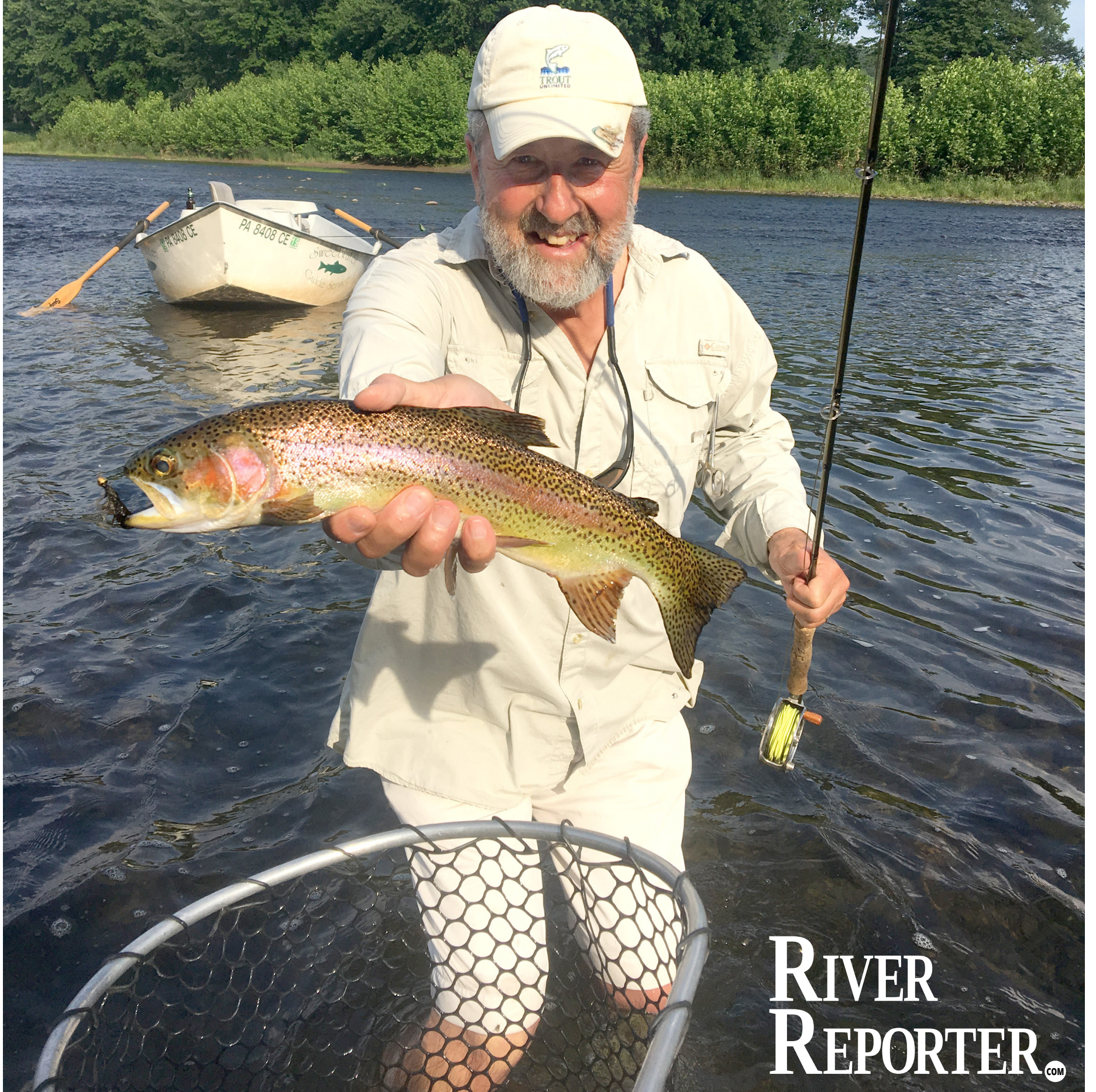



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Appreciating the Upper Delaware

By EVAN PADUA, Sweetwater Guide Service LLC

The Upper Delaware is an amazing resource and treasure for us who live near and recreate within its watershed. It is a complete ecosystem, a river that brings life, death and everything in between.

Some of my most enjoyable moments have been on or near the Upper Delaware River. Having grown up in Narrowsburg, NY and the surrounding area, it has been the main resource for recreation and work for most of my life.

I operate a fishing guide service and get to meet a lot of visitors, locals and second homeowners in the area. A common statement I hear on my boat is "Look how clear the water is." The river's water quality ranks very high compared to many other watersheds in the eastern United States. Because of this, many of its major tributaries are dammed to supply drinking water to the nearby metropolis New York City and the surrounding area. So any water not being used as drinking water flows freely past our communities to the ocean. We have approximately 330 miles of undammed river water on the main stem of the Delaware from Hancock, NY to the Delaware Bay. It does get more turbid and polluted the closer it gets to the ocean, but still provides an incredible amount of life and resources to its riverside communities. As it is the source for drinking water for millions of people and as it is the main water vein for many communities, the Delaware deserves to be appreciated.

We as people have a large effect on the world we live in. The need to be aware and cognizant of our actions and how they affect our surrounding world is imperative. This is to be done from our day-to-day living to the time we actually spend on or near a river.

At-home practices for conserving water can start with using less water and being aware of household pollutants in your local drainages. Less pollution equals a healthier ecosystem.

When my wife and I bike to the river in the summer months, we swim and snorkel to exercise and observe the incredible underwater world. Then as we leave, picking up even one piece of poorly placed trash makes us feel like we are doing our part in appreciating the river itself. The little things do make a difference when many people participate in these acts of appreciation. Volunteering in your local towns' litter sweep or river clean-up events are a great way to help and raise awareness about pollution.

As a fisherman, I understand my direct impact on the river and its ecosystem. I am very aware and do my best to responsibly catch, release and harvest fish. When fishing, I make sure to employ practices that avoid being wasteful or damaging to the river or the fish. General practices of sustainability and conservation from all community members will always help.

The message I want to convey is to take a moment and really appreciate what the river has done for you. It is different for all of us, and we can come from different places of appreciation to become a driving force in the overall conservation of our local and distant ecosystems. In this changing world, I believe this to be an important matter going forward throughout our human existence.

I wish everyone a happy and healthy summer. While out and about, please be respectful, responsible and appreciative of river ecosystems. Do your part in leaving recreation areas better than how they were found. Every person's actions can lead to a cleaner and healthier world.



Photo contributed by Sweetwater Guide Service
Evan Padua, a guide with Sweetwater Guide Service, with a boatload of trash during a river cleanup event.

On the cover: Mike Padua of Sweetwater Guide Service, LLC, with a wild rainbow trout. Photo taken by Evan Padua.

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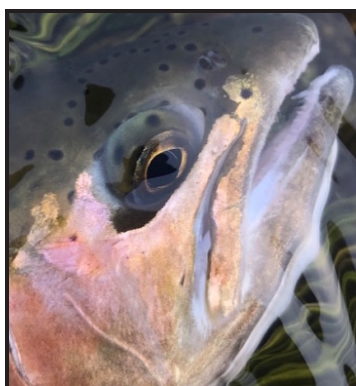
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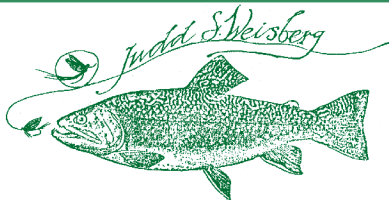
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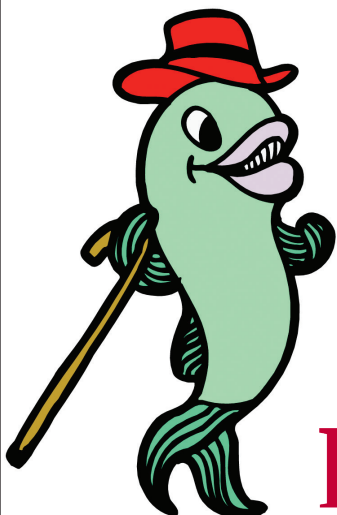
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RIVER REPORTER

The public's right to fish in Catskill navigable rivers

By TONY BONAIVIST

On several occasions, anglers have asked what I thought was the single most important issue facing the future of trout fishing in the Catskills. Without hesitation, I replied, “Continued and improved fishermen’s access to the region’s rivers and streams.”

That may seem like an odd answer. But here’s what’s at stake regarding the public’s right to wade and fish in navigable Catskill rivers.

Perhaps the most confounding issues are those associated with the New York State Department of Environmental Conservation (DEC) public fishing rights program (PFRs). Some of you may recall that I wrote a piece about the problems we—friends of the East Branch—have encountered when trying to resolve access to certain PFRs due to posting, and the state’s failure to completely resolve that dilemma. (See, for example, riverreporter.com/stories/the-public-fishing-rights-dilemma-on-the-east-branch-of-the-delaware,19190.)

In addition to posting problems, there are significant issues associated with the public’s ability to access landlocked PFRs. When the then-New York State Conservation Department (now the DEC) purchased PFRs along most of the important Catskill trout rivers, almost all of those PFRs included a 33- or 66-foot easement along the river bank, which allowed anglers the right of access for the sole purpose of fishing.

While the state purchased footpath access to some PFRs, it did not purchase access to all. So when the PFRs are within 33 or 66 feet of the road, there should be no issues with access for fishing. However, when a river winds its way away from a road and the PFRs are further inland than the width of the easement, some landowners have posted against access to those easements. So the question remains in those situations, do anglers have the right to cross private property in order to access landlocked easements? Do landowners have an obligation to honor the commitment they made to allow fishing, if they have PFR on their property? Currently, the answer to those two questions is “No.”

This issue appears as a technicality exploited by some landowners: a loophole and conundrum. It shows bad faith on the part of those landowners that have PFRs on their property, yet deny access for fishing. A stark contrast, when compared to the landowners who have sold easements to the state, who welcome anglers, and who allow access across their land, even when DEC footpaths have not been provided.

What’s very troubling is when the DEC has been notified that certain PFRs have been posted against access, and the agency has not entirely resolved the problem. There is a reach along the lower East Branch of the Delaware where at least one landowner has posted PFR against access. We found that in most of this section, the East Branch is within the PFR easement—it was measured—before finding its way inland. Because of the posting, access for fishing in this reach of river along the roadside had been denied. Despite several meetings and letters to DEC staff, some of that posting remains.

On the positive side, a recent field investigation found two PFR signs and fewer posted “No Trespassing” signs. Since the PFR in this section is over a mile long, the DEC needs to add a lot more signs, so anglers know the boundaries.

In addition to deceptive posting against access, there are other significant issues relating to PFRs and access along another section of the East Branch of the Delaware River. In February of 1962, the state purchased an easement and a four-foot right-of-way footpath for a fee of \$300 from a landowner. That PFR has never been posted as publicly accessible, and the footpath not developed. We have sent several letters to the DEC about this particular issue. The responses we received were noncommittal and vague; nothing has changed.

Another significant problem facing anglers is their right to wade and fish in those sections of the river where the riverbank is in private ownership, but the river bottom may



Image from the New York State Department of Environmental Conservation website
New York State public fishing rights sign, designating where anglers may legally fish on Catskill trout rivers.

not be. We have researched several deeds relating to parcels along the East Branch, where the deeds state that the property boundary is “the low water mark.” We do not know what that term means with regard to who owns the river bottom and whether anglers may wade and fish in those areas. We assume that the term “low water mark” does not mean a landowner owns to the middle of a river. If we are correct, anglers should be able to wade and fish in the East Branch wherever deeds contain that language, provided that access to the river is not across posted, private property.

We have asked the DEC’s Office of General Counsel (OGC), for its interpretation of what the term “low water mark” means, so anglers may be advised accordingly. We await a response.

In the meantime, at least one landowner with that language in his deed has posted the East Branch against wading and fishing. In fact, this landowner, when challenged, filed a quitclaim deed with the Delaware County Clerk’s office, claiming he now owns to the middle of the river.

Until there is a clear definition of the term “low water mark,” the confusion about river bottom ownership and anglers’ right to wade and fish remains unresolved.

The state’s public trust doctrine is based on English common law, and has provisions within it that provide for access to navigable waters for a variety of commercial and recreational purposes, regardless of who owns the river bottom.

In 1997, the OGC issued OGC 9-Enforcement Guidance: public right of navigation and fishing. In Part I, the summary, OGC-9 states, “Waterways that are not affected by tides are navigable in fact and subject to the public right of navigation only if the waterway has or had the capacity for trade or travel, even if they pass through privately owned lands.”

With respect to fishing, “The public has a right to fish on navigable waters that pass through privately-owned lands, unless title to fishing rights has passed to the landowner and no fishing easements exists; see section IIIB.”

That section, Public Right of Fishing, states, “The right to fish while navigating on navigable waterways depends on a variety of factors... the public’s right to fish on privately owned, non-tidal waterways necessitate a review of applicable land grants and deeds as well as a determination as to whether a prescriptive easement, exists.”

And then, in Part V: Procedure, “with these principles in mind, staff should follow this general guidance regarding persons navigating on or fishing in waterways. OPP officers are advised to issue tickets for trespass in situations involving persons exercising the public right of navigation only if there is clear evidence that the waterway is not nav-



RR photo by Tony Bonavist

One of the remaining posting signs along a mile of PFR access within the 33-foot easement. More PFR signs need to be added along this reach.

igable-in-law or navigable in fact.”

Since we know of no deed where fishing rights have passed to a new landowner, and unless our logic is completely flawed, the language in the summary and the procedure sections are confusing when compared with Section IIIB.

The question now remains, with all of this information in hand, where do New York State anglers stand, when it comes to their right to wade and fish in navigable rivers? As noted, there are issues with the Public Fishing Rights program that relate to posting against access.

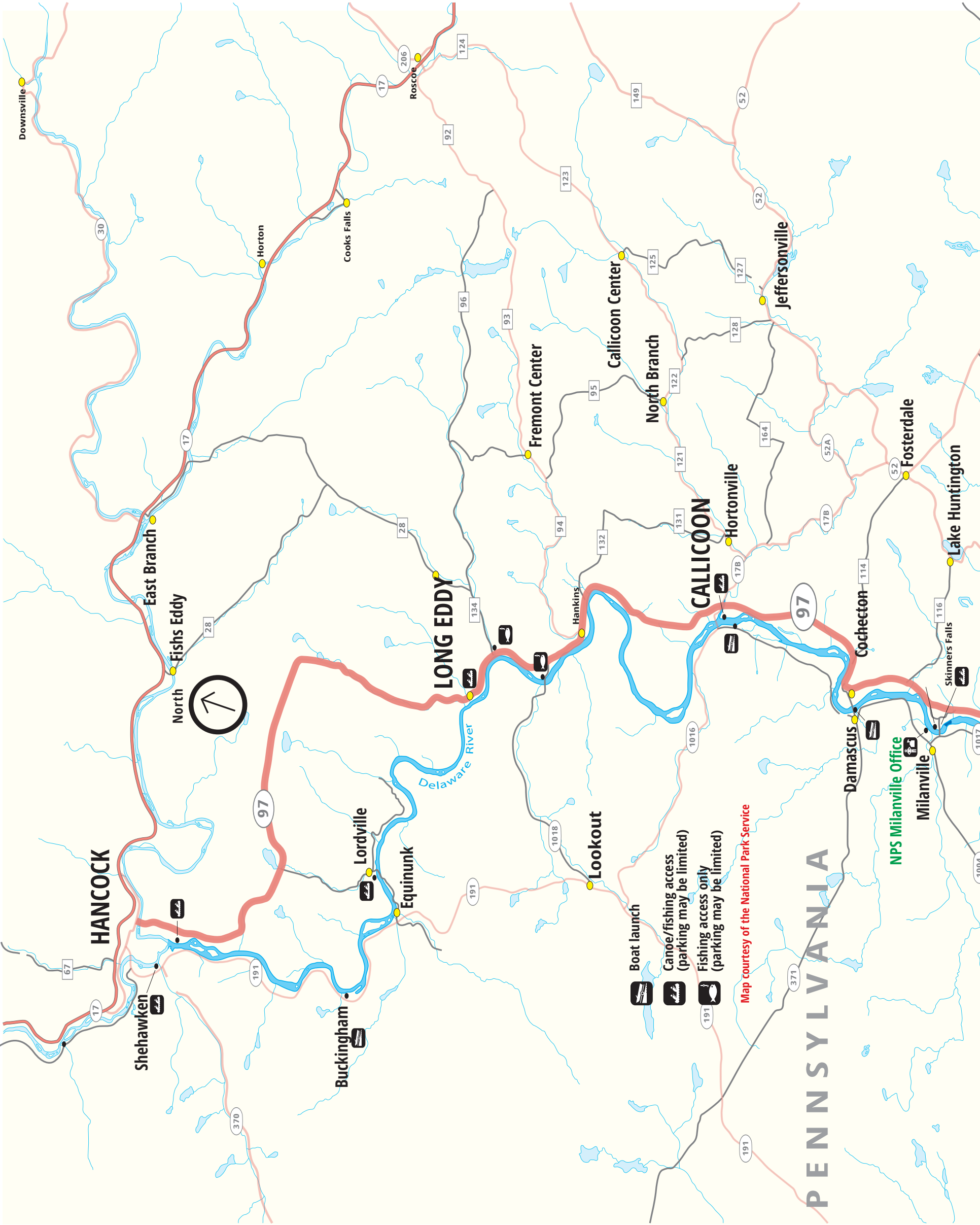
We believe the posting problems can be resolved. Access to PFRs on lands that are outside of an easement, where access has been denied, may be open to interpretation by the state. It means that the DEC needs to make a determination based on the intent of the PFR program, and whether or not anglers may cross private property to fish regardless of the distance from the easement to the road.

Then there is the issue associated with who owns the river bottom, especially where deeds indicate the property boundary is “the low water mark.” It appears that a legal determination by the OGC regarding that terminology would go a long way toward solving this problem.

Finally, there is OGC-9, where there appears to be, as noted, confusion in the different sections regarding the public’s right to wade and fish in non-tidal navigable waters. Some of us think it would be most helpful for the OGC to review OGC-9, and reissue its findings as to whether or not anglers can fish in navigable rivers, regardless of who owns the river bottom.

Looking at all of these issues objectively, it appears that in some cases there are no easy answers. And it’s too bad that New York State did not have the foresight that the state of Montana did in 1985 when the legislature passed the Montana Stream Rights Access law. That law was challenged, but was held up by the courts. In essence the Montana Stream Right Access Law allows anglers the right to access rivers regardless of ownership for fishing, provided they do not cross private, inaccessible, posted land.

But here we are in New York State, with several difficult, unresolved access-related issues facing Catskill anglers. In addition to the problems already noted, more and more riverside properties will change hands, with many of those parcels posted against fishing. To top it off, state and local highway maintenance crews continue to place guard rails along roadways adjacent to Catskill rivers, adding to the access problem. As a result, access to the region’s navigable, high-quality trout rivers will become more difficult and limited, now and in the future.



Identifying the ideal tip-up

Post-season thoughts on ice fishing equipment

By HUNTER HILL

Although by the time this magazine is printed, ice-fishing season will be either over or close to it, it's been on my mind for a few years now to talk about the particulars of this chilly pastime.

Upgrading or investing in new equipment is one reason to think about ice fishing at this time of year.

Often at the end of an annual season, you can find deals online from retailers as well as fellow fishermen looking to clear out what they have for one reason or another. Sometimes you may find yourself a good deal in the wake of overstock or even in light of the misfortune of a veteran claiming they've spent the past year on the ice only to be skunked.

Whatever the case, there's no shortage of gadgets and tools needed to thoroughly enjoy ice fishing.

In fact, I'd argue that ice fishing relies on its paraphernalia to make it a pleasurable experience.

I've grown up ice fishing, and after a few years of fighting with a dull hand-driven auger, I hesitated to go out and continue to punish myself. That being said, as an adult I've been out with friends who spent the money on toys to cut the bulk of work out of the endeavor and had a much different experience as a result.

Gas-powered augers and even power-drill augers make the old ways seem archaic at best.

Now, I like to work hard when it comes to a lot of the things I do, but for something

that is supposed to be relaxing, like fishing, I draw the line at unnecessary effort.

Taking a small amount of effort and spreading it out to collect better results is, of course, the idea behind tip-ups. Why fish out of one hole when you can fish out of five at a time, or even more if you aren't the only one fishing? But just as with the auger, it's important to have the right kind. To some, anything will do; to others, the devil's in the details.

The first kind of tip-up I would mention isn't really a tip-up at all, but rather a rod holder with a flag release. This kind of tip-up utilizes ice fishing poles and is ideal for those who prefer to actually reel in their fish rather than hand-line them. The cons of this style are that they can be somewhat more difficult to set up and in some cases, depending on the weather, are prone to tipping over or falling into the hole in the ice if not properly mounted.

This type of tip-up is slightly more modern than the other types in terms of design, but at the same time, it's based on the principle that every lazy fisherman comes up with solutions for at some point in their life—to prop up their pole with a crate or a chair or anything on hand to keep the line in the water and your hands free.

Traditionalists and old-timers commonly think of the wooden folding tip-up. This kind of tip-up could be crafted by the ambitious hobbyist, but has remained available as a retail option over the years. Wooden folding tip-ups are ideal for those on a budget, as they can often be found for about \$15

apiece. Rods of steel run up the main shaft from the reel at the bottom to the flag trigger at the top. The flag is mounted at the end of a thin piece of metal, much like the metal in a clock spring coil. As the bait is taken and the reel begins to spin, it spins the steel rod at the bottom, which trips the flag trigger at the top, releasing it to indicate the line has begun to go out.

The advantages of this type of tip-up are mainly that mechanically it is tried and true, and it is nearly impossible for it to fall into the ice hole, as the cross pattern of wooden legs keep it securely where it should be.

A newer and perhaps more efficient version of this style, however, would be what I call the straight folding tip-up. These are typically made of plastic with a center steel rod and a spring-loaded flag. While not new, they have not been around as long as the classic folding wooden tip-ups, but function similarly.

Straight folding tip-ups fold flat for storage and when triggered, the spring-loaded flag is released when the catch slips off the rotating steel rod in the center. These are currently what I keep in my arsenal, as they are super-quick and easy to use and typically don't malfunction other than the flag creating a false alarm on a windy day.

Perhaps in its own category is the thermal round tip-up. These tip-ups are my least favorite, as they rely on additional mechanics to trigger the flag and are not as friendly to store when not in use. However, there are advantages. They are intended to cover the hole and insulate it to prevent the accumu-



RR photo by Hunter Hill

Wooden folding tip-ups are the ideal choice for the traditionalist ice fisherman.

lation of ice on the water's surface. While this is appealing to some, I find it important to check lines and clear ice, and that keeps you from not attending to your lines as often as you ought. These round tip-ups can be so insulative, in my experience, that they cause the ice to melt at their edges, and the ice then re-freezes and traps the tip-up in the ice. That, of course, makes responding to them very difficult.

All in all, these different styles of tip-up all work the same in most ways, but hold subtle variations that come down to the preference of the individual fisherman. As the ice fade from our local waters, perhaps now is the time to reconsider which will be your weapon of choice in the year to come.

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By TED WADDELL

ROSCOE, NY — On February 26, the Catskill Fly Fishing Center & Museum (CFFCM) held Fly Fest 2022, its annual rite of passage as the frigid grasp of winter starts to thaw, bringing forth expectations for a new season of fly fishing.

Folks, both young and a bit longer in the tooth, gathered at the Rockland House to share memories of years past, reflect on the new year of freshwater fly fishing in the Catskills and points far beyond, and tie a few flies.

While the event is traditionally held at the CFFCM, this year it was moved to the local eatery, as the museum is currently in the midst of sorting out its extensive collection of archival materials.

As the world-renowned fly fishing center and museum was in the process of looking for a new executive director, Jill Borenstein, the center's program and development director, stepped into the breach to talk about the newest edition of Fly Fest.

"It's a long-time event that we've held at the museum, but this year we're holding it at the Rockland House, because we're digitalizing our archives, and Roscoe's Ice Carnival is at the same time," she explained,



RR photo by Ted Waddell
Andrew Sander, 13, of East Meredith, NY, was joined at Fly Fest 2022 by his father Henry, part of a self-described outdoors family. Andrew was mentored in the art of fly-tying by Joe Ceballos, president of the Catskill Fly Tyers Guild.

while cradling her seven-month-old daughter Sidney, a relative newcomer to the realm of fly fishing.

According to Borenstein, approximately

45 folks signed up online to attend the event, a number that increased moment-by-moment at the door, as "tons of walk-ins came in to get together after all the cold months

of winter, to see who's who and who's tying what... a time to share.

"They're enjoying learning about Catskill flies, various tackle, and styles from the greats here today," she added, noting that some of the "greats" in attendance included Tom Mason, "Catskill John" John Bonasera and Seth Cavaretta.

She and her husband Matt, "an avid angler," relocated to DeBruce from Long Island about three years ago.

Meanwhile, over at one of the tables, 13-year-old Andrew Sander of East Meredith was taught a few tricks of the art of fly tying by Joe Ceballos, president of the Catskill Fly Tyers Guild, as his proud poppa Henry watched intently.

"I'm able to reach out to young folks, the future fly-tyers, and help them," said Ceballos of his role as a mentor, adding, "When we're gone, it's all over... they're the future, and we want to get the parents involved."

At this point, the elder Sander chimed in, "Andrew is very interested in the outdoors and likes fishing. We're an outdoors family."

In the words of the 13-year old fly-tyer, "I really want to learn how to tie flies. I love to go fishing in the Delaware River and in ponds."

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