



DIOCESE OF BUFFALO
OFFICE OF THE BISHOP

Reverend James W. HARTWELL
Pastor of St. Mary and Immaculate Conception Parishes
17 Maple Avenue
Wellsville, New York 14895

19 November 2024

Dear Rev. Hartwell,

On 18 November 2024 I signed the decree merging St. Mary Parish into Immaculate Conception Parish, effective 7 February 2025. The enclosed decree explains the details of this merger including the responsibility of Immaculate Conception Parish over the entire footprint of St. Mary churches and other properties. Please make the parishioners at St. Mary Parish aware of this merger by public announcement at Mass this weekend and inclusion in the parish bulletin and on the parish/family website.

As the future of St. Mary church and related properties is likely headed toward alienation, the proceeds of a future sale of these properties will first be utilized to pay off existing parish debt. Included in the parish debt is anything owed to the Diocese of Buffalo by way of parish assessments, Legacy Retirement Fund contributions, and a future assessment of a contribution to the Catholic Family's portion of our Chapter 11 Federal Bankruptcy settlement. For this reason, the enclosed decree speaks of Immaculate Conception Parish being the recipient of the "net assets and liabilities" of St. Mary Parish.

In order to determine the net assets and liabilities of St. Mary Parish, you are to continue to maintain, as is, the civil corporation of St. Mary Parish including its lay trustees and bank accounts. If you have further questions regarding this instruction, please contact Rev. Peter J. Karalus, Vicar General, at 716.847.5500.

Thank you for your dedication to this important work of Renewal in our diocese. The enclosed decree is for the parish archives at Immaculate Conception Parish.

Sincerely in Christ,

Most Reverend Michael W. Fisher
Bishop of Buffalo

Encl: Decree merging St. Mary Parish into Immaculate Conception Parish

CC: Rev. Peter J. Karalus, Vicar General
Melissa Potzler, Chancellor
Rev. Peter Santandreu, Vice Chancellor



HIS EXCELLENCY
MOST REVEREND MICHAEL W. FISHER
By the Grace of God and the Authority of the Apostolic See
BISHOP OF BUFFALO

**DECREE OF THE MERGER OF ST. MARY PARISH, BOLIVAR AND ITS TERRITORY
INTO IMMACULATE CONCEPTION PARISH, WELLSVILLE**

THE FACTS

In the early 1880s, Bolivar became a destination for prospectors and their families looking to make a living in the recently discovered oil fields of the surrounding area. The Catholic portion of this population was mostly German and Irish. Due to their great faith and desire to thank God for the good fortune of the oil industry, the first Mass was celebrated in the town in the Autumn of 1881. Mass was celebrated every three weeks for the community by the Rev. Thomas Carraher who made the trip from Cuba. By the following year, the residents had pooled their resources, purchased land, and erected the church of St. Mary. The first Mass was celebrated in this sacred edifice on 19 November 1882.

In the first part of 1903, the Rt. Reverend James E. Quigley assigned the Rev. Henry A. Dolan as the first resident pastor of St. Mary Parish. Already in 1904 plans were drawn up for a new church and, after much work to the building site, the new church was dedicated by the Rt. Reverend Charles H. Colton on 2 July 1905. During the pastorate of the Rev. William F. Krampf, a new rectory was purchased, and lightning struck the steeple of the church which so damaged the structure that it had to be removed.

The Missionary Sisters of the Divine Child began catechism classes in 1940. They were soon replaced by the Sisters of the Third Order of St. Francis who established a convent, then a school of music, and then a parochial school. This project lasted until 1961 when financial difficulties forced the school to close.

In 2005, as part of the Journey in Faith and Grace initiative, the parishes of St. Mary and Holy Family of Jesus, Mary, and Joseph were linked under the care of single Pastor. The day-to-day operations of St. Mary fell to Dcn. Frank Pasquale as Pastoral Administrator. After his retirement in 2016, both these parishes were linked to Immaculate Conception in Wellsville and

ministered to by the Rev. Sean DiMaria. In February of 2023, St. Mary Parish was included in Family #1 as part of the Road to Renewal program.

The Road to Renewal has allowed the diocese to gain a more realistic picture of the financial and sacramental situations in its parishes. St. Mary Parish has been identified as a community that could benefit by being joined with its sister community in Wellsville. Additionally, due to our need to amass a substantial sum of money to settle numerous civil claims in Federal Bankruptcy Court, the possibility of alienating this property has also been suggested. This was discussed with members of the Chancery and especially with the Reverend Bryan Zielenieski, Vicar for the Renewal. As a result of these conversations, I hereby issue the following decree.

THE LAW

Because a parish is a public juridic person (cc. 116, 515 §3) and therefore established perpetually (c. 120), it can only be extinguished by legitimate authority according to the norm of law. Canon 515 §2 states, “It is only for the diocesan bishop to erect, suppress, or alter parishes. He is neither to erect, suppress, nor alter notably parishes, unless he has heard the presbyteral council.”

Unstated in this norm is the requirement for at least a just cause in augmenting the structure of a parish. As a parish is defined in law as “a certain community of the Christian faithful stably constituted in a particular church, whose pastoral care is entrusted to a pastor (*parochus*) as its proper pastor (*pastor*) under the authority of the diocesan bishop” (c. 515 §1). The focus of such augmentation is primarily concerned with the pastoral care of a group of people and only secondarily interested in specific worship sites. Thus, a merger of parishes falls under the governing authority of the diocesan bishop in accord with canon 374 §1.

Following the norm of canon 121, when two public juridic persons “are so amalgamated that one aggregate, itself with a juridic personality, is formed, this new juridic person obtains the goods and patrimonial rights proper to the prior ones and assumes the obligations with which they were burdened.” The eminent canonist Reverend Robert Kennedy notes, “Canon 121...focuses on what, in the United States, is called a consolidation, in which two or more juridic persons are so joined that each of them loses its own juridic identity and in their stead a new juridic person is constituted. A consolidation involves both the suppression and creation of juridic persons” (“Chapter II: Juridic Persons” in *New Commentary on the Code of Canon Law* (New York: Paulist Press, 2000) 168). Since the norm of canon 121 assumes a consolidation in which two juridic persons go out of existence to form a new juridic person from the amalgamation of the former entities, it does not strictly apply to the situation of a parochial merger in which one entity absorbs another.

When the principle of law contained in canon 121 is applied to the canonical merger of one parish into another, the receiving parish must assume all net assets and debts of the merging

parish. Here the term “net assets” is used to indicate that the merging parish is responsible for paying off its debts before an accurate assessment of what constitutes the temporal goods of the merging parish can be determined. “Commutative justice,” the *Catechism of the Catholic Church* reminds us, “obliges strictly; it requires...paying debts” (n. 2411). This amount, once established, will be transferred to the receiving parish. What would be a clear *a iure* transfer of assets and liabilities to a newly constituted juridic person described in canon 121, is only partially applicable to the situation of a merging parish and can thus be addressed in terms of “net assets” to be identified at a future date.

THE ARGUMENT

The reshaping of the diocese to prepare it for more effective ministry in the future requires a certain consolidation of resources. The goal of the Road to Renewal is to reduce the strain on our already limited number of priests while at the same time uniting communities to foster a greater drive to “go out to all the world and preach the Gospel to all creation” (Mk 16:15). Part of this process requires the merging of parishes and the overall reduction of physical worship sites throughout the diocese. Looking at St. Mary Parish in particular, the research and consultation done by the Office for Renewal and Development has revealed that this community would be better served by joining its resources to Immaculate Conception Parish in an extinctive merger.

On 30 August 2024, the presbyteral council met at the Catholic Center of the Diocese of Buffalo. At this meeting, I consulted the council about the possibility of merging St. Mary Parish into Immaculate Conception Parish, Wellsville. Rev. Zielenieski pointed out that there would likely only be one available priest serving in Family #1 by 2030. Immaculate Conception Parish is also being considered to absorb the territory of other nearby parishes so as to centralize pastoral ministry and increase efforts for evangelization. This proposal received nearly unanimous support from the members of the Presbyteral Council present on 30 August.

Having heard the Presbyteral Council on this issue, I have chosen to merge St. Mary Parish into Immaculate Conception Parish in accord with canon 515 §2.

Thus, having done the requisite consultations and having gained the required consents, I, the undersigned Most Reverend Michael W. Fisher, Bishop of Buffalo, exercising my ordinary power in virtue of canon 515 §2, do hereby decree that St. Mary Parish, Bolivar be merged into Immaculate Conception Parish, Wellsville and St. Mary to be extinct thereby.

Immaculate Conception Parish will be the recipient of the net assets and liabilities of St. Mary Parish. The territorial boundaries of Immaculate Conception Parish will henceforth include:

1. the territory south of the Northern Village Line of West Clarksville to the border of the Town of Clarksville; west and north town lines of Wirt; Northern Town Line of Angelica and Town of Birdsall (below Gillies Hill and Hiltonville Rd.);
2. the territory west of the Alleghany County Line from the Northern boundary of North Almond to the Southern Town Line of Alfred; west along the Southern Alfred Town Line to Eastern boundary of Scio, south to Northern boundary of the Town of Wellsville and the Eastern border of the Town of Wellsville and Willing;
3. the territory east of the Western boundary of Alleghany County from the Northern Village Line of West Clarksville to the PA Line;
4. the territory north of the PA Line in Alleghany County.

The intentions of the founders and donors regarding the temporal goods and patrimonial rights proper to the extinct St. Mary Parish, insofar as they exist, must be respected. In addition, the temporal goods and patrimonial rights, and obligations of the extinct St. Mary Parish must be defined and allocated according to the norm of law (cf. cc. 121-122) as interpreted by this document.

All the parish and sacramental records of the extinct St. Mary Parish are to be properly preserved and safeguarded in the parish archives of Immaculate Conception Parish, Wellsville, in accord with the norm of law.

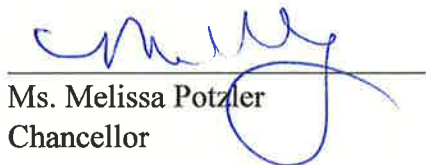
This decree is to be effective on Friday 7 February 2025.

This decree is to be communicated to the Rev. James W. Heartwell, the Pastor of both parishes (c. 532) and the two parishes affected by this extinctive merger (cf. cc. 7, 54 §1). Anyone who feels his or her rights have been legitimately harmed by this decree, may present a challenge by requesting its revocation or emendation to its author within ten (10) useful days from its legitimate notification. Further recourse will follow the norms of canons 1734-1739.

Given at the Chancery of the Diocese of Buffalo on this 18th day of November 2024.




Most Reverend Michael W. Fisher
Bishop of Buffalo


Ms. Melissa Potzler
Chancellor