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# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

February 10, 2015

Joan McDonald, Commissioner  
New York State Department of Transportation  
50 Wolf Road  
Albany, New York 12232

**Re: Bridge Replacement Project  
South Cascade Drive/Miller Road (Formerly US Route 219) Bridge over  
Cattaraugus Creek  
Towns of Concord and Ashford (Erie and Cattaraugus Counties)  
PIN 5101.82.122**

Dear Commissioner McDonald:

Erie County has reviewed the New York State Department of Transportation's ("NYSDOT") Final Design Report dated November 2014 concerning the former Route 219 Bridge over Cattaraugus Creek (which we received on December 23, 2014). I am writing to express Erie County's multiple, very serious concerns regarding NYSDOT's intention to unilaterally transfer ownership of the bridge to Erie and Cattaraugus counties against our wishes.

To be clear, I am writing to categorically state that neither Erie nor Cattaraugus counties desire to own or maintain the bridge now or at any time in the future. Our position has not changed from Erie County's objection in 2011 when NYSDOT previously proposed transferring ownership of the bridge.

The bridge at issue is not of the size or type routinely owned and maintained by either county. Erie County and Cattaraugus County do not have the experience, resources or capability to maintain a major (655 foot span) bridge. If NYSDOT succeeded in unilaterally transferring ownership, it would be the largest bridge in Erie County's inventory, with corresponding costs and liability to the County. In addition, Erie County has limited funding to properly maintain the roads and bridges it now owns. The addition of a structure of this magnitude to our inventory would add a significant burden to our limited maintenance funds.

Under State Law, NYSDOT may have some ability to turn ownership of the bridge over to the two counties against their wishes. However I do not believe that the intent of the law was to unilaterally compel ownership upon local governments that are incapable of performing the task and which have financial constraints. Nor do I believe that transferring ownership of a structure of this size and scope to two municipalities *against their wishes* is within the spirit of the law. Furthermore, I do not believe that NYSDOT wishes to be in a situation in which you are seen as forcibly and unilaterally abandoning ownership of a major facility to unwilling local governments.

I believe that any such State expenditure of significant time and public funds for any bridge replacement project that could cost between \$20 million and \$30 million followed by a subsequent transfer of ownership must be justified by appropriate data and analysis. This includes a fiscal analysis of the costs of replacing the bridge and follow-on maintenance and other expenses which would be borne by the counties.

Despite the County's prior recorded objection to NYSDOT's transfer of the former Route 219 Bridge, prior to receiving the Final Design Report, Erie County was not given an opportunity to comment and have input with NYSDOT, including at the senior county management level.

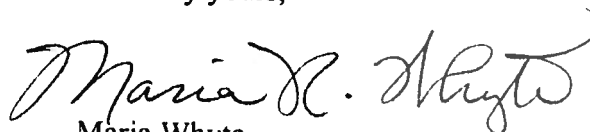
Erie County is now in the process of working with Cattaraugus County and engaging with other local affected municipalities to discuss the project. After we have a better understanding of the traffic counts and community concerns we would welcome the opportunity to meet with you to discuss the former Route 219 Bridge Replacement Project and Erie County's concerns in a more detailed and substantive way.

Erie County Department of Public Works Commissioner John Loffredo has sent a letter to NYSDOT Region 5 Director Darrell Kaminski responding to NYSDOT's Final Design Report. I have enclosed it for your reference. As you can see, DPW has serious concerns about assuming responsibility for maintaining the bridge. As such I urge NYSDOT to reconsider and request that you refrain from bidding or moving forward with this project as planned until the counties are able to meet with you and discuss this issue in greater detail.

**Whyte Letter to NYSDOT Commissioner McDonald**  
**February 10, 2015**  
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If you have any questions, please do not hesitate to contact me. Thank you for your consideration and we look forward to meeting with you regarding this project.

Sincerely yours,



Maria Whyte  
Deputy County Executive

Enclosure

cc: Mark C. Poloncarz, Esq., Erie County Executive  
John Loffredo, PE, Commissioner of Public Works  
William E. Geary, Jr., Deputy Commissioner of Highways, Erie County  
Erie County Legislature  
Jack Searles, Cattaraugus County Manager  
Joseph Pillittiere, Cattaraugus County Commissioner of Public Works  
Cattaraugus County Legislature



# COUNTY OF ERIE

**MARK C. POLONCARZ**

COUNTY EXECUTIVE

DEPARTMENT OF PUBLIC WORKS  
RATH BUILDING, ROOM 1400

JOHN C. LOFFREDO, P.E.  
COMMISSIONER

TELEPHONE: 716.858.8300  
FAX: 716.858.8228

February 9, 2015

Darrell F. Kaminski, P.E., Director  
New York State Department of Transportation, Region 5  
100 Seneca Street  
Buffalo, New York 14203-2939

RE: Bridge Replacement Project  
South Cascade Drive/Miller Road (Formerly US Route 219) Bridge over Cattaraugus  
Creek  
Towns of Concord and Ashford (Erie and Cattaraugus Counties)  
PIN 5101.82.122

Dear Director Kaminski:

Erie County has reviewed the New York State Department of Transportation ("NYSDOT") Final Design Report ("Report") dated November 2014, which we received on December 23, 2014, and we offer the following comments:

1. Additional options should be investigated, such as, for instance, a potential Mill Road/Cascade Road Bypass (see attached sketch) which would eliminate the need for the demolition of the existing former Route 219 Bridge and construction of a new bridge at significant expense. This option would be a modification of your Alternative 4B in the report. There may be other options similar to this one that should be investigated.
2. In reviewing the Report we note the following:
  - a. Section 2.2.2.2. Alternative Routes states that, "Most of the County and local roads in the vicinity of the bridge do not have bridge crossings over Cattaraugus Creek themselves, specifically Scoby Hill Road..." The Report failed to note, however, that Erie and Cattaraugus counties share ownership of a bridge just upstream of Cattaraugus Creek and east of the proposed bridge - the Mill Street Bridge. The Mill Street Bridge is a potential alternative crossing of Cattaraugus Creek for local traffic which the Report failed to articulate in this section.

- b. Section 2.3.1.12 Ownership and Maintenance Jurisdiction correctly lists the subject bridge, South Cascade/Miller Road (formerly US Route 219) Bridge over Cattaraugus Creek as owned and maintained by NYSDOT.
  - c. Section 3.3.1.12 Ownership and Maintenance Jurisdiction states: "The ownership and maintenance of the bridge will be determined at a later date." Erie and Cattaraugus County do not want to own or maintain this structure now or at some later date. In addition, while the Report gives the illusion that ownership and maintenance of the bridge is subject to some form of future determination, other NYSDOT statements and comments, including a letter dated November 10, 2014 signed by NYSDOT Region 5 Design Manager David R. Christopher seems to contradict the Report. That letter and other NYSDOT statements indicate that NYSDOT intends to transfer ownership and maintenance of the bridge to Erie and Cattaraugus counties. Mr. Christopher's statement said: "Upon completion of the project, currently anticipated to be December 2016, NYSDOT will transfer the jurisdiction of the new bridge to both Erie County and Cattaraugus County under the provisions of Highway Law §62."
  - d. Section 3.3.3.1. (1) Right Of Way states that "the NYSDOT also owns a permanent easement on the north side of the creek that will allow construction access to the gorge." If you are referring to the Erie County Scoby Park area, any access to this County facility will need to be further discussed and coordinated with the Erie County Department of Parks, Recreation and Forestry which owns that site.
  - e. Section 4.4.11 Parks and Recreational Resources states, "the proposed project is located adjacent to Scoby Dam Park, a significant publicly-owned park. . . This [existing park] road would be required for construction access for the proposed project; however, the project will not permanently affect the park." As stated above in Section 3.3.3.1.(1), any use of County roads or facilities for any State project would require coordination and approval of the Erie County Department of Parks, Recreation and Forestry.
3. Given NYSDOT's intention to transfer ownership and maintenance of the bridge to Erie and Cattaraugus counties, I would note that Erie County and Cattaraugus County do not have the experience or capability to maintain a major (655 foot span) bridge. In fact, Erie County has concerns about the sufficiency of funds and staff to maintain the bridges it now owns without adding an additional burden on its limited maintenance funds.

The Report indicates that federal funds will be utilized to construct the new bridge. Please be advised that we will be contacting the local congressional delegation to determine their views on the use of limited federal funds to demolish the existing bridge and construct a new bridge, just downstream from the new Route 219 Bridges. In a time in which federal funds for state and local highway projects is being reduced and

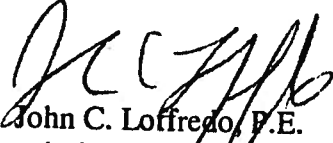
**Mr. Darrell Kaminski**  
**Former Route 219 Bridge Replacement Project**  
**February 9, 2015**  
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stretched, the use of such funds for a new bridge should be reevaluated for its probity. It would seem to me that such funds would be better spent on other facilities.

Under State Law, NYSDOT may have some ability to turn ownership of the bridge over to the two counties. However I do not believe that the intent of the law was to force ownership upon entities that are incapable of performing the task.

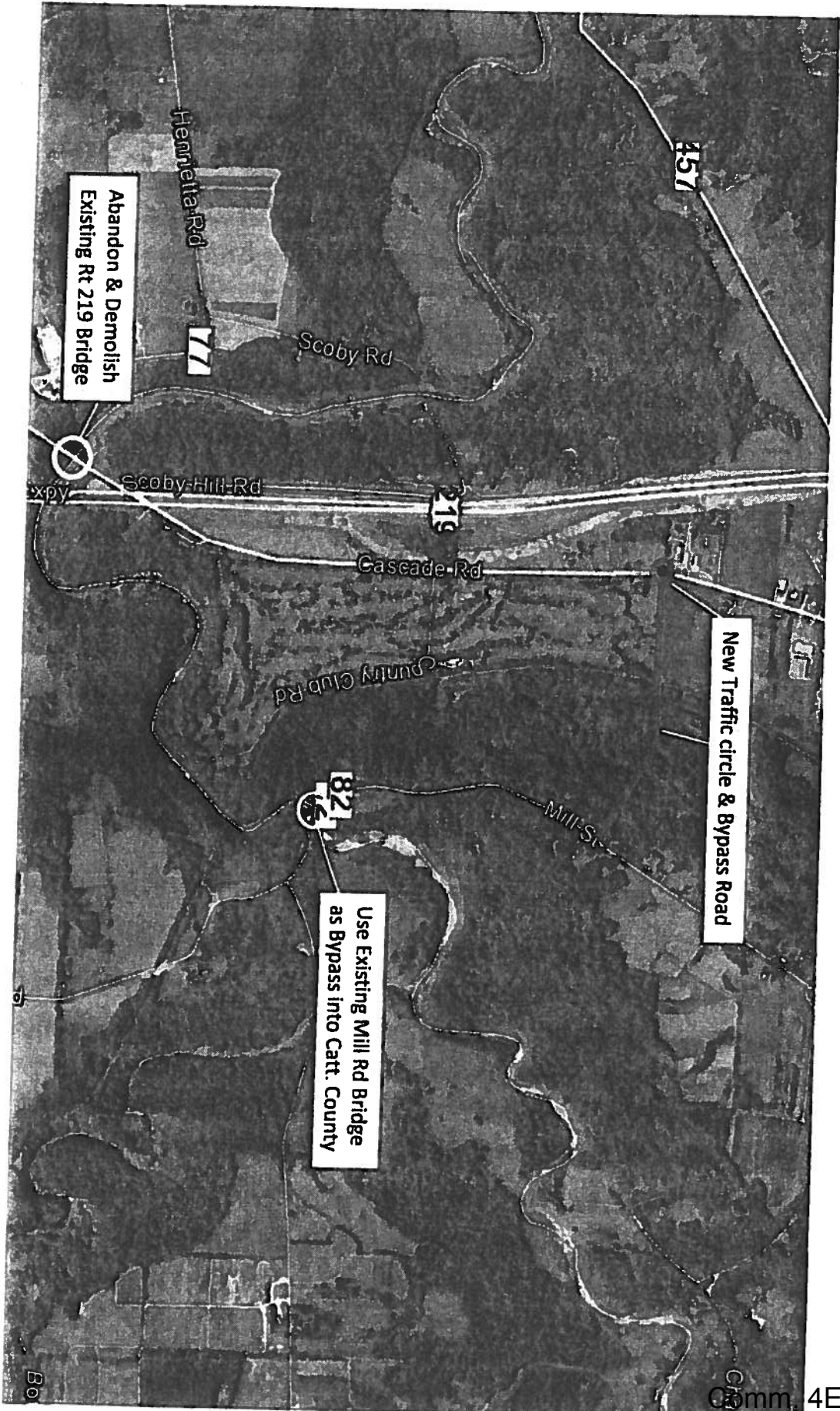
Finally, I wish to add that Deputy County Executive, Maria Whyte, has sent a letter to Commissioner Joan McDonald, clearly articulating the County's inability to own or maintain the bridge in the future. I have enclosed it for your convenience. In the meantime, please reconsider your current course of action and reply to the issues I have presented. I look forward to hearing from you.

Very truly yours,

  
John C. Loffredo, P.E.  
Commissioner of Public Works

cc: William E. Geary, Jr., Deputy Commissioner-Highways  
Charles A. Sickler, P.E., Senior Civil Engineer  
Troy Schinzel, Commissioner, Erie County Department of Parks, Recreation and Forestry  
Maria Whyte, Deputy County Executive

**Mill Rd. - Cascade Road Bypass**



Abandon & Demolish  
Existing Rt 219 Bridge

New Traffic circle & Bypass Road

Use Existing Mill Rd Bridge  
as Bypass into Catt. County

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