

## IV. FOX RIVER NATURAL RIVER PLAN

### A. OVERALL DIRECTION

#### 1. Goals and Objectives

The goal of the Fox River Natural River Plan is to preserve, protect, and enhance the Fox River environment in a natural state for the use and enjoyment by all generations.

Objectives of the designation and management program include:

- To maintain the water quality of the Fox River and its tributaries consistent with the wild-scenic classification of the river and adhere to the concept of nondegradation of water quality.
- To prohibit or limit those developments and activities which may damage or destroy the Fox River's free-flowing condition, its fish, wildlife, scenic, aesthetic, flood plain, ecologic and recreational values and uses.
- To ensure that the development and activities which do occur shall be done in an orderly manner, shall ensure the protection of the river's natural values and qualities, and shall protect the river's outstanding scenic and aesthetic qualities.
- To ensure that recreational uses which do 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.

#### 2. Designated Portions

The following portions of the Fox River system shall be designated and managed as a wild-scenic river under authority of Part 305, P.A. 451 of 1994:

**MAINSTREAM** – All channels from its source above Casey Lake (T48N, R14W, Section 21) to the confluence with the Lake Branch of the Manistique River (T45N, R13W, Section 25).

**Casey Creek** – From its source (T48N, R14W, Section 20) to its confluence with the Fox River.

**West Branch** – From the confluence of Pelican Creek (T48N, R15W, Section 26) to its confluence with the Fox River.

**Spring Ponds (2)** – One mile below the West Branch (T47N, R14W, Section 16).

**Little Fox** – From the outlet of Stanley Lake (T47N, R15W, Section 11) to its confluence with the Fox River.

Hudson Creek – From its source (T46N, R14W, Section 2) to its confluence with the Fox River (all channels).

EAST BRANCH – All channels from its source above The Reservoir (T47N, R14W, Section 1) to its confluence with the Mainstream.

Clear Creek – From its source (T47N, R13W, Section 15) to its confluence with the East Branch.

Camp Seven Creek – From its source (T47N, R13W, Section 30) to its confluence with the East Branch.

Cold Creek – From its source (T46N, R13W, Section 3) to its confluence with the East Branch (all channels).

Spring Creek – From its source at Spring Creek Pond (T46N, R12W, Section 7) to its confluence with Cold Creek.

Deer Creek – From its source (T46N, R12W, Section 18) to its confluence with the East Branch (all channels).

Bev Creek – From its source (T46N, R12W, Section 21) to its confluence with the East Branch.

### 3. Key Values – Compatible Secondary Uses

It is department policy that State Forest Management Units consider all public forest resource values. These include commercial as well as environmental, natural and recreational values. The department shall manage these units to yield a combination of products, services and other values to meet the needs of both present and future generations. All important products of the forest shall be given fair and equitable consideration.

A primary or “key value” use will be identified for each unit. Secondary uses will be assigned within the unit where they are compatible with the key value.

A key value system can be helpful to reduce or eliminate resource or user conflicts. When using a key value system, the importance of the unit’s resource or recreational base to the regional economic and community development base is recognized.

Due to the unique qualities of the river system and adjoining land areas, extensive public land holdings and opportunity to meet outdoor recreational needs, the key value for the Fox River Wild-Scenic River Area can be defined as DISPERSED RIVER RECREATION. Because of

the change in the character of the river, subdefinitions of the key values are identified below.

- a. Mainstream above the Seney Township campground, East Branch above Cold Creek, and all tributaries-DISPERSED RIVER RECREATION WITH EMPHASIS ON QUALITY BROOK TROUT FISHING.

Compatible secondary uses include hiking, cross-country skiing, trapping, snowshoeing, commercial timber harvesting, hunting, picnicking, nature study, horseback riding and camping on private lands by the landowner and his invited guests, or on public lands where such activities are permitted, and ecologically sensitive residential development.

- b. Mainstream below the Seney Township Campground, and the East Branch below Cold Creek-DISPERSED RECREATION WITH EMPHASIS ON AESTHETIC ENJOYMENT.

Compatible secondary uses include dispersed watercraft use in addition to those listed above.

#### 4. Natural River District

The Fox River Wild-Scenic River District includes an area 400 feet deep on each side of a parallel to all channels of the Mainstream and designated tributaries. This district establishes a definable area within which local or State zoning may guide future development and use. ESTABLISHMENT OF THIS DISTRICT IN NO WAY IMPLIES A "TAKING" OF THESE LANDS BY THE STATE NOR OPENING THEM UP TO PUBLIC USE. PRIVATE LANDS REMAIN PRIVATE AND ARE SUBJECT TO ALL RIGHTS AND RESPONSIBILITIES OF PRIVATE OWNERSHIP.

### B. PRIVATE LAND MANAGEMENT-ZONING GUIDELINES

#### 1. Minimum Lot Size and River Frontage

Unplatted lots and new subdivisions in the Natural River District shall have a minimum riverfront lot width of three hundred and thirty (330) feet and a minimum lot size of five (5) acres.

One single family dwelling will be permitted on each lot or parcel within the Natural River District subject to the building setbacks and other standards as set forth in this plan.

In certain circumstances, cluster or multifamily dwellings may be permitted, provided setback and other restrictions are adhered to, and that the density of development is not increased.

## 2. Building Setback

The building setback for new structures and appurtenances along the Fox River Mainstream and designated tributaries shall be one hundred (100) feet from the ordinary high water mark. Furthermore, all structures must be set back at least 50 feet from the top of a bluff and outside of the flood plain. (Refer to endnotes for definition of these terms.)

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 the objectives of the Natural River Act.

## 3. Natural Vegetation Strip

Trees, shrubs and other vegetation types native to the area shall be maintained and enhanced on each side of the river and tributaries to retain the river's natural values. The presence of the natural vegetation strip is to help in stabilizing the riverbanks, 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 scenic qualities of the river.

On private land, a one hundred (100) foot natural vegetation strip shall be maintained immediately adjacent to each side of the Fox River and designated tributaries.

Restricted cutting of dead, diseased, unsafe, or fallen trees is allowed. Trees and shrubs may be selectively pruned or removed for access or a filtered view of the river upon approval of the zoning administrator. 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 so dense as to completely block the river view. It means no clearcutting.





By the landowner on his own property and with the approval of the DNR area forester:

Trees and shrubs may be selectively removed or thinned for timber harvest or woodlot improvement.

Clearcutting may be allowed, if necessary, to maintain or enhance fish/wildlife habitat, or to control insect infestations, provided such activities do not degrade the water quality of the Fox River system.

Grazing within the natural vegetation strip shall be prohibited.

#### 4. On Site Sanitation Systems

All habitations within the Natural River District must contain 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 nonwater borne disposal by the use of health department approved or other State approved sanitary system.

Health Department standards are for public health only. They do not reflect standards necessary to protect fisheries, wildlife, water quality or other environmental values. Therefore, in addition to public health guidelines, the following standards must be met.

- a. Septic tanks and absorption tile fields shall be a minimum of 150 feet from the ordinary high water mark and not within the flood plain.
- b. The bottom of the absorption field shall be at least four feet above the high groundwater table and located in a well drained area. No absorption field shall be installed where there is less than two feet of natural grade between the bottom of the absorption field and the high groundwater table. (Refer to endnotes for definition of this term).
- c. No absorption field shall be closer than 100 feet from any surface or subsurface drainage system.
- d. In addition to the standards listed above, the bottom of an earth privy shall be not less than four feet above the high groundwater table. Where this is not feasible, a watertight vault shall be installed.

#### 5. Land Alteration/Erosion Control

Grading, dredging, or filling is permitted provided existing laws are followed and the activity is outside of the natural vegetation strip and outside of the flood plain.

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 the Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 of 1994, its administrative rules and those procedures established by the local enforcing agency. Construction of fish or wildlife ponds within 500 feet of a stream also requires a permit under the Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994.

Sediments that end up in the stream from grading, filling or removing vegetation suffocate small aquatic organisms and fish, destroy spawning habitat, and absorb sunlight, thereby increasing water temperature. A combination of methods can provide the most effective erosion control. Construction or development activities, as much as possible, shall:

- a. Take advantage of existing soils and topography, and retain existing vegetation.
- b. Be revegetated after construction with native trees and shrubs.
- c. Provide for grassed waterways, sediment catch basins, sand traps, or other natural filtering systems.
- d. Protect critical areas exposed during construction with temporary vegetation and/or mulching.

## 6. Docks

The construction of docks along the designated portions of the Fox 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 require a permit from the Department of Natural Resources and must be constructed in accordance with the Inland Lakes and Streams Act and its administrative rules. The rules of natural materials is encouraged. Property owners are encouraged to build "log-sod covered" docks. Upon request from the property owner, the Department of Natural Resources will assist in the siting and location of a dock so as to blend in with the natural surroundings and best meet the objectives of the natural river area. See Appendix E for plans for a log-sod covered dock.

## 7. Signs

Only those signs necessary for identification, direction, resource information, regulation of use, and 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 in conformance with the following standards:

- a. Signs may not be larger than one square foot in area.
- b. 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.
- c. Not attached to any tree or shrub.
- d. Not illuminated.

8. 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. No dumps or sanitary landfills shall be permitted within 400 feet of the designated portions of the Fox River system.

9. Agriculture

Grazing within the natural vegetation strip shall be prohibited. Livestock must 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, Cooperative Extension Service, and/or the Department of Natural Resources.

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.

10. Minerals

New development, exploration, or production of salt brine, sand, gravel or other minerals other than oil, gas or groundwater shall be prohibited within the Natural River District. Oil and gas activities shall be prohibited within 300 feet of any designated stream (Part 305, P.A. 451 of 1994).

11. Industrial and Commercial Uses

New industrial uses and buildings, and expansion of existing uses and buildings will not be permitted within the Natural River District (400 feet on each side of the Fox River and designated tributaries).

Generally, commercial uses and buildings will not be permitted within the Natural River District. However, certain commercial uses that are compatible with the residential or rural nature of the river corridor may be allowed by special exception. The Special Exception Permit shall control factors such as location, parking, drainage, signs, hours of operation, and noise. Such uses must meet all of the following standards:

- a. Maintain the natural character and values of the river.
- b. Not generate traffic or density greater than would normally be expected for single family residential use.
- c. Not create noise, glare, odor, smoke, electrical interference, or unsightly scrap.
- d. Meet all other guidelines in this plan.

Agricultural uses and timber management shall be allowed outside of the natural vegetation strip provided they do not significantly impact the river system.

## C. PUBLIC LAND MANAGEMENT

### 1. Building Setbacks

On public land, no new structures associated with a campground, picnic area, rest area, access site or any other publicly provided facilities, except those necessary to protect the river, will be permitted within two hundred (200) feet of the Mainstream and designated tributaries. Such structures shall be designed and constructed in such a manner as to further the purposes of the Natural River Act.

Structures associated with handicapper facilities may be appropriate closer than 200 feet.

### 2. Natural Vegetation Strip

On public land, a two hundred (200) foot natural vegetation strip shall be maintained immediately adjacent to each side of the Fox River and designated tributaries.

Within this restricted cutting strip, trees and shrubs may be selectively pruned or thinned for timber harvest, habitat improvement, or to maintain public utility facilities. Clearcutting, while generally prohibited, may be allowed if necessary to maintain or enhance fish/wildlife habitat, or to control insect infestations, provided such activities do not degrade the water quality of the Fox River system, and meet the approval of all affected divisions of the Department of Natural Resources. Guidelines for state lands currently scheduled for fish/wildlife habitat improvement, where clearcutting is prescribed, is shown in Appendix F.

### 3. Land Alteration/Erosion Control

Grading, dredging, or filling is permitted provided existing laws are followed and the activity is outside of the natural vegetation strip and outside of the flood plain.

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 the Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 of 1994, its administrative rules and those procedures established by the local enforcing agency.

Planning and construction activities on public land must follow the same recommendations listed for private land. In addition, unauthorized vehicles should be kept off of fragile areas by placing natural barriers when appropriate.

#### 4. Signs

Only those signs necessary for identification, direction, resource information and regulation of use shall be placed along the designated river and tributaries.

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 objective of the Natural River Act. 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.

Unobtrusive signs recognizing contributions to help finance or build habitat improvement or erosion control structures may be appropriate on or near the structures.

#### 5. 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. No dumps or sanitary landfills shall be permitted within 400 feet of the designated portions of the Fox River system.

#### 6. Minerals

New developments, exploration, or production of salt brine, sand, gravel or other minerals, other than oil, gas, or groundwater, shall be prohibited within the Natural River District. Oil and gas activities shall be prohibited within 300 feet of any designated stream (Part 305, P.A. 451 of 1994).

#### 7. Motorized Vehicles

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

Use of ORVs 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.

## 8. Camping

New structures associated with a campground or picnic area, except those necessary to protect the riverbank, must meet the building setback and be outside of the natural vegetation strip. Site density and structures must be designed in such a manner as to further the purposes of the Natural River Act. Moving existing campgrounds further from the river should be considered in the future in lieu of extensive renovation or landscaping. Current impacts on the river can be minimized by reestablishing or maintaining the required natural vegetation strip where possible, or “hardening” of sites near the river.

On public lands adjacent to the river, the following measures will be taken to minimize the impact of camping along the river:

- a. Enforce registration of camps.
- b. Block specific problem sites with natural barriers and post against camping.
- c. Discourage camping within the natural vegetation strip (200 feet on public land)
- d. Prohibit camping within the natural vegetation strip in the future if the above measures do not control noise, litter, or erosion associated with camping.

## 9. Public Access

The Fox River shall be managed to provide a quality experience for the recreationist and riparian landowners. No additional access sites or rest areas are anticipated. Access to the river at undeveloped sites may need to be limited or improved in the future for safety, if environmental damage is occurring, or if a quality experience can no longer be maintained.

Any access sites, rest areas, or parking facilities must maintain building setbacks and the natural vegetation strip. These should be located only where there are sufficient adjacent public lands so that trespass and user conflicts on privately owned lands will not occur.

A bridge replacement is being planned for the M-28 crossing of the East Branch, and a developed boat launch area is being considered in conjunction with the new bridge, as there is some concern with safety as the site is currently being used. The design of this site should limit boats/motors to the recommended size or horsepower limit.

Developed watercraft launching sites above the Seney Township Campground on the Mainstream should only be installed or maintained to prevent streambank erosion or for safety reasons. These structures must be as unobtrusive as possible, and designed so as not to promote inappropriate watercraft use in this area.

Existing public roads adjacent to the Fox River need not be closed off unless significant streambank erosion is occurring. New access roads should be blocked off after the use which the road was designed to accomplish is completed.

#### D. STATE PROGRAMMANAGEMENT

##### 1. 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 Fox River or tributaries designated under the Natural River Act unless approved by the Department of Natural Resources under authority of the Inland Lakes and Streams Act, Wetlands Protection Act, and other appropriate statutes. Such activities must further the purposes of the Natural River Act.

Natural materials should be used to construct stream bank stabilization projects or to enhance fisheries habitat. These structures should blend in with the river, and the district fisheries biologist contacted to provide technical advice for such projects. Sediment basins may be constructed to remove suspended sediments in an effort to improve fisheries habitat.

On a public stream, fallen trees and log jams may be removed only so far as is necessary to exercise the right of passage and navigation. This right is subject to other existing laws and regulations. Any other removal of fallen trees or logs requires permission of the riparian property owner. If any extensive removal of log material is anticipated, advice should be sought from the district fisheries biologist in order to protect existing fisheries habitat.

##### 2. Utilities and Transportation Systems

New gas or oil pipelines, highways, roads, electric transmission lines or public recreation facilities shall be done in accordance with the rule entitled Utilities and Publicly Provided Facilities in Designated Natural River Areas.

Such activities must be approved by the Department of Natural Resources and meet all applicable laws. Generally, the least environmental disruptive methods shall be used, various alternatives considered, and

minimal clearing of vegetation take place, both before and after construction. Special measures may also be necessary to protect the river. Applicants and department staff should begin working together in the planning stages to minimize problems and delays. Local service lines to private dwellings shall originate from the landward side of the dwelling as much as practical.

3. Fishing, Hunting and Trapping

Fishing, hunting and trapping will be permitted in the Natural River District in accord with current state and local laws and regulations.

**NATURAL RIVER DESIGNATION, OR ESTABLISHMENT OF A ZONING DISTRICT ALONG THE RIVER, DOES NOT OPEN PRIVATE LANDS TO THE PUBLIC.**

Fisheries and wildlife 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 the high quality trout fishery of the Fox River system. The department shall place a high priority on acquiring parcels of land along the river to protect areas important for fish or wildlife habitat.

4. Watercraft

The natural characteristics of the Fox River system vary throughout the watershed. Soil types, slopes and vegetation all affect the river. The type and intensity of human uses also affects the river and are, in turn, limited by the natural features.

Because of these factors, different areas should be managed differently. The following management guidelines, by recognizing physical and cultural differences along the river, will serve to protect and enhance the values associated with the Fox River system.

On the entire Fox River system, except the East Branch between M-28 and the mouth of Cold Creek (the Spreads), motorized watercraft will be prohibited. This will minimize physical disturbances to the river bottom and banks, and reduce sedimentation and channelization. On these portions of the Fox River system, motorized watercraft also pose a safety hazard to wading anglers, and most of the areas are readily accessible by foot.

FOX RIVER MAINSTREAM-Non-motorized watercraft are permitted, but their use will not be promoted or encouraged above the Seney Township Campground (26N, R13W, Section 29). This means that this segment of stream will not be included in canoe guides, local DNR offices will not refer the public to such areas for floating, removal of logjams or overhanging vegetation will not be

encouraged, and no improvement or development of launch sites will occur to facilitate watercraft use. This stream segment is small and relatively shallow with high sandy banks, many of which are devoid of vegetation, and it contains numerous downed trees that provide critical, and fragile, fish cover. Because of these factors, the potential for erosion, habitat degradation and conflicting uses is very high.

FOX RIVER EAST BRANCH-All watercraft shall be prohibited on the East Branch system upstream of the mouth of Cold Creek (The Spreads T46N, R13W, Section 24). This section of stream is critical as a spawning and nursery area for brook trout, and the streamside vegetation provides food and cover for young fish. In addition, the many small, braided channels make watercraft passage extremely difficult.

In addition to a prohibition on use of watercraft upstream of Cold Creek, the removal of logjams and overhanging vegetation on state land along the stream in this segment of the East Branch will be prohibited.

Motorized watercraft five (5) HP or less will be allowed on the East Branch between M-28 and the mouth of Cold Creek, subject to a SLOW-NO WAKE speed limit. This stretch of river provides an important brook trout fishery, and access, except by motorized watercraft from the south, is extremely difficult. A five HP size limit on motors will permit reasonable access to this important fishery, while maintaining and protecting the river bottom from damage due to use of larger motors. These limitations are also important to minimize safety problems caused by watercraft operating at excessive speeds through this small, meandering stream channel.

The Department of Natural Resources will post signs at appropriate locations advising the public of watercraft regulations in effect.

## 5. Water Quality Management

Waters in the Fox River system are protected for:

- Total body contact-recreation
- Agriculture
- Industrial water supply
- Navigation
- Public water supply
- Cold water fish
- Other indigenous aquatic life and wildlife

## 6. Historic and Archaeological Sites

To date, no comprehensive historic or archaeological survey has been done on the Fox River watershed. The identification, preservation and interpretation of historical and archaeological sites along the Fox River system, by public agencies and local historical societies, is encouraged.

## E. ADMINISTRATION

### 1. Land Use Guidelines

Under Part 305, P.A. 451 of 1994, zoning by local governmental units and/or the state shall be a major means of protecting the Fox River and its designated tributaries as a natural river.

Zoning shall be applied within the 400 foot Natural River District on both the Mainstream and designated 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).

Management of state land within the 400 foot Natural River District will follow the guidelines set forth in this plan.

### 2. State Resources

Overall responsibility for implementing and coordinating the Natural River Plan is assigned to Fisheries Division 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 Surface Water Quality, Department of Environmental Quality and divisions of the Department of Natural Resources. Other laws and programs reinforcing natural rivers management objectives should be utilized to the extent necessary to protect the river and implement the management plan for the river system.

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 to protect sensitive environmental areas. The department shall give high priority to purchasing such areas within the designated river corridor.

### 3. Existing Nonconforming Uses

The lawful use of any structure or land at the time of enactment of a zoning ordinance or rule may be continued although such use may not conform with the provisions of the ordinance or rule. The ordinance or rule shall provide for the completion, restoration, extension or substitution of nonconforming uses upon reasonable terms set forth in the ordinance or rule or by the zoning review board.

4. Appeals

Under certain circumstances, strict adherence to this plan may create unreasonable hardships for property owners. Such cases may be appealed to the appropriate local board for a variance. Applications for a variance shall be based on a site plan. A site plan should include contours, vegetation, roads, septic systems, dimensions, and location of existing and proposed structures.

The county health department, Soil Conservation Service, appropriate staff and field personnel of the Department of Natural Resources and other experts should be consulted to recommend to the zoning review board a course of action which will have the least degrading impact on the river area. Final determination of the variance shall be made by the local zoning review board.

5. Voluntary Conservation Agreements

Property owners with undeveloped frontage on the river or its designated tributaries may sign an open space development rights easement with the state under the Farmland and Open Space Preservation Act, Part 361, P.A. 451 of 1994, as amended. By agreeing to leave the property undeveloped for 10 years, that property would be assessed with development rights not included. While natural river designation will not interfere with tax reductions received under the Commercial Forest Act, Part 511, P.A. 451 of 1994, such commercial forest land is not eligible to be enrolled as open space under Part 361, P.A. 451 of 1994.

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.

6. Recommendations

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 and landowners 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 the local units of government and landowners recognize environmentally sensitive areas throughout the watershed and plan and manage appropriately. Sensitive areas would include certain soils and vegetation, wetlands, slopes, and flood plains. Activities outside the Natural River District should not have a significant adverse impact on the river or its tributaries. Local governments should incorporate water resource protection measures into their plans and decisions involving land use.

Furthermore, local governments are strongly encouraged to adopt zoning standards for all lakes and streams under their jurisdiction. Standards should include provisions for a building setback, minimum lot width, septic systems, and maintaining natural vegetation. Such standards could be the same as, or similar to, those for the Fox River.

It is recommended that the Fox River Advisory Group meet annually to review implementation and enforcement of this plan. DNR's Fisheries Division will be responsible for organizing such meetings.

#### 7. Assistance

The Department of Natural Resources is committed to assisting riverfront property owners and local governments concerning the recommendations found in this plan, and will give high priority to such assistance. The department will also advise on:

- a. Selection of building sites
- b. Selection of planting stock
- c. Pond construction/land alteration
- d. Streambank stabilization

The Natural Rivers Program, Fisheries Division will provide technical assistance in development of a local zoning ordinance designed to protect the natural qualities of the river and meet the provisions of the Natural River Plan. Periodically, or on request, the division will review special exceptions, variance requests, or other projects, and offer comments to local governments or other public agencies or officials.

#### ENDNOTES

“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 markedly distinct 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 that outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.

“Flood plain” means that area of land adjoining the designated portions of rivers and tributaries which:

1. Will be inundated by a flood which as 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 flood plain studies, have a history of flooding or are delineated by approximate methods such as USGS flood prone area maps or HUDs special flood hazard boundary maps.

“High groundwater table” means the upper boundary of the zone of water saturated soils.

“SLOW-NO WAKE SPEED” means a very slow speed whereby the wake or wash created by the vessel would be minimal.