

PRELIMINARY NATURAL RIVER PLAN

A. Goal

To preserve, protect and enhance the Pigeon River environment in a natural state for the use and enjoyment by all generations.

1. Key Value

It is department policy that State Forest Management Units consider all 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. Also, in considering key value designations, 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 Pigeon River Wild-Scenic river Area can be broadly defined as **DISPERSED RIVER RECREATION**. Because of the dramatic change in the resource itself, along with a change in ownership and use patterns, subdefinitions of the key value are identified as below:

- a. Mainstream from Pigeon River Road Bridge upstream to its headwaters, and all tributaries – key value identified as **DISPERSED RIVER RECREATION WITH EMPHASIS ON BLUE RIBBON TROUT FISHING**.

Compatible secondary uses include hiking, cross-country skiing, 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 dispersed, ecologically sensitive residential development.

- b. Mainstream from Pigeon River Road Bridge downstream to the Hackelburg Road Bridge – key value identified as **DISPERSED RIVER RECREATION WITH EMPHASIS ON AESTHETIC ENJOYMENT**.

Compatible secondary uses include dispersed watercraft use, in addition to uses listed above in A. 1. a.

B. Objectives

1. Maintain the water quality of the Pigeon River and its tributaries consistent with the wild-scenic classification of the river and adhere to the concept of nondegradation of water quality.
2. To prohibit or limit those developments and activities which may damage or destroy the Pigeon River's free flowing condition, its fish, wildlife, scenic, aesthetic, flood plain, ecologic and recreation values and uses.
3. To ensure that the development and activities which do occur shall be done in an orderly manner, shall insure the protection of the river's natural values and qualities, and shall protect the river's outstanding scenic and aesthetic qualities.
4. 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.

C. Proposed Designation

It is recommended that the following portions of the Pigeon River be designated as a wild-scenic river under authority of Part 305, P.A. 451 of 1994.

Mainstream – From the confluence of the Pigeon River mainstream and the South Branch (also known as Duck Creek) in Section 22, T31N, R2W, downstream to the Hackleburg Road Bridge.

Tributaries – All streams which flow into the Pigeon River upstream of M-68, from their sources (as shown on the “Designated Portions” map of this plan), to their confluence with the Pigeon River. This tributary designation includes that portion of the Pigeon River upstream of the confluence with the South Branch (also known as Duck Creek).

D. Natural River District

The Pigeon River Wild-Scenic River District includes an area 400 feet deep on each side of and parallel to all channels of the designated mainstream and to the 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 OR OPENING THEM UP TO PUBLIC USE. PRIVATE LANDS REMAIN PRIVATE AND ARE SUBJECT TO ALL RIGHTS OF PRIVATE OWNERSHIP.

E. Land Management-Private Lands-Zoning Guidelines

1. Residential Housing

Unplatted lots and new subdivisions in the Natural River District shall be of sufficient size to accommodate the building setbacks as set forth in Section E.3.

Minimum lot widths shall be as follows:

- Mainstream – 250 feet
- Tributaries – 150 feet

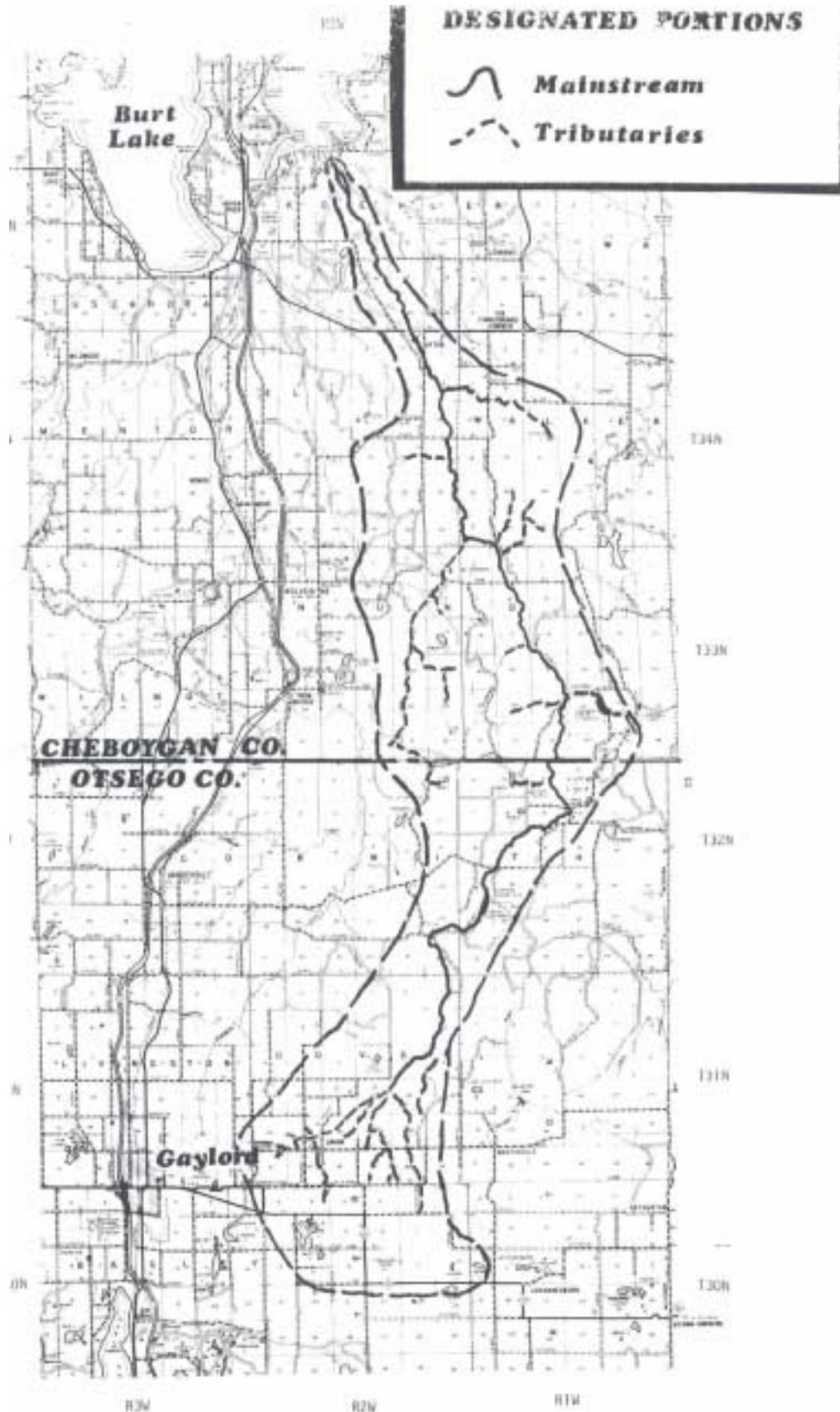
Lots or properties of record which are nonconforming at the time of the effective date of these regulations because of lack of size to accommodate the setback from the water's edge shall be allowed to be built upon and variances shall be allowed for the required setback upon such reasonable terms as set forth by the zoning administrator or the zoning review board.

Upon approval by the Department of Natural Resources of an ordinance, a local community may allow the administrator of their zoning ordinance to determine the location of proposed structures on substandard lots of record, provided that structures be so placed as to best meet the objectives of the Natural River Act.

One single family dwelling will be permitted on each lot or parcel within the Natural River District subject to the building setbacks as set forth in Section E.3. 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.

2. Industrial and Commercial Structures and Uses

- a. New industrial uses and buildings and expansion of existing uses and buildings will not be permitted within 400 feet of the designated portions of the Pigeon River and tributaries.
- b. Commercial use and buildings, such as gas stations, motels, restaurants, retail stores, mobile home parks, etc. will not be permitted within 400 feet of the designated portions of the Pigeon River and tributaries. However, a number of commercial uses requiring special exception permits may be compatible with maintaining the natural aspects of the river, such as:
 - i. 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.
 - ii. Small rental cabins with light housekeeping, but not motels, which are in conformance with setback requirements.



Designated Portions

3. Building Setbacks

The building setback for new structures and appurtenances along the mainstream and the tributaries of the Pigeon River system shall be as follows:

- Mainstream – 200 feet from the river’s edge¹
- Tributaries – 150 feet from the river’s edge

4. Docks

The construction of docks along the designated portions of the Pigeon River system is strongly discouraged. However, if necessary to provide safe and ecologically sound access for the riparian landowner, “log-sod covered docks” may be constructed of natural materials. Plans for such “log-sod covered docks” are found in Appendix E. Docks must be constructed in accordance with the rules of Part 301, P.A. 451 of 1994. Upon request of 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 designation.

5. 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 waterborne waste disposal by the septic tank-absorption tile field method or for nonwaterborne disposal by the use of a health department approved or other State of Michigan approved sanitary system.

Local county health codes are usually not sufficient to protect fisheries, wildlife, or aesthetic values, or guard against excessive weed growth. Their purpose is to protect public health only. Therefore, the many nutrients from septic systems and fertilizers which do not endanger public health are left unchecked by county health codes. And these same nutrients move much greater distances through soils than do those which endanger public health. Therefore, a greater setback for these systems is necessary to protect this broad range of values in a natural river system. A greater building setback also ensures that the property owner will be able to safely develop a domestic water supply which will not be contaminated by a septic system which drains through it.

¹ River’s edge is defined as the ordinary high water mark and 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.)

Minimum standards for new septic systems along designated portions of the Pigeon River system shall be as follows:

- a. The setback for septic tanks and absorption fields shall be a minimum of 150 feet from the ordinary high water mark.
- b. The bottom of the absorption field shall be at least four feet above the known high ground water table.
- c. No absorption field shall be closer than 50 feet from any permanent surface or subsurface drainage system.
- d. Variances from these standards may be allowed by the district health departments where existing lots of record cannot conform because of their size.

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

6. 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:

- a. In conformance with the following standards:
 - i. 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 E.10).
 - ii. Not attached to any tree or shrub.
 - iii. Not illuminated.

7. Agriculture

Existing agricultural practices will be permitted within the natural vegetation strip. Grazing will be permitted within the natural vegetation strip unless the Bureau of Environmental Protection 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.

Water withdrawal for irrigation will continue to be permitted in accordance with the rights of other riparians and the public values associated with the Pigeon River system.

New agricultural uses and practices including commercial tree farms and feedlots shall be allowed in the Natural River District provided they are landward of the natural vegetation strip.

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 or as provided by Part 115, P.A. 451 of 1994. No dumps or sanitary landfills shall be permitted within 400 feet of the designated portions of the Pigeon River system.

9. Land Alteration

Land alteration for building such as grading, dredging and filling of the land surface outside of the natural vegetation strip is permitted, unless the high ground water table is within six feet of the land surface or on lands subject to flooding.* All activities must meet provisions of Michigan's Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994, the Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 of 1994, and the Wetlands Protection Act, Part 303, P.A. 451 of 1994.

10. Natural Vegetation Strip on Adjacent Shorelines

Trees, shrubs and other vegetation native to the Pigeon River area shall be maintained and enhanced on each side of the river and its tributaries to retain the river's natural values. Maintenance of the natural vegetation strip is required to help stabilize the riverbanks, minimize erosion, provide shading which will help maintain cool water temperatures, help protect water quality by absorbing nutrients from surface water runoff, provide screening of man-made elements, protect fisheries and wildlife habitat, and maintain the aesthetic quality of the river. The zoning administrator shall notify each applicant for a building permit of the purpose of the natural vegetation strip and of the provisions of this section.

*"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.

a. Vegetation Strip:

On privately owned lands, the following minimum restricted cutting strip shall be maintained on each side of the stream:

- Mainstream – 100 feet deep
- Tributaries – 75 feet deep

The following provisions shall apply within the natural vegetation strip:

- i. Distances of the natural vegetation strip shall be measured horizontally from the ordinary high water mark.
- ii. Dead, diseased, unsafe or fallen trees, shrubs and noxious plants, including poison ivy, poison sumac and poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 357 of 1941, as amended, may be removed.
- iii. Trees and shrubs may be pruned for a filtered view¹ of the river.
- iv. Upon approval of the local zoning administrator, trees and shrubs may be selectively removed for harvest of merchantable timber, public utility facilities, to achieve a filtered view of the river from the principal structure, and for reasonable private access to the river. The zoning administrator may consult with or direct a property owner to consult with the Pigeon River Country Area Forester to establish an acceptable cutting plan for lands adjacent to the Pigeon River or its tributaries.
- v. Clear-cutting within the above described management zones generally is not permitted. However, it may be allowed if it is necessary to maintain or enhance native vegetation, upon approval of the Pigeon River Country Area Forester.
- vi. 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.

11. Minerals

New development, exploration or production of gas, oil, salt brine, sand and gravel or other minerals except ground water are not permitted within 300 feet of the designated river or tributaries (Section 10, Natural River Act).

F. Land Management – State and Other Public Lands

1. Structures Related to Recreation

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 riverbank, will be permitted within 400 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 River Act.

2. Natural Vegetation Strip on Adjacent Shorelines

Trees, shrubs and other vegetation native to the area shall be maintained and enhanced on each side of the river and tributaries to retain the river's natural values. Maintenance of the natural vegetation strip is required to help in stabilizing the riverbanks, minimize erosion, provide shading which will help maintain cool water temperatures, help protect water quality by absorbing nutrients from surface water runoff, provide screening of man-made elements, protect fisheries and wildlife habitat, and maintain the aesthetic quality of the river.

a. On publicly owned land, the following minimum cutting strip shall be maintained on each side of the river:

- Mainstream – 200 feet deep
- Tributaries – 150 feet deep

The following provisions shall apply within the natural vegetation strip:

- i. Distances of the natural vegetation strip shall be measured horizontally from the ordinary high water mark.
- ii. Dead, diseased, unsafe or fallen trees, shrubs and noxious plants, including poison ivy, poison sumac, and poison oak, and other plants regarded as a common nuisance in Section 2, Public Act 357 of 1941, as amended, may be removed.
- iii. Trees and shrubs may be selectively removed for harvest of merchantable timber, to maintain public utility facilities, and for reasonable access to the river.
- iv. Clear-cutting within the above described management zones generally is not permitted. However, it may be allowed if it is necessary to maintain or enhance native vegetation, or for fish or wildlife habitat improvement, upon approval of such plans by the affected divisions of the Department of Natural Resources (Part 305, P.A. 451 of 1994).

3. Signs

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

- a. Signs posted by public agencies must be kept to a minimum, of rustic design, no larger than ten 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.

(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.)

4. 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 10, Natural River Act). On new leases on state land, Natural Resources Commission policy prohibits drilling for gas or oil within ¼ mile of any principal stream.

G. State Program Management

1. Stream Alteration

To protect the natural character of the river and the natural flow of its water, no damming, dredging, filling or channelization of the stream channel will be permitted in those portions of the Pigeon River or tributaries designated under the Natural River Act unless approved by the Department of Natural Resources under authority of Michigan's Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994. Any further impounding of any portion of the Pigeon River system must receive approval from the Natural Resources Commission.

Natural materials should be used to construct streambank stabilization projects to control erosion, or to enhance fisheries habitat. These structures should be camouflaged and the local Conservation Officer, District Fisheries Biologist, or Soil Conservation Service representative contacted to provide technical advice for such projects. All work done below the ordinary high water mark requires a permit under the authority of the Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994.

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

2. Soil Erosion and Sediment Control Measures – Michigan's Soil Erosion and Sedimentation Control Act, Part 91, P.A. 451 of 1994.

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:

- a. The development plan should be fitted to the soils and topography so as to create the least erosion potential. Local officers 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.
- b. 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.
- c. Where it is necessary to remove vegetation for construction, limit the exposed area to the smallest practical size at any one time.
- d. Limit the duration of exposure of soils to the shortest practical time.
- e. Critical areas exposed during construction should be protected with temporary vegetation and/or mulching.
- f. 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.
- g. Provisions should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after construction.
- h. Sediment basins to remove suspended soil particles from runoff water from land undergoing development should be constructed and maintained where erosive conditions indicate their need to prevent sediment damage to the river.
- i. Diversions, grassed waterways, grade stabilization structures, and similar mechanical measures required by the site shall be installed as early in the development as possible.

3. 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 state administrative rules entitled Utilities and Publicly Provided Facilities in Natural River Areas.

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 must be approved by the Department of Natural Resources and all construction shall meet requirements of the Soil Erosion and

Sedimentation Control Act, Part 91, P.A. 451 of 1994 and the Inland Lakes and Streams Act, Part 301, P.A. 451 of 1994. 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 may 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.

4. Recreation

- a. Fishing, Hunting, Trapping and Camping: Fishing, hunting, trapping and camping will be permitted in the Natural River District in accord with current state and local laws and regulations.

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

Fisheries management practices will be done in conformance with the character of the area and the objectives of natural river designation. The following management guidelines shall be observed:

- Except where a natural or manmade disaster has decimated the fish population, streams in the Pigeon River system will not be stocked. All streams will be maintained essentially for naturally reproducing species. (An exception to this is allowed in the Cornwall Creek Flooding, where warmwater fish plants are permitted.)
- If it is found that trout populations cannot maintain themselves at adequate levels, more restrictive fishing regulations will be imposed to protect brood stocks.
- Stream management practices which may be needed for erosion control or fish cover will be designed to appear natural, in keeping with the surroundings as much as possible.

Wildlife management within the natural river district will be in conformance with the purposes and objective of natural river designation.

- b. Camping: Dispersed camping and campground management will be done in conformance with the character of the area as well as the purposes and objectives of natural river designation. Renovation and/or construction of camping facilities will be done to further the objectives of natural rivers designation and resource protection through management – not merely to expand camping opportunities.
- c. Boating and Canoeing: Boating and canoeing is strongly discouraged above Red Bridge. Koehler Township or Cheboygan County are

encouraged to adopt regulations to limit boats at the mouth of the Pigeon River above Hacklesburg Road Bridge to “slow, no wake” speed. Such controls should be done in accordance with the Marine Safety Act, Public Part 801, Marine Safety, of 1994 PA 451.

- d. Litter: In view of the special status of the Pigeon 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 clean-up.
- e. Recreation Control: Recreational conflicts, misuse and overuse is occurring throughout the rivers of the state. 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 the level of authority of the Department of Natural Resources is more clearly defined, the department should initiate study of the Pigeon River for such controls as necessary over the numbers, timing, location and conduct of river users in order to provide a quality recreation experience.

5. Public Access

The Pigeon River shall be managed to provide a quality experience for the recreationist and riparian landowner. Watercraft use above Red Bridge will be strongly discouraged.

- a. Access Sites and Rest Areas: At this time, access sites and rest area development is not anticipated. However, if future use accelerates to the point where launching and retrieval of watercraft is occurring at indiscriminate locations along the river, environmental damage is occurring, or a quality experience can no longer be maintained, access site and rest area development may be necessary as a part of the effort to address such problems. In that case, logical access points would be at Red Bride, and below Afton, above “the spreads”. A rest area for watercraft users and fishermen may be advisable in order to lessen impacts on private lands, and to provide necessary facilities. The rest area should contain litter and toilet facilities, but overnight camping should be prohibited. No public vehicular access should be allowed. If necessary in the future, such a rest area could be located somewhere below the Pigeon River Road Bridge.

Access site and rest area development should be used only as a last resort, after it has been proven that all other management techniques have failed.

- b. Fishermen Access: Any fishermen access on the mainstream or the tributaries to the Pigeon River 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 trespass and user conflicts on privately owned lands will not occur.

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

6. 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. (Muffler requirement of MVC – Section 708, Act 300, P.A.1949, etc.)

7. Historic and Archaeological Sites

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

8. Water Quality Management

Waters in the Pigeon River system are protected for:

- a. Total body contact – recreation.
- b. Agriculture.
- c. Industrial water supply.
- d. Navigation.
- e. Public water supply.

In addition, all waters are protected for cold water fish.

A program of water quality monitoring shall be established by the Surface Water Quality of the Department of Environmental Quality to ensure that water quality of the Pigeon River system is not degraded.

H. Administration

1. Land Use Guidelines

Under Part 305, P.A. 451 of 1994, zoning by local governmental units shall be the chief means of protecting the Pigeon River and its tributaries as a natural river.

- a. 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 take cognizance of the effect of use

limits established by the ordinance (Section 30511, Part 305, P.A. 451 of 1994).

2. Utilities and Publicly Provided Facilities in Designated Natural River Areas

As provided in Section 30514 of Part 305, P.A. 451 of 1994, administrative rules have been adopted by the state which provide that: Plans for construction, enlargement, and site or route location of all utility pipelines and transmission lines, roads and road rights-of-way, publicly provided recreation facilities, access sites, and public water management projects within a natural river area must be approved by the Department. An application for the approval of such plans shall be submitted by the applicant, in writing, to the Department of Natural Resources, Fisheries Division, Natural Rivers Program.

3. 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 variance. Applications for a variance shall be based on a site plan. 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 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.

4. Nonconforming Uses

As stated in Section 30512, of 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.”

5. Regulations in Unusual Circumstances

The regulations proposed in this report are not intended to be applied in disregard of the requirement of Part 305, P.A. 451 of 1994 that regulations “take cognizance of the characteristics of the land and water concerned, surrounding development and existing uses.” Where circumstances warrant, other or different regulations, either more or less restrictive, should be adopted.

6. Land Acquisition

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 provide for areas for walk-in fishermen access, or to protect sensitive environmental areas. 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.

7. State Resources

Overall responsibility for implementing and coordinating the natural river plan is assigned to the Fisheries Division of the Department of Natural Resources. The Natural Rivers Unit and the Department of Natural Resources Natural Rivers Advisory Group will act in an advisory capacity. Enforcement of water quality standards and water use regulations will be the responsibility of the Surface Water Quality Division and other divisions of the Department of Environmental Quality. 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 C).

I. Recommendations – Encouragements

1. Private Landowners

Property owners are encouraged to consider the following recommendations which will help protect and enhance private lands, and offer additional protection to the river and adjacent environment.

- a. **Building Design:** Property owners along the streams 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 may 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.
- b. **Building Screening:** 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.
- c. **Erosion Control:** Planting of perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist. The Department of Natural Resources or Soil Conservation Service may be consulted for selection of plant species best suited for erosion control and/or screening of existing developments. Where available at nurseries, the recommended planting materials will be supplied to property owners at cost.

2. Local Units of Government

The management of areas beyond the natural river zone is extremely important since 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 throughout the Pigeon River watershed to maintain the integrity of the Pigeon River and its tributaries:

- a. 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.
- b. By providing districts where industry which may produce noise, smoke, fumes, odors, etc., will not affect the natural characteristics of the river area.
- c. 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 measures 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:

- a. Soil types with severe limitations for development.
- b. Vegetation along creek banks.
- c. Wetlands.
- d. Slopes.
- e. Flood profiles when known.

Sensitive areas involving one or more of the above facts 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 the Natural River District through use of conditional use permit procedures.

On private lands adjacent to and within ¼ 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.

Further, local governmental units are urged to adopt building setbacks, vegetation management and septic system controls for other streams under their jurisdiction not within the natural river designation, particularly the Black and Sturgeon rivers.

J. Assistance Available from the Department of Natural Resources

The following department procedures reflect adopted Commission policy and describe the commitment of the Department of Natural Resources to aid riverfront property owners and local governments along a designated river:

1. To Riverfront Property Owners – Upon Request
 - a. The Fisheries Division, Natural Rivers Program will assist riverfront property owners in selection of the best sites on an individual's property for the location of buildings and appurtenances and with design and location of docks, pathways and riverbank protection.
 - b. Forest Management Division, through its local area foresters, will advise riverfront property owners on planting stock to be used to stabilize riverbanks or to screen existing structures. When available at state nurseries, recommended planting materials will be supplied to property owners at cost.
 - c. The Fisheries Division, Natural Rivers Program will provide technical assistance to riverfront property owners on programs of other agencies which provide information and assistance in the areas of water or septic systems location and design, soils information and management, pond development and management, and cooperative fencing.
 - d. The Fisheries Division, Natural Rivers Program will provide technical advice on erosion problems and streambank stabilization, including reference to programs of other agencies.
 - e. The Division of Land Resources will assume responsibility for coordination of periodic river cleanups.
 - f. The Fisheries Division, Natural Rivers Program will assist riverfront property owners, local governmental units, and other interested citizens in organization of watershed councils, property owners' associations, or other river protective groups.
 - g. The Fisheries Division, Natural Rivers Program will provide assistance to riverfront property owners in applying for property tax benefits available under the Farmland and Open Space Preservation Act (Part 361, P.A. 451 of 1994, as amended) and other relevant state statutes.

B. To Local Units of Government – Upon Request

- a. The Fisheries Division, Natural Rivers Program will provide technical assistance in development and processing of local zoning and other controls designed to protect and enhance the natural qualities of the river and adjoining lands.
- b. The Fisheries Division, Natural Rivers Program will provide assistance to local governments in administration of its zoning ordinance relating to the Natural Rivers Program by reviewing special exception or variance requests, and by providing available data.
- c. Upon specific written request of a local governmental unit along a designated natural river, the Fisheries Division, Natural Rivers Program will delineate the “ordinary high water mark”.
- d. The Land and Water Management Division, Department of Environmental Quality will give high priority to floodplain delineation studies for river stretches designated under Part 305, P.A. 451 of 1994 (Natural River Act) where heavy development activity in the floodplain is expected in the future and where recommendations for local zoning deal with setbacks in relation to lands subject to flooding.
- e. When an adopted river management plan identifies the need for administrative rules for watercraft under authority Part 801, Marine Safety, of 1994 PA 451, Law Enforcement Division will cooperate with the appropriate local units of government in the promulgation of such rules as soon as possible following river designation.