



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

ANDREW M. CUOMO
GOVERNOR

January 28, 2019

James M. Foote, President & CEO
CSX Corporate Headquarters
500 Water Street, 15th Floor
Jacksonville, FL 32202

Dear Mr. Foote:

I write to put CSX on notice that the State intends to pursue legal action against CSX for its failure to rebuild its railroad bridge located in the Village of Whitesboro, County of Oneida, crossing the Sauquoit Creek. CSX's acts and omissions have resulted in a public health and safety hazard caused by conditions on your property, including a faulty bridge design. These conditions have resulted in flooding and property damage, constituting a nuisance that needs to be immediately remedied in order to protect the public's health and safety, as detailed below.

The issues with this bridge are not new. Flooding is a common occurrence at this location due to faulty bridge design that results in debris and ice buildup creating an ongoing and significant public health and safety hazard for the local community including, but not limited to, homes and businesses on or near Ellmore Drive, Ellis Avenue, Ablett Avenue and Sauquoit Street and the County-owned sewer pump station. Allowing this hazard to remain on the property results in constant safety risk to New York's residents, damage to homes and properties, cost to property owners whose properties are damaged or destroyed and cost to the state, county, town and village, all of whom continue to respond to ice and debris build up at this location.

To date, the State and respective localities have committed millions in taxpayer dollars to actively monitor the bridge, and develop, construct, and implement remediation measures due to the ongoing failure of CSX to replace the aforementioned bridge.

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The State and respective localities have discussed this issue on numerous occasions with CSX, and CSX has knowledge of the hazard this bridge creates. To date, however, CSX has not confirmed that it will replace this bridge. The chronic nature of the problem makes clear, however, that piecemeal actions will not suffice. The bridge must be replaced. Failure to do so establishes a lack of due care by CSX and any further delay will constitute, at best, reckless and, at worst, intentional misconduct by CSX that will result in continued injury to the state, localities and property owners.

This letter supersedes any prior discussions about, or proposals regarding, the underlying facts and circumstances related to this situation. We further instruct you to preserve all documents and information, including emails and electronic documents, relating to this matter. If you have any questions regarding this matter, please contact my Chief Counsel, Alphonso David at 212-681-7753.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Cuomo". The signature is fluid and cursive, with a large initial "A" and "C".

ANDREW M. CUOMO

cc: Oneida County Executive Anthony Picente
United States Senator Charles Schumer
United States Senator Kirsten Gillibrand
New York State Senator Joseph Griffo
New York State Assemblywomen Marianne Buttenschon
Department of Transportation Commissioner Paul Karas