

PERE MARQUETTE RIVER NATURAL RIVER PLAN

LAKE, MASON, NEWAYGO, AND OCEANA
COUNTIES

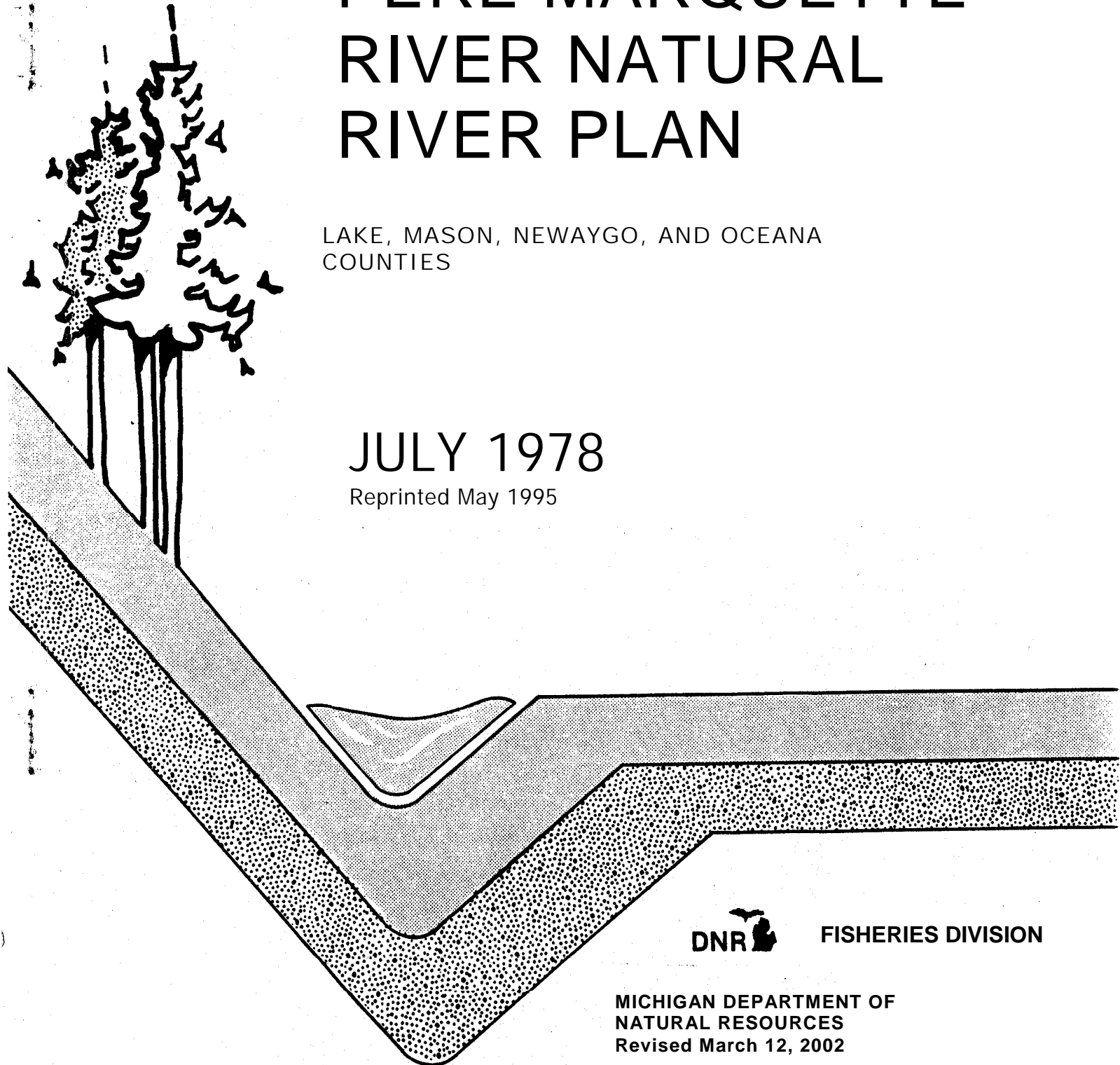
JULY 1978

Reprinted May 1995



FISHERIES DIVISION

MICHIGAN DEPARTMENT OF
NATURAL RESOURCES
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PERE MARQUETTE RIVER

(Lake, Mason, Newaygo, and Oceana Counties)

Plan adopted and river designated
As a WILD-SCENIC RIVER by the
Natural Resources Commission
July 1978

Reprinted May 1995

PREFACE

The Pere Marquette River has the reputation for being an outstanding steelhead and brown trout stream as well as being extremely popular with canoeists. The many outstanding natural values possessed by this river have resulted in 66.4 miles of the mainstream being proposed for inclusion under the Federal Wild and Scenic Rivers Act (PL 90542).

It is the intent of this plan to develop management recommendations for the Pere Marquette system that will help to protect its many natural qualities. Under Michigan's Natural Rivers Act, protection will include not only the mainstream, but the significant tributaries as well. This plan recognizes the national attention the Pere Marquette has received and the possibility of designation under the Federal Wild and Scenic Rivers Act.

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INTRODUCTION

The Natural River Act (Part 305, P.A. 451) authorizes the Natural Resources Commission to establish a system of "natural rivers" in the state to provide for their preservation, protection and enhancement. Section 30502 of the Natural River Act states, in part, that: "The commission, in the interest of the people of the state and future generations, may designate a river or portion thereof, as a natural river area for the purpose of preserving and enhancing its values for water conservation, its free flowing condition and its fish, wildlife, boating, aesthetic, floodplain, ecologic, historic and recreational values and uses.

Support for including the Pere Marquette River under the Natural River Act comes from a variety of organizations and interests. These include the Pere Marquette Watershed Council, property owners' associations, and numerous local governmental units. Because of this broad range of support, the Natural Resources Commission at its October 1977 meeting directed staff of the Division of Land Resource Programs to draft a natural river management plan for the Pere Marquette River system and adjoining lands.

This report: (1) provides a physical description of the river and its watershed as a whole; (2) reviews values of the river and factors affecting its future nature and use; and (3) provides a plan for the protection of the river's natural qualities.

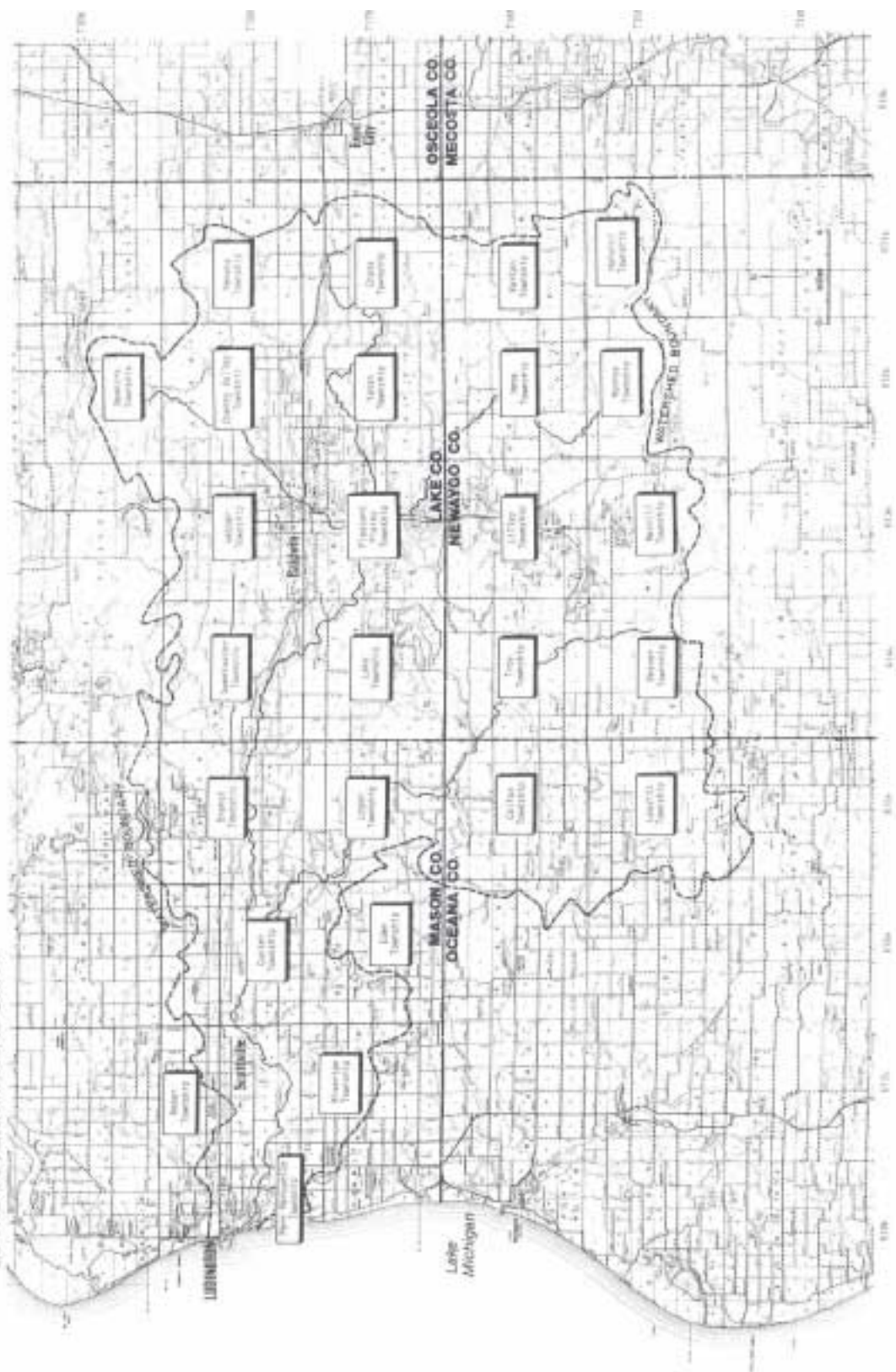
This plan is the result of a joint effort between the Department of Natural Resources and the Pere Marquette Advisory Group. This advisory group was made up of representatives of riparian property owners, local governmental officials, the Pere Marquette Watershed Council, the U.S. Forest Service, and other governmental agencies, interested citizens and groups. This plan is the result of this joint effort and reflects the thoughts of these people interested in the use and protection of the many values of the river.

It is recommended that the mainstream of the Pere Marquette River and certain selected tributaries be designated as a "wild-scenic" river under authority Part 305, P.A. 451 of 1994. A "wild-scenic river" is of a wild character with wild or forested borders, in close proximity to human development. The wild aspect may be relatively broad or confined to a narrow ribbon.

PERE MARQUETTE RIVER LOCATION MAP



LOCAL GOVERNMENTAL UNITS



I. THE WATERSHED AND STUDY AREA

A. General Characteristics

1. The Watershed. Located in portions of Lake, Mason, Newaygo and Oceana counties, the Pere Marquette River system drains an area of approximately 740 square miles. Roughly 53 percent of the watershed is in Lake County. The mainstream starts at the confluence of the Middle Branch and Little South Branch, known as the "Forks" and flows in a westerly direction for approximately 67 miles to its mouth at Pere Marquette Lake, just south of the City of Ludington.
2. The Study Area. The area of study included the entire mainstream from its mouth at Pere Marquette Lake, its four major tributaries, the Baldwin River, Little South Branch, Big South Branch and the Middle Branch, as well as the numerous smaller tributaries which make up the system.

B. Physiography and Soils

The topography of the watershed is rolling to flat. The eastern portion of the basin is characterized by its hilly nature, with the western portion generally being more broad and flat.

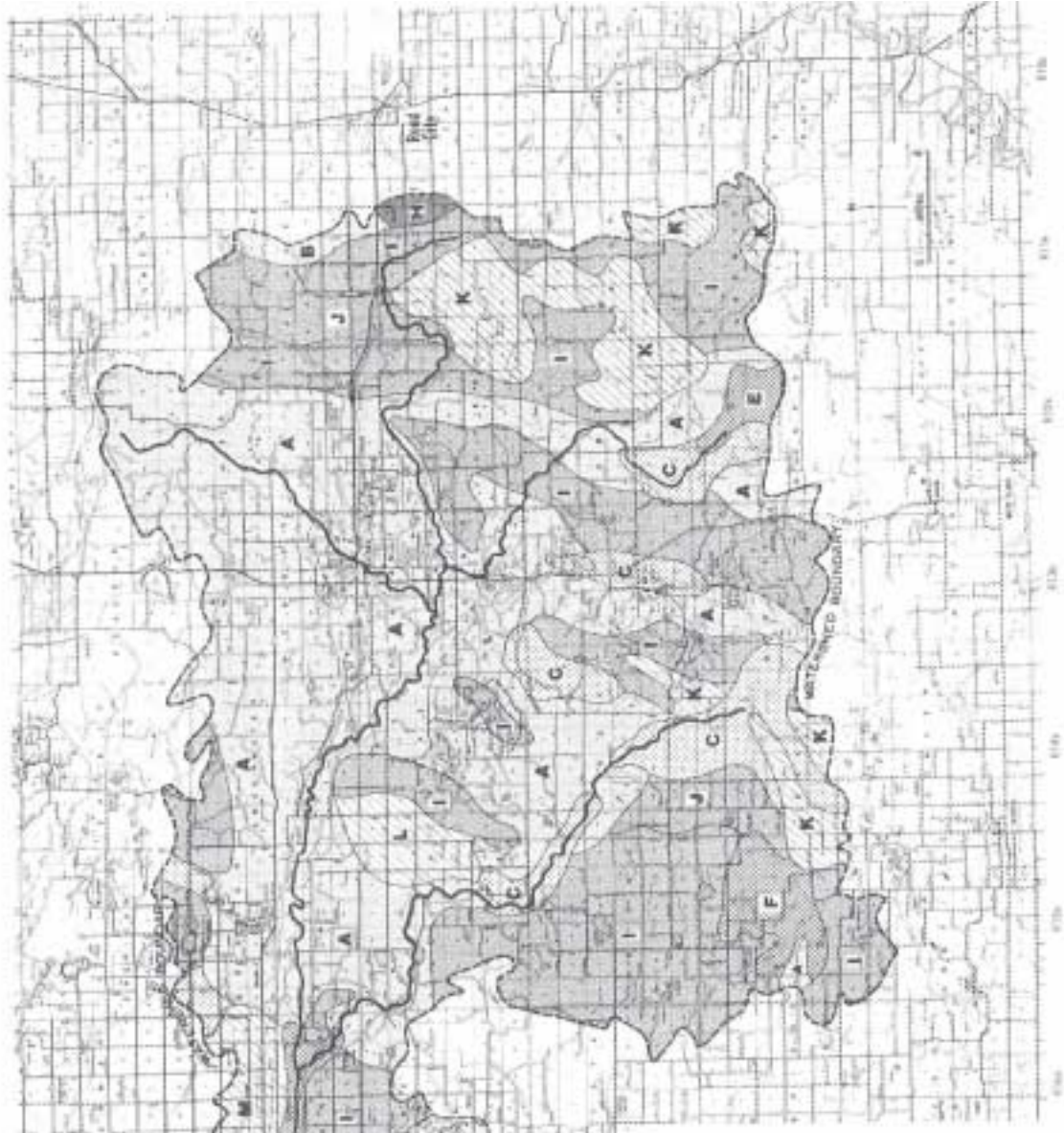
Like other watersheds in the area, the effects of glaciation are evident. Rolling, hilly moraines, flat outwash plains, kettle and oxbow lakes, eskers, drumlins, and kames can all be found in the watershed.

The majority of the watershed is dry sand plains and rolling sandy hills. These well-drained droughty soils make them generally unsuitable for agriculture, and hence, are in pine - scrub oak forests.

Poorly drained muck and peat soils are fairly common along the lower portion of the mainstream and the headwaters of the Big South Branch, some of which serve as agricultural drains.

Soils can be grouped into associations based on texture and drainage characteristics. These soil associations throughout the watershed along with their various characteristics can be seen on the map on the preceding page, along with the accompanying table.

SOIL ASSOCIATIONS



| SYMBOL | SOIL ASSOCIATION |
|----------------------------|------------------------------|
| (Symbol: Dotted pattern) | 1 BROOKLYN - BELDEN |
| (Symbol: Horizontal lines) | 2 CALUMET - BELDEN |
| (Symbol: Vertical lines) | 3 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines /) | 4 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines \) | 5 HANCOCK - BELDEN - BELDEN |
| (Symbol: Stippled) | 6 HANCOCK - BELDEN - BELDEN |
| (Symbol: Solid grey) | 7 HANCOCK - BELDEN - BELDEN |
| (Symbol: White) | 8 HANCOCK - BELDEN - BELDEN |
| (Symbol: Dotted pattern) | 9 HANCOCK - BELDEN - BELDEN |
| (Symbol: Horizontal lines) | 10 HANCOCK - BELDEN - BELDEN |
| (Symbol: Vertical lines) | 11 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines /) | 12 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines \) | 13 HANCOCK - BELDEN - BELDEN |
| (Symbol: Stippled) | 14 HANCOCK - BELDEN - BELDEN |
| (Symbol: Solid grey) | 15 HANCOCK - BELDEN - BELDEN |
| (Symbol: White) | 16 HANCOCK - BELDEN - BELDEN |
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| (Symbol: Horizontal lines) | 18 HANCOCK - BELDEN - BELDEN |
| (Symbol: Vertical lines) | 19 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines /) | 20 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines \) | 21 HANCOCK - BELDEN - BELDEN |
| (Symbol: Stippled) | 22 HANCOCK - BELDEN - BELDEN |
| (Symbol: Solid grey) | 23 HANCOCK - BELDEN - BELDEN |
| (Symbol: White) | 24 HANCOCK - BELDEN - BELDEN |
| (Symbol: Dotted pattern) | 25 HANCOCK - BELDEN - BELDEN |
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| (Symbol: Diagonal lines /) | 28 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines \) | 29 HANCOCK - BELDEN - BELDEN |
| (Symbol: Stippled) | 30 HANCOCK - BELDEN - BELDEN |
| (Symbol: Solid grey) | 31 HANCOCK - BELDEN - BELDEN |
| (Symbol: White) | 32 HANCOCK - BELDEN - BELDEN |
| (Symbol: Dotted pattern) | 33 HANCOCK - BELDEN - BELDEN |
| (Symbol: Horizontal lines) | 34 HANCOCK - BELDEN - BELDEN |
| (Symbol: Vertical lines) | 35 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines /) | 36 HANCOCK - BELDEN - BELDEN |
| (Symbol: Diagonal lines \) | 37 HANCOCK - BELDEN - BELDEN |
| (Symbol: Stippled) | 38 HANCOCK - BELDEN - BELDEN |
| (Symbol: Solid grey) | 39 HANCOCK - BELDEN - BELDEN |
| (Symbol: White) | 40 HANCOCK - BELDEN - BELDEN |

CHARACTERISTICS OF MAJOR SOIL ASSOCIATIONS

| Soil Association | Natural Vegetation | Land Use if Cleared | Septic Tank Disposal Fields | Cottages and Buildings | Intensive Use Camp Sites | USE LIMITATIONS | | Factors Limiting Use | Percent of Watershed |
|------------------|---|------------------------------------|-----------------------------|------------------------|--------------------------|--------------------|--------------------|-------------------------------------|----------------------|
| | | | | | | Paths and Trails | Picnic Areas | | |
| A | red, white, and jack pine; acrob oak | N/A | slight to moderate | slight to severe | moderate to severe | moderate to severe | moderate to severe | slope | 35 |
| B | red and white pine | N/A | slight to moderate | slight to severe | moderate to severe | moderate to severe | moderate to severe | slope | 2 |
| C | barberry, sweep arm hardwoods, northern hardwoods | N/E | severe | moderate to severe | moderate to severe | moderate to severe | moderate to severe | seasonal high water table | 9 |
| D | barberry, northern hardwoods, red and white pine | some grain crops | slight to severe | slight to severe | slight to severe | slight to severe | slight to severe | seasonal high water table | 1 |
| E | mixed hardwood | some hay and pasture | very severe | very severe | very severe | very severe | very severe | seasonal high water table | 1 |
| F | mixed hardwoods, bog plants | N/A | very severe | very severe | very severe | very severe | very severe | seasonal high water table | 6 |
| G | northern hardwoods | hay and small grain when scattered | moderate to severe | slight to severe | slight to severe | slight to severe | slight to severe | slope and seasonal high water table | 1 |
| H | northern hardwoods, jack pine | some hay and grain | slight to severe | slight to severe | moderate to severe | slight to severe | slight to severe | slope | 1 |
| I | northern hardwoods, red and white pine | orchards and grain | moderate to severe | slight to severe | slight to severe | slight to severe | slight to severe | slope and seasonal high water table | 10 |
| J | northern hardwoods, red and white pine | some orchards and grain | slight to severe | slight to severe | slight to severe | slight to severe | slight to severe | slope and seasonal high water table | 17 |
| K | northern hardwoods | some orchards and grain | slight to severe | slight to severe | slight to severe | slight to severe | slight to severe | slope and seasonal high water table | 2 |
| L | white pine, hardwoods | orchards, hay and small grain | moderate to severe | moderate to severe | moderate to severe | moderate to severe | moderate to severe | slope | 7 |
| M | northern hardwoods | hay, grain and truck crops | moderate to severe | slight to severe | slight to severe | slight to severe | slight to severe | slope and seasonal high water | 4 |
| N | northern hardwoods | hay and small grain grazed | severe to very severe | severe | moderate to severe | moderate to severe | moderate to severe | seasonal high water table | 4 |

C. Stream Characteristics

There are four main branches of the Pere Marquette River, as well as numerous tributaries. The following table summarizes the Pere Marquette system.

| | |
|--|------------|
| Mainstream | 66.4 miles |
| Swainson Creek | 8.0 miles |
| Lichte Creek | 4.3 miles |
| Swan Creek | 11.2 miles |
| India Creek | 2.9 miles |
| Black Creek | 2.5 miles |
| Weldon Creek | 7.0 miles |
| Kinney Creek | 3.3 miles |
| Tank Creek | 2.3 miles |
| Danaher Creek | 5.5 miles |
| Unnamed | 12.1 miles |
| Big South Branch | 41.5 miles |
| Carr Creek | 9.1 miles |
| Ruby Creek | 4.0 creek |
| Allen Creek | 3.0 miles |
| Freeman Creek | 14.8 miles |
| Triple Lake Creek | 5.9 miles |
| Cedar Creek | 13.7 miles |
| Beaver Creek (including drains) | 38.6 miles |
| Winnepesaug Creek | 19.1 miles |
| Unnamed | 3.7 miles |
| Little South Branch | 13.0 miles |
| McDuffee Creek | 4.0 miles |
| Whipple Creek | .8 miles |
| Pease Creek | 9.2 miles |
| Unnamed | 2.0 miles |
| Middle Branch | 17.0 miles |
| Blood Creek | 2.8 miles |
| Baker Creek | 1.9 miles |
| Unnamed | 5.5 miles |
| Baldwin River | 12.0 miles |
| Sanborn Creek | 18.9 miles |
| Bray Creek | .7 miles |
| Leverentz Creek | .6 miles |
| Cole Creek (North & South Branches) | 7.1 miles |
| Unnamed | 8.2 miles |

Total 379.7 miles

The water quality of the Pere Marquette system is protected for:

- a. total body contact - recreation
- b. agriculture
- c. industrial water supply
- d. navigation
- e. public water supply
- f. cold water fish

All of the mainstream, and with one or two exceptions, the tributaries, are being managed for cold water fisheries.

Water quality of the Pere Marquette system is excellent. The following table shows the chemical, physical and biological water analysis data for 1971 and 1977.

Date: 1971 Mean* 1977 Mean**

| | | | |
|--------------------|------|-------|------|
| Dissolved Oxygen | mg/1 | 11.85 | 9.06 |
| Biochemical Oxygen | mg/1 | 1.37 | .94 |

*1971 data based on four samples collected between February 16 and November 30, 1971.

**1977 data based on eight samples collected between January 19 and September 7, 1977.

| | | | |
|------------------------|--------|-------|-------|
| Coliform | | | |
| Total | | 325 | |
| Fecal | /100mg | 12.5 | 63.8 |
| Total Solids | mg/1 | 206.5 | 222.8 |
| Suspended Solids | mg/1 | 5.25 | 9.1 |
| Total Dissolved Solids | mg/1 | 201.3 | 213.6 |
| Nitrate-Nitrogen | mg/1 | 0.10 | 0.10 |
| Ammonia-Nitrogen | mg/1 | .02 | .01 |
| Total Phosphate as P | mg/1 | .03 | .04 |
| Soluble Phosphate as P | mg/1 | .01 | .01 |
| Conductivity | unhos | 315 | 328.8 |

| | | | |
|---------------------|-------|------|-------|
| Chloride | mg/1 | .25 | 11.8 |
| pH | log/H | 8.1 | 8.1 |
| Sulfate (dissolved) | mg/1 | 22.5 | 24.0* |

*Based on one sample.

These values meet the parameters for cold water fish species. Due to the nature of the climate, surface geology and topography of the watershed, stream flow of the Pere Marquette system is relatively stable. April is the month of highest average discharge coinciding with the period of highest snowmelt. During the summer months, flow on the mainstream is adequate for recreational canoe use.

The Pere Marquette mainstream begins at the confluence of the Middle and Little South branches and empties into Pere Marquette Lake. The lower portion of the river from U.S. 31 bridge upstream for approximately 20 miles to Indian Bridge is characterized by low, wet swampy hardwood floodplain. Bottom type is predominately sand.

The river upstream from Indian Bridge to Walhalla Bridge is known as Nelan's Marsh. Here the river splits into many small channels, often difficult to follow. The marsh reaches a width of 1/2 to 3/4 mile and is bordered by high bluffs. Reeds, cattails and grasses occupy most of the area.

From Walhalla Bridge to Upper Branch Bridge, the river becomes more popular with canoeists and fishermen. This stretch of the mainstream is characterized by high steep banks with the river being from 30 to 60 feet wide. Stream bottom conditions are approximately half sand and half sand-gravel combinations.

From Upper Branch Bridge to Bowmans Bridge, a distance of about 15 miles, fishing and canoeing use increases. A long series of riffles known as Rainbow Rapids is located in this portion of the river. Bottom type is predominately sand-gravel.

Of all the tributaries, the Big South Branch drains the largest area, 259 square miles. Its source is an area of low swampy terrain and agricultural drainage system. These conditions cause water temperatures to be higher than on the other tributaries. Most of the stream bottom is sand, gravel and/or clay.

D. Vegetation

Vegetation along a river serves many functions, including stabilizing the soil and preventing erosion, absorbing nutrients, providing shade thus

cooling the water, and providing a visual barrier giving privacy to the property owner and maintaining the aesthetics along the river corridor.

The major vegetative types in the basin are aspen, jackpine, scrub oak, northern hardwoods, red and white pine plantations and mixed swampland species. Most of the forest stands are in second and third growth, with over 70 percent of the watershed forested.

E. Climate

The climate of the Pere Marquette watershed is continental in nature, common to much of northeast United States. The mean annual temperature for Baldwin is 45° F, and for Ludington the mean annual temperature is 47°F. Precipitation is fairly well distributed throughout the year. In Baldwin, the mean annual precipitation is 32.7 inches and in Ludington, this amount is somewhat less, about 30 inches per year. The mean snowfall between the two communities is virtually the same. In Baldwin, the amount is 61.3 inches and in Ludington, the amount is 61.4 inches.

F. Ownership

There are approximately 740 square miles or about 473,000 acres in the Pere Marquette watershed. Of this total, approximately 25 percent is in public ownership.

Ownership of river frontage on the mainstream and four major tributaries is summarized below:

| | U.S. Forest Service | | State of Michigan | | Township | | Private | |
|---------------------|---------------------|----|-------------------|------|----------|---|---------|------|
| | Miles | % | Miles | % | Miles | % | Miles | % |
| Mainstream | 11.2 | 8 | 21.6 | 17 | 2.4 | 2 | 97.6 | 73 |
| Middle Branch | 2.7 | 7 | .9 | 2 | 0 | 0 | 30.4 | 91 |
| Little South Branch | 1.0 | 4 | 0 | 0 | 0 | 0 | 25.0 | 96 |
| Baldwin River | 0 | 0 | 3.5 | 14.5 | 0 | 0 | 20.5 | 85.5 |
| Big South Branch | 23.5 | 28 | 2.5 | 3 | 0 | 0 | 67.0 | 69 |

G. Accessibility

The major north-south highways through the watershed are U.S. 31 and M-37. The major east-west route is U.S. 10, which roughly parallels the entire mainstream. These highways link the large population centers of southern Michigan as well as those of neighboring states to the watershed, making access easy for millions of people.

The Chesapeake and Ohio Railroad provides scheduled auto ferry service across Lake Michigan to Ludington from Milwaukee and Manitowac, Wisconsin. In addition, there are two airfields in the watershed; one near Baldwin and the other near Ludington.

EXISTING USES AND RECREATIONAL OPPORTUNITIES

A. Land Use

The major land uses include agriculture, which is more predominant in west central Mason County. Forest activity on private and public land holdings is one of the major land use activities in Lake and northern Newaygo counties.

Recreation is a major activity in the watershed. The major recreation landholders are the state with the Pere Marquette State Forest and the federal government with the Manistee National Forest. The abundant amount of public lands makes the area very attractive for outdoor oriented activities such as fishing, hunting, nature study, camping, canoeing, snowmobiling and off-road vehicle use.

B. Private Recreation Facilities

Commercial canoe liveries are well established on the mainstream. In 1977, Lake and Mason counties had a total of 734 rental canoes available. Of this figure, 450 were located on or near the immediate area of the Pere Marquette River.

In addition, there are over 2200 private campsites which are dispersed through the watershed. Other outdoor recreational facilities provided by private sources include golf courses, horseback riding and skiing activities.

C. Public Recreation Facilities

Although not located in the watershed, there are several state parks located in the vicinity of the Pere Marquette River. These include Ludington, Newaygo and White Cloud state parks. These parks offer almost 600 campsites as well as picnicking, hiking and playground facilities.

In addition, there are three state forest campgrounds located near the Pere Marquette River. These are: Bray Creek - 9 campsites; Little Leverentz - 7 campsites; and Big Leverentz - 11 campsites.

The U.S. Forest Service campgrounds Timber Creek, Nichols Lake and Highbanks Lake offer picnicking and snowmobiling, and have a total of 43 camping sites. In the past, indiscriminant camping has occurred at the Bowman's Bridge access site. The U.S. Forest Service is currently developing approximately 50 designated camping units at this location to alleviate this problem. New camping units will be located back away from the river and will be designed to protect the natural values of the river environment. Camping at the water's edge will be prohibited in the future.

The City of Scottville operates a campground on the Pere Marquette River. This facility offers picnicking, playground, boat launch facilities, as well as over 50 campsites.

Boat and canoe access sites are well distributed on the mainstream. These include sites at: the Forks, Bowman's Bridge, Rainbow Rapids, Upper Branch Bridge, Walhalla Bridge, Indian Bridge, Scottville, and U.S. 31 Bridge. Access sites are also located on the Baldwin River, Middle Branch, Little South Branch and Big South Branch.

D. Fishing

The Pere Marquette River system includes some of the finest trout waters in the nation. The spring and fall spawning runs of steelhead and salmon, the resident brown trout and "brookies" make this river extremely popular with the fishermen.

The Middle Branch contains a sizeable brown trout population. The bottom is generally gravelly and from the last weekend of April through May, steelhead are the number one target.

The Little South Branch is another excellent trout stream along with its two major tributaries, McDuffee Creek and Pease Creek.

The Big South Branch generally is of a different character than the other streams in the Pere Marquette system. Considered only a "fair" trout stream, the waters are usually warmer and slower. Ruby Creek enters the Big South in northeastern Oceana County and provides an excellent nursery stream and offers a good brook trout fishery.

The Baldwin River originates in the expansive Baldwin-Luther Swamp northeast of the Village of Baldwin. Brook trout are abundant in the upper reaches. Cole Creek joins the flow about five miles northeast of Baldwin and provides some excellent coldwater spawning grounds for browns and steelheads. Below Cole Creek, large browns are found. Another tributary of the Baldwin River is Sanborn Creek which is one of the better brook trout streams in the area.

The Pere Marquette mainstream begins at the "Forks" of the Middle and Little South Branches, about 1/2 mile east of M-37. In 1970, the mainstream from M-37 downstream to Gleasons Landing, a distance of about seven river miles, was designated as "quality fishing waters" and special regulations were enacted. Again, this area offers excellent brown trout fishing, and in the spring is teeming with spawning steelhead. The upper reaches of the mainstream offer a very good trout fishery. Tributaries of the mainstream including Danaher, Kinney and Weldon creeks offer good spawning and fish habitat. The lower reaches of the mainstream beginning near the Village of Custer and the Big South Branch downstream, warm water fish species

predominate. Except for the spring and fall steelhead, sucker and salmon runs, pike is the most sought after target.

E. Wildlife Observation and Hunting

The watershed contains a variety of wildlife. Hunting for both large and small game and waterfowl are popular recreational activities. Non-consumptive uses of wildlife for photography and observation are gaining in popularity. Most participants in these activities come from the metropolitan areas to the south and provide a major source of revenue to the local economy. Trapping of furbearers is popular with local residents.

White-tailed deer is the most important big game species. Deer greatly benefited from plant succession following the logging and wildfire era in the late 1800's to the early 1900's. Carrying capacity of the range increased and subsequently deer populations rose dramatically about 1920. Populations exceeding the carrying capacity in the 1930's leveled off in the 40's, declined again the 50's, and has now again leveled off. A controlled harvest has helped to balance the population with habitat carrying capacity. Stream floodplains and adjacent uplands are used by deer as winter habitat.

The watershed is one of three areas in the state supporting a huntable population of turkeys. Hunting is controlled by a permit system. The birds are the result of an intensive management and stocking program by the Department of Natural Resources with the cooperation of the U.S. Forest Service. The presence of these magnificent birds adds to the attraction of the area.

The river area is used extensively by waterfowl and shore birds for nesting and brood rearing during spring and summer, and by migrating waterfowl during the spring and fall. Mallards, black duck, wood duck, red breasted and American mergansers, coot, teal, bitterns and herons nest in the floodplain marshes and woodlands. The diving-duck group: redheads, goldeneyes, blue bills, etc., use the river primarily during the spring and fall migration. A few ducks, primarily goldeneyes, winter over in the open water areas of the river. Shore birds such as sorarail, yellow rail, and Wilson's snipe are common in the area.

Dutch elm disease has killed large stands of American elm in the river's floodplain. As a result, the ecological changes have been beneficial to certain species of dabbling ducks (Mallards, Teal, etc.).

Upland game birds found in the area include ruffed grouse, woodcock, turkey and, in the farm areas, some ring-necked pheasant. Ruffed grouse and woodcock provide the major upland shooting. Small game include the cottontail rabbit, snowshoe hare, and fox and gray squirrels.

Furbearers which are open to trapping include beaver, muskrat, mink, otter, red fox, raccoon and skunk.

F. Canoeing and Boating

The Pere Marquette is an extremely popular river for canoeists. The moderately fast current, the clear water, the low degree of stream bank development, have all helped to make this river a mecca for the canoeist.

The U.S. Forest Service has estimated that 90 percent of the canoe use in the system occurs from the "Forks" to Upper Branch Bridge with 65 percent of the canoe use occurring from the "Forks" to Bowman's Bridge. Canoeists on the Pere Marquette are further characterized by:

Over half of the use is by organized groups who tend to travel in parties.

Most of the use occur on weekends, with Saturday being the most popular single day.

Few trips are the more than one day, with four to six hours being the most popular canoe length.

Most canoeists are inexperienced and many are first-timers.

Use is concentrated from 9:00 am to 7:00 pm.

Use season is from late May to October.

Boating with motors is concentrated from Indian Bridge to the mouth. Such boating is usually concentrated with fishing rather than pleasure boating and most often occurs during the spring and fall and steelhead and salmon runs.

G. Historic and Archaeological Sites

There were six distinct Indian cultures that developed along the river. The first occurring around 10,000 BC with the last ending 1600 AD.

Through scientific excavation of the various village sites, it is possible to trace the development of the various Indian cultures of Michigan by study of their tools, weapons and life styles.

These sites, some of which have not yet been scientifically studied, are significant in that they were continuously occupied and they have not yet been destroyed by later man's activities.

Many bloody battles were fought for control of the river in ancient times. Fierce tribal warfare was part of the later Indian's life style. After one such battle, the heads of the defeated warriors were placed on stakes at the mouth of the river as a warning to others not to trespass. This gave rise to the old name for the river, "Not-a-pe-ka-gon", which meant "head-on-sticks". The

village near the present site of Ludington was called "Nidebekatunning" or "Place of the Skulls".

One of the first white men associated with the Pere Marquette River was probably the most famous -- the Jesuit priest, Father Jacques Marquette. Following his famous exploration of the Mississippi River with Joliet, Father Marquette was returning to his mission at St. Ignace, Michigan, when the party was forced to winter over at which is now Chicago. There Marquette sickened. Wanting to reach the mission before he died, Marquette and his party set out by canoe from Chicago in the spring of 1675 to follow the shoreline of Lake Michigan northward to St. Ignace. His condition worsened on the trip and not wanting to die on the lake, Marquette requested they put ashore. A crude shelter was built for him on a sand spit at the mouth of the river now bearing his name. There he died on May 18, 1675, and was buried at the site. Two years later, members of his party exhumed the body and returned it for burial at St. Ignace, thus fulfilling Marquette's last wish. They erected a wooden cross to mark his original resting place. The site was known to the Indians as "the place of the Black Robe", their name for the Jesuits.

Since that time, the original wooden cross has been replaced several times. Today a plaque and cross-topped stone monument mark the site of his death. This site is on the State Register of Historic Places.

It was not until the white pine-logging boom that large number of white settlers were attracted to the area. In 1847, only a few farmers and traders had settled in the watershed. The first mill at Ludington was built in 1859. It was small and served primarily local needs. In 1869, however, a general movement in the manufacture of pine lumber began. In 1870, it was estimated that the watershed contained over three billion board feet of virgin pine sawtimber. Hardwoods and other species were then of little consequence. Soon huge volumes of white pine logs were floating down the river to feed the hungry saws at Ludington. Starting with a capacity of only three of four million board feet per year, by 1880 the eight Ludington mills were producing a combined total of 10 million board feet. With water improvements, this increased to 15 million feet per year.

The seemingly inexhaustible supply of pine eventually was gone. From 1870 to 1896, 3 1/4 billion board feet of pine were driven down the river, cut into logs and shingled and shipped to markets throughout the Midwest. A large share of it was used to reconstruct Chicago after the disastrous fire of 1871. This volume of timber would, under present day standards, provide enough lumber to build 312,000 three bedroom houses -- enough to house a new city with the population of Detroit.

With the pine gone, the lumber barons set their sights on the virgin forests farther west. Not all of the lumberjacks went west with them. Many of the

Swedes, French, Poles, Danes, Dutch, Irish and English that had cleared the land now stayed to settle and farm it.

Some logging of the hardwoods, hemlock and other species spurned by the pine loggers continued into the 1900's. It never approached the frenzy or volume of earlier pine days. The Pere Marquette Railroad was built to carry those logs too heavy to float on the river to the Ludington mills. Hemlock bark was peeled to produce tannin for the leather industry. Loggers were now farmers during the summer months, and the days of the brawling, brawny, fast-spending lumberjack were gone.

The lumberjacks and timber barons had left their mark on the area. The names of many creeks, hills, lakes, roads and bridges can be traced to people or happenings of the logging days. They also left their imprint on the land which was now desolate and bare of trees. The Michigan grayling was disappearing from the river. Eroded riverbanks marked the location of log rollways. Fires burned unchecked in the logging slash. Some of their legacy is still visible today if one knows how and where to look. Occasionally, one of the old logs buried nearly a century in the streambed will rise up to snag a fisherman's fly or dump the unwary canoeist. Rollways still have not healed and remain as raw eroded banks.

There are two sites in the immediate vicinity of the Pere Marquette River that are on the National Register of Historic Places. One is the Marlborough Historic District which is located just south and east of Baldwin. This town was built during the experimental stage of Michigan's cement industry and was begun by the Great Northern Portland Cement Company. Ruins are all that remain at this privately owned site.

The other site on the National Register is the Nat-a-pe-ka-gon Site in Custer Township. This is a relatively undisturbed multicomponent site preserving information on the Middle and Late Woodard Periods in Western Michigan. One occupation contains early French trade materials.

PRELIMINARY NATURAL RIVER PLAN

A. Goal

To preserve, protect and enhance the river environment in a natural state for the use and enjoyment of present and future generations.

B. Objectives

1. To maintain water quality consistent with the designated classification of the river and adhere to the concept of non-degradation of water quality.
2. To prohibit development or activity which may damage the ecologic, aesthetic or historic values of the river and adjacent lands.
3. To ensure that any development which may occur shall be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream.
4. To ensure that recreational uses which occur, be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream, and that a quality recreation experience is maintained.

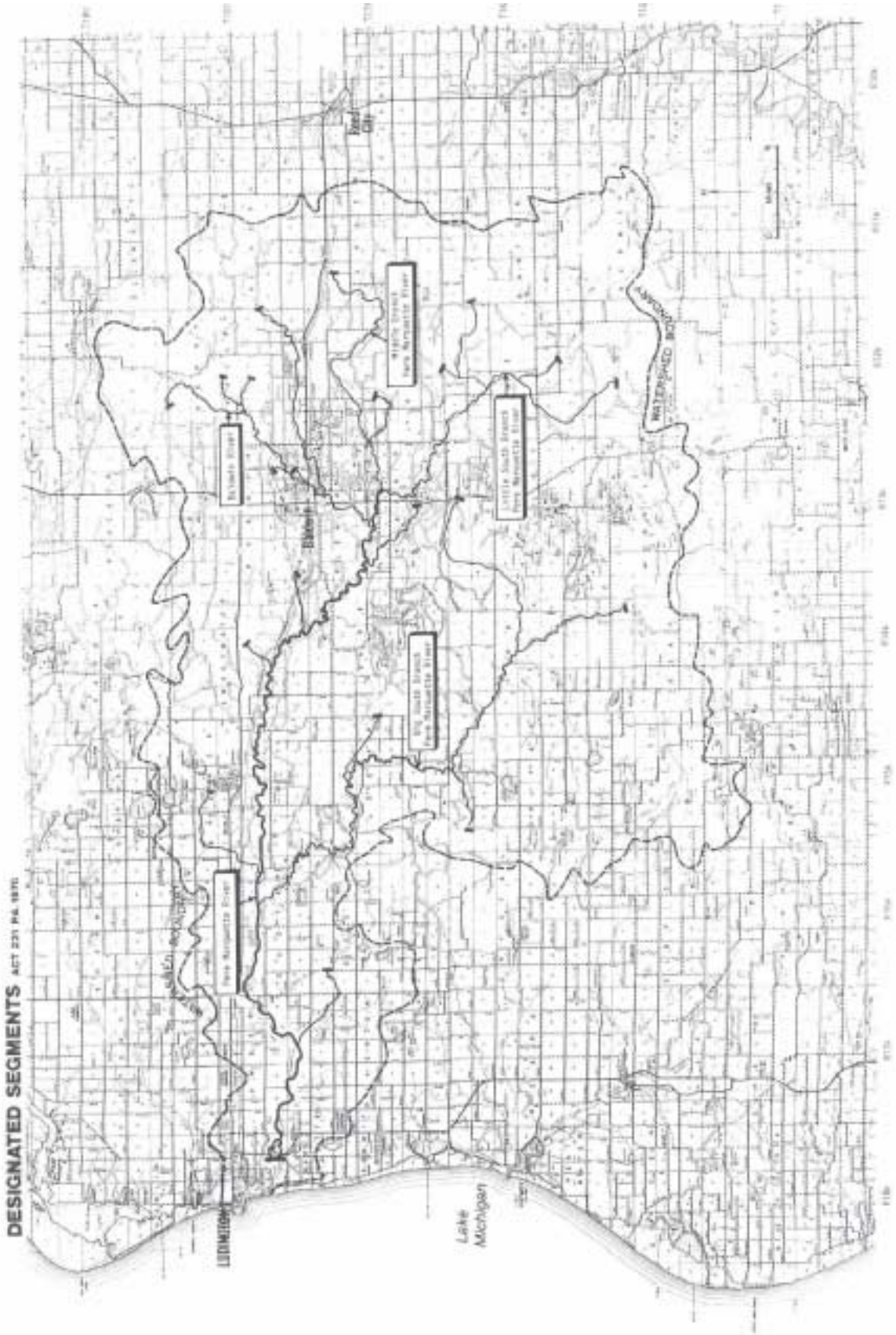
C. Proposed Designation

It is recommended that the following portions of the Pere Marquette River be designated as a wild-scenic river under authority of Part 305, P.A. 451 of 1994 (approximate mileage--mainstream 66.4 miles, tributaries, (140.0 miles)).

Mainstream: (Excluding that portion within the City of Scottville) From the junction of the Middle Branch and the Little South Branch (known as the "Forks") to the U.S. 31 highway bridge, including all channels of the mainstream.

Tributaries:

1. Swan Creek from Darr Road in Eden Township, Mason County to its confluence with the Pere Marquette River (5.1 miles).
2. Weldon Creek from the outfall of Romeo Lake in Branch Township, Mason County to its confluence with the Pere Marquette River (6.3 miles).



3. The Big South Branch from the confluence of Beaver Creek with Winnespesaug Creek in Beaver Township, Newaygo County to its confluence with the Pere Marquette River (41.5 miles), including the following streams tributary to it:
 - a. Cedar Creek from M-37 in Lilley Township, Newaygo County, to its confluence with the Big South Branch (11.6).
 - b. Ruby Creek from its source in Section 6, Colfax Township, Oceana County, to its confluence with the Big South Branch (4 miles).
 - c. Carr Creek, excluding that portion of the stream which branches north in Section 14 of Logan Township, Mason County, from North Branch Road (Lake County-Mason County boundary), to its confluence with the Big South Branch (3.9 miles).
4. Sweetwater Creek from its source in Section 21, Sweetwater Township, Lake County, to its confluence with the Pere Marquette River (1 mile).
5. Kinney Creek from the outfall of Wingleton Lake in Section 31 of Webber Township, Lake County, to its confluence with the Pere Marquette River (3.3 miles).
6. Danaher Creek from the C&O Railroad in Section 27, Pleasant Plains Township, Lake County, to its confluence with the Pere Marquette River (4.4 miles).
7. The Baldwin River (excluding that portion in the village of Baldwin) from the outfall of the "widewaters" in Section 32, Newkirk Township, (T19N, R12W), to its confluence with the Pere Marquette River (8.2 miles), including the following streams tributary to it:
 - a. Cole Creek to its confluence with the Baldwin River including the North Branch of Cole Creek, from Big Spring in Section 15 of Cherry Valley Township to its confluence with the South Branch of Cole Creek; the South Branch of Cole Creek from the east line of Section 21, Cherry Valley Township, Lake County, to its confluence with the North Branch of Cole Creek (4.4 miles).
 - b. Bray Creek from the outfall of Bray Lake in Section 26, Webber Township, to its confluence with the Baldwin River (.7 mile)
 - c. Sandborn Creek (excluding that portion in the Village of Baldwin) from State Road (Cherry Valley-Penora Township boundary) to its confluence with the Baldwin River (14.3 miles).
 - d. Leverentz Creek from the outfall of Leverentz Lake in Section 35, Webber Township, Lake County, to its confluence with the Baldwin River (.6 mile).

8. The Middle Branch from Bonney Road in Chase Township, Lake County, to the "Forks" (12.4 miles), including the following stream tributary to it:
 - a. Blood Creek from its source in Yates Township, Lake County, to its confluence with the Middle Branch (2.8 miles).

9. The Little South Branch from U.S. Forest Service Road 5309 where it crosses the stream in Section 9, Monroe Township, Newaygo County, to the "Forks" (9.9 miles), including the following streams tributary to it:
 - a. McDuffee Creek from 13 Mile Road in Home Township, Newaygo County, to its confluence with the Little South Branch (2.2 miles).
 - b. The Pease Creek system all of which lies in Home Township, Newaygo County, to its confluence with the Little South Branch (7.2 miles).

The Pere Marquette Advisory Group feels that these tributaries possess the necessary outstanding fish, wildlife, scenic, aesthetic, floodplain, ecologic, historic or recreational values to be of statewide significance and hence, should be considered for designation.

Other tributaries not recommended for designation may still be protected through adoption of protective zoning ordinances at the local level. Although not formally designated, these tributaries should be considered part of the natural river system for agency reviews of applications for sewage treatment plants, dredge and fill permits, impoundments, etc.

D. Natural River District

The Pere Marquette River Natural District includes an area 400 feet wide on each side of the parallel to all channels of the designated mainstream and to the designated tributaries. This district establishes a definable area within which local zoning may guide future development and use.

ESTABLISHMENT OF THIS DISTRICT IN NO WAY IMPLIES A "TAKING" OF THESE LANDS BY THE STATE OR OPENING THEM UP TO PUBLIC USE. PRIVATE LANDS REMAIN PRIVATE AND ARE SUBJECT TO THE RIGHTS OF PRIVATE OWNERSHIP.

E. Residential Housing

Unplatted lots and new subdivisions in the Natural River District shall accommodate the building setbacks as set forth in Section G, and shall have a minimum riverfront lot width of 200 feet on the mainstream, the Little South Branch, Big South Branch, Middle Branch and Baldwin River.

On all other designated tributaries, lots shall be a minimum of 150 feet wide.

Lots or property of record that are nonconforming at the time of the effective date of these regulations because of lack of size to accommodate building setbacks from the water's edge shall be allowed to be built upon and variances shall be allowed for required setbacks upon such reasonable terms as set forth by the zoning board, providing that structures be so placed as to best meet objectives of the Natural River Act.

One single family dwelling will be permitted on each lot or parcel within Natural River District subject to the building setbacks as set forth in Section G. A single-family dwelling is defined as a detached building or structure designed for or occupied exclusively by one (1) family and containing housekeeping facilities.

F. Industrial and Commercial Structures and Uses

1. New industrial uses and buildings, and expansion of existing uses and buildings will not be permitted within 400 feet of the designated river and tributaries.
2. Commercial uses and buildings; such as gas stations, motels, restaurants, retail stores, etc., will not be permitted within 400 feet of the designated river and tributaries. However, certain commercial uses requiring special exception permits may be compatible with maintaining the natural aspects of the river. Those uses permitted under the special exception procedure shall be strictly controlled. Controls such as location, parking, drainage, setback, natural vegetation strip, signs, hours of operation of the proposed use, shall be included in the special exception procedure. Those uses which may be compatible with natural river designation include:
 - a. Commercial crop farms or forest plantations that are landward of the native vegetation strip.
 - b. Small home operated businesses such as photography studio, beauty shop, home repair, insurance or other businesses which do not alter the residential nature of the property and are in conformance with established setbacks and vegetative management guidelines.
 - c. Detached rental cabins with light housekeeping, but not motels, which are in conformance with setback requirements and vegetative management guidelines.
 - d. New canoe liveries, expansion of existing liveries, or commercial launching or retrieval of watercraft in the designated portions of the river system shall be prohibited. In considering rezoning, special exception or variance requests, either within our outside of the 400 foot Natural River District, local units of government should examine closely the effects such use will have on the natural qualities of the Pere Marquette River system, the need for additional local government services, and

the safety and enjoyment of riparian landowners and other river users.

G. Building Setbacks

On the designated portions of the Pere Marquette River mainstream, the Little South Branch, the Big South Branch, the Middle Branch and the Baldwin River, new buildings and appurtenances will be required to setback a minimum of 150 feet from the ordinary high water mark.^{*} The setback may be decreased one foot for every one foot rise in bank height to a minimum of 100 feet from the ordinary high water mark. Further:

- New buildings and appurtenances must be setback at least 25 feet from the top of a bluff^{**}, on the non-cutting edge^{***} of the stream.
- New buildings and appurtenances must be set back at least 50 feet from top of the bluff on the cutting edge of a stream.
- No building shall take place on land that is subject to flooding.^{****}

* Ordinary high water mark means "the line between upland and bottomland which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark. (this is the definition used for administration of the Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994.)

** "Bluff" means the top of a steep bank rising sharply from the water's edge.

*** "Cutting edge of a stream" means the outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.

**** "Land that is subject to flooding" means that area of land adjoining the designated portions of river and tributaries which:

- 1) Will be inundated by a flood which has a one percent chance of occurring or being exceeded in any given year (intermediate regional flood), as determined by detailed hydraulic studies which are acceptable to the Michigan Water Resources Commission; or
- 2) In the absence of such detailed floodplain studies, have a history of flooding or are delineated by approximate methods such as USGS flood prone area maps or HUD's special flood hazard boundary maps.

On all other designated tributaries, new buildings and appurtenances will be required to setback a minimum of 100 feet from the ordinary high water mark of the tributary provided that no building shall take place on land that is subject to flooding. The setback may be decreased one foot for every one-foot rise in bank height to a minimum of 75 feet from the ordinary high water mark.

H. Building Design and Screening

1. Property owners are encouraged to use natural materials and natural unobtrusive colors in the construction of new or remodeling of existing

buildings. Upon request to the Department of Natural Resources, individual property owners will receive technical advice on location and design of structures and management of their lands. Such requests and the Department's response should be channeled through the local zoning administrator.

2. Property owners of new or existing buildings visible from the river are encouraged to screen them with native vegetation. The Department of Natural Resources Area Forester and Soil Conservation Service will advise on planting stock, etc., on request. When available at state nurseries, recommended planting materials will be supplied to property owners at cost.

I. Docks

The construction of docks along the designated portions of the Pere Marquette River system is discouraged. However, if necessary to provide safe and ecologically sound access for the riparian landowner, docks may be constructed not to exceed four feet in width nor more than 12 feet in length with no more than four feet of the dock extending over the water. Docks must be constructed in accordance with the rules of Part 301, P.A. 451 of 1994. The use of "natural" materials and camouflaging is encouraged. Property owners are encouraged to build "log-sod covered" docks. Upon request from the property owner, the Department of Natural Resources will supply plans and specifications for this type of dock or assist in the siting and location of a dock so as to blend in with the natural surroundings and best meet the objectives of natural rivers designation.

J. On-Site Sanitation Systems

All habitations within the Natural River District shall be provided with sanitary waste disposal facilities conforming in type to those required by health specifications of the State of Michigan and the county or district health department having legal jurisdiction. The facilities provided may be for either water borne waste disposal by the septic tank-absorption tile field method or for non-water borne disposal by the use of a health department approved or other state approved sanitary system.

New septic tanks septic tanks and absorption tile fields or other approved sanitary systems within the Natural River District shall be located not less than 150 feet from the ordinary high water mark nor within land that is subject to flooding, whichever distance is greater. The absorption field shall be located in a well-drained area and the bottom of the field shall be at least four feet above the known high groundwater table. No absorption field shall be closer than 100 feet from any surface or subsurface drainage system, including sump pumps discharging into the river or its tributaries.

The bottom of an earth privy shall be not less than four feet above the known high groundwater table. Where this is not feasible, a watertight vault shall be installed.

K. Signs

Only those signs necessary for: (a) identification, (b) direction, (c) resource information, (d) regulation of use, and (e) related to permitted uses, shall be placed along the designated river and tributaries. Within the Natural River District, signs for the sale of products or services shall be prohibited. Signs within the Natural River District must be:

1. Not illuminated.
2. In conformance with the following standards:
 - a. Signs may not be larger than one square foot in area posted no more than one per 100 feet or one sign posted at upstream and downstream corner of lot. However, one temporary real estate "For Sale" sign per parcel of land not to exceed four square feet in area shall be allowed outside of the natural vegetation strip (as described in Section S).
 - b. Signs posted by public agencies must be kept to a minimum, of rustic design, no larger than 10 square feet in area, not attached to any tree or shrub, and placed so as to best meet the objectives of the Natural River Act.
 - c. The Department of Natural Resources shall initiate a signing program in cooperation with the U.S. Forest Service and other public agencies at major access sites along the mainstream, emphasizing litter control and respect for private property. Signs should also be placed along the mainstream or in strategic locations indicating float time to rest areas and access sites.

(Note: Signs by public agencies may need to be larger or within the 400 foot Natural River District to provide for public safety, such as warning of impending dangers in the river, or for an interpretive or historic sign.)

L. Soil Erosion and Sediment Control Measures

All earth changing activities, other than normal landscaping or maintenance, undertaken within 500 feet of a lake or stream, must be conducted in accordance with the requirements of Part 91, P.A. 451 of 1994, its administrative rules and those procedures established by the local enforcing agency.

Development along the river involving earth moving shall provide for water disposal and/or protection of the soil surface during and after construction.

Practical combinations of the following will provide effective erosion control when skillfully used in planning and construction:

1. The development plan should be fitted to the soils and topography so as to create the least erosion potential. Local offices of the Soil Conservation Service can provide detailed information on the soil characteristics of a given site and on the suitability of such soils for various uses.

2. Wherever feasible during construction, natural vegetation shall be retained and protected. Where adequate vegetation does not exist, temporary or permanent vegetation shall be established where possible.
3. Where it is necessary to remove vegetation for construction, limit the exposed area to the smallest practical size at any one time.
4. Limit the duration of exposure to the shortest practical time.
5. Critical areas exposed during construction should be protected with temporary vegetation and/or mulching.
6. Permanent vegetation and improvements, such as roads, storm sewers and other features of development capable of carrying storm runoff in a safe manner, shall be installed as early as possible.
7. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after construction.
8. Sediment basins to remove suspended soil particles from runoff water from land undergoing development should be constructed and maintained wherever erosive conditions indicate their need to prevent sediment damage to the river.
9. Diversions, grassed waterways, grade stabilization structures, and similar mechanical measures required by the site shall be installed as early in the development as possible.

M. Minerals

New development, exploration or production of oil, gas, salt brine, sand and gravel or other minerals except ground water are not permitted within 300 feet of the designated river or tributaries (Section 30509, Part 305, P.A. 451 of 1994). On new leases on state land, Natural Resources Commission policy prohibits drilling for gas or oil within 1/4 mile of any major stream.

N. Utilities

Except on existing rights-of-way, new gas or oil pipelines, or electric transmission lines shall not be permitted in the Natural River District or to cross the designated river and tributaries without prior written consent of the Department of Natural Resources. Plans for these transmission lines which include crossing the river district or the river and designated tributaries shall be done in accordance with the rules entitled Utilities and Publicly Provided Facilities in Natural Rivers Areas (Section 30514, Part 305, P.A. 451 of 1994).

New distribution lines shall not cross the designated portions of the river or housing setback zone unless they are placed underground, or if overhead lines are less disruptive to the environment. Plans for distribution lines which are to be placed under the river shall be approved by the Department of Natural Resources and all construction shall meet the requirements under the Soil Erosion and Sedimentation Control Act and Inland Lakes and Stream Act. Local service lines to private dwellings shall originate from the landward side of the dwelling insofar as practical.

Management of trees, shrubs and other vegetation for maintenance of utility rights-of-way shall be done manually in the natural vegetation strip. However, hand application of herbicides to stumps of selectively cut trees will be allowed in the natural vegetation strip where it is the objective to establish and maintain a low growing shrub community in this zone. The Department may authorize application of selected pesticides to control insect or disease infestations.

O. Agriculture

1. Grazing will be permitted within the natural vegetation strip unless the Land and Water Management Division of the Department of Environmental Quality determines that it contributes to stream degradation (Part 31, P.A. 451 of 1994). In those cases, livestock will be fenced out to protect the riverbanks. Cattle crossings and watering areas shall be constructed according to accepted methods, after the landowner has consulted with the local Soil Conservation District, Soil Conservation Service, County Extension Service, and/or Department of Natural Resources.
2. Water withdrawal for irrigation will not be affected by natural river designation, but will continue to be permitted in accordance with the riparian doctrine of reasonable use.

P. Disposal of Solid Wastes

No unsightly or offensive material, including but not limited to: trash, refuse, junk cars, junk appliances, or garbage, shall be dumped or stored within the Natural River District.

Q. Stream Alteration

To protect the natural character of the river and the natural flow of its waters, no damming, dredging, filling or channelization of the stream channel will be permitted in those portions of the Pere Marquette River or tributaries designated under the Natural River Act unless approved by the Department of Natural Resources under authority of Part 301, P.A. 451 of 1994.

Natural materials should be used to construct stream bank stabilization projects to control erosion, or to enhance fisheries habitat. These structures should be camouflaged and the local Conservation Officer or District Fish Biologist contacted to provide technical advice for such projects.

Permissions must be obtained from the property owner when removing fallen trees and log jams from the river. If there is any extensive removal of log material from the bottom, during these operations, advice should be sought from the District Fish Biologist.

R. Land Alteration

Cutting or filling for building, including appurtenances, on the floodplain and filling for buildings on the upland within 400 feet of the river's edge where the highest ground water table is within six feet of the surface shall be prohibited. Dredging or filling for the construction of fish or wildlife ponds within 500 feet of the river requires a permit under Part 301, P.A. 451 of 1994 and Part 91, P.A. 451 of 1994.

S. Natural Vegetation Strip on Adjacent Shorelines

Trees, shrubs and other vegetation types native to the area shall be maintained and enhanced on each side of the river to retain the river's natural values. The presence of the natural vegetation strip is to help in stabilizing the river banks, prevent erosion, provide shading which will help maintain cool water temperatures, absorb nutrients from surface water runoff, provide screening of man-made elements, enhance fisheries and wildlife habitat and maintain the aesthetic natural quality of the river.

1. Vegetation Strip:

Public Land. On all publicly owned land, a one hundred and fifty (150) foot minimum restricted cutting strip shall apply on each side of the mainstream and designated tributaries.

Private Land. On privately owned land, a seventy-five (75) foot minimum restricted cutting strip shall apply on each side of the mainstream, the Little South Branch, Big South Branch, Baldwin and Middle Branch, and on all other designated tributaries, a fifty (50) foot restricted cutting strip shall apply.

Distances of natural vegetation strip are measured horizontally from the ordinary high-water mark.

2. **Restricted Cutting and Removal of Vegetation:** Restricted cutting of dead, diseased, unsafe or fallen trees is allowed. Removal of trees for commercial timber harvest, access of woodlot improvement shall be allowed upon specific approval of the Department of Natural Resources or its representative.
3. **Selected Cutting for Visual Access:** Trees and shrubs may be selectively pruned or removed for a filtered view of the river upon approval of the Department of Natural Resources or its representative. Filtered view of the river means maintenance or establishment of woody vegetation of sufficient density to screen new developments from the river, provide for streambank stabilization and erosion control, serve as an aid to infiltration of surface runoff and provide cover to shade the water. It need not be too dense as to completely block the river view. It means no clear cutting.
4. **Agriculture:** Grazing will be permitted within the natural vegetation strip unless the Bureau of Environmental Protection of the Department of Natural Resources determines the grazing contributes to stream degradation (Part 323, P.A. 451 of 1994). In those cases, livestock will be fenced out to protect the riverbanks. Cattle crossings and watering areas shall be constructed according to accepted methods, after the landowner has consulted with the local Soil Conservation District, Soil Conservation Service, County Extension Service, and/or the Department of Natural Resources.

5. **Planting of Native Vegetation:** Planting of native species is encouraged in the vegetation strip to enhance and protect the river's edge. The Department of Natural Resources or the Soil Conservation Service may be consulted for selection of native plant species. For purposes of erosion control and/or screening of existing developments within the Natural River District and where available at state nurseries, recommended planting materials will be supplied to property owners at cost from the Department of Natural Resources.

T. Recreation

1. **Campgrounds and Picnic Areas:** On public land, no new structures associated with a campground or picnic area, except those necessary to protect the riverbank, will be permitted within 300 feet of the designated mainstream or tributaries. Such structures shall be designed and constructed in such a manner as to further the purposes of the Natural Rivers Act. It is also recommended that existing public campgrounds be located away from the river to meet the setback limits. Where possible, the recommended vegetation strip should be re-established and maintained.

On public lands adjacent to the river, camping will be permitted only at designated camping areas.

2. **Fishing, Hunting and Trapping:**
 - a. Fishing, hunting and trapping will be permitted in the Natural River District in accord with current state and local laws and regulations.
 - b. IT IS EMPHASIZED THAT NATURAL RIVER DESIGNATION, OR ESTABLISHMENT OF A ZONING DISTRICT ALONG THE RIVER, DOES NOT OPEN PRIVATE LANDS TO THE PUBLIC.
 - c. Fisheries management practices will be done in conformance with the character of the area and objectives of the natural river designation. Emphasis will be placed on maintaining and upgrading, when necessary, the high quality trout fisheries of the Pere Marquette above entry of the Big South Branch.
3. **Lakes:** No lake shall be built within the 400-foot Natural River District.
4. **Boating and Canoeing:**
 - a. Non-motorized boating and canoeing is permitted.
 - b. Local units of government (township or county) are encouraged to prohibit the use of motorized watercraft above Indian Bridge. Such controls should be done in accordance with Part 801, Marine Safety, of 1994 PA 451.

5. Litter: In view of the special status of the Pere Marquette River and its unique beauty and character, the Department of Natural Resources shall encourage and cooperate with private interests as well as other public agencies that have programs for river cleanup.
6. Recreational Controls: It is recognized that recreational conflicts, misuse and overuse is occurring throughout the state, and particularly on the Pere Marquette River. The limit of the statutory authority for controlling recreational uses of Michigan's waterways has not been clearly defined either through the judicial system or by the Michigan legislature. When it is determined that the Department of Natural Resources has such authority, the Department shall initiate such controls as necessary over the numbers, timing, location and conduct of river users.

U. Public Access Sites

1. Mainstream: No new boat or canoe access sites shall be located on the mainstream. It is recommended that canoe rest stops (with no public vehicular access) be located approximately halfway between: (a) the "Forks" and Bowman's Bridge, and (b) Lower Branch Bridge and Walhalla. Coupled with a public information program and careful signing of the river area, the proposed rest stops should help reduce trespass and litter problems in the most popular canoeing portion of the river. A site between Lower Branch Bridge and Walhalla should only be developed when it is shown that the first site achieves the desired results.
2. Tributaries: Because of the generally small size of the tributaries, particularly those above the "Forks", canoeing should be discouraged. No additional canoe access sites are recommended. Existing sites above the "Forks" may have to be modified to limit or control canoe access.

The Big South Branch is suitable in size and flow for canoeing. The developed access site above Anthony Road Bridge may need to be modified to avoid environmental damage to the river. No additional canoe access sites are recommended at this time. New access sites will be provided only if it can be shown there is a need for such access, and that development and use of such facilities will not adversely effect the objectives of natural rivers designation. Any development must be done in accordance with the setback and vegetative management provisions of this plan.

Any additional fisherman public access site on the Pere Marquette tributaries must be walk-in only with parking facilities at least maintaining established setbacks. These should be located only where there are sufficient adjacent public lands so as to avoid trespasser conflicts on privately owned lands.

Camping facilities on designated portions of the Pere Marquette system shall be relocated to conform with the suggested setback.

To help control trespass, litter and other associated problems, watertight vault toilets and trash collection facilities at public access sites and rest areas may be located closer than the recommended setback.

V. Motorized Vehicles

Operation of all motorized vehicles other than on designated public roads, access roads to permitted uses, will be prohibited within the Natural River District.

Use of ORV's on publicly owned lands contiguous to the Natural River District shall be in conformance with guidelines and regulations of the agency administering such lands, and with state and federal noise level standards strictly enforced. (Muffler requirement of MVC - Section 707, Act 300, P.A. 1949, etc.)

W. Historic and Archaeological Sites

The identification, preservation and interpretation of historical and archaeological sites along the designated portions of the Pere Marquette River and tributaries, by public agencies and local historical societies, is strongly encouraged. It is illegal to disturb or dig in a designated site without prior written consent from the appropriate state and/or federal agency.

X. Federal Wild and Scenic Rivers Act

The mainstream of the Pere Marquette River from the "Forks" to the U.S. 31 Bridge has been recommended to Congress for inclusion in the federal Wild and Scenic River system.

Section 30513 of Michigan's Natural River Act states in part, "Nothing in this act shall preclude a component of the system from becoming a part of the national wild and scenic river system under the federal wild and scenic rivers Act, Public Law 90-542, approved October 2, 1968."

Should a portion of the Pere Marquette River be designated under the federal act, a management plan will be developed by the U.S. Forest Service.

Protection of the river is primarily achieved through a combination of three means. These are:

1. Local zoning
2. Acquisition of scenic easements
3. Acquisition of land through fee simple title.

If the Pere Marquette River is designated by Congress as a component of the national system, the management plan prepared by the U.S. Forest Service should reflect this plan and state natural river designation.

The federal plan should allow every opportunity for local and/or state natural river zoning to protect the river environment and to meet the purposes and objectives of scenic river designation.

Y. Administration

1. Land Use Guidelines:

- a. Under Part 305, zoning by local government units shall be the chief means of protecting the Pere Marquette River and its designated tributaries as a natural river.
 - 1) Zoning shall be applied within the 400 foot Natural River District on both the designated mainstream and tributaries. Upon adoption of a local zoning ordinance, certified copies of maps and/or documents describing the Natural River District shall be filed with the local tax assessing officer and County Equalization Department. In establishing true cash value of property within the Natural River District, the assessing officer shall recognize the effect of use limits established by the ordinance (Section 30511, Part 305, P.A. 451 of 1994).

Local government units are urged to adopt building setbacks, vegetation management and septic system controls for other streams under their jurisdiction not within the natural rivers designation.

Any property owner with undeveloped river frontage on the designated portions of the Pere Marquette River or its designated tributaries may sign an open space development rights easement with the state under Part 361, P.A. 451 of 1994 to obtain potential tax relief.

- 2) Appeals: Under certain circumstances, strict adherence to this plan may create unreasonable hardships for the frontage owner. Such cases may be appealed to the appropriate local board for a site plan.* The County Health Department, Soil Conservation Service, appropriate staff and field personnel of the Department of

*Site Plan - means a surface view showing elevations or contours of the ground, including existing earth fills; generalized vegetative cover; size, location and spatial arrangement of all proposed and existing structures and uses on the site; location and elevations of streets, access roads, water supply and sanitary facilities.

Natural Resources and other experts should be consulted to recommend to the appeals board a course of action which will have the least degrading impact on the character of the natural river. Final determination of the variance shall be made by the local appeals board.

- 3) Nonconforming uses: As stated in Section 30512 of the Natural Rivers Act, Part 305, P.A. 451 of 1994, "the lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or an amendment thereof may be continued although such use does not conform with the provisions of the ordinance, rule or amendment. The ordinance or rule shall provide for the completion, restoration, extension or substitution of nonconforming uses upon such reasonable terms as may be set forth in the zoning ordinance or rule."

b. Land Acquisition

- 1) The state may purchase or trade lands with owner consent on the designated river and tributaries to maintain or improve the river and its environment. Efforts should be made by the appropriate public agency to purchase key parcels for canoe rest areas, walk-in fishermen access, or to protect sensitive environmental areas.
- 2) Some landowners in the Natural River District may be interested in offering scenic or other easements or inserting restrictions in their deeds which serve to protect the river environment and which coincide with their property interests. The opportunity to obtain such easements or restrictions should be pursued by interested public agencies.

- c. State Resources: Overall responsibility for implementing and coordinating the natural river plan is assigned to the Region II Office of the Department of Natural Resources. The Natural Rivers Unit and the Department of Natural Resources Natural Rivers Task Force will act in an advisory capacity. Enforcement of water quality standards and water use regulations will be the responsibility of the Land and Water Management and other divisions of the Department of Environmental Quality.

2. Other laws and programs reinforcing natural rivers management objectives should be utilized to the extent necessary to protect the river in implementing the management plan for the river and tributaries (see Appendix A).

Z. State-Federal Cooperation

The Department of Natural Resources will work towards the development of a cooperative agreement with the U.S. Forest Service. Such an agreement shall address enforcement and visitor management, public lands administration and the protection of the natural values of the Pere Marquette. Such a cooperative agreement shall be developed in accordance with the Pere Marquette Natural River Plan as approved by the Natural Resources Commission.

AA. Management of Areas Beyond the Natural River Zone

Land use and water resources are closely related. What happens on the lands beyond the Natural River District but within the drainage area of the river affects the river. Local units of government adjacent to the district, through their powers to influence the location, timing and nature of development, can have a positive effect on water resources.

It is recommended that local governmental units zone adjacent to the Natural River District to maintain the integrity of the Pere Marquette River and designated tributaries as a wild-scenic river:

1. By limiting residential development to low density single-family structures or medium density cluster developments. Medium density cluster developments are recommended because it is easier to provide services and control.
2. By providing districts where industry which may produce noise, smoke, fumes, odors, etc., will not affect the natural characteristics of the river area.
3. By providing districts for commerce where heavy traffic, parking, automobile exhaust and noise will not create environmental intrusions.

Further, it is recommended that local units of government incorporate water resource protection and/or management measures into their plans, programs and decisions involving land use. Such measure are of particular importance when dealing with lands in the stream corridor as defined below.

A stream corridor essentially consists of lands contiguous to the stream, the alteration or development of which could potentially cause direct impacts on the stream and its environment. It is a composite of:

1. Soil types with severe limitations for development
2. Vegetation along creek banks
3. Wetlands
4. Slopes
5. Flood profiles when known.

Sensitive areas involving one or more of the above factors may occur within the drainage area of the river but outside of the Natural River District itself. Modification or development within such areas may adversely affect water resource benefits within the district or create problems requiring costly public investment to rectify.

It is recommended that local units of government consider such measures as regulating changes in surface water runoff from specific locations through use of the site plan review process; and protecting sensitive areas outside of the Natural River District through use of conditional use permit procedures.

On private lands adjacent to and within one-quarter mile of the Natural River District, it is recommended that the local Soil Conservation Districts, local Soil Erosion and Sedimentation Control agencies, Cooperative Extension Service and the Department of Natural Resources cooperate with landowners to ensure that timber harvest, agricultural practices, housing, road building or other land use activities are compatible with the wild-scenic designation of the river and with maintaining the water quality of the river.

APPENDIX A

**PART 305
NATURAL RIVERS****324.30501 Definitions.**

Sec. 30501. As used in this part:

(a) "Free flowing" means existing or flowing in natural condition without impoundment, diversion, straightening, riprapping, or other modification.

(b) "Natural river" means a river that has been designated by the department for inclusion in the wild, scenic, and recreational rivers system.

(c) "River" means a flowing body of water or a portion or tributary of a flowing body of water, including streams, creeks, or impoundments and small lakes thereon.

(d) "System" means all of those rivers or portions of rivers designated under this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30502 Natural river; designation; purpose; long-range plans; publicity; cooperation.

Sec. 30502. The department, in the interest of the people of the state and future generations, may designate a river or portion of a river as a natural river area for the purpose of preserving and enhancing its values for water conservation, its free flowing condition, and its fish, wildlife, boating, scenic, aesthetic, floodplain, ecologic, historic, and recreational values and uses. The area shall include adjoining or related lands as appropriate to the purposes of the designation. The department shall prepare and adopt a long-range comprehensive plan for a designated natural river area that sets forth the purposes of the designation, proposed uses of lands and waters, and management measures designed to accomplish the purposes. State land within the designated area shall be administered and managed in accordance with the plan, and state management of fisheries, streams, waters, wildlife, and boating shall take cognizance of the plan. The department shall publicize and inform private and public landowners or agencies as to the plan and its purposes, so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and the purposes of the designation. The department shall cooperate with federal agencies administering any federal program concerning natural river areas, and with any watershed council established under part 311, when such cooperation furthers the interest of the state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30503 Qualifications for designation; categories of rivers.

Sec. 30503. A river qualifying for designation as a natural river area shall possess 1 or more of the natural or outstanding existing values cited in section 30502 and shall be permanently managed for the preservation or enhancement of such values. Categories of natural rivers shall be defined and established by the department, based on the characteristics of the waters and the adjoining lands and their uses, both as existing and as proposed, including such categories as wild, scenic, and recreational. The categories shall be specified in the designation and the long-range comprehensive plan.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30504 Land acquisition; purpose; interest acquired; consent.

Sec. 30504. The department may acquire lands or interests in lands adjacent to a designated natural river for the purpose of maintaining or improving the river and its

environment in conformance with the purposes of the designation and the plan. Interests that may be acquired include, but are not limited to, easements designed to

provide for preservation and to limit development, without providing public access and use. Lands or interests in lands shall be acquired under this part only with the consent of the owner.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30505 Federal financial assistance programs; leases; expenditures; purposes.

Sec. 30505. (1) The department may administer federal financial assistance programs for natural river areas.

(2) The department may enter into a lease or agreement with any person or political subdivision to administer all or part of their lands in a natural river area.

(3) The department may expend funds for works designed to preserve and enhance the values and uses of a natural river area and for construction, management, maintenance, and administration of facilities in a natural river area conforming to the purposes of the designation, if the funds are appropriated by the legislature.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30506 Public hearings; notice.

Sec. 30506. Before designating a river as a natural river area, the department shall conduct public hearings in the county seat of any county in which a portion of the designated natural river area is located. Notices of the hearings shall be advertised at least twice, not less than 30 days before the hearing, in a newspaper having general circulation in each such county and in at least 1 newspaper having general circulation in the state and 1 newspaper published in the Upper Peninsula.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30507 Land uses; zoning; local ordinances; state rule.

Sec. 30507. After designation of a river or portion of a river as a natural river area and following the preparation of the long-range comprehensive plan, the department may determine that the uses of land along the river, except within the limits of an incorporated municipality, shall be controlled by zoning contributing to accomplishment of the purposes of this part and the natural river plan. County and township governments are encouraged to establish these zoning controls and additional controls as may be appropriate, including, but not limited to, building and subdivision controls. The department may provide advisory, planning, and cooperative assistance in the drafting of ordinances to establish these controls. If the local unit does not, within 1 year after notice from the department, have in full force and effect a zoning ordinance or interim zoning ordinance established under authority of the acts cited in section 30510, the department, on its own motion, may promulgate a zoning rule in accordance with section 30512. A zoning rule may also be promulgated if the department finds that an adopted or existing zoning ordinance fails to meet adequately guidelines consistent with this part as provided by the department and transmitted to the local units concerned, does not take full cognizance of the purposes and objectives of this part, or is not in accord with the purposes of designation of the river as established by the department.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30508 Zoning ordinance or rule; purpose.

Sec. 30508. A zoning ordinance adopted by a local unit of government or a zoning rule promulgated by the department shall provide for the protection of the river and its related land resources consistent with the preservation and enhancement of their values

and the objectives set forth in section 30502. The ordinance or rule shall protect the interest of the people of the state as a whole. It shall take cognizance of the characteristics of the land and water concerned, surrounding development, and existing

uses and provide for conservation of soil, water, streambed and banks, floodplains, and adjoining uplands.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30509 Zoning ordinance or rule; establishment of districts; powers; distance.

Sec. 30509. The ordinance or rule shall establish zoning districts within which such uses of land as for agriculture, forestry, recreation, residence, industry, commerce, and additional uses may be encouraged, regulated, or prohibited. It may limit or prohibit the placement of structures of any class or designate their location with relation to the water's edge, to property or subdivision lines, and to flood flows and may limit the subdivision of lands for platting purposes. It may control the location and design of highways and roads and of public utility transmission and distribution lines, except on lands or other interests in real property owned by the utility on January 1, 1971. It may prohibit or limit the cutting of trees or other vegetation, but such limits shall not apply for a distance of more than 100 feet from the river's edge. It may specifically prohibit or limit mining and drilling for oil and gas, but such limits shall not apply for a distance of more than 300 feet from the river's edge. It may contain other provisions necessary to accomplish the objectives of this part. A zoning rule promulgated by the department shall not control lands more than 400 feet from the river's edge.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30510 Local zoning ordinance; conformance with applicable law; construction.

Sec. 30510. A local unit of government, in establishing a zoning ordinance, in addition to the authority and requirements of this part, shall conform to the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, or the county zoning act, 1943 PA 183, MCL 125.201 to 125.240, including, but not limited to, the variance provisions of those acts. Any conflict shall be resolved in favor of the provisions of this part. The powers granted under this part shall be liberally construed in favor of the local unit or the department exercising them, in such manner as to promote the orderly preservation or enhancement of the values of the rivers and related land resources and their use in accordance with a long-range comprehensive general plan to ensure the greatest benefit to the state as a whole.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;--Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000.

324.30511 Districts; valuation for tax purposes.

Sec. 30511. Upon adoption of a zoning ordinance or rule, certified copies of the maps showing districts shall be filed with the local tax assessing officer and the state tax commission. In establishing true cash value of property within the districts zoned, the assessing officer shall take cognizance of the effect of limits on use established by the ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30512 Rules; enforcement; promulgation; variance; existing use.

Sec. 30512. (1) The department shall prescribe administrative procedures and rules and provide personnel as it considers necessary for the enforcement of a zoning ordinance or rule enacted in accordance with this part. A circuit court, upon petition and a showing by the department that there exists a violation of a rule properly promulgated under this

part, shall issue any necessary order to the defendant to correct the violation or to restrain the defendant from further violation of the rule.

(2) The department shall promulgate a zoning rule to implement this part. The rule shall include procedures for receiving and acting upon applications from local units of government or landowners for change of boundaries or change in permitted uses in

accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. An aggrieved party may seek judicial review under chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(3) A variance from a zoning rule promulgated by the department to implement this part may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and the variance provisions of the zoning rule.

(4) The lawful use of any building or structure and of any land or premise as existing and lawful at the time of enactment of a zoning ordinance or rule or of an amendment of a zoning ordinance or rule may be continued although the use does not conform with the ordinance, rule, or amendment. The ordinance or rule shall provide for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon reasonable terms as set forth in the zoning ordinance or rule.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;--Am. 2000, Act 17, Imd. Eff. Mar. 8, 2000.

324.30513 National wild and scenic river system; administration.

Sec. 30513. This part does not preclude a component of the system from becoming a part of the national wild and scenic river system under the wild and scenic rivers act, Public Law 90-542, 16 U.S.C. 1271 to 1287. The department may enter into written cooperative agreements for joint federal-state administration of rivers that may be designated under the wild and scenic rivers act.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30514 Area plans; approval; rules.

Sec. 30514. The department shall approve preliminary and final plans for site or route location, construction, or enlargement of utility transmission lines, publicly provided recreation facilities, access sites, highways, roads, bridges, or other structures and for publicly developed water management projects, within a designated natural river area, except within the limits of a city or incorporated village. The department may require any measure necessary to control damaging erosion or flow alteration during or in consequence of construction. The department shall promulgate rules concerning the approvals and requirements provided for in this section.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

324.30515 Construction of part.

Sec. 30515. This part does not prohibit a reasonable and lawful use of any other natural resource that benefits the general welfare of the people of this state and that is not inconsistent with the purpose of this part.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

APPENDIX B

“ALTERATION OF RIVERS” LAWS

Construction on Streams (Act 156, 1951): Authorizes county commissioners to permit or prohibit the construction of dams or bridges on navigable streams. They can also provide for the removal of obstructions.

Construction of Dams in Streams (Act 184, 1963): Prohibits dam building on a stream or river impounding more than five acres without a permit from the Department of Natural Resources.

Inland Lakes and Streams Act of 1972 (Act 346, 1972): Authorizes the Department of Natural Resources to regulate structures, fills, dredgings and other such actions on waterfronts.

Soil Erosion and Sedimentation Control Act of 1972 (Act 347, 1972): Control of soil erosion for the identified land uses of an area to prevent sedimentation of the waters of this state.

Regulate Alteration of Floodplain and Floodways (Act 167, 1968): Authorizes the Water Resources Commission to control alteration of the water courses and the floodplains of all rivers and streams, and to prohibit the obstruction of the floodways of rivers and streams of the state.

Goemaere-Andreson Wetland Protection Act (Act 203, 1979): Authorizes the Department of Natural Resources to regulate dredging, filling, draining and other such actions to wetlands, including those contiguous to Michigan rivers (effective October 1, 1980).

RIVER USE LAWS

Marine Safety Act (Act 303, 1967): Sets forth general regulations for the use of vessels on waters of the state. Department of Natural Resources may, via hearings and adoption of rules by local governments, further regulate the use of such waters by special regulation.

Pending Canoe Registration Act: Would require registering of canoes that are intended for use in public waters of the state.

POLLUTION LAWS AND PROGRAMS

Water Resources Commission (Act 245, 1929): Commission must establish “pollution standards for waters of the state in relation to the use to which they are or may be put.” Has the authority to make regulations and issue orders and permits restricting the polluting content of discharges into state surface and ground waters. Act prohibits discharges of any substance into water which are or may become injurious to public

health, safety, welfare; domestic, commercial, industrial, agricultural, recreational or other uses of water; value or utility of riparian lands; to livestock, wild animals, birds, fish, aquatic life or plants, etc. Prohibits structures that will unduly restrict the capacity of the floodway.

Environmental Protection Act (Act 127, 1970): Allows the Attorney General, any public body, and private body or person to sue to enjoin the pollution or likely pollution of any natural resource or obtain relief with respect to such actions.

Clean Water Bonding Act (Act 76, 1968 implemented by Act 329, 1966, as amended): For sewage treatment facilities eligible for federal aid, the Water Resources Commission may grant up to 25 percent of the project cost providing that the sum of state and federal aid shall not exceed 80 percent of the project cost.

RELATED & GENERAL LAWS APPLICABLE TO NATURAL RIVERS PROGRAM

Shorelands Protection and Management Act (Act 245, 1970): The Great Lakes counterpart of the Natural River Act.

Farmland and Open Space Preservation Act (Act 116, 1974): Provides tax relief for certain property owners signing nondevelopment agreements with the state.

Subdivision Control Act (Act 288, 1967): Regulates the subdivision of land; requires that the land be suitable for building sites and public improvements, and that there be adequate drainage thereof; to control residential building development within floodplain areas, etc.

State Constitution (Act IV, s.52): Legislature must provide for the protection of natural resources.

Department of Conservation (Act 17, 1921): Department must protect and conserve the natural resources of the State of Michigan.

Natural Beauty Roads (Act 150, 1970): Such roads may be established by county road commission upon local petition. After establishment, commission may enact regulations to preserve native vegetation in the road right-of-way.

Safety Zones (Act 61, 1968): Prohibits discharge of firearms within 150 yards of an occupied dwelling.

Reckless Use of Firearms Act (Act 45, 1952):

Recreational Trespass Act (Act 323, 1976): Must have written permission to be on an individual's property, and prohibits possession or discharge of a firearm within the limits of a right-of-way on certain public roads.

RIVER PLANNING & DEVELOPMENT ORGANIZATIONS

Local River Management Act (Act 253, 1964): Authority to establish both a watershed council (like a planning or advisory board) and a river management district and board (planning a development agency).

Intermunicipality Study Committee (Act 200, 1957): Two or more municipalities may establish an intermunicipality study committee to study area problems and formulate recommendations to their governing bodies.

APPENDIX C

**DEPARTMENT OF NATURAL RESOURCES
FISHERIES DIVISION
PERE MARQUETTE RIVER NATURAL RIVER ZONING**

(By authority conferred on the natural resources commission by section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws)

R 281.341 Definitions.

Rule 1. As used in these rules:

- (a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit for a principal use, special use, or variance.
- (b) "Appurtenance" or "accessory building" means a structure that is incidental to a dwelling, including all of the following:
 - (i) Garages.
 - (ii) Residential storage sheds.
 - (iii) Barns and other agricultural storage and livestock structures.
 - (iv) Pump houses.
 - (v) Wells.
 - (vi) Private access roads.
 - (vii) Sanitary facilities.
 - (viii) Electrical service lines.
- (c) "Bluff" means a steep bank which rises sharply from the river's edge.
- (d) "Building inspector" means the agency or individual who is appointed by the appropriate governmental subdivision to issue building permits and to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972.
- (e) "Building permit" means a permit that is issued by the appropriate governmental subdivision as presently required under the provisions of Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws.
- (f) "Certificate of zoning compliance" means a standard form which is issued by the zoning administrator upon a determination that the construction and use of land and buildings and structures as provided for by a zoning permit, including the site plan, have been completed and are in compliance with the permit and site plan.
- (g) "Commission" means the natural resources commission.
- (h) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.
- (i) "Director" means the director of the department of natural resources.
- (j) "Family" means either of the following:
 - (i) An individual or group of 2 or more persons who are related by blood, marriage, or adoption and who, together with foster children, servants of the principal occupants, and not more than 2 additional unrelated persons, are domiciled together as a single, domestic, housekeeping unit in a dwelling unit.
 - (ii) A collective number of individuals who are domiciled together in 1 dwelling unit, whose relationship is of a continuing nontransient domestic character, and who are cooking and living as a single, nonprofit, housekeeping unit. Any society, club, fraternity,

sorority, association, lodge, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature shall not be considered a family as defined by these rules.

(k) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen development from the river, to provide for streambank stabilization and erosion control, to serve as an aid to the infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. "Filtered view of the river" means no clear cutting.

(l) "Floodplain" means land lying within an identified or documented 100-year floodplain line. Also see subdivision (q) of this rule.

(m) "Floodway" means the channel of a river or stream and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge a 100-year flood.

(n) "Front" means that segment of a lot or parcel abutting the river's edge of the main stream or tributary.

(o) "Front yard " means setback as provided for in R 281.347(b)(i)(D).

(p) "Home occupation" means a gainful occupation that is traditionally and historically carried on in the home as a use which is clearly incidental and secondary to the use of the home as a dwelling place.

(q) "Land that is subject to flooding" means that area of land adjoining the designated portions of a river and its tributaries which will be inundated by a flood which has a 1% chance of occurring or being exceeded in any given year as determined by detailed hydraulic studies that are acceptable to the Michigan department of natural resources or which, in the absence of such detailed floodplain studies, has a history of flooding or is delineated by approximate methods, such as United States geological survey flood-prone area maps or the federal emergency management agency's special flood hazard boundary maps.

(r) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, rental, or other conveyance.

(s) "Lot area" means the area inside the lot lines.

(t) "Lot, interior" means a lot of record which is located in the natural river district, but which does not have frontage on the river or its designated tributaries.

(u) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules or a lot or parcel which is described by metes and bounds and which has been recorded at the office of the county register of deeds before the effective date of these rules.

(v) "Natural river district" means the Pere Marquette river natural river district as described in the provisions of R 281.345.

(w) "Ordinary high watermark" means the line between the upland and bottomland which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

(x) "Rear yard" means that yard opposite the front yard.

(y) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.

(z) "River's edge" means the ordinary high watermark as used in the provisions of Act No. 346 of Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws, and as defined in subdivision (w) of this rule.

(aa) "Setback" means the required horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.

(bb) "Single-family dwelling means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.

(cc) "Soil erosion and sedimentation control enforcement agency" means the local agency that is appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being §282.101 et seq. of the Michigan Compiled Laws.

(dd) "Structure" means anything which is constructed, erected, or moved to or from any premises and which is located above, on, or below the ground, including buildings, roads, signs, billboards, satellite antennas and other communication structures, fences, and mobile homes. Temporary recreational facilities, including tents, camper trailers, and recreation vehicles, are not considered structures if they are used less than 30 days per year and if they are located landward of the natural vegetation strip or if the facilities are located on a campsite within a campground licensed under the provisions of Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws, if both the individual campsite and the campground were established before the effective date of these rules.

(ee) "Zoning administrator" means the administrator of these rules who is appointed by the commission.

(ff) "Zoning permit" means a standard form which is issued by the zoning administrator when it is determined that the proposed construction of buildings and structures and the proposed use of land and buildings and structures thereon are in compliance with all of the provisions of these rules.

(gg) "Zoning review board" means a group of not less than 3, nor more than 7, people which includes not less than 2 local representatives and 1 department of natural resources representative who is familiar with the local area and which is appointed by the commission to act upon requests as provided for by these rules.

History: 192 MR 7, Eff. July 18, 1992.

R 281.342 Purpose; intent; scope.

Rule 2. (1) The commission, on its own motion, to implement the intent of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Pere Marquette river, a designated natural river, promulgates these zoning rules for the following purposes:

(a) To promote the public health, safety, and general welfare, to prevent economic and ecological damage due to misuse, unwise development patterns, overcrowding, and overuse within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

(b) To protect the free-flowing condition, fish, aquatic and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pere Marquette river and adjoining land.

(c) To prevent flood damage due to interference with the natural floodplain characteristics by excluding developments which are vulnerable to flood damage and

which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from investing funds in structures that are proposed for location on lands which are unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage.

(f) To achieve the goals and objectives of the Pere Marquette river natural river plan.

(2) It is the general intent of these rules to define terms used and to regulate and restrict lot coverage and use, population distribution and density, and the size and location of all structures by the delineation of permitted uses and development standards so as to promote the purposes identified in this rule. It is further intended to provide for the administration and enforcement of these rules and to provide penalties for their violation.

(3) It is not the intent of these rules to revoke, annul, cancel, or in any way impair or interfere with existing provisions of law, ordinances, or any rules, regulations, or premises or with any private restrictions placed upon property by covenant or deed. However, where such provisions of law are less restrictive than the provisions of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, and the rules promulgated thereunder, the provisions of Act No. 231 of the Public Acts of 1970, and the rules promulgated thereunder shall apply.

History: 192 MR 7, Eff. July 18, 1992.

R 281.343 Construction of language: severability.

Rule 3. (1) All of the following rules of construction apply to the text of these rules:

(a) The particular shall control over the general.

(b) In the case of any difference of meaning or implication between the text of these rules and any caption or illustration, the text shall control.

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

(d) Words used in the present tense shall include the future. Words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

(e) A "building" or "structure" includes any part thereof.

(f) The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(h) Unless the context clearly indicates the contrary, where a regulation involves 2 or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either . . . or," the conjunction shall be interpreted as follows:

(i) "And" indicates that all of the connected items, conditions, or provisions shall apply.

(ii) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

(iii) "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singularly, but not in combination.

(i) Terms not defined in these rules shall have the meanings customarily assigned to them.

(2) In any case in which the provisions of these rules are declared by the courts to be unconstitutional or invalid, such ruling shall not affect the validity of the remaining provisions of these rules and to this end the provisions of these rules are declared to be severable.

History: 192 MR 7, Eff. July 18, 1992.

R 281.344 Lot size and area; subdivision of land; home occupations; natural vegetation strip; signs; docks; height of structures.

Rule 4. (1) Unless otherwise provided for within these rules, any lot or parcel of property created after the effective date of these rules, or amendments thereto, shall have a minimum area of 50,000 square feet and a minimum average width of 200 feet throughout the length of the lot or parcel on the Pere Marquette river main stream, big south branch, little south branch, middle branch, and Baldwin river, and a minimum average width of 150 feet on all other designated tributaries. The average lot width shall be based on the average of the combined widths of the front and rear lot lines.

(2) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots that are created after the effective date of this rule shall meet the minimum requirements of these rules, except as provided in subrules (3) and (4) of this rule.

(3) Proposed lots which have preliminary plat approval pursuant to the provisions of Act No. 288 of the Public Acts of 1967, as amended, being §560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, on final plat approval, be issued a permit subject to the requirements provided in R 281.349.

(4) Lots of record which are created before the effective date of these rules, or amendments thereto, and which do not possess sufficient land area or lot width may be used for the purposes described within these rules, subject to the requirements provided for in R 281.349.

(5) Home occupations shall conform to both of the following requirements:

(a) The use of the dwelling unit, or related structure, for the home occupation shall be clearly incidental and subordinate to its use for residential purposes. The home occupation shall not occupy more than 30% of the aboveground floor area of the dwelling unit. This requirement shall apply whether the home occupation is contained wholly within the dwelling unit or utilizes a garage.

(b) Equipment or a process shall not be used in a home occupation that is conducted in either a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses off the premises and shall not be used in a home occupation that is conducted in other than a single-family dwelling unit or its associated garage if it creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable to the normal senses outside the dwelling unit.

(6) Within the natural river district, not less than a 75-foot restrictive cutting belt shall be maintained on each side of the main stream of the Pere Marquette river main stream, big south branch, little south branch, and Baldwin river, and not less than a 50-foot restrictive cutting belt shall be maintained on each side of all other designated tributaries. Trees and shrubs may be pruned for a filtered view of the river, but clear cutting in the natural vegetation strip is prohibited. The natural vegetation strip is also subject to all of the following provisions:

- (a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy and poison sumac, may be removed.
- (b) The selected removal or trimming of trees for timber harvest, access or woodlot improvements, landscaping, public utility lines to service private single-family dwellings and other permitted uses is permitted upon approval of the zoning administrator.
- (c) Camping is not permitted in the natural vegetation strip.
- (7) Signs shall not be visible from the river, except:
 - (a) "No Trespassing" signs if the signs are not more than 1 square foot in area and are spaced a minimum of 100 feet apart.
 - (b) One identification sign of rustic design, associated with a canoe livery, campground or rental cabins, which is not more than 6 square feet in area. The sign shall be for the purpose of identification of a designated watercraft landing site and shall be located at the designated landing site.
 - (c) Signs posted by public agencies to provide for public safety such as warning of impending dangers in the river, or to identify a public access site or campground. Such signs may need to be larger than 6 square feet in area to accomplish their designated purpose. Signs which identify a public access site or campground shall be of rustic design.
- (8) Private boat docks shall be in compliance with all of the following requirements:
 - (a) Docks shall not be more than 4 feet in width and not more than 20 feet in length, with not more than 4 feet of the dock extending over the edge of the river.
 - (b) Docks shall be designed, constructed, and maintained to blend with the natural surroundings. The use of natural, native materials is encouraged.
 - (c) Unless provided for within these rules, only 1 dock shall be constructed per lot.
- (9) Unless otherwise provided for within these rules, a structure shall not be more than 2 1/2 stories in height, not including a basement.

History: 192 MR 7, Eff. July 18, 1992.

R 281.345 Boundaries; interpretation of boundaries; filing of zoning map.

Rule 5. (1) The boundaries of the Pere Marquette river natural river district shall be as described in these rules and as depicted on the certified Pere Marquette river natural river zoning map. The Pere Marquette river natural river zoning district comprises an area which is described as follows:

- (a) The main stream of the Pere Marquette from the junction of the middle branch and the little south branch, commonly known as the "Forks", located in Lake county, to the U.S. 31 highway bridges in Mason county, excluding that portion of the river within the city of Scottville.
- (b) Swan creek from Darr road downstream to its confluence with the Pere Marquette river.
- (c) Weldon creek from the outfall of Romeo lake downstream its confluence with the Pere Marquette river.
- (d) The big south branch from the confluence of Beaver creek with Winnepesaug creek downstream to its confluence with the Pere Marquette river.
- (e) Cedar creek from M-37 downstream to its confluence with the big south branch.
- (f) Ruby creek from its source in section 6, township 16 north, range 15 west, downstream to its confluence with the big south branch.
- (g) Carr creek, excluding that portion of the stream which branches north in section 14, township 17 north, range 15 west, from north branch road downstream to its confluence with the big south branch.

- (h) Sweetwater creek from its source in section 21, township 18 north, range 14 west, downstream to its confluence with the Pere Marquette river.
 - (i) Kinney creek from the outfall of Wingleton lake in section 31 of township 18 north, range 13 west, downstream to its confluence with the Pere Marquette river.
 - (j) Danaher creek from the C & O railroad in section 27, township 17 north, range 13 west, downstream to its confluence with the Pere Marquette river.
 - (k) The Baldwin river, excluding that portion in the village of Baldwin, from the outfall of the widewaters in section 22, township 19 north, range 12 west, downstream to its confluence with the Pere Marquette river.
 - (l) Cole creek to its confluence with the Baldwin river, including the north branch of Cole creek, from big spring in section 15, township 18 north, range 12 west, downstream to its confluence with the south branch of Cole creek; the south branch of Cole Creek from the east line of section 21, township 18 north, range 12 west, downstream to its confluence with the north branch of Cole creek.
 - (m) Bray creek from the outfall of Bray lake in section 26, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.
 - (n) Sandborn creek, excluding that portion in the village of Baldwin, from State road downstream to its confluence with the Baldwin river.
 - (o) Leverentz creek from the outfall of Leverentz lake in section 35, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.
 - (p) The middle branch from Bonney road downstream to the "Forks."
 - (q) Blood creek from its source in township 17 north, range 12 west, downstream to its confluence with the middle branch.
 - (r) The little south branch from U.S. forest service road 5309 where it crosses the stream in section 9, township 15 north, range 12 west, downstream to the "Forks."
 - (s) McDuffee creek from 13 Mile road, township 16 north, range 12 west, downstream to its confluence with the little south branch.
 - (t) The Pease creek system, all of which lies in township 18 north, range 12 west, Newaygo county.
 - (u) The lands lying within 400 feet of the river's edge which are enumerated in subdivisions (a) to (t) of this subrule.
- (2) Where uncertainty exists with respect to the boundaries of the district as shown on the zoning map, all of the following provisions shall apply:
- (a) Boundaries that are indicated as approximately following the centerline of streets or highways shall be construed to follow the centerline.
 - (b) Boundaries that are indicated as approximately following lot lines shall be construed as following the lot lines.
 - (c) Boundaries that are indicated as approximately following city, village, township, or county boundaries lines shall be construed as following the city, village, township, or county boundary lines.
 - (d) Boundaries that are indicated as following railroad lines shall be construed to be midway between the right-of-way lines.
 - (e) Boundaries that are indicated as following shorelines shall be construed to follow the shorelines, and, in the event of change in the shorelines, shall be construed as moving with the actual shorelines. Boundaries that are indicated as approximately following the centerline of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow the centerline.

(f) Boundaries that are indicated as parallel to or extensions of features indicated in subdivisions (a) to (e) of this subrule shall be so construed. Distances that are not specifically indicated on the official zoning map shall be determined by the scale of the map.

(g) Where physical or natural features that exist on the ground are at variance with those shown on the official zoning map or in other circumstances are not covered by the provisions of subdivisions (a) to (f) of this subrule, the zoning review board shall interpret the district boundaries.

(h) Insofar as a portion or all of the district may be indicated on the zoning map by a pattern which, for the sake of map clarity, does not cover public rights-of-way, it is intended that the district boundaries do extend to the center of any public right-of-way.

(3) Certified copies of the Pere Marquette river natural river zoning map shall be filed with all of the following entities:

(a) The state tax commission.

(b) Local tax assessing officers.

(c) Township and county clerks.

(d) The natural rivers unit of the Michigan department of natural resources.

History: 192 MR 7, Eff. July 18, 1992.

R 281.346 Zoning permits; site plans; certificates of zoning compliance.

Rule 6. (1) A building or other structure shall not be erected, moved, added to, or structurally altered, and a land use shall not be commenced, without a zoning permit as specified by these rules and as issued by the zoning administrator. Permits shall not be required for exempt activities as specified in R 281.347(1). Plans that are submitted when applying for a zoning permit shall contain the necessary information for determining compliance with these rules.

(2) Concurrent with applying for a zoning permit, an applicant shall submit a site plan of the proposed development. The site plan shall include the entire area that is proposed for development. The zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, shall have the authority to require adjustments in the site plan as a condition for approval to ensure that the proposed development meets all standards contained in these rules. Except as otherwise waived by the zoning administrator, in the case of a principal use application, or the zoning review board, in the case of a special use application, a site plan shall show and include all of the following, either existing or proposed:

(a) A site plan drawn to scale, with the scale indicated.

(b) Property dimensions.

(c) The size, shape, use, and location of existing and proposed buildings or improvements, including distances to adjacent property boundaries and the river's edge.

(d) Existing vegetation, including the location and type.

(e) Adjacent streets and highways.

(f) Parking areas.

(g) Bluff heights.

(h) Entrances to public streets.

(i) A description of the building design, including proposed construction materials.

(j) Drainage facilities.

(k) The location and description of the method to dispose of sanitary wastes.

(l) Proposed landscaping.

(m) The location of footpaths.

- (n) Signs proposed, including the size, location, and material.
- (o) North arrow.
- (p) Date of drawing.
- (q) Detailed site location map.
- (r) Any additional information deemed by the zoning administrator or zoning review board to be necessary to carry out the administrator's or board's duties. Examples of such information include the following:
 - (i) Soil types.
 - (ii) Topography.
 - (iii) Building elevations.
 - (iv) Site photographs.
 - (v) Anticipated traffic volumes.
 - (vi) Traffic circulation patterns.
 - (vii) Other pertinent site information.
- (3) A building, structure, or lot for which a zoning permit has been issued shall not be occupied, and a use for which a zoning permit has been issued shall not commence, until the zoning administrator has, after final inspection, issued a certificate of zoning compliance that certifies compliance with all of the provisions of these rules. However, the issuance of a certificate of compliance shall not be construed as waiving any provision of these rules. A building that is an accessory to a dwelling shall not require a separate certificate of zoning compliance, but may be included in the certificate of zoning compliance for the dwelling if shown on the site plan and if completed at the same time as the dwelling. A record of all certificates that are issued shall be kept on file in the office of the zoning administrator. Certificates of zoning compliance are for the purposes of these rules and shall not be interpreted as substitutes for certificates of occupancy that are required by local building codes.

History: 192 MR 7, Eff. July 18, 1992.

R 281.347 Land use and development standards.

Rule 7. Land uses within the natural river district are classified as exempt, principal, or special uses and are described as follows:

- (a) Exempt uses are uses which are permitted by right and which are not subject to the receipt of a zoning permit. Exempt uses include all of the following:
 - (i) Private, noncommercial recreation which does not involve permanent structures, equipment, or other devices, but which includes camping, boating, fishing, hunting, and other similar activities.
 - (ii) Reforestation and other accepted forest management practices, subject to the limitations specified in R 281.344(6)(b).
 - (iii) Agriculture, including general and specialized farming, unless the bureau of environmental protection of the Michigan department of natural resources determines that such use will significantly contribute to stream degradation.
 - (iv) The operation of licensed motor vehicles on dedicated public roads or private roads that are designed to provide access to a permitted use.
 - (v) The off-road operation of emergency and public utility maintenance vehicles. The off-road operation of other motorized vehicles is prohibited in the natural vegetation strip as specified in R 281.344(6).
 - (vi) Private footpaths that are constructed by the landowner of natural materials to facilitate access to permitted uses.
 - (vii) Signs, subject to the provisions of R 281.344(7).

(b) Principal uses are uses which are allowed by right, but which require the issuance of zoning permits by the zoning administrator. Principal uses include all of the following:

(i) Single-family dwellings, if all of the following provisions are complied with:

(A) Only 1 dwelling shall be permitted per lot of record.

(B) Each lot shall be not less than 50,000 square feet.

(C) A dwelling lot along the Pere Marquette river main stream, big south branch, little south branch, middle branch, and Baldwin river shall have a minimum average width of 200 feet throughout its length. A dwelling lot along any other designated tributary shall have a minimum average width of 150 feet throughout its length.

(D) Building setback for lots, including all appurtenances and accessory buildings, shall be not less than 150 feet from the ordinary high watermark on the main stream, the big south branch, the little south branch, the middle branch, and the Baldwin river and 100 feet on all other designated tributaries. The setback may be decreased 1 foot for every 1 foot of rise in bank height to a minimum of 100 feet from the ordinary high watermark on the main stream and to a minimum of 75 feet from the ordinary high watermark on all other designated tributaries. Buildings and appurtenances shall be set back not less than 25 feet from the top of a bluff on the noncutting edge of a stream and not less than 50 feet from the top of a bluff on the cutting edge of a stream. Building shall not take place on land that is subject to flooding.

(ii) Accessory buildings that meet the setback requirements of paragraph (i) of this subdivision.

(iii) A private boat dock.

(iv) Utility lines to service private, single-family dwellings.

(v) Disposal fields and septic tanks, if all of the following provisions are complied with:

(A) The fields and tanks shall be located not less than 150 feet from the ordinary high watermark.

(B) A septic tank or absorption field shall not be located closer than 50 feet to any surface or subsurface drainage system that enters into the Pere Marquette river or its designated tributaries.

(C) The bottom of the pit associated with an earth privy shall not be less than 4 feet above the known high groundwater table.

(vi) Mining and extracting industries, if located not less than 300 feet from the ordinary high watermark.

(vii) Residential single-family dwelling plats, if the minimum standards specified in paragraph (i) of this subdivision are met.

(viii) Home occupations.

(ix) Land alteration, such as grading, dredging, and filling of the land surface, unless the high groundwater table is within 4 feet of the existing natural land surface.

(c) The Pere Marquette river natural river plan and these rules recognize that certain types of residential, recreational, and commercial uses may be appropriate for the natural river district that have not been identified under the exempt and principal uses provisions of this rule. Such uses may result in intensities of development and use higher than would be anticipated under the exempt and principal uses. To ensure that such uses do not contravene the goals and objectives of the Pere Marquette river natural river plan and these rules such uses shall be referred to as special uses and shall be subject to the review and approval of the zoning review board. Special uses and their development standards include all of the following:

(i) Detached rental cabins, if all of the following provisions are complied with:

(A) The number of cabins permitted shall be based on the rate of 1 cabin per 200 feet of river frontage. Clustering of rental cabins is encouraged; however, the ratio of 1 cabin per 200 feet of river frontage shall not be exceeded.

(B) Each cabin and all associated buildings, structures, or other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.

(C) Fences and greenbelts may be required by the zoning review board for rental cabins that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.

(D) Boat docks may be erected for the private use of occupants of the rental cabins and their guests. Docks shall be in compliance with the requirements of R 281.344 and both of the following provisions:

(1) Docks may be constructed at the rate of 1 dock for each permitted rental cabin.

(2) Access to a dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(ii) Campgrounds, including tents, travel trailers, campers, and motor homes, with associated noncommercial buildings, cement pads, and utility hookups, if all of the following provisions are complied with:

(A) Campgrounds shall be constructed and maintained in accordance with all applicable state regulations.

(B) A commercial enterprise shall not be permitted to operate in the campground within the natural river district, except that a convenience goods shopping building that is not more than 1,500 square feet may be provided. The building shall not be more than 1 story in height.

(C) Each site and all associated buildings, structures, and other related devices shall be set back a minimum of 200 feet from the ordinary high watermark.

(D) Fences and greenbelts may be required by the zoning review board for campgrounds that are adjacent to existing residential uses. Fencing shall be constructed of natural material. Greenbelts shall consist of plant material that is indigenous to the area or as approved by the zoning review board.

(E) A camping site shall not have more than 4 sites per acre. Clustering of campsites is encouraged; however, the ratio of 4 sites per acre shall not be exceeded.

(F) Boat docks may be erected for the private use of the occupants of the campsites and their guests if both of the following provisions are complied with:

(1) The total number of docks shall not be more than 1 dock for each 200 feet of river frontage.

(2) Access to the dock or docks shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

(iii) Canoe, boat, and other watercraft liveries, if all of the following provisions are complied with:

(A) Parked vehicles and off-season canoe and boat storage areas shall not be visible from the river.

(B) Boat docks may be erected at the ratio of 1 dock per 200 feet of river frontage.

(C) Other than the rental of watercraft, other commercial enterprises shall not be permitted to operate.

(D) A rental office which is associated with the operation of the livery and which does not have more than 225 square feet may be constructed. The building shall not be more than 1 story in height.

(E) Access to the dock or docks or place of river entry from the canoe or boat rental office shall be along a single designated footpath to minimize disruption of the natural vegetation strip.

History: 192 MR 7, Eff. July 18, 1992.

R 281.348 Application and approval; procedures and standards; principal uses and special uses.

Rule 8. (1) An application for a principal use shall be submitted and processed under the following procedures:

(a) An application for a principal use shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information:

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Two copies of a site plan that meets the requirements of R 281.346(2).

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a principal use.

(b) Within 15 days of receipt of an application for a principal use, the zoning administrator shall notify the applicant of the need for additional information.

(c) Within 30 days of receipt of a completed application, the zoning administrator shall issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.

(d) Concurrent with the issuance of a zoning permit, an applicant shall receive a copy of the approved site plan.

(e) Before commencing construction of a principal use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

(f) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of not more than 6 months if conditions pertaining to the issuance of the original permit remain unchanged. Application for an extension shall be made before permit expiration. Any subsequent extensions shall have the written approval of the zoning review board.

(2) An application for a special use permit shall be submitted and processed under the following procedures:

(a) An application for a special use permit shall be made on an application form that is available from the zoning administrator and shall be returned to the zoning administrator. A completed application shall contain all of the following information and attachments:

(i) A completed application form that is signed by the applicant or the applicant's representative.

(ii) Eight copies of a site plan that meets the requirements of R 281.346(2).

(iii) Evidence of ownership or a legal interest in the property that is affected by the application for a special use.

(iv) A list of all property owners, together with their addresses, who are located within 300 feet of the applicant's property which is being considered for a special use.

- (b) The application, together with the required attachments, shall be submitted not less than 30 days before the meeting of the zoning review board at which the application is to be considered.
- (c) The zoning review board shall conduct at least 1 public hearing and shall require all of the following notifications of such hearing to be made not less than 5, nor more than 15, days before consideration of the special use application:
- (i) One notice shall be published in a newspaper that circulates in the township in which the proposal is located.
 - (ii) Notice shall be sent by first-class mail or personal delivery to the owners of property for which approval is being considered and to all persons who are identified in subdivision (a)(iv) of this subrule.
 - (iii) Notice shall also be sent to all of the following entities:
 - (A) The natural rivers unit of the Michigan department of natural resources.
 - (B) Local tax assessing officials.
 - (C) Township and county clerks.
 - (D) Local building inspectors.
- (d) In considering a special use application, the zoning review board shall require that all of the following general standards, in addition to those specific standards established for each special use in R 281.347(c), be satisfied:
- (i) That the purposes noted in R 281.342 are accomplished.
 - (ii) That a compelling reason exists to locate the proposed use within the district boundaries if contiguous property under the same ownership is available outside the district.
 - (iii) That the proposed use in combination with other existing uses will not be a detriment to the public health, safety, and welfare.
- (e) The zoning review board may impose conditions deemed necessary to accomplish the general and specific standards applicable to the proposed use.
- (f) The concurring vote of a majority of the members of the zoning review board shall be required to approve a special use.
- (g) A special use that is granted by the zoning review board shall be valid for 1 year from the date of approval. If construction has not, in the opinion of the zoning review board, commenced and proceeded meaningfully at the end of the 1-year period, the zoning administrator shall notify the applicant, in writing, of the expiration of the special use approval.
- (h) If it is determined by the zoning review board that the applicant has failed to comply with any of the requirements of these rules or the approval granted, the board, after a public hearing held in accordance with the provisions of subdivision (c) of this subrule, may revoke any special use approval.
- (i) An application for a special use which has been denied by the zoning review board shall not be submitted for reconsideration unless, in the opinion of the zoning administrator, new and significant facts and conditions exist which might result in favorable action upon resubmission.
- (j) Concurrent with the issuance of a special use permit, an applicant shall receive a copy of the approved site plan, with conditions, if any.
- (k) Before commencing construction of a special use, an applicant shall display the permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed.

History: 192 MR 7, Eff. July 18, 1992.

R 281.349 Variances and variance hearings.

Rule 9. (1) A dimensional variance from any standard established in these rules may be granted by the zoning review board after a public hearing or, in certain instances, by the zoning administrator as provided in subrule (3) of this rule to allow a modification from a standard that establishes an area, yard, height, floor space, frontage, setback, or similar numerical restriction, but only after substantive evidence establishes that there are practical difficulties in carrying out the strict letter of these rules. A variance shall be permitted only when it is consistent with the general purposes and intent of these rules.

(2) The zoning review board or zoning administrator shall consider all of the following factors in determining if there are practical difficulties in carrying out the strict letter of these rules as specified in subrule (1) of this rule:

(a) How substantial the variance is in relation to the zoning requirements.

(b) Whether a substantial change will be affected in the character of the area or a substantial detriment created for adjoining properties.

(c) Whether the difficulty can be overcome by some feasible method other than a variance.

(d) Whether, in view of the manner in which the difficulty arose, and considering all of the factors specified in subdivisions (a) to (c) of this subrule, the interests of justice will be served by allowing the variance.

(e) Whether the plight of the landowner is due to circumstances which are unique to his or her property and which are not created by the landowner.

(f) Whether the variance may result in a material adverse effect on the environment.

(3) For the purposes of these rules, the required hearing and review of a variance request by the zoning review board shall be waived for certain minor dimensional variances of principal uses, including legal nonconforming uses. Such variances shall be handled by the zoning administrator, who shall consider the provisions of subrule (2) of this rule in making a determination. The zoning administrator shall prepare a written finding of fact that details the reasons for approval or denial of the minor variance request. Minor variances include the variances specified in the following provisions:

(a) Reductions in setbacks for uses on lawful lots that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps.

(b) Reductions in setbacks for uses on lawful nonconforming lots, including lots within subdivisions, that are not more than 25% of the normal dimensional requirements. Such uses shall include principal or accessory buildings or structures and any portion thereof, including additions, porches, and steps. Conditions may be imposed on an applicant before granting a variance. Such conditions shall be in writing and signed by the applicant before the applicant receives a variance.

(4) A land use variance is a land or building use in contravention of any of the use requirements of these rules. The zoning review board may, after a public hearing, grant a variance upon a finding of unnecessary hardship, which may be found upon substantial evidence being submitted that all of the following factors exist:

(a) The property cannot be used in a manner that is consistent with existing zoning.

(b) The hardship results from the application of these rules to the applicant's property.

(c) The hardship of which the applicant complains is suffered by his or her property directly and is not shared by others.

(d) The hardship is not the result of the applicant's own actions.

(e) The hardship is peculiar to the applicant's own property.

(5) In determining whether reasonable use may be made of the property as zoned, a reasonable economic return may be a factor which could be considered, but only if the applicant is in compliance with the provisions of subrules (1) to (4) of this rule. Whether any weight shall be given to the economic return factor shall be dependent on a determination that the owner has been deprived of all beneficial use of his or her property under existing zoning.

(6) The zoning review board shall, after finding that unnecessary hardship exists, also find that, based on adequate evidence, the proposed use meets all of the following conditions:

(a) The use will be consistent with and in accordance with the general objectives of the Pere Marquette river natural river plan.

(b) The use will be designed, constructed, operated, and maintained so as to be consistent with and appropriate in appearance with the existing or intended character of the natural river district and that such use will not change the essential character of the natural river district.

(c) The use will be adequately served by existing essential public facilities and services, such as highways, police and fire protection, drainage structures, refuse disposal, and sanitation facilities, or that the persons or agencies that are responsible for the establishment of the proposed use shall be able to adequately provide any such service.

(d) The use will not involve uses, activities, processes, materials and equipment, and conditions of operation that will be detrimental to any persons, property, or the environmental quality of the district because of the excessive production of noise, smoke, fumes, glare, or odors or require the outdoor storage of raw materials or discarded materials produced in the use processes.

(e) The use will be consistent with the intent and purposes of these rules.

(f) The use or the structures to be used therefor will not cause an overcrowding of the land or an undue concentration of population that will result in degradation to the river and district.

(g) The use plot area is sufficient, appropriate, and adequate for the use and the reasonable anticipated operation and expansion thereof.

(7) Upon receipt of an application for a variance, the zoning review board shall conduct a hearing on the request, except as provided for in subrule (3) of this rule. The hearing and notice procedure shall follow that established for special use applications by the provisions of R 281.348(2)(c). A decision shall be made within 30 days after the hearing to approve or deny the variance request. The zoning review board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings, and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated in writing. The board shall record the vote of each member on each question. If a member is absent or fails to vote, the board shall indicate such fact. All records shall be open for public inspection. The concurring vote of a majority of the members of the zoning review board shall be necessary to effect a dimensional variance in these rules, except that a concurring vote of 2/3 of the members of the board of appeals shall be necessary to grant a land use variance permitted in these rules.

(8) The zoning review board shall not issue a land use variance when the district allows the use as a special use.

(9) The effect of any variance shall be to create a nonconforming land use or structure which shall then be subject to the terms of R 281.350, which regulates continued use.

History: 192 MR 7, Eff. July 18, 1992.

R 281.350 Nonconforming uses, lots, and structures.

Rule 10. (1) It is recognized that there exists, within the natural river district, lots, structures, and uses of land and structures which were lawful before these rules were promulgated or amended and which would be prohibited, regulated, or restricted under the terms of these rules or future amendments. It is the intent of these rules to permit legal nonconforming uses, structures, or lots to continue until they are brought into conformity and, in certain instances, to permit the limited expansion of certain legal nonconforming uses and structures.

(2) A nonconforming (substandard) lot shall be in compliance with the minimum requirements of the dimensional requirements of these rules, except as such substandard nonconforming lot may be used pursuant to the provisions of R 281.349.

(3) Where, at the effective date of these rules or amendment of these rules, a lawful use of land exists that is made unlawful under the terms of these rules as promulgated or amended, the use may be continued if it remains otherwise lawful, subject to all of the following provisions:

(a) The nonconforming use shall not be enlarged, increased, or extended to occupy a greater area of land than was occupied at the effective date of these rules or amendment of these rules, except in the case of campgrounds, canoe liveries, and rental cabins which do not meet the standards for special uses specified in R 281.347(c). Such legal nonconforming uses may be expanded if the increased use meets the standards for special uses specified in R 281.347(c). Expansion of a lawful, nonconforming use shall be treated as a variance pursuant to the provisions of R 281.349

(b) The nonconforming use shall not be moved, in whole or in part, to any other portion of the lot or parcel occupied by such use at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.

(c) If the nonconforming use of land ceases for any reason for a period of 12 months, any subsequent use of the land shall conform to the requirements specified by these rules.

(4) Where a lawful structure exists at the effective date of these rules or amendment of these rules that is made unlawful under the terms of these rules as promulgated or amended, the structure may be continued if it remains lawful, subject to all of the following provisions:

(a) The structure shall not be enlarged or altered in a way which increases its nonconformity; however, when a single-family dwelling or a structure associated with a campground, a canoe livery, or rental cabins is classified as nonconforming, alterations, repairs, and additions, including accessory buildings, may be erected if the gross floor area of all such alterations, repairs, and additions, including accessory buildings, is not more than 50% of the gross floor area of the nonconforming structure, cumulative from the date of nonconformance to the date of the request if any enlargement to a lawful nonconforming structure, to the extent possible, is in compliance with all setback and

other building requirements. Expansion of a lawful, nonconforming structure shall be treated as a variance pursuant to the provisions of R 281.349.

(b) If the nonconforming structure is destroyed by any means to an extent that is more than 50% of its replacement cost, restoration of the structure shall be treated as a variance pursuant to the provisions of R 281.349. In determining whether the structure has been destroyed to an extent that is more than 50% of its replacement cost, the zoning review board or zoning administrator shall use appraised replacement costs, as determined by a qualified individual who is appointed by the zoning review board or zoning administrator, and shall compare the value of the part destroyed to the value of the total operating unit where there are several structures which are used together by the landowner as a single operating unit. The request for restoration of a nonconforming structure which is destroyed to an extent that is more than 50% of its replacement value shall be approved if all of the following conditions exist:

(i) The land on which the building or structure is located is not subject to flooding.

(ii) The continued use of a nonconforming structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the construction of the structure is approved by the local soil erosion and sedimentation control enforcement agency.

(iii) The continued use conforms with local county health codes and is approved by the local county health department.

(iv) The continued use conforms with local building codes and is approved by the local building inspector.

(v) The restoration of a damaged structure that is approved by the zoning review board or zoning administrator shall be started within 1 year from the time of damage.

(c) The nonconforming structure shall not be moved, in whole or in part, to any other portion of the lot or parcel that is occupied by the structure at the effective date of these rules or amendment of these rules, unless the move would result in a greater degree of conformity with these rules.

History: 192 MR 7, Eff. July 18, 1992.

R 281.351 Zoning administrator and zoning review board; appointment; duties.

Rule 11. (1) The commission shall appoint a zoning administrator and zoning review board to act as its agents to enforce these rules.

(2) The zoning administrator shall do all of the following:

(a) Provide necessary forms and applications and receive and process applications.

(b) Determine and verify zoning compliance when the applicant's plans are found to conform with the provisions of these rules.

(c) Conduct site inspections to ensure compliance with these rules.

(d) Issue any authorized permits and certificates of zoning compliance.

(e) Identify and record information relative to nonconformities.

(f) Maintain files of applications, permits, and other relevant documents.

(g) Schedule meetings and hearings for, and provide assistance to, the zoning review board.

(h) Act on variances as permitted by the provisions of R 281.349(3).

(3) The zoning review board shall do all of the following:

(a) Adopt rules of procedure that govern the transaction of its business.

(b) Act upon requests for special use permits.

(c) Act on certain dimensional and land use variances pursuant to the provisions of R 281.349.

(d) Act on the interpretation of the official zoning map pursuant to the provisions of R 281.345(2)(g).

(4) In establishing the zoning review board, the commission shall cooperate with, and seek the advice of, all of the following entities:

(a) Affected townships and counties.

(b) Soil conservation districts.

(c) Property owners' associations.

(d) Other interested local organizations and citizens.

(5) The commission shall request each affected township to appoint 1 person to represent its interest on matters within its jurisdiction. The commission shall request each affected county to appoint 2 persons to represent its interests on matters within its jurisdiction. One of the 2 persons shall be a county official who works in planning, zoning, public health, soil erosion and sedimentation control, or a related field. The commission shall request that each affected soil conservation district appoint 1 person to represent its interest on matters within its jurisdiction. Representatives who are appointed pursuant to this rule shall vote only on those matters within their respective jurisdictions. If affected townships, counties, or soil conservation districts do not appoint someone to represent them within 60 days from the request by the commission, the commission may make appointments on its own motion.

(6) In accord with procedures specified in subrule (5) of this rule, the commission shall request that each governmental unit and organization that appoints regular members to the zoning review board also appoint 1 alternate member to represent the governmental unit or organization. The alternate member may be called to sit as a regular member in the absence of a regular member. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. An alternate member who is appointed shall serve in the case until a final decision has been made. An alternate member shall have the same voting rights as a regular member of the zoning review board.

(7) The zoning review board shall hold at least 1 meeting annually for such purposes as adopting or amending rules of procedure, establishing officers, educational purposes, or to conduct any manner of business as provided for by these rules.

History: 192 MR 7, Eff. July 18, 1992.

R 281.352 Appeals; contested cases.

Rule 12. An aggrieved party who contests the decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases of Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, and R 299.3071 to R 299.3081.

History: 192 MR 7, Eff. July 18, 1992.

R 281.353 Violations; effect; remedies.

Rule 13. (1) After the effective date of these rules, a building or structure or land shall not be used or occupied, and a building or structure or part thereof shall not be erected, constructed, reconstructed, moved, or structurally altered, unless the building, structure, or land is in compliance with the provisions of these rules. A permit or variance shall not be approved, and action shall not be taken, if approval of the permit or variance or the action taken violates the provisions of these rules. The commission shall not waive any of its rights or remedies against any person who violates these rules if the violations

were committed in reliance on an authorization erroneously given in violation of any provision of these rules. Any authorized permit, variance, or action that is contrary to the provisions of these rules is deemed invalid from the date of the authorization.

(2) In addition to all other remedies, the commission may institute appropriate action or proceedings to prevent, restrain, correct, or abate rule violations or threatened violations.

History: 192 MR 7, Eff. July 18, 1992.

R 281.354 Boundaries and permitted uses; changes, amendments, and supplements; precedence of local zoning ordinance over rules.

Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and to permitted uses requested by a local unit of government or by a landowner following a hearing held pursuant to the provisions of sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.287 of the Michigan Compiled Laws, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.342.

(2) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following entities:

- (a) The county register of deeds.
- (b) Township and county clerks.
- (c) The local building inspector.
- (d) Local soil erosion and sedimentation control enforcement agencies.
- (e) The soil conservation district.

(3) Upon approval by the director, a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, Act No. 184 of the Public Acts of 1943, as amended, being §125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being §125.101 et seq. of the Michigan Compiled Laws, whichever is applicable, shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Pere Marquette river natural river district through court action or for any other reason, these rules shall apply.

History: 192 MR 7, Eff. July 18, 1992.

R 281.355 Rescission.

Rule 15. R 281.101 to R 281.114 of the Michigan Administrative Code, appearing on pages 134 to 144 of the 1981 annual supplement to the 1979 Michigan Administrative Code, are rescinded.

History: 192 MR 7, Eff. July 18, 1992.