



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