

(Sierra Club letterhead)

August 27, 2009

Alexander B. "Pete" Grannis, Commissioner
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1010/14

Subject: Illegal Blockage of Shingle Shanty Brook and Mud
Pond, Whitney Wilderness Vicinity

Dear Commissioner Grannis:

We are writing to request that DEC take action to remove the blockage of the State-owned public right-of-way on Mud Pond and a segment of Shingle Shanty Brook between the outlet of Mud Pond and the downstream Forest Preserve boundary. This blockage, where these navigable waterway segments flow on private land adjacent to the William C. Whitney Wilderness, is maintained by the Brandreth Park Association. It consists of a cable strung across Shingle Shanty Brook by Brandreth at the downstream Forest Preserve boundary and a number of posting signs, all erected by Brandreth. (For general location, see sketch map of the Mud Pond-Shingle Shanty Brook through-segment and vicinity, [Attachment 1](#).)

This blockage forces paddlers to use a very rough one-mile carry trail through the Forest Preserve instead of this easy waterway route.

As discussed and documented in the attached "*Illegal Blockage of Shingle Shanty Brook and Mud Pond in the Whitney Wilderness Vicinity*," these impediments to public navigation violate both State public nuisance law and the public's right under State law to freely navigate on navigable waterways. They are infringements on the navigational easement that the State holds in trust for the public. This also is a critical link between Little Tupper Lake and Lake Lila in the heart of the proposed 500,000-acre Great Oswegatchie Canoe Wilderness (GOCW), whose creation has been advocated by the Sierra Club and other conservation organizations. (See map in enclosed GOWC brochure showing this larger area, [Attachment 2](#).) The GOWC includes Lows Lake and the Bog River, the Five Ponds Wilderness Area and the Pigeon Lake Wilderness Area, all of which are accessible from the Whitney Wilderness by paddlers.

We actually are asking DEC to do several things. First, with regard to the case at hand, enforce existing State public nuisance and public navigation rights law in accordance with the 1991 DEC enforcement guidance memorandum on this subject. This is a clear-cut case where those laws have been violated by Brandreth for many years in the name of their deeded recreation rights. DEC should order the Brandreth to remove the cable and intimidating signs from the State's right-of-way where they have long been a threat to paddlers and a hindrance to navigation.