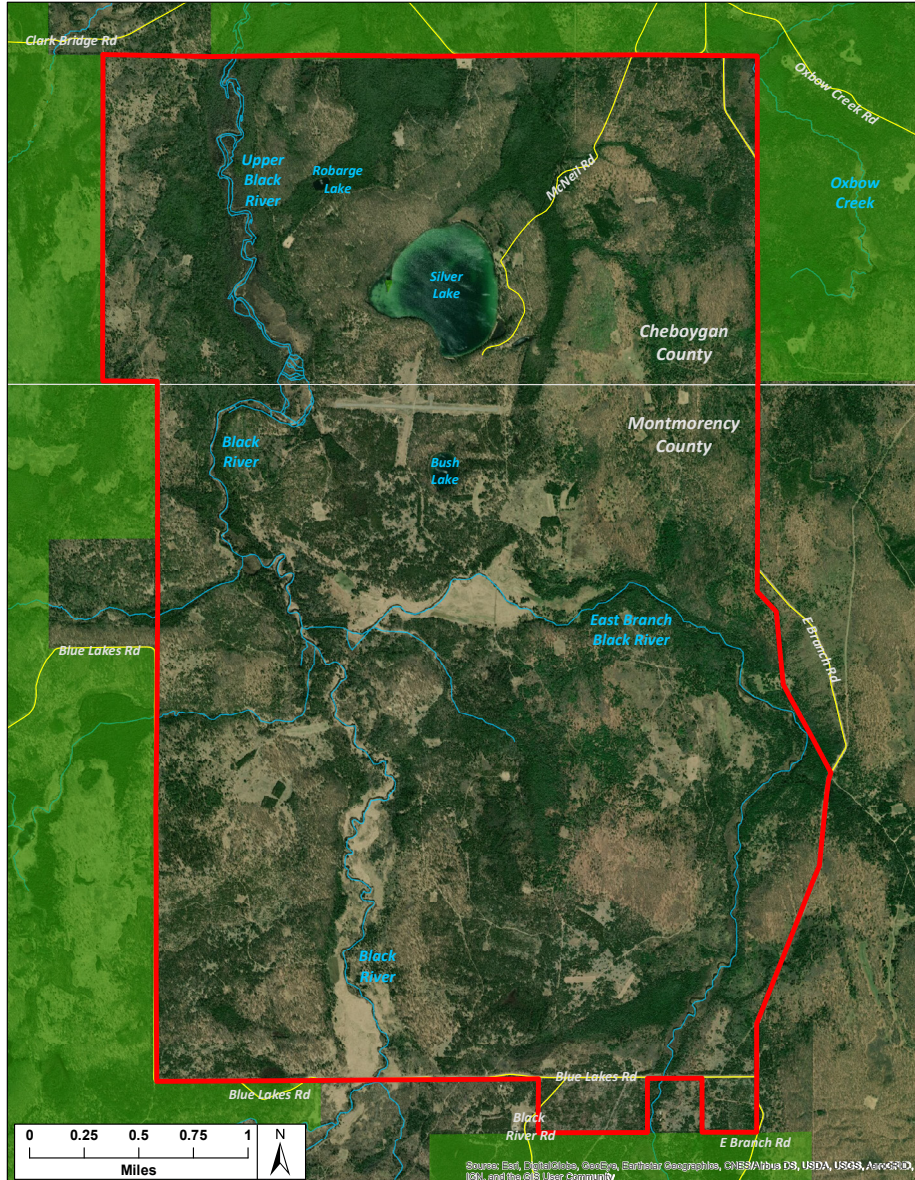



Pigeon River Country Association Newsletter

Fall 2020



Prepared By




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**Black River Ranch
Aerial Map & Proposed Forest Legacy Area
8,850 +/- acres
Cheboygan & Montmorency Counties, Michigan**

- Property Boundary & Proposed Forest Legacy Area
- County Boundary
- Michigan DNR
- State Roads
- Waterbody

NOTE: This geographic product was developed by Little Traverse Conservancy (LTC). Although efforts have been made to ensure information displayed herein is accurate and useful, LTC assumes no responsibility for errors in the information and does not guarantee that data are free from errors or inaccuracies. Similarly, LTC assumes no responsibility for consequences of inappropriate use or interpretations of the data. Accordingly, these digital data are distributed in present condition and user assumes all risk as to their quality, results obtained from their use, and performance of the data. LTC bears no responsibility to other users of any changes made to this data. Anyone using this data is advised that precision implied by the data may be an exact actual precision.



Black River Ranch is being proposed for purchase as an addition to the PRC. It is a project of the DNR and Little Traverse Conservancy.

Proposed addition has 14 miles of Black River

More than eight thousand acres of private holding is being considered as an addition to Pigeon River Country. The property on the northeast boundary of the PRC, is laced with pristine Black River flows.

The 8,850-acre forested property is known as Black River Ranch. It contains more than 14 miles of Black River, East Branch of the Black River, and Stewart Creek corridor. There are three lakes, the largest being the 150-acre Silver Lake. The holding is in the core of the elk range. Located in Cheboygan and Montmorency Counties, it is owned by BRR Merger LLC. An individual acquired a parcel in 1911, then accumulated thousands more acres into what in 1920 was called Black River Ranch. It included Canada Creek Ranch, which was sold off in the 1930s to help keep Black River Ranch viable during the Depression.

A grant application was submitted in October 2020 to the U.S. Forest Service seeking Forest Legacy Program funds, a nationally competitive process. Earliest funding, if approved, would be October 2021. There is some optimism that might happen since Congress has approved and the President signed the Great American Outdoors Act, which in part fully funds the Land and Water Conservation Fund, which in turn funds the Forest Legacy Program. This is the first time the conservation fund has been fully funded since it was created in 1965. Money comes from fees and royalties from offshore oil and gas drilling.

It will be known in December 2020 whether additional funds are available through the Michigan Natural Resources Trust Fund for acquiring the property. That money comes from oil and gas development on state land, including Pigeon River Country.

Stewart G. Smith, president of Pigeon River Country Association, and Paul Rose, chair of Pigeon River Country Advisory Council, have each sent letters of support for the purchase to Kerry Wieber, Forest Land Administrator, Forest Resources Division, Michigan Department of Natural Resources, who is handling the application. Smith said it would be “an outstanding addition.” Rose pointed to language in the Pigeon’s Concept of Management:

“The DNR will continue to actively pursue acquisition of available private parcels through purchase, trade, or partnership with land-protection organizations.”

“Lands surrounding the PRC also are very important for maintaining wildlife habitat and the unique character of Pigeon River Country. These lands, whether state owned or privately owned, serve as a buffer between the PRC and nearby development and should receive as much protection as possible from any use that is inconsistent with the goals of the PRC. This is especially important where these adjacent lands contain valuable riparian or wetland habitats, wildlife travel corridors or species and natural communities of special concern.”

Paul wrote on behalf of the 18-member citizens council: “We also provide this support with the understanding that the potentially-affected local units of government will be engaged in these discussions which are to include details regarding revenue replacement in the form of PILT payment projections (Payments In Lieu of Taxes).”

He said “the PRCSF hosts thousands of visitors and forest users annually who recognize the importance of protecting these natural resources, as well as their associated economic benefits.”



East Branch Black River, flowing north from Blue Lakes Road.

Photo by Dale Franz



Black River mainstream flowing north into Black River Ranch.

Photo by Dale Franz

Voters weigh changes to oil revenue spending

Proposal 1 on Michigan's Nov. 3 ballot is a complicated amendment to the state's constitution that proposes to shift how revenue from oil and gas development is spent on recreational land. It proposes both long-term and short-term changes.

Long-term, it ensures that money generated from oil and gas extraction of state land continues to go to acquiring land as state forests and to developing parks, trails, boat launches, and other conservation uses, instead of eventually being channeled into the state's General Fund.

Short-term, it provides that a greater share—up to 75%—of the money spent can go to the parks instead of land acquisition. The parks spending is currently limited to 25% of the money. Proposition 1 would also allow spending some of the parks money on “fund administration” as well as renovating and redeveloping existing recreational facilities.

Oil and gas revenues go into two funds, the Natural Resources Trust Fund (created in 1976 under a different name) and the State Parks Endowment Fund (created in 1994). Both were set up as permanent corpus funds and the corpus is not allowed to be spent. Spendable money comes from interest on the corpus.

The Trust Fund corpus is capped at \$500 million, which was reached in 2011. Since then, oil and gas revenue has gone into the Parks Endowment Fund, and will continue to do so until it reaches a cap of \$800 million (adjusted for inflation), expected to occur in the early 2050s, assuming hydrocarbon resources on state land will still be generating revenue by then.

When the State Parks Endowment Fund reaches its \$800 million cap, oil and gas

revenue will revert to the state's General Fund to be spent on anything the legislature chooses. But under Proposal 1, the \$500 million cap on the Trust Fund would then be lifted and oil and gas revenues would again flow into the Trust Fund rather than into the state's General Fund.

The royalties that flow into the two capped funds are based on a percentage of the price received for the mineral at the time of sale.

Conservation groups have supported Proposal 1 because it keeps that oil and gas revenue for natural resources flowing into the Trust Fund, even though this would not take effect until an estimated three decades from now. A dozen environmental organizations, including the Nature Conservancy, have supported Proposal 1, saying, “This will create the flexibility needed to fund trails and parks while continuing to prioritize land conservation and protection.” All 90 legislators voting to place the proposal on the 2020 ballot supported it. Huron Pines conservation organization headquartered in Gaylord said Proposal 1 will “help protect our drinking water sources, wildlife habitats and parks.”

One group, however, the Sierra Club Michigan Chapter opposed Proposal 1 because it immediately reduces available revenues being used to acquire land, including conservation easements. Proposal 1 requires “not less” than 25% to be spent developing parks and recreation facilities, while until now not more than 25% could be spent on parks and recreation facilities. The new language maintains the current requirement that at least 25% be spent to acquire land.

Sierra Club said Proposal 1 “would shift funding priority away from the acquisition of lands at the state and local level and place greater emphasis on the development of public recreation facilities.” Sierra Club calls that “shortsighted” because “if we are to mitigate climate change, we need to protect and preserve land.”

Readers can search online for details about the proposal. Here are two such sites:

<https://crcmich.org/publications/statewide-ballot-proposal-20-1-michigan-natural-resources-trust-fund>

<https://docs.google.com/document/d/1MrRzsNIpWz2IMjxBWBhIX37dFOsE5ZRhPO1c-FYvNZA/edit?usp=sharing>

Council pursues issue of closing aging wells

The Pigeon River Country Advisory Council has learned of wells in the forest's annexed area being sold to a corporation that conducts enhanced recovery from wells. The council has long-standing concerns about marginal wells.

The Consent Order in place since the 1980s calls for wells to be shut down when they become marginal, that is, when the well costs more to maintain than the value of the oil and gas that it produces. What marginality means now in light of technology changes has been a topic of concern for some time.

The Pigeon River Country Advisory Council Resource Use & Extraction committee, which met recently, also discussed the sale of eight wells in the annexed area by Lambda to Core Energy, LLC, based in Traverse City. Core describes one of its corporate roles as "bringing oil fields back to life. Enhanced Oil Recovery ... operations allow another 10-15% of the total oil in place to be produced."

Sandra Franz, chair of the committee, provides the following report:

On October 19, 2020, members of the committee met to discuss Lambda Energy's sale of eight wells in the annexed area of the forest to Core Energy in early 2020 and continuing public concerns about marginal wells.

Oil and gas operators in the forest, and EGLE employees, stress that recovering as much of the resource as possible, and preventing waste, is an economic and philosophical concept that "means a lot to us." That concept frames the marginal well issue in another way, since marginal wells are pooled and contribute to the overall production of the field.

Lambda sale of eight wells to Core Energy

Prior to its July 24 meeting, the Advisory Council learned through correspondence with EGLE (formerly DEQ) staff that Lambda had sold "a few wells and facilities in the vicinity of the PRC early this year." Questions to EGLE staff during and after the July 24 meeting established that eight wells were sold by Lambda to Core Energy in the annexed area of the PRC (outside the core area covered by the Consent Order).

The Advisory Council was not informed of the sale in advance by Lambda or by DNR/EGLE. (In everyone's defense, this was just at the time that the COVID-19 pandemic was upending DNR and private sector operations and budgets on multiple levels.) Lambda's sale of wells to Core Energy came to the attention of the Advisory Council only 1) after the fact and 2) when the issue was raised by the Advisory Council chair in an e-mail to EGLE.

A major development in oil and gas activity in the annexed area took place without either operator or the DNR/EGLE offering it to the Advisory Council for their information or review. Another operator is now active in the forest with no formal channels of communication with the Advisory Council, either through the operator or DNR/EGLE. We know nothing about bonding requirements, terms of the transfer settlement agreements [TSAs], or the operator's financial ability to properly maintain or close out an aging oil and gas field.

Bob Mannes, a principal in Core Energy, participated in the committee's meeting and the Advisory Council's full 10/22 meeting, both conducted electronically. Both Mannes and Harry Faulkner, CEO of Lambda Energy, have indicated their ability to participate in meetings and discussions and to answer questions.

At the time of Shell's sale to Merit in 2003, and again during Merit's sale to Lambda in 2018, the DNR recognized the Advisory Council's historical role in oil and gas matters and included the council in its comprehensive review and vetting process. In 2018, the council was instrumental in calling attention to the need for increased bonding requirements for the sale of an oil and gas field with declining production and aging infrastructure.

Even though the sale by Lambda to Core occurred in the annexed area and not in the core area covered by the Consent Order and related documents, there is historical precedent for informing the Advisory Council more broadly about oil and gas activity in the forest. The Concept of Management speaks to this on page 11:

"Since its inception, the Advisory Council has played an important role in the management of the PRC, including the legal requirement that the Advisory Council be consulted on oil and gas exploration, and development matters required by the 1980 Ingham County Circuit Court Judgment."

The Concept of Management speaks specifically about oil and gas development in the annexed area on pages 32 and 33:

"The DNR will notify the Advisory Council of proposed oil and gas development in the Annexed Area by providing copies of drilling applications and associated plans of development. The DNR will also identify the time frame available to provide comments. When time allows, the DNR will notify the Advisory Council Chair, and the Advisory

Council Oil & Gas Committee Chair, when a DNR field review of development plans is scheduled."

Management of Lambda Energy and Core Energy were present on the committee Zoom call, as were EGLE employees. All parties agreed that the sale "came together quickly" and that the failure to inform the Advisory Council was an oversight and not intentional.

Marginal wells

Lambda provides quarterly production reports to the Advisory Council, and there are several wells for which production is very limited, and by Lambda's own definition at the bottom of the production report, would be considered marginal.

The definition from the 1980 Circuit Court judgment specified that "marginal wells shall not be produced and shall be abandoned," and "A marginal well is one that no longer produces in paying quantities. Paying quantities is defined as that point at which revenues from the well are less than the operating costs of the well."

This language regarding *individual wells* supported the expectation at the time that Shell Oil would extract the oil and gas as quickly as possible, plug the wells, and leave the forest. (It didn't quite turn out that way.) But the definition did not anticipate today's improved extraction technology that allows greater recovery, pooling of individual wells, or fluctuating prices that take wells in and out of financial marginality.

The definition of marginality, because it does not account for current conditions, no longer provides a useful measurement for deciding when to plug aging wells.

Citizens and council members are, and have been for a long time, concerned about this issue. With oil executives, citizens, DNR and EGLE employees all participating in the

Zoom call, we had a good discussion of these questions: Is the marginal well language from the Consent Order and related documents still relevant? If yes, how can it be enforced? If no, how can it be amended? Who makes those decisions? How are those decisions memorialized?

A suggestion, put forward by CEO Harry Faulkner of Lambda, and supported by the

full Advisory Council, was to convene a small working group of industry executives, DNR, citizens and Advisory Council members to discuss a possible definitive timeline for plugging marginal wells. The Advisory Council is working now to convene such a group and begin these discussions.

--Sandra Franz



Milkweed prepares to scatter seeds on Black River Ranch.

Photo by Dale Franz



A wild plant, identified as a clematis, decorates the Black River Ranch.

Photo by Dale Franz

Membership renewal reminder

Membership dues help provide a scholarship to a student intern who assists the forest manager in the summer, and help us protect the wild character of the PRC. Your membership expiration date is on your mailing label or email sending this newsletter. Please keep your membership current. Thank you!



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<https://pigeonriverdiscoverycenter.org>

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