitations or sensitive areas

Of the 3,747.6 acres of environmentally sensitive areas....

...1,163.7 acres (or 31%) are areas of 13% to 20% slopes which may be developable with appropriate management practices in some cases.

...2,842.3 acres (or 75.8%) are on lands identified as being vacant or undeveloped.

Of the 2,842.3 acres of environmentally sensitive areas on vacant or undeveloped lands...

...833.9 (or 29.3%) are areas of 13% to 20% slopes

Notable is a large area of floodplain added to the 2025 SSA boundary within the Town of Brunswick south of the Chippewa River. This floodplain area includes about 913 acres of undeveloped floodplain, about 1/3 of all environmentally sensitive areas in the vacant or undeveloped areas proposed to be added to the SSA. As discussed in the draft SSA Plan update, clustered development has been proposed for a portion of this floodplain area for which municipal wastewater treatment may be desirable in the future. Though the entire area is included in 2025 SSA, based on preliminary plans it is expected that the clustered, relatively high-density development pattern will be limited to a portion of the area, while large areas of the floodplain will remain as open space.

### **Conclusions**

Of the estimate net 7,308.8 acres added as part of the proposed 2025 SSA boundary, approximately 5,798.4 acres (or 79%) is estimated to be vacant or undeveloped.

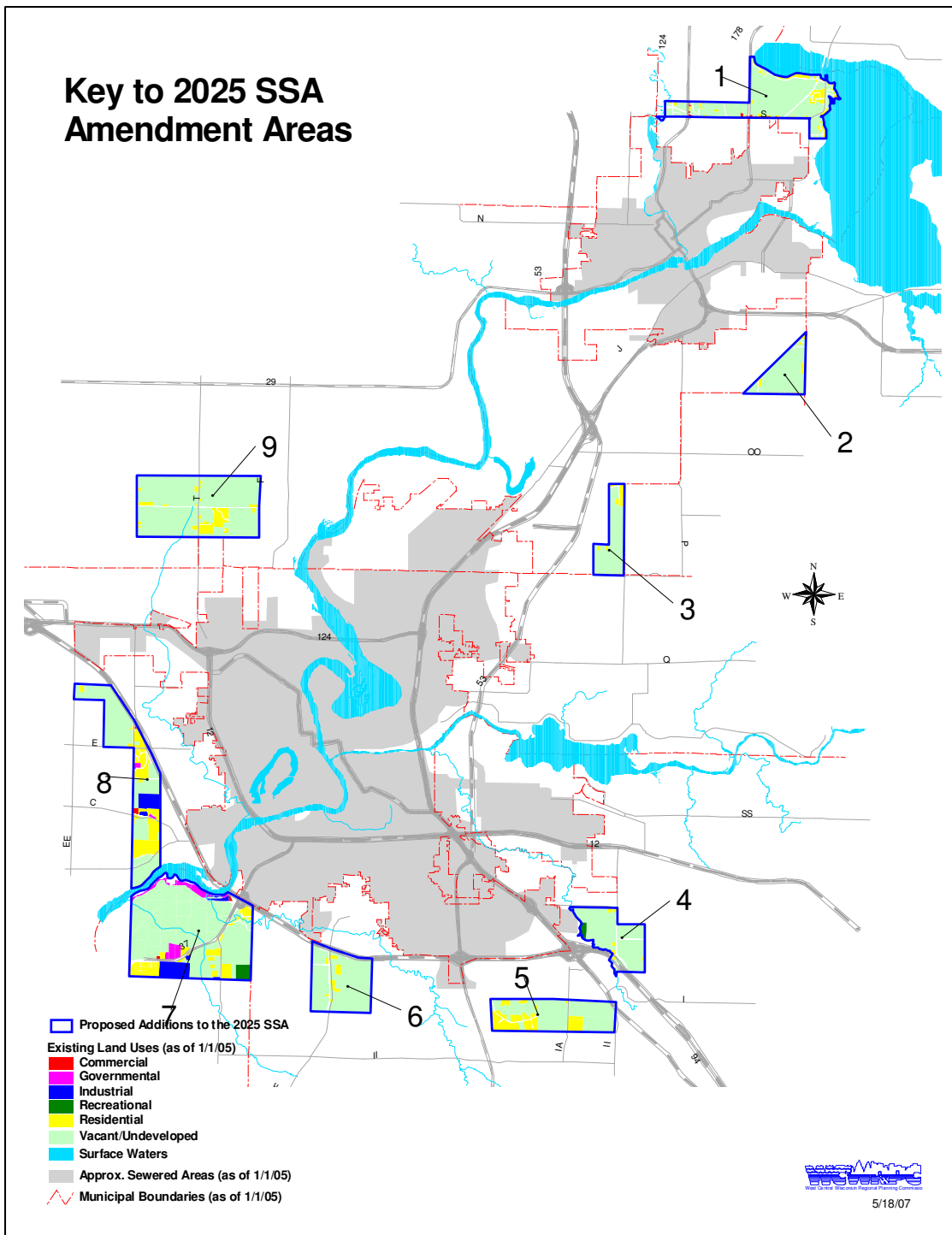
However, about 49% (2,842 of 5,798 acres) of this added undeveloped acreage was identified as environmentally sensitive areas during the SSA planning process for which development will be restricted, limited, or carefully planned and managed. Of the environmentally sensitive areas on this undeveloped land, 30% of the acreage were slopes of 13% to 20% which may be available for certain types of development with best management practices and appropriate planning.

Additional factors and barriers to development also exist which were considered during the SSA planning process. A 30% market factor was used in the plan to account for flexibility in the real estate market and landowner choice. Some landowners in these areas added as part of the updated SSA boundary may choose not to sell or development their land, or may decided to restrict future development through conservation easements. Similarly, public rights-of-way for roads, utilities, trails, will further limit the amount of land available for development.

And given that the areas proposed to be added as part of the 2025 SSA are located at the fringes of the developed areas, alternative forms of development may be appropriate, such as the growing interest in conservation subdivision design which maintains large areas of open space as part of the development and is similar to the initial proposal being discussed in the Town of Brunswick.

# LAND-USE SUMMARY FOR PROPOSED 2025 CHIPPEWA FALL/EAU CLAIRE SEWER SERVICE AMENDMENT AREAS

This summary for the proposed 9 amendment areas is for general planning purposes only. Base orthophotos are from 1999. Some discrepancies between GIS overlays and the base orthophotos exist and does not necessarily reflect recent development. Analysis of planned uses, constraints, and other features based on the draft SSA Plan update dated 5/3/06.



<b>Area:</b>	7
<b>Approx. Size:</b>	1,871 acres
<b>Location:</b>	Town of Brunswick Eau Claire County
<b>General Physical Features:</b>	Large areas of floodplain exist north and west of Highway 85/37, while rolling hills and areas of steep slopes dominate east of Highway 85/37. Excellent access to Interstate 94 and the City of Eau Claire via Highway 85/37 which transverses the subject area.
<b>Current Development:</b>	Current development includes an agricultural-based industry north of Highway 85/37. Significant residential development has occurred along Highway 85/37 and CTH "B", along with a school and concrete company. Public land along the Chippewa R. has been preserved for recreational use. Approx. 40 ac. in the SE corner is owned by the Boy Scouts.
<b>Planned or Proposed Development:</b>	Significant discussion on a potentially large planned unit development has taken place, which would likely include floodplain mitigation strategies. Some discussion has also taken place on a potential second residential development in the area as well.
<b>Vacant Areas:</b>	About 535 acres in pine plantation, wooded hillsides, and scrub, with the largest contiguous areas south and east of Highway 85/37. About 265 acres in agricultural production or operations, primarily in the flat floodplain north of the Highway. The primary quarry area consists of about 475 acres, including surface waters which have flooded quarry ponds.
<b>Water Features:</b>	Chippewa River bounds the area on the north side, which has been designated as a 303D impaired water. Portion of Lowes Creek in north part of area is a Class II Trout Stream. Large ponds have formed in the flooded quarry pits. Smaller Taylor Creek also runs through the area.
<b>Environmentally Sensitive Features:</b>	A large portion of the vacant area is in the floodplain of the Chippewa River. Notably, a State recreational trail also transects the area.

*see figure on next page*



Area #7

