

# Navigating



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New York

# Paddling through history on New York's Waterways

by Karin Verschoor

New York has more than 50,000 miles of rivers and streams, and more than 7,500 ponds, lakes and reservoirs that provide an endless variety of waterways to investigate. Some are as close as your own backyard. Exploring New York's waterways is nothing new. New York has a long history of paddlers who used its diverse waterways for transporting a variety of people and goods.

## Connect to Nature

No matter your skill level, New York is a paddler's paradise. With so many great places, however, choosing one can be difficult. Here are a few popular paddles to whet your appetite.

**Middle Saranac Lake**, Franklin County—Paddle out from the hand-launch on South Creek into a spectacular panorama of clear waters, sandy beaches and tall pines. Explore the shoreline that is about  $\frac{3}{4}$  state-owned and offers camping through the Saranac Lake Islands Campground.

**Lake George (Northwest Bay)**, Warren County—Launch from the parking area on Northwest Bay Creek and wind through marshes and forests that border the creek to emerge on the grand bay. Keep to the left hand side and explore the wild shoreline of Tongue Mountain Peninsula.

**Stockport Creek and Hudson River Islands**, Columbia County—From the launch at the creek mouth, you can explore upstream or head out on the river to paddle around islands and marshes. Bald eagles and bank swallows nest nearby.

**Howland Island WMA**, Cayuga County—Paddle a nine-mile loop (including a stretch of the Erie Canal) around this state wildlife management area. Enjoy the many ducks, geese and great blue herons, and possibly a bald eagle.

**Oak Orchard Creek**, Genesee County—During spring and fall, thousands of migrating geese, ducks and swans descend on the three wildlife refuges that surround the creek.

### For further reading:

*Quiet Water Canoe Guide: New York*, by Alex Wilson and John Hayes, published by The Appalachian Mountain Club

*Fun on Flatwater: An Introduction to Adirondack Canoeing*, by Barbara McMartin

Northern Forest Canoe Trail Map series published by Mountaineers Books

*The Adirondack Mountain Club Canoe and Kayak Guide: East-Central New York State*, by Kathie Armstrong

*Take a Paddle: Finger Lakes New York Quiet Water for Canoes & Kayaks*, by Rich and Sue Freeman

*The Hudson River Water Trail Guide*, by Ian P. Giddy, published by The Hudson River Watertrail Association

*A Kayaker's Guide to the Hudson River Valley: The Quieter Waters--Rivers, Creeks, Lakes and Ponds*, by Shari Aber, Black Dome Press



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An Adirondack Carry

The first users were Native Americans, who could take their maneuverable bark canoes almost anywhere. They had well-established routes for travel and trade, and many portage points became named landmarks. Unlike European explorers and colonists who would later follow these routes, Native Americans were willing to make long portages to avoid bad rapids, or to cross over to another river network. Their boats were light enough to be carried by one or two people over a narrow portage trail. They had a mile-long portage near today's city of Rome that crossed the drainage divide between the Mohawk River and the rivers that led to the Great Lakes. This portage was later to become a vital strategic point for the colonists during the French and Indian Wars and the American Revolution.

Colonists in the eighteenth century brought European boat-building traditions with them and built heavy oak-framed boats that had to be hauled across portages by a team of oxen. Known as bat-

teaux, these boats carried cargo and passengers and were usually 30 feet long and weighed hundreds of pounds. They were not only difficult to portage, but also needed deeper water than a bark canoe.

One important waterway used by early inhabitants was Wood Creek. A small, meandering, tree-choked stream in the Rome Sand Plains (see August 2006 *Conservationist*), this creek was the only way to get from the Mohawk River to Oneida Lake and the Great Lakes beyond. Fallen trees, snags and sandbars made maneuvering boats around the many bends extremely difficult. An ax was as necessary as a paddle because trees constantly fell in from the ever-eroding sandy banks. In fact, Wood Creek is considered the primary reason for building the first Erie Canal. The creek was such a horrible route that constructing a canal to bypass it became a priority.

Hundreds of miles of canals were built in New York as more settlers came in the eighteenth and nineteenth centuries. Ranging in size

from small local connector routes, to the immense engineering marvel of the Erie Canal, these man-made canals were connected to natural rivers and streams to produce an intricate network of navigable waterways that linked the entire state. Until the advent of railroads, these waterways were vital corridors in smaller water bodies. Today, there is little commercial water transport and the great network of navigable streams and canals is largely abandoned.

During their heyday, waterways provided the main way to transport goods across the state. In the 1800s they were the cheapest and fastest routes for vast amounts of lumber. Some logs were floated from small mountain streams all the way down to the Hudson where they joined huge rafts of logs headed for Albany's Lumber District. Others were floated to local sawmills. Old pictures of the logging industry depict thousands of logs floating downstream, sometimes driven over rapids and waterfalls. Logs were shepherded by river driv-

New York waters have served as a mode of transportation for goods and services as well as a venue for leisure activities.



Frank Knight



Accessing New York's great waterways is easiest by canoe.

ers working from shore and from boats, maneuvering stuck logs with their log pike poles. It was extremely dangerous work.

Another major use of waterways was for power, and countless dams were constructed to capture water power for water-driven mills. Many of New York's big mill towns were located near natural waterfalls and rapids, but in areas without convenient waterfalls, dams could provide a substitute.

Today, New York's waterways are primarily used for recreation. Like Native American paddlers, modern paddlers use lightweight boats that are easily carried, and can float in very shallow water. But the waterways of today are a patchwork of natural and man-made features that are beginning to blend together, overtaken by time and spreading forests. Dams and canals have changed the physical navigability of many waterways, particularly dams with periodic water releases.

A challenge facing today's paddler is that some waters have use restrictions with regards to private

property, liability and appropriate land use. While paddlers can still go almost anywhere in the state, they need to be aware that although a waterway may be physically navigable, it may not be legally navigable (see sidebar). To avoid potential conflicts, it is best to launch your canoe or kayak at one of the state's hundreds of official boat launch sites. There is a listing of sites on DEC's website, [www.dec.ny.gov](http://www.dec.ny.gov).

Whether you're a beginner or expert paddler, New York has a water for you. The state is blessed with an abundance of canoeable streams. Many streams formerly used for transportation have become far wilder in the decades since their original use was discontinued. Some of these streams run by urban areas, but now they are almost unknown, flowing through wooded ravines, a quiet haven away from nearby highways. So grab a paddle and go explore.

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## Public Rights of Navigation

When settlers first arrived, paddling New York's waterways was thought to be a matter of "if your boat can float on it, you can paddle on it." But, as settlement and development increased, property and liability issues emerged, and New York courts held that navigation was actually a public right that was part of English common law. Thus, for more than 200 years New York courts have recognized that the public has a common law right to freely navigate on all freshwater waterways defined as "navigable-in-fact."

In 1866, the state's highest court, the Court of Appeals, ruled that a waterway is navigable-in-fact and subject to the public right of navigation "if it is so far navigable or floatable in its natural state and its ordinary capacity, as to be of public use in the transportation of property."

Determining whether a stream is navigable-in-fact requires considering all the facts that could make it navigable. This includes: Are water levels high enough to support navigation for a reasonable length of time under conditions of natural flow? Are there obstacles to passage (such as shallows, rapids, or waterfalls)? If so, are portages feasible to allow passage? If the

waterway is navigable for a significant part of the year and for a substantial distance, it is likely navigable-in-fact. If a waterway satisfies all the criteria for being navigable-in-fact, it is open to public use regardless of whether a court has ever ruled that particular waterway is navigable-in-fact.



courtesy photo

The public right of navigation includes several incidental rights, as well, such as portaging over private property to avoid rapids, falls or obstructions, as long as this occurs by the shortest, most direct route. The public also has the right to walk on the bed of the waterway to guide a boat through shallow areas and to go on privately-owned shoreline to scout for the best route. However, paddlers may not go on private property to picnic, hike, camp, or hunt, and may not cross private property to access navigable waterways. In other words, paddlers cannot intrude on private property except as necessary for safe passage.

Waterways subject to the public right of navigation can be navigated for any commercial or recreational purpose, and attempts by landowners to interfere with the public's right to freely navigate violates the State's trust interest in the waterway. Either the State or the public can sue if a landowner tries to interfere with the public's right to navigate on navigable waterways. The Court of Appeals has said that a person who "honestly believes" he is permitted to enter another's property is not guilty of criminal trespass. Also, under NY Penal Law Section 140.05 a person is not guilty of trespass unless he knowingly enters or remains unlawfully on the property in question.

Nevertheless, prudent paddlers will try to avoid confrontation and talk with landowners to ascertain the reasons for a waterway's "closure." If the landowner will not reconsider what seems to be an illegal interference with public navigation rights, then local, county and state enforcement authorities (including DEC Forest Rangers and Environmental Conservation Officers) should be informed.

– **Kenneth Hamm**  
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