

Bogus Creek
HUC 30502, Zone 3, Kuskokwim River Region

INTERIM SUMMARY REPORT

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PREFACE

The research and writing of this study is funded by the U.S. Department of the Interior, Bureau of Land Management (BLM) through the Navigability Assistance Agreement (Cooperative Agreement # LO9AC15466). The State of Alaska (State) and the BLM established an assistance agreement in 2004 to facilitate the preparation of navigability reports that could be used for a variety of purposes, including the process for determining who owns title to the land under inland water bodies. Under the Statehood Compact, land under navigable waterways is reserved to the State of Alaska. Navigability is based on historic use of water bodies for travel, trade and commerce up to the time of Statehood (1959), or recent use of the water bodies that demonstrates susceptibility to travel, trade and commerce in 1959.

The Navigability Assistance Agreement began as a pilot project focused on researching the history of use of water bodies in the Kuskokwim River region. The scope of work for the Assistance Agreement calls for identifying potentially navigable water bodies where the United States is an upland landowner or may otherwise have a potential interest in the submerged lands; gathering information from BLM records and a 1985 regional history of the Kuskokwim River region; writing narrative histories of each water body summarizing land status, land conveyance decisions, past navigability determinations, physical character of the water body, and a history of use on the water body. These reports are prepared in stages. The first stage (Phase I-A) consists of land status. An interim summary report (Phase II-B) is generally limited to information in the files of the U.S. Department of Interior and a regional history of the Kuskokwim River region written by C. Michael Brown in 1985. A final summary report (Phase IV) incorporates expanded research in the files of other state and federal agency files, the holdings of various libraries and archives in Alaska, and interviews with people who have knowledge of use of the water body.

The present report represents work at the Phase II-B level. The research and writing of this report was conducted by State employees working under the guidance of an Assistance Agreement Management Team composed of representatives of BLM and the State. The management team sets priorities, reviews the reports on water bodies at various stages, and decides at what point enough research, analysis and writing has been completed on each specific water body. The management team directed the authors of these reports to refrain from drawing conclusions about the water body's navigability or susceptibility to navigability. Rather, the management team directed the authors to provide an overview at the end of the report summarizing the types of evidence of historic and contemporary use and highlighting those areas (such as portions of the water body) where gaps in knowledge remain and additional research might be warranted.

Documents that are key to understanding agency decision making or the point of view of an interested party are indicated as Attachment 1, Attachment 2, etc., which appear after the corresponding endnotes. These documents are listed in the Table of Attachments and can be viewed in their entirety in a separate PDF file that supplements this report.

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Attachments (in PDF format)

- Attachment 1.** Patrick C. Beckley, BLM Realty Specialist, Memorandum, on ETF navigable water determination on Tuluksak selection, December 17, 1975, BLM file F-14949-A.
- Attachment 2.** Curtis V. McVee, BLM State Director, Memorandum to Chief, Division of ANCSA Operations, June 9, 1981, re Final Easements for the Village of Tuluksak, BLM files.
- Attachment 3.** Sandra C. Thomas, Acting Chief, BLM Branch of ANCSA Adjudication, Decision to Interim Convey Lands, March 3, 1982, with attached Navigability map, September 8, 1981, BLM file F-14949-EE.
- Attachment 4.** William D. Arnold, Assistant to the BLM State Director for Conveyance Management, Interim Conveyance Nos. 542 and 543, August 27, 1982, with attached Navigability map, September 8, 1981, BLM files.
- Attachment 5.** Edgar A. Earnhart, BLM Realty Specialist, Memorandum to F-14888, on Supplemental Interviews for Group 254, March 28, 1989, BLM file F-14888-EE.
- Attachment 6.** Edgar A. Earnhart, BLM Realty Specialist, Memorandum to File F-16534 (Parcel D), on Supplementary Navigability Report Interview with Dennis Stromm [sic], Assistant Manager, Yukon Delta National Wildlife Refuge Group Survey 254 (Window 1834), April 4, 1989, BLM file F-16534.
- Attachment 7.** Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum on Navigable Waters in Group Survey No. 268 (Window 1836), May 8, 1989, BLM file F-14949.

- Attachment 8.** Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum re Navigable Waters in Group Survey 254 (Window 1834), May 8, 1989, BLM file F-14949-EE.
- Attachment 9.** C. Michael Brown, BLM Navigable Waters Specialist, Letter to Michael B. Rearden, Refuge Manager, Yukon Delta National Wildlife Refuge, December 13, 1995, BLM files.
- Attachment 10.** Ramona Chinn, BLM Acting State Director, Interim Conveyance Nos. 1997 and 1998, June 27, 2006, BLM files.
- Attachment 11.** Dominica VanKoten, Chief, BLM Navigability Section, Memorandum to Chief, Branch of Survey Planning and Preparation, on Navigable Waters within the Tuluksak Village Project Area, August 15, 2006, BLM file F-14949-A.
- Attachment 12.** Natalie M. Cooper, Chief, BLM Navigability Section, to Chief, BLM Branch of Survey Planning and Preparation, Memorandum re Navigable Waters within Group Survey No. 1019, May 1, 2007, BLM file F-14902-EE.
- Attachment 13.** Navigability Section, Memorandum on Land Transfer on Navigability Input for Inclusion in Decision to Issue Conveyance (DIC) within Window No. 2683 for the Village of Tuluksak, June 13, 2008, BLM file F-14949-A.
- Attachment 14.** Ramona Chinn, BLM State Director, Decision to Issue Conveyance, June 18, 2008, BLM file F-14949-A.
- Attachment 15.** Robert L. Lloyd, BLM Chief, Land Transfer Adjudication I, Patent Nos. 50-2008-0420 and 50-2008-0421, July 30, 2008, BLM files.
- Attachment 16.** Robert L. Lloyd, BLM Chief, Land Transfer Adjudication I, Final Easement Memorandum for Lands to be Conveyed to Napaskiak, Incorporated for the Native Village of Napaskiak, April 21, 2009, BLM file F-14902-A.
- Attachment 17.** Robert L. Lloyd, BLM Chief, Land Transfer Adjudication I, Final Easement Memorandum for Lands to be Conveyed to Napaskiak, Incorporated for the Native Village of Napaskiak, June 1, 2009, BLM file F-14902-A.
- Attachment 18.** Jennifer L. Noe, BLM Land Law Examiner, Land Transfer Adjudication II Branch, Decision for Interim Conveyance, June 19, 2009, BLM file F-14902-EE.
- Attachment 19.** Richard Thwaites, BLM Chief, Land Transfer Adjudication II Branch, Interim Conveyance Nos. 2244 and 2245, July 30, 2009, BLM files.
- Attachment 20.** Ramona Chinn, BLM Deputy State Director, Division of Alaska Lands, Patent Nos. 50-2012-0229 and 50-2012-0230, September 13, 2012, BLM files.
- Attachment 21.** Master Title Plats (MTPs).
- Attachment 22.** U.S. Rectangular Surveys and U.S. Surveys.

Bogus Creek
(HUC 30502, Zone 3, Kuskokwim River Region)
II-B Interim Summary Report

I. Introduction

Bogus Creek is located in the Kuskokwim River area within Zone 3 of Hydrologic Unit Code (HUC) 30502 (Figure 1). The creek heads on the northwest side of the Kilbuck Mountains in Section (Sec.) 30, Township (T.) 13 N., Range (R.) 59 W., Seward Meridian (SM) and flows northwesterly and then westerly for 61.3 miles to enter the Kuskokwim River from the left¹ at river mile 108.ⁱ

Recorded under the local name Bogus Creek in a 1943 United States Geological Survey (USGS) survey report, this creek has been shown on USGS topographic maps since 1952.² The creek has native names associated with it as well. The name *Kuigurluq* (“the little creek” or “pathetic river”) is often used to describe the entire creek, or just the downriver portion, from approximately river mile 31.³ The name *Kuigurluyagaq*ⁱⁱ (“the littler, little creek” or “little pathetic river”) is sometimes used for the portion of the creek upriver from there.⁴ The mouth of the creek is located eight miles northeast of Tuluksak and 42 miles northeast of Bethel, which is the nearest regional hub.⁵

Bogus Creek comprises a main channel with two navigable tributaries and several non-navigable tributaries. Of those tributaries, the one entering the right bank of Bogus Creek in Sec. 29, T. 14 N., R. 61 W., SM, heads just south of Whitefish Lake and was once considered the main channel. This tributary is not included under the definition of Bogus Creek in this report. The other two tributaries have at points been determined navigable by to the BLM. One enters the left bank of Bogus Creek in Sec. 3, T. 13 N., R. 62 W., SM, and was given the name *Qavinngalria* Creek (“to be turned”) in a BIA examination of an ANCSA 14(h)(1) site at its confluence.⁶ The other enters the right bank of Bogus Creek in Sec. 11, T. 13 N., R. 64 W., SM, and was given the name *Alirnaq* on maps held by AHP CPSU [Anthropology and Historic Preservation, Cooperative Park Studies Unit] and ANCSA 14(h)(1) Historical and Cemetery Sites Collection at the University of Alaska Fairbanks.⁷ Bogus Creek enters the Kuskokwim through a slough in Sec. 28, T. 13 N., R. 64 W., SM.

There is no longer a permanent, year-round settlement on Bogus Creek, although the largest village on the Kuskokwim River in 1880 was *Kwigalogamiut* (variously spelled: *Kwigalogamute*, *Kwigalok*, *Kwikagamut*, *Quiechochlogamiut*, *Quigolok* [Oswalt], *Kuigurlurmiut* [Andrews], *Kwikak*, and *Queekagamut* [Orth].), which was situated near

ⁱ The overall length of Bogus Creek and the river mile markers used in this report are based on Geographic Information System (GIS) calculations using the National Hydrography Data Set which was derived from the U.S. Geological Survey quadrangle maps. The river mile marker system used in this report may differ from river mile markers found in BLM/ANILCA documents, which may be based on air miles between points rather than distances along the river bed of the main channel.

ⁱⁱ Alternately spelled *Kuigurluyagaq* [AHP CPSU]

the mouth of Bogus Creek. The name Kwigalogamiut likely derives from the Yup'ik name for Bogus Creek, *Kuigurluq*,ⁱⁱⁱ which roughly translates to “pathetic river,” “poor, old river,” or “dear old river” in English. Maps at the AHP CPSU and ANCSA 14(h)(1) Historical and Cemetery Sites Collection at the University of Alaska Fairbanks show Kuigurluq used as the name for Bogus Creek for several miles up the creek, and it is likely that the name applies for the entirety of the creek’s course.⁸ There was also a seasonal village site at the confluence of Bogus Creek and Qavinngalria Creek, known as *Kassiglut Atliit* (“the lower confluence of rivers”), that appears to have been abandoned at about the same time.⁹

On maps from the AHP CPSU and ANCSA 14(h)(1) Historical and Cemetery Sites Collection at the University of Alaska Fairbanks, Kwigalogamiut is sited in two nearby locations at the mouth of Bogus Creek. The first is in the northwest corner of Sec. 22, T. 13 N., R. 64 W., SM and the second is in the northeast corner of Sec. 28, T. 13 N., R. 64 W., SM. The stretch of Bogus Creek just above those sites is labeled Kuigurluq.¹⁰ In an associated interview, Peter Lott of Tuluksak stated that: “They say that these are former settlements, these two inside each other [one farther up the river than the other]... the people call them that.” He also noted the names for lower Bogus Creek (Kuigeurluq) and upper Bogus Creek (Kuigeurluyagaq).¹¹

Bogus Creek is used by people from the nearby communities of Tuluksak, Lower Kalskag, and Upper Kalskag. Bogus Creek lies to the northeast of the Tuluksak River and to the southwest of the Aniak River. The Aniak-Tuluksak Trail (RST-24) provides overland access to Bogus Creek in winter.¹²

ⁱⁱⁱ Alternately spelled *Kuigeurluq* and *Kuige'urluq*. [AHP CPSU]

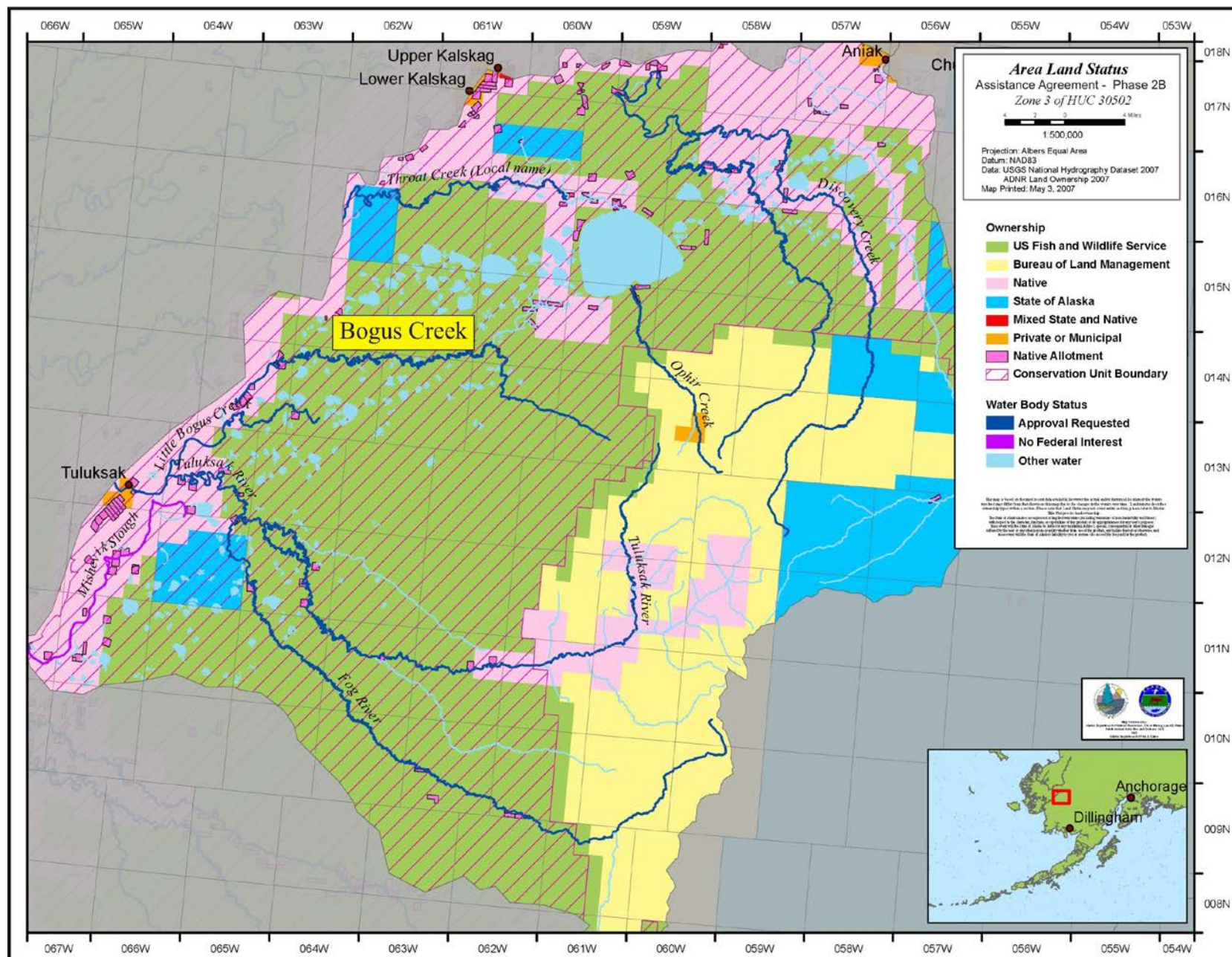


Figure 1. Map of Zone 3 of HUC-30502 showing the location of Bogus Creek. For land status as of 2014, see Figure 2.

Meridian, Township, Range, Section (MTRS): Bogus Creek flows through 10 Townships: Townships (T.), Range (R.), Sections (Sec.), Seward Meridian (SM)

T. 13 N., R. 59 W., Sec. 30	T. 14 N., R. 61 W., Sec. 29	T. 13 N., R. 63 W., Sec. 11
T. 13 N., R. 60 W., Sec. 25	T. 14 N., R. 61 W., Sec. 30	T. 13 N., R. 63 W., Sec. 10
T. 13 N., R. 60 W., Sec. 26	T. 14 N., R. 61 W., Sec. 31	T. 13 N., R. 63 W., Sec. 04
T. 13 N., R. 60 W., Sec. 27	T. 14 N., R. 62 W., Sec. 36	T. 13 N., R. 63 W., Sec. 05
T. 13 N., R. 60 W., Sec. 21	T. 14 N., R. 62 W., Sec. 35	T. 13 N., R. 63 W., Sec. 06
T. 13 N., R. 60 W., Sec. 20	T. 14 N., R. 62 W., Sec. 34	T. 13 N., R. 64 W., Sec. 01
T. 13 N., R. 60 W., Sec. 18	T. 13 N., R. 62 W., Sec. 03	T. 13 N., R. 63 W., Sec. 07
T. 13 N., R. 61 W., Sec. 13	T. 13 N., R. 62 W., Sec. 04	T. 13 N., R. 64 W., Sec. 12
T. 13 N., R. 61 W., Sec. 14	T. 13 N., R. 62 W., Sec. 05	T. 13 N., R. 64 W., Sec. 11
T. 13 N., R. 61 W., Sec. 15	T. 14 N., R. 62 W., Sec. 32	T. 13 N., R. 64 W., Sec. 14
T. 13 N., R. 61 W., Sec. 16	T. 13 N., R. 62 W., Sec. 06	T. 13 N., R. 64 W., Sec. 15
T. 13 N., R. 61 W., Sec. 09	T. 14 N., R. 62 W., Sec. 31	T. 13 N., R. 64 W., Sec. 22
T. 13 N., R. 61 W., Sec. 04	T. 13 N., R. 63 W., Sec. 01	T. 13 N., R. 64 W., Sec. 21
T. 14 N., R. 61 W., Sec. 33	T. 13 N., R. 63 W., Sec. 02	T. 13 N., R. 64 W., Sec. 28
T. 14 N., R. 61 W., Sec. 32	T. 13 N., R. 63 W., Sec. 03	

The left-bank tributary of Bogus Creek (Qavinngalria Creek)

T. 12 N., R. 63 W., Sec. 02
T. 13 N., R. 63 W., Sec. 33
T. 13 N., R. 63 W., Sec. 28
T. 13 N., R. 63 W., Sec. 27
T. 13 N., R. 63 W., Sec. 22
T. 13 N., R. 63 W., Sec. 21
T. 13 N., R. 63 W., Sec. 16
T. 13 N., R. 63 W., Sec. 15
T. 13 N., R. 63 W., Sec. 10
T. 13 N., R. 63 W., Sec. 15

The right-bank tributary of Bogus Creek (Alirnaq)

T. 13 N., R. 64 W., Sec. 11
T. 13 N., R. 64 W., Sec. 02
T. 14 N., R. 64 W., Sec. 35
T. 14 N., R. 64 W., Sec. 34

The unnamed right-bank tributary of Bogus Creek

T. 13 N., R. 64 W., Sec. 10
T. 13 N., R. 64 W., Sec. 03
T. 13 N., R. 64 W., Sec. 02
T. 13 N., R. 64 W., Sec. 11

II. Land Status

Bogus Creek is bounded by federal and Native lands. Most of the creek lies within the Yukon Delta National Wildlife Refuge (Yukon Delta NWR). The United States holds title to federal refuge lands in Alaska, and the Yukon Delta NWR is managed by the U.S. Fish and Wildlife Service (USF&WS). Approximately the lower half of Bogus Creek flows through Native lands that are held by village and regional corporations under the Alaska Native Claims Settlement Act (ANCSA) of 1971 and by individual Native people under the Native Allotment Act of 1906 (Figure 2). Most of the Native allotments are clustered within a few miles of the mouth. Others are located on or near the right bank tributary that enters Bogus Creek at Sec. 29, T. 14 N., R. 61 W., SM. Two village corporations, Tulkisarmute Incorporated and Napaskiak Incorporated, have selected lands along Bogus Creek for the villages of Tuluksak and Napaskiak respectively.

The uppermost stretch of Bogus Creek, between river miles 61.3 and 32, flows through Yukon Delta NWR lands that were withdrawn from unreserved public lands managed by the BLM on March 9, 1972, under Public Land Order 5184, and transferred to the federal refuge system under the Alaska National Interest Land Conservation Act (ANILCA), PL 96-487, of 1980. With the exception of any inholdings, the United States holds title to the lands within the refuge, which is managed by the USF&WS. (Figure 2)

Bogus Creek bisects Native allotment (F-16534-D) in Secs. 29 and 32, T. 14 N., R. 61 W., SM (river mile 44). The allotment was certificated in 1993.^{iv} The creek is meandered through the Native allotment, although it is identified as an “unnamed creek” and the creek’s flow is shown reversed.^v

Napaskiak Inc., representing the village of Napaskiak, which is located south of Bethel, initially selected riparian lands in T. 13 N., R. 63 W., SM and in Secs. 3-6, T. 13 N., R. 62 W., SM (F-14902-A and F-14902-A2), covering river miles 7 through 32. These lands were conveyed in 2009 and 2012, the surface estate to Napaskiak Inc. via Interim Conveyance (IC) No. 2244 and the subsurface estate to Calista Corporation via IC No. 2245, with Bogus Creek excluded from the conveyance through the sections in which it flows.¹³ The Calista Corporation, the Native regional corporation for the area, had

^{iv} Native allotment certificate 50-93-0245.

^v U.S. Survey No. 10065, Alaska.

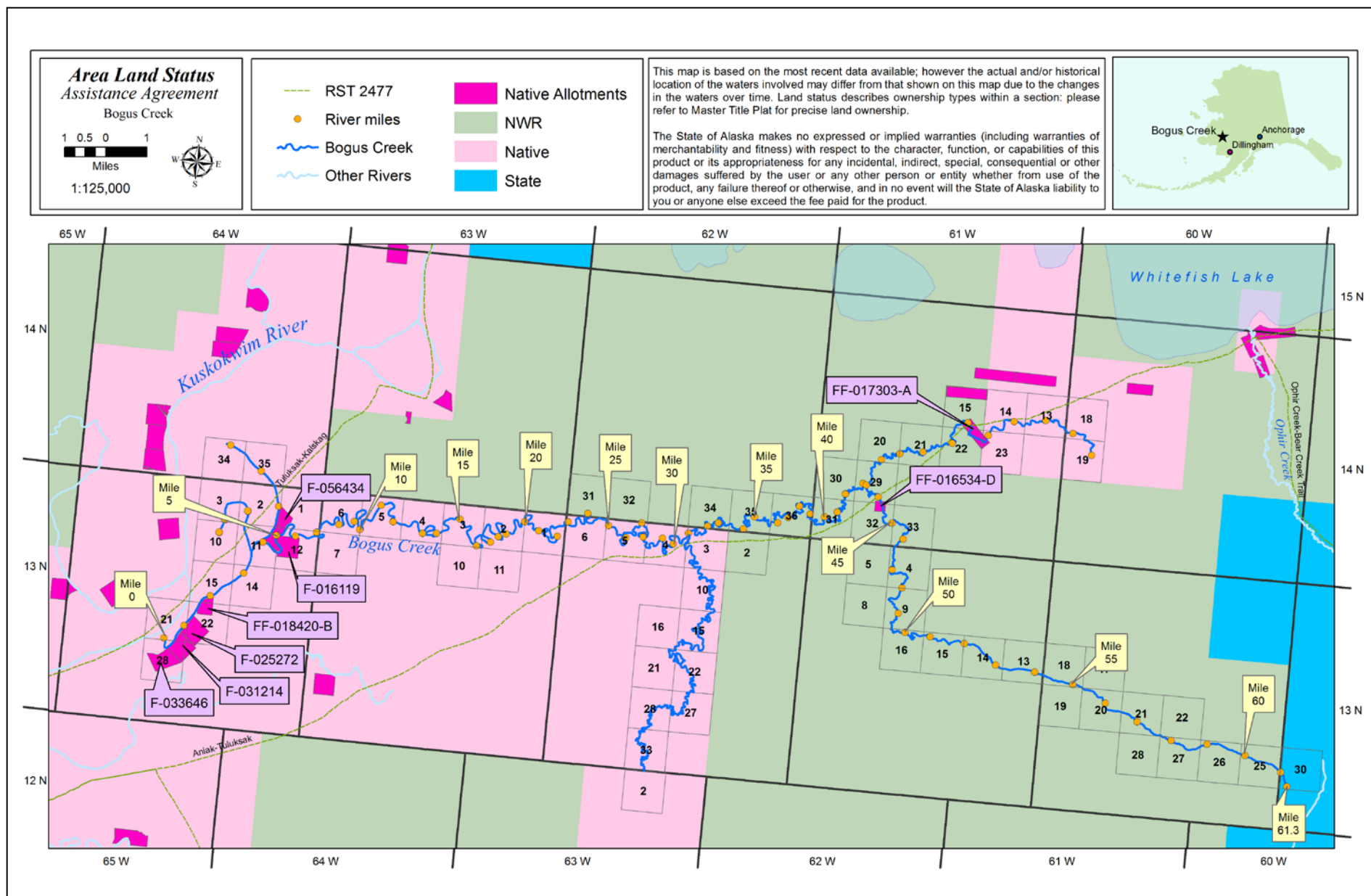


Figure 2. Map showing Bogus Creek and Native corporation lands, Native allotments, and federal and state lands.

selected land in Secs. 3 and 4, T. 13 N., R. 62 W., SM, under the 14(h)(1) historical or cemetery site provision of ANCSA (AA-010427). Although the site was certified as eligible as a historical place and cemetery site on May 31, 1989, the BLM rejected this application on June 19, 2009 when it adjudicated village selection as part of file number F-14902-A.¹⁴

Near the mouth of Bogus Creek, Tulkisarmute Inc., the village corporation for Tuluksak, holds title to the surface estate of ANCSA lands conveyed in 1982, including those around the first seven river miles of Bogus Creek. Calista Corporation holds title to the subsurface estate for the lands conveyed to Native village corporations in this region. Where Bogus Creek crosses the conveyed lands in Secs. 1, 11, 12, 14, 15, 21, 22, and 28, T. 13 N., R. 64 W., SM, the creek was determined navigable and was excluded from conveyances.^{vi}

There are six certificated Native allotment parcels near the mouth of Bogus Creek. Two of them (AA-56434 and FF-16119) are located on opposite sides of Bogus Creek in Secs. 1, 2, 11, and 12, T. 13 N., R. 64 W., SM (river miles 4 to 6).^{vii} Bogus Creek was determined navigable and segregated from those allotments, as was the unnamed slough in Secs. 2 and 11, T. 13 N., R. 64 W., SM. Four others are on the left bank of Bogus Creek between river miles 0.2 and 2 (FF-18420-B, F-25272, F-31214, and F-33646).^{viii} Bogus Creek was meandered and segregated from those allotments, as well. All six Native allotments that are located along Bogus Creek between river miles 0 and 6 have been certificated. Two were certificated in the 1990s, and four were certificated in the 2000s.

Four other Native allotments are located along or near the unnamed rightbank tributary that the BLM formerly considered to be part of Bogus Creek. Those allotments and conveyed lands can be found on the land status map to the southwest of Whitefish Lake, but they are located on water bodies that currently are not considered to be on the mainstem of Bogus Creek. (Figure 2)

A winter trail from Tuluksak to Aniak, RS 2477 historic trail RST 24, crosses Bogus Creek about 44 river miles upstream from its mouth in Sec. 29, T. 14 N., R 61 W., SM. In 2009, the BLM reserved several easements along this trail and on Bogus Creek to accommodate travel along the trail through Napaskiak lands. Easement EIN 7 D9 was extended from Sec. 3, T. 13 N., R. 62 W., SM through Sec. 14, T. 13 N., R. 63 W., SM to connect the existing easement on the western end with public land on the eastern end of the new easement. Two one-acre site easements were reserved on Bogus Creek to provide for changes in mode of transportation to access the trail and for rest stops for travelers. EIN 25 D9 is located on the left bank of Bogus Creek in Sec. 4, T. 13 N.,

^{vi} All sections except for Sections 1 and 12 were conveyed in Patent No. 50-2012-0229. Sections 1 and 12 were conveyed in Patent No. 50-2008-0420.

^{vii} Native allotment certificates 50-2006-0426 and 50-2006-0425.

^{viii} Native allotment certificates 50-93-0544, 50-2007-0675, 50-2000-0104, and 50-93-0213.

R. 62 W., SM. EIN 26 D9 is located on the right bank of Bogus Creek in SE¹/₄ NE¹/₄ Sec. 6, T. 13 N., R. 63 W., SM. In addition, a 25-foot trail easement was reserved in Sec. 6, T. 13 N., R. 63 W., SM north to Sec. 31, T. 14 N., R. 63 W., SM, to connect the site at easement EIN 26 D9 with public land. (Attachment 16)

Some Native allotments are located along RST 24, near the right bank tributary of Bogus Creek that was previously considered its main channel flowing from around Whitefish Lake. Because this trail sees primarily winter use, the creation of site easements on Bogus Creek, for the purpose of changing modes of transportation, suggests that Bogus Creek may be an alternate access route for summer travel to portions of the trail and to these allotments. When proposing the easements, the State of Alaska Department of Fish and Game noted that the Alaska Road Commission had spent a total of \$5,913.66 on construction, maintenance, and improvements as of 1954.¹⁵ The trail was permanently staked in 1924, and two shelter cabins were constructed that year, one on Swift Creek and one on Bogus Creek.¹⁶ As of 2004, the tripods marking the trail were no longer extant, but the trail's path was still clear.¹⁷ The trail crosses Bogus Creek while on public land; thus no easement exists at that location.

The trail crosses the left-bank tributary, Qavinngalria Creek, that enters Bogus Creek from the south at Sec. 3, T. 13 N., R. 62 W., SM., just south of where the tributary enters Bogus Creek at river mile 31. An easement exists across the left-bank tributary, farther up the course. This 25-foot trail easement (EIN 31 D1 D9) cuts directly across Napaskiak, Inc. land west to east, connecting public lands in Sec. 16, T. 12 N., R. 63 W., SM with public lands in Sec. 18, T. 12 N., R. 62 W., SM, and was considered necessary to provide access to public lands east and west of the narrow selection pattern along the unnamed tributary of Bogus Creek. (Attachment 17)

The three main tributaries all cross Native selected lands at various points. The right-bank tributary that was originally considered the main channel heads in land conveyed to The Kuskokwim Corporation, the village corporation for Lower Kalskag and nine other villages along the upper Kuskokwim River, in Sec. 19, T. 14 N., R. 60 W., SM. It flows through Sec. 18, T. 14 N., R. 60 W., SM and Secs. 13, 14, and 23, T. 14 N., R. 61 W., SM, all part of lands conveyed to The Kuskokwim Corporation, before passing through Native allotment FF-17303-A^{ix} in Secs. 23, 22, and 15, T. 14 N., R. 61 W., SM. The Kuskokwim Corporation land was patented on January 10, 2012 by Patent No. 50-2012-0059, and a corrected Patent No. 50-2013-0170 was issued on September 19, 2013. The rest of its course is through the Yukon Delta NWR.

The left-bank tributary, Qavinngalria Creek, further downriver at river mile 31 is almost entirely within Napaskiak, Inc. land. It heads in land that has been interim conveyed to Napaskiak, in Sec. 2, T. 12 N., R. 63 W., SM., and flows northward through Secs. 33, 27, 28, 21, 22, 15, 16, 10, and 3, T. 13 N., R. 62 W., SM. This land was conveyed to Napaskiak, Inc. on July 30, 2009 as part of IC 2244.

^{ix} Native allotment certificate 50-95-0501.

The final tributary, at river mile 4.5 on the right bank, closer to the mouth of Bogus Creek, passes through Tulkisarmute, Inc. land in its entirety. It heads in Sec. 34, T. 14 N., R. 64 W., SM., and flows through Sec. 35, T. 14 N., R., 64 W., SM and Secs. 2 and 11, T. 13 N., R. 64 W., SM. This land was patented to Tulkisarmute, Inc. on September 13, 2012 with Patent No. 50-2012-0230.

III. BLM Navigability Determinations

From 1975 to 1981, the BLM considered Bogus Creek in the area selected by Tulkisarmute, Inc. to be non-navigable. In a memorandum regarding the meeting of the Easement Task Force for the Tuluksak selection on November 13, 1975, Bogus Creek was not included either as navigable or as non-navigable. (Attachment 1)

At a meeting in 1980, however, members of Tulkisarmute, Inc. told the BLM that Bogus Creek was navigable through the selection area and being used by “skiffs sixteen to twenty-four feet in length and equipped with twenty-five- to eighty-five-horsepower” outboard motors for subsistence activities and travel to Native allotments.¹⁸ A letter from Sherman Berg to BLM files dated January 29, 1981 recommended that the creek be determined navigable. A copy of that letter has not been located in BLM easement and related selection files.^x

Upon the recommendation of the BLM Division of Resources in 1981 that the portion of Bogus Creek that passes through the Tuluksak village selection area be determined navigable, on June 9, 1981 the BLM State Director issued a Final Easements memorandum for the Village of Tuluksak that declared Bogus Creek through the selection navigable (river miles 0-7).¹⁹ The memorandum stated that Bogus Creek was determined to be navigable “due to present and historic uses in connection with travel in trade and commerce.” (Attachment 2)

This portion was again determined navigable in a formal decision on March 3, 1982. However, that decision did not include Secs. 1 and 12, T. 13 N., R. 64 W., SM., which are listed as overselections on the accompanying map. (Attachment 3) Navigability maps included with the decision showed Bogus Creek to be navigable from the Kuskokwim River through two connecting sloughs [one is at Sec 28, T. 13 N., R. 64 W., SM; the second may be at Sec. 11, T. 13 N., R. 64 W., SM] to a point on Bogus Creek in the SW 1/4 of Sec. 6, T. 13 N., R. 63 W., SM. (Attachment 4) This determination extends into areas not selected by Tulkisarmute, Inc. but selected by Napaskiak, Inc. within Sec. 6 of T. 13 N., R. 63 W., SM, which may be a result of unclear distinctions in the creek’s course.

^x The letter is referenced in Brown, C. Michael, *Alaska’s Kuskokwim River Region: A History*. Anchorage, Alaska, Bureau of Land Management State Office, 1983, p. 494-495. In April 2007 Amy Russell of OHA corresponded with Michael Brown at the BLM regarding the missing document. Both concluded that the letter is likely lost.

On August 27, 1982, the BLM issued IC Nos. 542 and 543, granting the surface estate for 79,388 acres to Tulkisarmute, Inc., excluding submerged lands, up to the ordinary high water mark, beneath all water bodies determined by the BLM to be navigable because they have been or could be used in connection with travel, trade and commerce, and the subsurface estate of those lands to Calista Corporation. The conveyance does not include Secs. 1 and 12, T. 13 N., R. 64 W., SM. (Attachment 4) Navigability maps attached to the conveyance showed the navigable waters. These were identical to the maps referenced in the March 3, 1982 decision to interim convey. As in the earlier map, Bogus Creek was shown as navigable from its mouth to about river mile 7, ending in Sec. 6, T. 13 N., R. 63 W., SM, and excluded from the conveyance.

In March 1989, the BLM conducted interviews on the use of waterbodies within Group Survey No. 254 (the Tuluksak selection area). Use of Bogus Creek was addressed, and those interviewed stated that they were not sure how the Elia Evan allotment (F-16534-D),^{xi} bisected by Bogus Creek about 40 miles upstream from Tuluksak, was accessed. (Attachment 5) Two people, Mary K. Evan (Elia Evan's widow) and Alexander Levi, who were interviewed, stated that they did not think anyone boated up Bogus Creek in the summers. However, Iftikim Evan of Lower Kalskag believed that Elia Evan's allotment could be reached by water, "'by way of Tuluksak' and only using a canoe after the larger boats could go no farther up Bogus Creek." Neither Iftikim Evan nor the interpreter, his daughter Helen, knew how far the larger boats could reach.²⁰

On April 3, 1989, an additional supplementary interview connected with Group Survey No. 254 was conducted over the phone with Dennis Strom, then Assistant Manager of the Yukon Delta NWR. (Attachment 6) Strom stated that he had "no doubt that the area [of Elia Evan's allotment] can be reached by coming up Bogus Creek." Strom further stated that he believed that was how Elia Evan originally located his trapping allotment, and that there is "no doubt that it is boatable in seasonal high water, and likely throughout the year."²¹

Two memoranda—one on Group Survey No. 268 (Window 1836) and the other on Group Survey 254 (Window 1834)—on navigable waters, both dated May 8, 1989, outlined the navigability of certain parts of Bogus Creek. Group Survey No. 268 (Attachment 7) restated the navigability determinations referenced in the maps accompanying IC 542. This memo listed not only Bogus Creek, but also its navigable tributaries, among bodies of water excluded from ICs. The memo is unclear about the methods used to determine navigability, other than aerial photointerpretation for those water bodies listed in Table 3 of the appendix. It states that in general, "the BLM considers nontidal water bodies navigable if, at the time of Statehood, they were navigable for crafts larger than a one-person kayak."²² The memo summarized that Bogus Creek was determined navigable from its mouth at Sec. 29, T. 13 N., R. 64 W., SM into Secs. 28 and 21, T. 14 N., R. 64 W., SM, (Table 1) and from Sec. 11, T. 13 N., R. 64 W., SM through its course in T. 13 N., Rs. 62 and 63 W., SM (Tables 2, 3, and 5). It listed the left-bank tributary as

^{xi} Patent No. 50-93-0245.

well, from its mouth in Sec. 3 to tributary in S¹/₂ Sec. 22, T. 13 N., R. 62 W., SM, and determined it to be navigable. (Table 5)²³

For the other tributaries, the memo noted a slough between Bogus Creek and the Kuskokwim in Secs. 2 and 11, T. 13 N., R. 64 W., SM (Table 2); a slough heading in Sec. 34, T. 14 N., R. 64 W., SM, and joining Bogus Creek in Sec. 11, T. 13 N., R. 64 W., SM (Table 1); a Kuskokwim River slough in Secs. 3 and 10, T. 13 N., R. 64 W., SM (single lined on USGS maps), and branch in Secs. 2, 3, and 11, T. 13 N., R. 64 W., SM, joining Bogus Creek in Sec. 11. (Table 2) These sloughs and tributaries were listed as navigable waters excluded from ICs, but were not listed on any further navigability determinations.

The memorandum “Navigable Waters in Group Survey No. 254” (Attachment 8) focused on Elia Evan’s Native allotment (F-16534-D),^{xii} at river mile 44 in Sec. 32, T. 14 N., R. 61 W., SM, determining Bogus Creek navigable through the allotment (Tables 3 and 4). This memo further stated that the creek is “double lined” to and through Sec. 29, T. 14 N., R. 64 W., SM and navigable through the Elia Evan allotment (F-016534-D), in Sec. 32, T. 14 N., R. 61 W., SM (Table 3), which is just to the northwest of the Evan allotment. It noted that high altitude photographs of the Evan allotment show a stream of about fifteen feet wide, free of any obstructions at this point and downstream. Regarding Iftikim Evan’s statement about how Elia Evan reached his allotment, it suggests that he boated up Bogus Creek and used a canoe for the last mile or so. The BLM Deputy State Director for Conveyance Management, Wayne A. Boden, in determining Bogus Creek navigable in the Evan allotment, referenced Iftikim Evan’s and Dennis Strom’s interviews that Bogus Creek “can be boated to and through the Native allotment.”²⁴ The creek was meandered and segregated from the uplands when the allotment was surveyed and subsequently certificated to Evan in 1993.^{xiii}

The statement that Bogus Creek can be boated to and through the Evan allotment seems to imply that the BLM may have believed the creek was navigable all the way from the mouth of Bogus Creek through the allotment, but officially designated it navigable only inside of the allotment. This interpretation is supported by a letter from C. Michael Brown, BLM Navigable Waters Specialist, to Michael B. Rearden, the Refuge Manager of the Yukon Delta NWR, on December 13, 1995, in which Brown stated that the BLM “found that the creek is navigable as far upstream as the Native allotment, F-16534 Parcel D, located in Sec. 32, T. 14 N., R. 64 W., SM” (river mile 44).²⁵ (Attachment 9)

On July 27, 2006, the BLM issued IC Nos. 1997 and 1998, correcting ICs 542 and 543 for Tulkisarmute, Inc. and Calista Corporation, respectively. These corrections were based on the certificating of a number of Native allotments in the Tulkisarmute, Inc. conveyance area, including three—Herman Hawk (AA-56434), William Napoka (F-16119), and Paul Hawk (F-25272)—that lie along Bogus Creek. IC Nos. 1997 and

^{xii} Patent No. 50-93-0245.

^{xiii} Native allotment certificate 50-93-0245

1998 excluded these Native allotments from the Tulkisarmute, Inc. lands transferred by IC Nos. 542 and 543. (Attachment 10)

On August 15, 2006, the BLM Navigability Section summarized prior navigability determinations and screened additional selection areas for navigable waters within the Tuluksak Village Project Area. (Attachment 11) The document identified the portions of Bogus Creek that had formerly been determined navigable within Sections 1, 11, 12, 14, 15, 21, 22, 28 and 29, T. 13 N., R. 64 W., SM. This navigability document did not refer to portions of Bogus Creek that are upstream within Tps. 13 and 14 N., Rs. 60 to 63 W., SM because they were outside of the Tuluksak Village Project study area. The memorandum also does not include the right-bank tributary that enters Bogus Creek at Sec. 11, T. 13 N., R. 64 W., SM, river mile 4, and notes that water bodies not listed in the Appendix are not navigable as they are too short, steep, narrow, or shallow for travel, trade and commerce.²⁶

On May 1, 2007, the BLM Navigability Section Chief made determinations of navigability for Bogus Creek through the Napaskiak selection area, based on surveys, photographs, and interview reports, in a memorandum on Navigable Waters within Group Survey No. 1019. (Attachment 12) These selections were second and third priority selections that were made by Napaskiak, Inc. in order to meet the final entitlement acreage.²⁷ The BLM noted the previous determination of Bogus Creek as navigable in the Tulkisarmute, Inc. selection area, from its mouth to the northern boundary of Sec. 3, T. 13 N., R. 62 W., SM, the edge of the Napaskiak selection. No specific mention of the left-bank tributary is made in the appendix, and the memorandum notes that water bodies not listed in the appendix are non-navigable as they are either landlocked, too short, steep-in-gradient, narrow, or shallow for travel, trade and commerce, and provide no continuous transportation corridor. The memorandum used status plats, survey plats, USGS topographic maps, aerial photographs, on-site field reports and photos for ANCSA 14(h)(1) sites and Native Allotments, Interview Reports, and previous Navigability Determinations to reach its conclusions. However, the BLM did not use the Navigability Determination for Group Survey No. 268 (Window 1836) dated May 8, 1989, because that document identified navigable water bodies on ANCSA-selected lands based solely on aerial photo-interpretation.²⁸

The navigability determination stated that Bogus Creek is the lone continuous transportation corridor, and also states that “subject maps and photos reflected Bogus Creek as a continuous, medium-to-high meandering, deep-channeled creek from its mouth in Sec. 11, T. 13 N., R. 64 W., upstream to the juncture [with the unnamed right bank tributary] in Sec. 29, T. 14 N., R. 61 W., Seward Meridian.” Photographs from a Bureau of Indian Affairs field investigation for ANCSA 14(h)(1) application AA-10427 located in Sec. 3, T. 13 N., R. 62 W., SM “indicated a deep-channeled, free-flowing creek.” Information about the use of the Elia Evan allotment—including photographs and the interviews with Dennis Strom, Iftikim Evan, Alexander Levi, and Mary K. Evan—was used in making the determination of navigability throughout Napaskiak’s conveyed lands, and “reflected a deep-channeled creek free of obstructions,” but navigability of the

creek in the remaining sections between Sec. 3, T. 13 N., R. 62 W., SM and the Evan allotment (river mile 44) was not included in this determination.²⁹

In a memorandum dated June 13, 2008 concerning navigability input for inclusion in a Decision to Issue Conveyance (DIC) within Window No. 2683 for the Village of Tuluksak, the Navigability Section of the BLM listed Bogus Creek in T. 13 N., R. 64 W., SM, as navigable. (Attachment 13) The resulting DIC on June 18, 2008 approved for conveyance certain lots and sections within T. 13 N., R. 64 W., SM (including Sec. 1, lot 2, lots 4 to 9, inclusive, NE¹/₄, N¹/₂NW¹/₄, SE¹/₄NW¹/₄, N¹/₂SE¹/₄, SW¹/₄SE¹/₄ and Sec. 12, lots 1 to 4, inclusive, lot 6, lots 13 to 19, inclusive, SE¹/₄NE¹/₄, S¹/₂S¹/₂, NE¹/₄SE¹/₄ through which Bogus Creek flows). (Attachment 14) That land was subsequently patented to Tulkisarmute, Inc. in Patent No. 50-2008-0420 on July 30, 2008, with the subsurface estate patented to Calista Corporation in Patent No. 50-2008-0421. (Attachment 15) The remainder of T. 13 N., R. 64 W., SM (excluding Native allotments) was patented to Tulkisarmute in Patent No. 50-2012-0229 on September 13, 2012, with the subsurface estate patented to Calista Corporation in Patent No. 50-2012-0230.^{xiv} (Attachment 20)

A DIC on June 19, 2009 approved land for conveyance to Napaskiak, Inc. and Calista Corporation (the corresponding subsurface estate), including Secs. 3-6, T. 13 N., R. 62 W., SM and Secs. 1-6 and 10, T. 13 N., R. 63 W., SM, through which Bogus Creek flows. The DIC also included Secs. 33, 27, 28, 21, 22, 15, 16, 10, and 3, T. 13 N., R. 62 W., SM, through which the left-bank tributary flows. Within these lands, only Bogus Creek, and not the tributary, was determined to be navigable.³⁰ (Attachment 18) The BLM issued ICs Nos. 2244 and 2245 on July 30, 2009 conveying the surface estate to Napaskiak, Inc. and the subsurface estate to Calista Corporation, respectively. (Attachment 19)

Along with the conveyance decisions, the BLM also considered easements for the lands around Bogus Creek and its tributary flowing through Napaskiak, Inc. lands. On April 21, 2009, it made easement recommendations for a 25-foot-wide continuation of existing easement EIN 7 D9 in IC 745, following the path of the Aniak-Tuluksak winter trail as it crossed land selected by Napaskiak, Inc. In addition, two one-acre site easements were located on Bogus Creek, one on the left bank in Sec. 4, T. 13 N., R. 62 W., SM (EIN 25 D9) and one on the right bank in SE¹/₄ NE¹/₄ Sec. 6, T. 13 N., R. 63 W., SM (EIN 26 D9). These sites were set aside to provide periodic resting points for travel along Bogus Creek, as well as providing change in mode of transportation to access the trail in easement EIN 7 D9. In order to connect the latter site with public land, a 25-foot-wide easement was recommended from proposed site EIN 26 D9 in Sec. 6 T. 13 N., R. 63 W., SM northward to public lands in Sec. 31, T. 14 N., R. 63 W., SM. (Attachment 16)

A later easement recommendation dated June 1, 2009 recommended a 25-foot-wide trail easement from public lands in Sec. 16, T. 12 N., R. 63 W., SM east to public lands in Sec. 18, T. 12 N., R. 62 W., SM, to provide access to public lands east and west of

^{xiv} See accompanying Table for specific lot information.

Napaskiak Inc.’s selection on either side of the left-bank tributary. (Attachment 17) The decision of June 19, 2009 confirmed these easements as part of the conveyance to Napaskiak, Inc.

No Native allotments or village selections occur along the southeastern portion of Bogus Creek included in the new Geographic Names Information System (GNIS) definition, between river miles 32 and 61.3. This portion of Bogus Creek flows through lands that are part of the Yukon Delta NWR. Although much of the land around the head of Bogus Creek is state land tentatively approved for transfer under TA No. 2008-0119, the western half of Sec. 30, T. 13 N., R. 59. W., SM was excluded from this TA, as part of the withdrawal for the Yukon Delta NWR. Navigability determinations have not been made for portions of the creek that are not under consideration for conveyance. The BLM’s Navigability determinations are summarized in Table 1 and on Figure 3.

Table 1: Bogus Creek Navigability Determinations

Date	Water Body	Type Decision and Substance	Criteria
6/09/81 (Attachment 2)	Bogus Cr. (river miles 0-7)	Memorandum re Final Easements for Village of Tuluksak: Bogus Creek through the Tulkisarmute, Inc. selection determined to be navigable.	Present and historical uses in connection with travel in trade and commerce.
3/03/82 (Attachment 3)	Bogus Cr. (river miles 0-7)	Decision for Interim Conveyance: Bogus Creek through the Tulkisarmute, Inc. selection shown as navigable on attached navigability map.	Have or could be used in connection with travel, trade, and commerce.
8/27/82 (Attachment 4)	Bogus Cr. (river miles 0-7)	IC Nos. 542 & 543 (Tulkisarmute, Inc. and Calista Corporation, respectively): Bogus Creek through the Tulkisarmute, Inc. selection shown as navigable on attached navigability map.	Have or could be used in connection with travel, trade, and commerce.
5/08/89 (Attachment 7)	Bogus Creek (river miles 0-31)	Memorandum re Navigable Waters in Group Survey No. 268 (Window 1836): Bogus Creek and tributaries determined navigable, as described by Table below.	“crafts larger than a one-person kayak.”
	Inter-connecting sloughs (river miles 0-4)	Memorandum re Navigable Waters in Group Survey No. 268 (Window 1836), Table 1: Interconnecting slough of Kuskokwim River in Secs. 21, 28, and 29, T. 13 N., R. 64 W., SM (river miles 0-0.5); Slough heading in Sec. 34, T. 14 N., R. 64 W., SM, and joining Bogus Creek in Sec. 11, T. 13 N., R. 64 W., SM (slough river miles 0-3) listed as navigable.	Rivers, Streams, and Sloughs more than Three Chains Wide and Lakes Fifty Acres in Size
	Bogus Cr. and inter-connecting sloughs (river miles 0-4)	Memorandum re Navigable Waters in Group Survey No. 268 (Window 1836), Table 2: Bogus Creek slough in Secs. 2 and 11, T. 13 N., R. 64 W., SM (slough river miles 2-3); Bogus Creek in Sec. 11, T. 13 N., R. 64 W., SM (river mile 4); Kuskokwim River slough in Secs. 3 and 10, T. 13 N., R. 64 W., SM (single lined on USGS maps), and branch in Secs. 2, 3, and 11, T. 13 N., R. 64 W., SM, joining Bogus Creek in Sec. 11 (slough river miles 0-2) excluded from ICs.	Navigable Rivers, Streams, and Sloughs less than Three Chains Wide and Lakes less than Fifty Acres in Size Excluded from ICs and TAs on basis of navigability maps included with ICs.

	Bogus Cr. (river miles 5-7, 7-32) and tributaries (river mile 31)	Memorandum re Navigable Waters in Group Survey No. 268 (Window 1836), Table 3: Left-bank tributary of Bogus Creek from its mouth in Sec. 3 to tributary in S ¹ / ₂ Sec. 22, T. 13 N., R. 62 W., SM; Bogus Creek in Secs. 1 and 12, T. 13 N., R. 64 W., SM, and T. 13 N., Rs. 62 and 63 W., SM, determined navigable.	Navigable Waters on Lands Selected Under ANCSA or the Statehood Act identified through Aerial Photo-Interpretation
	Bogus Cr. (river miles 0-31) and tributaries	Memorandum re Navigable Waters in Group Survey No. 268 (Window 1836), Table 5: T. 13 N., R. 62 W., SM: Bogus Creek and its left-bank tributary from its mouth in Sec. 3, to tributary in S ¹ / ₂ Sec. 22; T. 13 N., R. 63 W., SM: Bogus Creek; T. 13 N., R. 64 W., SM: Bogus Creek, Bogus Creek slough in Secs. 2 and 11 determined navigable	Navigable Rivers, Streams, and Sloughs less than Three Chains Wide and Lakes less than Fifty Acres in Size
5/08/89 (Attachment 8)	Bogus Cr. (river mile 44)	Memorandum re Navigable Waters in Group Survey 254 (Window 1834): Bogus Creek navigable in F-16534 Parcel D located in Sec. 32, T. 14 N., 61 W., SM. The stream as shown in NASA high altitude photographs (CIR, roll 7, frame 265, July, 1980) is about fifteen feet wide and free of obstacles at this point and downstream.	"craft larger than a one-person kayak."
12/13/95 (Attachment 9)	Bogus Cr. (river miles 0-44.5)	Letter from C. Michael Brown, Navigable Waters Specialist, to Michael B. Rearden, Refuge Manager, Yukon Delta NWR: "BLM has consistently held that [Bogus Creek] is navigable.... [In] the course of examining Native allotment selections, it found that the creek is navigable as far upstream as the Native allotment, F-16534 Parcel D, located in Sec. 32, T. 14 N., R. 61 W., SM.	Not stated
8/15/06 (Attachment 11)	Bogus Cr. (river miles 0-7)	Memorandum re Navigable Waters within the Tuluksak Village Project Area: Secs. 1, 12, T. 13 N., R. 64 W., SM: Bogus Creek navigable; Secs. 2-5, 8-11, 14-23, and 27-33, T. 13 N., R. 64 W., SM: Bogus Creek navigable.	Previous navigability determinations. Daniel Ball, 77, U.S. (10 Wall.) 557 (1870); Associate Solicitor Hugh Garner's memo on March 16, 1976; Regional Solicitor John Allen's memo of February 25, 1980; Submerged Lands Act of 1953; Submerged Lands Act of 1988.
5/01/07 (Attachment 12)	Bogus Cr. (river miles 0-32)	Memorandum Navigable Waters within Group Survey No. 1019: "[We] determine Bogus Creek navigable from its mouth to the northern boundary of Sec. 3, T. 13 N., R. 64 W., Seward Meridian, the edge of the Napaskiak Incorporated selection. All other water bodies within the subject ANCSA-selected lands are determined to be non-navigable based on the presence of landlocked lakes and short, narrow streams providing no continuous transportation corridor."	Previous navigability determinations. Daniel Ball, 77, U.S. (10 Wall.) 557 (1870); Associate Solicitor Hugh Garner's memo on March 16, 1976; Regional Solicitor John Allen's memo of February 25, 1980; Submerged Lands Act of 1953; Submerged Lands Act of 1988.

6/13/08 (Attachment 13)	Bogus Cr. (river miles 0-7)	Memorandum re Navigability Input for Inclusion in Decision to Issue Conveyance (DIC) within Window No. 2683 for the Village of Tuluksak: Bogus Creek in T. 13 N., R. 64 W., SM navigable.	Navigability Determinations: Final Easements for the Village of Tuluksak dated June 9, 1981; Navigable Waters within the Tuluksak Village Project Area dated August 15, 2006.
6/18/08 (Attachment 14)	Bogus Cr. (river miles 0-7).	Decision to Issue Conveyance: Lands to Patent, including T. 13 N., R. 64 W., SM (including Sec. 1, lot 2, lots 4 to 9, inclusive, NE $\frac{1}{4}$, N1/2NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N1/2SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and Sec. 12, lots 1 to 4, inclusive, lot 6, lots 13 to 19, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S1/2S1/2, NE $\frac{1}{4}$ SE $\frac{1}{4}$). Bogus Creek determined navigable.	Not stated
6/19/09 (Attachment 18)	Bogus Cr. (river miles 7-32)	Decision for Interim Conveyance: Bogus Creek determined navigable through lands conveyed to Napaskiak, Inc.	Not stated
7/30/09 (Attachment 19)	Bogus Cr. (river miles 7-32)	IC Nos. 2244 and 2245 (Napaskiak, Inc. and Calista Corporation, respectively): Secs. 3-10, T. 13 N., R. 62 W., SM; Secs. 1-6, T. 13 N., R. 63 W., SM. (surface estate based on DIC of June 19, 2009)	Not stated

IV. Physical Character of Waterway

Starting in the Kilbuck Mountains near an elevation of 1,400 feet, Bogus Creek flows northwest through the Kuskokwim lowlands, then winds westerly to meet the Kuskokwim River. The initial drop from the mountains is steep, falling to 500 feet in approximately its first 2 miles. By approximately river mile 56.5, the creek is below 100 feet as it enters the tundra. No hydrologic data were found other than in a 1983 report for the Department of Natural Resources compiled by Roger Clay.³¹ According to this report, the average elevation for Bogus Creek is only 26 feet above sea level.

Most of the land the creek traverses is saturated with lakes. The soils are poorly draining due to underlying permafrost. Bogus Creek is sinuous and winds through areas of predominantly low tundra vegetation with intervals of light forestation along the creek sides. Portions of the creek near the mouth have been meandered on United States surveys because they are wider than 198 feet.^{xv} The typical gradient on Bogus Creek is 27 feet per mile. The creek drains an area of approximately 306 square miles. No studies of tidal influence of Bogus Creek were found.³²

^{xv} U.S. Survey Nos. 10492 and 13760.

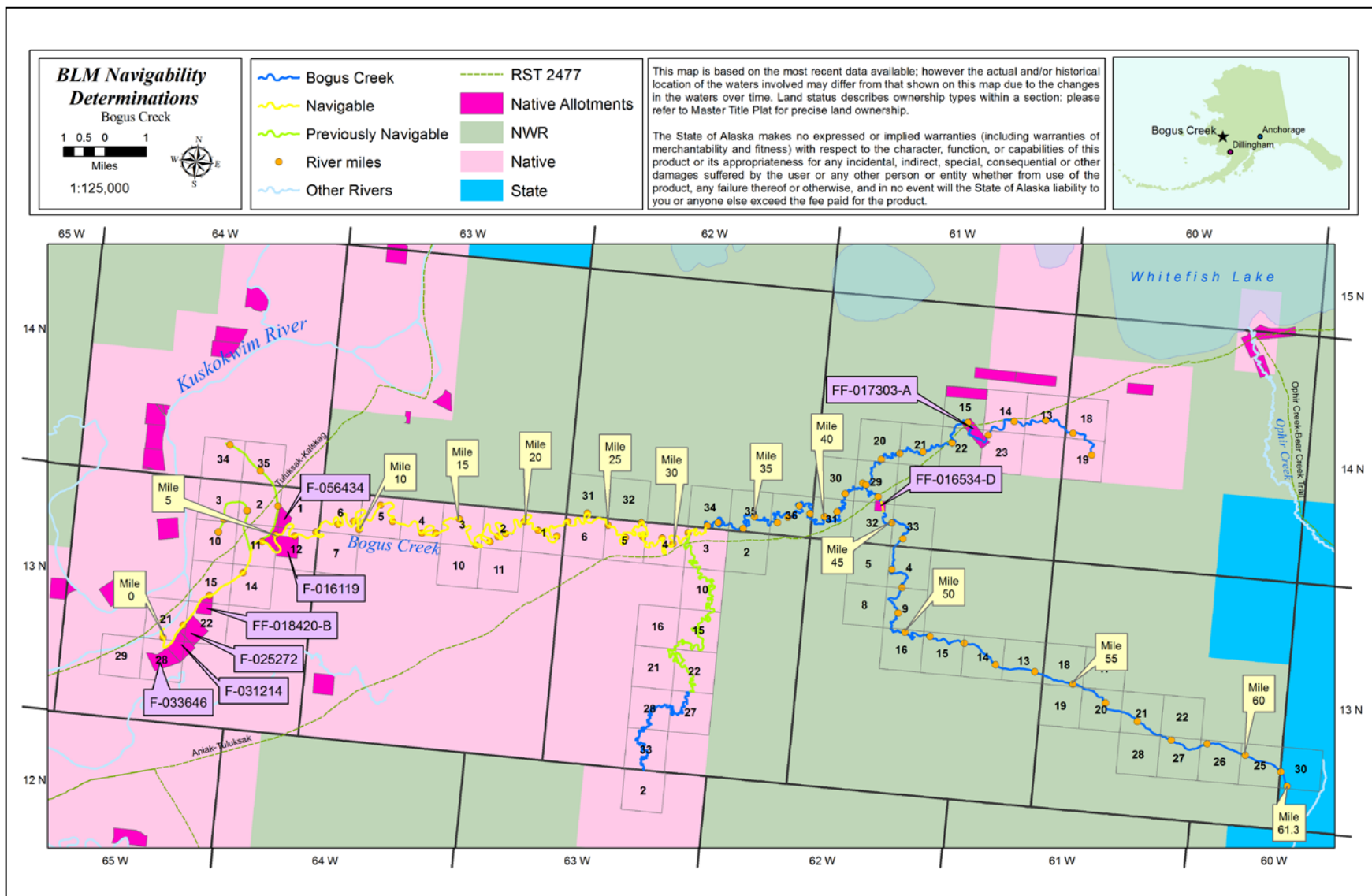


Figure 3. Map showing portions of water bodies determined navigable on Bogus Creek. Green sections denote water bodies formerly determined navigable in 1989, but not mentioned as navigable in 2006 and 2007 determinations.



Figure 4. Bogus Creek at the confluence with Qavinngalria Creek, river mile 31. BIA photo from of ANCSA 14(h)(1) site AA-10427 in 1988.

Bogus Creek shares many characteristics with other nearby tributaries of the Kuskokwim River. USGS topographic maps and aerial photographs reflected Bogus Creek as a continuous, medium-to-high meandering, deep-channeled creek from its mouth in Sec. 11, T. 13 N., R. 64 W., upstream to the juncture with a tributary in Sec. 29, T. 14 N., R. 61 W., SM.³³ C. Michael Brown stated in his report entitled *Kuskokwim River Region: A History* that Bogus Creek “heads in the lake-dotted lowlands southeast of the Kuskokwim River. Formed by a number of creeks draining the foothills of the Kilbuck Mountains and small lakes in the Kuskokwim lowlands, Bogus Creek flows westerly in a highly sinuous channel, (Figure 4) receiving along its course the waters of other lake-fed creeks.”³⁴

Dennis Strom, Assistant Manager of the Yukon Delta NWR, told the BLM that Bogus Creek was “wide and clear for a long distance up, tapering down for about two-thirds of its length, to a very narrow stream, less than fifteen feet wide. He further stated that the creek, like other streams in the area, was quite deep, its depth to be measured in feet, not inches.”³⁵ (Attachment 12) He also described Bogus Creek as a “deep tundra stream.”³⁶ (Figure 5) (Attachment 10)



Figure 5. Bogus Creek as it passes through Native allotment F-18420-B near river mile 2. From BLM Field Report prepared in 1984 by Dwight Hovland.

Regarding a tributary of Bogus Creek that enters the creek at river mile 43.5, individuals with Native allotments on the tributary told BLM interviewers “that they believed that their allotments could not be accessed by boat, as this stretch of Bogus Creek contained abundant beaver dams creating an impractical water route.”³⁷

The field examination for Elia Evan’s allotment (FF-16534-D) in Sec. 32, T. 14 N., R. 61 W., SM (river mile 44) on the upriver section of Bogus Creek, was conducted from the air (Figure 6) and only mentions Bogus Creek as an unnamed creek 20 miles southeast of Lower Kalskag.³⁸ The Survey Plat for the allotment similarly does not name the creek and mistakenly shows it flowing in a southerly direction, opposed to Bogus Creek’s northerly flow at that point. Its width through the Native allotment was estimated at 15 feet in 1989.³⁹



**Figure 6. Bogus Creek through Native allotment F-16534-D, at river mile 44.
From BLM Field Report prepared in 1975 by Charles E. Drummond.**

On-site photos taken during a BLM field examination of the allotment reflected a deep-channeled creek free of obstructions.⁴⁰ (Attachment 12) On-site photos taken during a Bureau of Indian Affairs field investigation for ANCSA 14(h)(1) application AA-10427 located in Sec. 3, T. 13 N., R. 62 W., SM, between river miles 31 and 32, also indicated a deep-channeled, free-flowing creek.⁴¹

On Native Allotment Field Reports for Nicholai Japheth (F-33646), James Lott, Sr. (F-31214), and Mollie R. Alexie (F-18420-B), the slough at the mouth of Bogus Creek is referred to as part of the Kuskokwim River, although it is named Bogus Creek on the Survey Plats of those allotments.⁴² The Field Reports for Herman Hawk's allotment (F-56434) and for William Napoka's allotment (FF-16119) refer to both Bogus Creek and its unnamed slough in Secs. 2 and 11, T. 13 N., R. 64 W., SM (Bogus Creek river mile 4, tributary river mile 1).⁴³ The Field Report for Paul Hawk's allotment (F-25272) does not specifically reference Bogus Creek, but the original application does refer to an unnamed slough (Figure 7) that borders the allotment.⁴⁴ None of these Field Reports provide a physical description of Bogus Creek, but they do include photographs showing its course through the area of the allotments.



Figure 7. Bogus Creek through Native allotment F-25272, at river mile 1, looking south. The Kuskokwim River is to the right. Photo from BLM field report prepared in 2005 by Dorothy J. Bonds.

At its mouth, Bogus Creek enters a slough at river mile 3, which itself enters the Kuskokwim River at river mile 108.⁴⁵

V. Evidence of Use of Waterway

As with many of the tributaries of the Kuskokwim River in the area, Bogus Creek has seen varied uses through its recent history. Native villagers from the now-abandoned village of Kwigalogamiut would have used the creek for subsistence activities, much as their successors from Lower Kalskag, Tuluksak, and Napaskiak did and continue to do. Bogus Creek is situated in an area that saw gold prospecting and mining activity, and saw prospecting on its course, in combination with travel to nearby deposits. The 1983 *Kuskokwim River Region: A History* states that, “Prospectors working on the headwaters of Aniak and Tuluksak rivers apparently traveled to the district by way of the rivers and Whitefish Lake during the summers and by way of trails from Aniak and Tuluksak during the winters.”⁴⁶

Between the gold rush period and statehood, boat traffic up and down the Kuskokwim commonly occurred. As the second largest river in Alaska, the Kuskokwim was a major

artery to access regions inaccessible by road. The 1983 *Kuskokwim River Region: A History* does not refer to any other specific uses of Bogus Creek. The predominant use of Bogus Creek appears to have been by local residents, most likely from the villages of Tuluksak, Upper and Lower Kalskag, and Napaskiak.

The Alaska Road Commission (ARC) staked the Tuluksak to Aniak trail as a winter mail route in 1924.⁴⁷ The ARC constructed a shelter cabin on Bogus Creek near river mile 22.5 in that same year. It is unknown whether this cabin received use by creek travelers in subsequent years. The trail crosses Bogus Creek at river mile 44. According to later state documents, the trail continues to provide access to public land for hunting, fishing, and trapping.⁴⁸ There are easements along the trail where it crosses Native-held land, and two site easements were created on Bogus Creek to allow for changes in modes of transportation on the trail, and for rest areas for travelers.⁴⁹ In 1994, the State of Alaska designated the trail as RS2477 historic trail RST 24.⁵⁰

Although there is no active mining activity on Bogus Creek, like many other rivers and creeks in the area, it showed signs of gold deposits, including colors of placer gold in the gravel. Around the turn of the century, circa 1904 or 1905, prospectors sank a shaft near the headwaters in the foothills of the Kilbuck Mountains, located at NE¹/₄ Sec. 27, T. 13 N., R. 60 W., SM (river mile 59), reaching a depth of 50 feet, where the sediments were found to be frozen. Although the attempt did not result in any active mining, the prospectors reported that “fine colors of gold” were found in the shaft.⁵¹

Six certificated Native allotments are located near the mouth of Bogus Creek, and show use of the creek for access. Another allotment straddles Bogus Creek about 44 river miles upstream from the mouth of the creek. Dennis Strom, then the Assistant Manager of the Yukon Delta NWR, said that he believed “without a doubt” that Elia Evan’s Native allotment located in Sec. 32, T. 14 N., R. 61 W., SM, “could be reached by boat coming up Bogus Creek.”⁵² He also believed that Elia Evan originally located his allotment by boating up Bogus Creek.⁵³

Although Tuluksak villagers told the BLM in 1980 that Bogus Creek was used by residents with 16 to 24-foot boats, individual interviews conducted by the BLM in March of 1989 indicated infrequent boat use of Bogus Creek during the summer.⁵⁴ Accounts pointed to the use of Bogus Creek in winter for travel to allotments, hunting and trapping grounds. Those interviews indicated a general local preference for snowmachine travel on the creek after freeze-up, but did not directly contradict the possibility that villagers traveled the waterway by boat in summer. Native allotment applications and Native Allotment Field Reports indicate that the lower reaches of Bogus Creek did see considerable ice-free boat traffic, including both canoes and motorized boats, dating back to the years before snowmachines became common.⁵⁵ Similarly, Elia Evan’s Native Allotment Application notes his use of the land on the upriver portion of Bogus Creek during all seasons, dating back to 1948.⁵⁶

Based on comments at the village meeting in 1980, Tuluksak residents appear to have used boats on the creek, which corresponds with evidence on the use of lower Bogus Creek given by Native allotment holders from Tuluksak in their Native allotment applications and in narratives provided by Tuluksak residents in oral interviews.

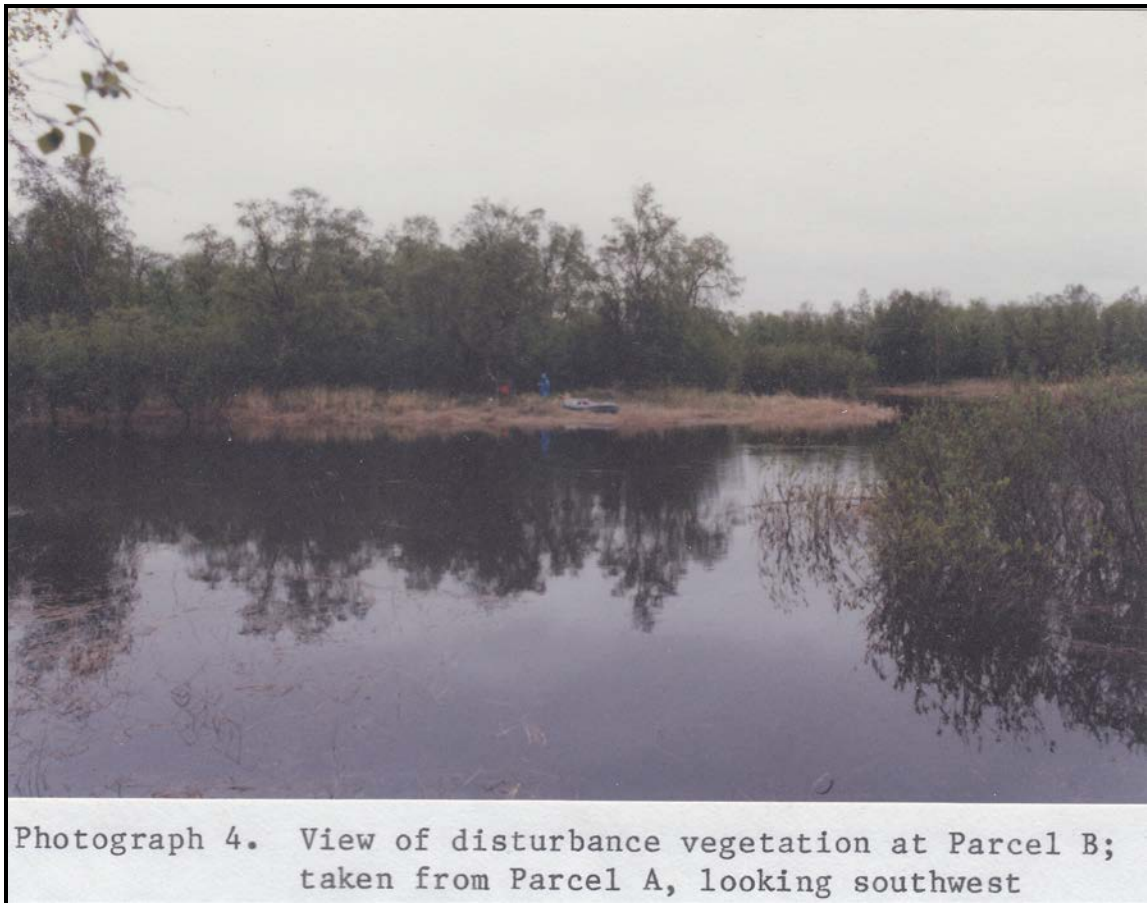
In 1989, the BIA conducted an archaeological examination of an ANCSA 14(h)(1) site near river mile 31 (Figures 8 and 9), which Calista Corporation applied for on November 18, 1975.⁵⁷ This site encompassed a seasonal (spring, fall, and winter use) village named Kassiglut Atliit, with one or more graves as well. Archaeologist Robert Drozda and interpreter Vernon Chimegalrea, accompanied by Tuluksak residents, located the site from the air on May 28, 1988, and archaeologists Philippa Coiley, Debra Corbett, Matthew O’Leary, and Walter Dotter conducted fieldwork at the site on June 4, 1988. The report does not state how the archaeologists reached the site, but they did use a 10-foot inflatable raft during their field investigation.⁵⁸



Photograph 2. Aerial view of site, looking southwest

Figure 8. Bogus Creek at the confluence with Qavinngalria Creek, river mile 31. From BIA investigation of ANCSA 14(h)(1) site AA-10427 in 1988.

The investigation found six tent frames, six possible house depressions, and two modern debris concentrations in three parcels of “grassy disturbance vegetation.” In addition, Native informants reported graves in two locations of the site, semisubterranean house locations that have become overgrown with age, and a lookout area on elevated land. The graves were no longer visible, but two deep pits were observed, also overgrown with disturbance vegetation. The total area of the site was 7.9 acres.⁵⁹



**Figure 9. View of Bogus Creek and the site of *Kassiglut Atliit*, river mile 31.
Photo from BIA investigation of ANCSA 14(h)(1) site AA-10427 in 1988.**

Interviews conducted with Tuluksak residents knowledgeable about the site identified it as a very old seasonal village in use before most were born (early twentieth-century). Three of them recalled graves, but that the crosses marking them had rotted and fallen down. Another also spoke of graves, and recalled camping in tents on the site in the spring with her husband. The site remained in use after the village was abandoned. One resident identified the site as a spring camp, which was used to trap muskrat. Other Tuluksak residents also used the site as a camp.⁶⁰

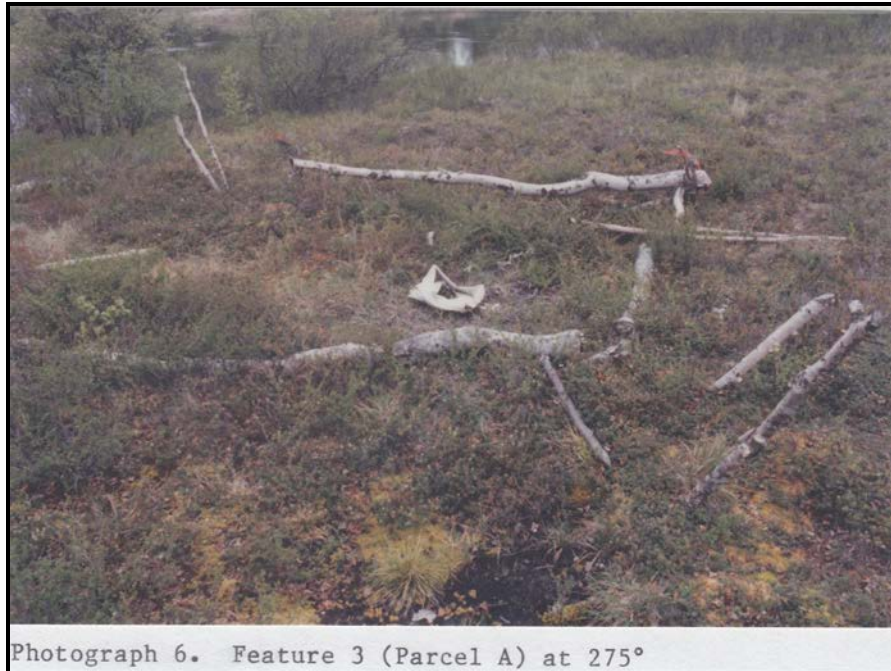


Figure 10. Site of *Kassiglut Atliit*, river mile 31. Photo from BIA investigation of ANCSA 14(h)(1) site AA-10427 in 1988.

The investigators concluded that there was a semipermanent village at the site, predating the births of the informants. Although most of the structures were no longer evident, the disturbance vegetation and house-sized depressions provided obvious evidence of the village's existence. The investigators also concluded that the site remained in use as a fall and spring camp (Figure 10), as shown by the presence of tent frames and modern debris concentrations, including wire-mesh traps, 5-gallon fuel cans, and a stake inscribed "Laura/Lisa/Evan/Alexie/1977." They noted that people from Tuluksak "retain memories of this place, and some return here every year to hunt and trap. This site is older than the people who occupy it now, and in that way, it is significant to the Native people in the area, particularly of Tuluksak, whose ancestors lived there."⁶¹

The year before, researchers with the University of Alaska Fairbanks interviewed Nicholai Peter of Tuluksak about the area around *Kassiglut Atliit*. He identified the lower section of Bogus Creek as *Kuigeurluq*, the upper section above *Kassiglut* as *Kuigeurluyagaq*, and the tributary as *Qavinngalria*. He also identified the area around *Kassiglut* as likely having former houses there, and said that the area below the village site is old. He located a ghost town that he used to see towards upriver of *Kassiglut*, on the north side of Bogus Creek.⁶²

Tuluksak residents later provided information about use towards the mouth of Bogus Creek dating back to earlier years. In interviews with researchers from the University of Alaska Fairbanks in 2004, Joe Demantle, Sr. and Marie Napoka (m. John Napoka), both mentioned the remnants of the old village site at the mouth of Bogus Creek. Joe

Demantle stated that Tuluksak villagers would use the abandoned structures, including the church, as camps when they visited the site from Tuluksak. He also noted the existence of gravesites along Bogus Creek.⁶³ Marie Napoka spoke of the remains of *qasqigs* (men's community houses) at the site, along with other buildings (Figure 11), and noted that people camped among these structures. She located the site of graves among the birches along the creek.⁶⁴ Villagers picked berries at the old village site and near the grave sites. John Napoka also stated that villagers would fish for pike and other fish in the winter, and that "everybody from Tuluksak, they always go there."⁶⁵



**Figure 11. Remnants of former village site on Native allotment F-31214, river mile 0.5.
Photo from Native allotment Field Report prepared in 1975 by Ricky M. Elliott.**

Although neither Iftukim Evan nor Alexander Levi claimed to have used the right-bank tributary to access their allotments along its course, other Tuluksak residents have stated that it is a possible route from the village to Whitefish Lake. John Napoka spoke of the fork of Bogus Creek that goes right to Whitefish Lake, and Richard Phillip noted that residents of Lower Kalskag sometimes take 14-16 foot boats from Whitefish Lake to Bogus Creek when the waters are high in the spring.^{xvi} Both men called the area a good location for berry picking and trapping, and John Napoka stated that there are plentiful

^{xvi} Based on the audio, it is not entirely clear which creek or tributary they are talking about, but John Napoka does mention a left fork when coming eastwards up Bogus Creek that leads to Whitefish Lake.

otters there and that though the mink are smaller, their dark-colored fur can get higher prices than the larger mink on the other side of the Kuskokwim River towards the Yukon River.⁶⁶ In her interview, Lucy Napoka (m. Peter Napoka), related how they had a spring camp on Bogus Creek, and from there would access Whitefish Lake.⁶⁷

Most of the residents interviewed were older at the time of the interviews, but they represented both the former and the current use of the area. Richard Phillip was not a formal interviewee, but his input was audible at several points, most notably during the discussion of the area between Bogus Creek and Whitefish Lake. At the time of the interviews, he was a student at Tuluksak's high school, and was important in coordinating the interviews. His use of the lands around Bogus Creek shows a continuation of the types of use and activities from previous generations.

John Napoka also spoke about using the Aniak-Tuluksak trail that crosses Bogus Creek and leads towards Whitefish Lake. He would travel mostly by dog team in winter, making a three-hour trip from Tuluksak to the eastern side of Whitefish Lake. At one point, the trail was marked by tripods, but there was enough travel on the trail by dog team and snowmachine that the trail is visible. He would use the trail to access winter camps east of Whitefish Lake for hunting.⁶⁸

Recent Use of Bogus Creek Documented in Native Allotment Files

The BLM began gathering information in the 1970s to adjudicate applications for Native allotments filed by Natives from Tuluksak and other villages who have fished, hunted, trapped, and picked berries along Bogus Creek. Each year, the Natives used small boats powered by outboard motors to access favorite spots along the creek for those activities, and those favorite spots developed into exclusive use areas. The federal government recognized many of those exclusive use areas as Native allotments under the provisions of the Native Allotment Act of 1906 and transferred title to the sites to the applicants. The maximum size of an allotment is 160 acres, and it may be divided into as many as four separate parcels.

Native allotments are located along lower Bogus Creek between river miles 0.2 and 2, and river miles 4 to 6. Five of the six allotments along this section of the creek are full allotments, suggesting that their owners focused their subsistence efforts on this area, rather than spreading them out amongst several parcels.

Nicholai Japheth of Tuluksak applied in 1965 for a Native allotment (F-33646), consisting of 160 acres on the left bank of Bogus Creek at river mile 0.25.⁶⁹ Mr. Japheth began using the land in 1964 during the summer months for berry picking and fishing, in the fall for fishing, and in the winter for hunting and trapping.⁷⁰ Mr. Japheth stated: "My parents used this land before I was born and I have continued to use it in the traditional manner of my ancestors."⁷¹ During the field examination on July 13, 1975, Nick Alexie, a Native guide, accompanied the examiner to the site. The Native Allotment Field Report stated that the lands were claimed for berry picking, fishing (Figure 12), hunting, and

trapping.⁷² Although Mr. Japheth claimed use of the land during the open season, there was no indication of how he accessed it. The allotment was certificated in 1993.^{xvii}

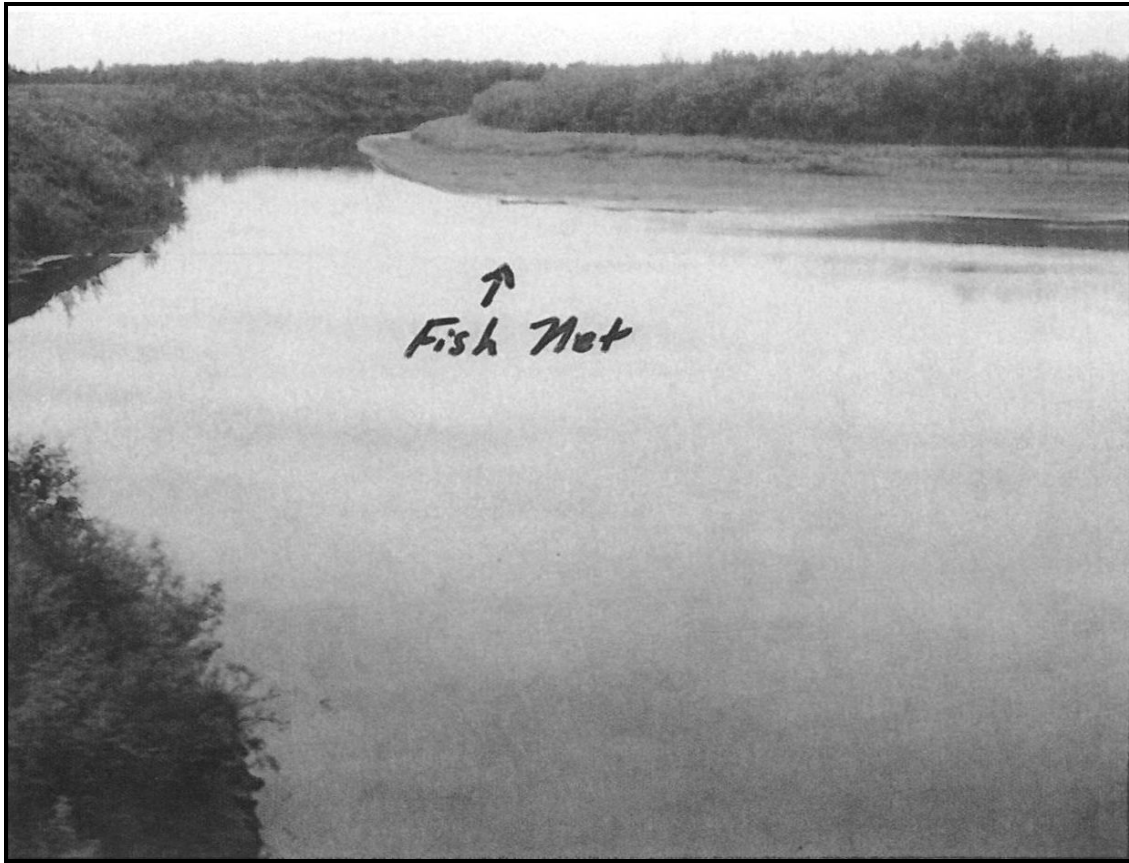


Figure 12. View of Bogus Creek in Native allotment F-33646, at river mile 0.3, with location of fish net marked. From BLM Field Report prepared in 1975 by Ricky M. Elliott.

James Lott Sr. of Tuluksak applied for a Native allotment (F-31214), consisting of 160 acres on the left bank of Bogus Creek between river miles 0.25 and 0.9 in 1963 and again in 1969 after the case was closed and then reopened.⁷³ Mr. Lott began using his Native allotment in 1948. He used the land each year from March 15 to June 20 for trapping. During that time he stayed in a “tent house” while trapping mink, beaver, lynx, muskrat, and fox. From July 20 to September 30, he used the Native allotment for fishing for white fish, shee fish, and pike. He smoked and dried the fish at the site. Mr. Lott stated that he and his father had “used this land years before 1948.” He indicated that he had moved into Tuluksak so that his children could attend school but that he made “frequent trips between the Village and this land.”⁷⁴ Mr. Lott’s Native allotment is located at the site of an old village, probably *Kwigalogamiut*. During the field examination on July 13, 1975, the examiner photographed a church pew and remains of several old buildings

^{xvii} Native allotment certificate 50-93-0213

(Figures 13 and 14). Mr. Lott and Nick Alexie accompanied the examiner to the site. The Native Allotment Field Report noted that the lands were claimed for trapping and fishing. There was no information in the file regarding how Mr. Lott accessed his Native allotment, although he claimed use of it mainly during the months of open water.⁷⁵ The allotment was certificated in 2000.^{xviii}



Figures 13 and 14. Remnants of church pews and buildings on Native allotment F-31214, river mile 0.5. From BLM Native allotment Field Report prepared in 1975 by Ricky M. Elliott.

Paul Hawk of Tuluksak applied in 1960 for a Native allotment (F-25272), consisting of 160 acres on the left bank of Bogus Creek (Figure 15) between river miles 0.9 and 1.3. Mr. Hawk began using his Native allotment in 1955.⁷⁶ During the field inspection of the parcel on July 22, 2005, Mr. Hawk's son Herman Hawk and an interpreter, Noel Owen, accompanied the examiner to the site. The Native Allotment Field Report indicated that the lands were claimed for berry picking in July and August and for fishing for salmon, trout, grayling, whitefish, and char from April through September. Paul Hawk camped on the site while he was fishing and accessed the area by canoe.⁷⁷ The allotment was certificated in 2007.^{xix}

^{xviii} Native allotment certificate 50-2000-0104

^{xix} Native allotment certificate 50-2007-0675



Figure 15. Bogus Creek through Native allotment F-25272, at river mile 1, looking northwest. The Kuskokwim River is to the top. From BLM Field Report prepared in 2005 by Dorothy J. Bonds.

Mollia R. Alexie of Tuluksak applied in 1972 for a Native allotment (F-18420), divided into two 80-acre parcels. Parcel B is located on the left bank of Bogus Creek between river miles 1.5 and 2.⁷⁸ Mrs. Alexie began using the parcels in 1964 and used them each year from May to September for fishing and berry picking.⁷⁹ During the field examination on July 12, 1975, Mrs. Alexie's husband, Nick Alexie, accompanied the examiner to Parcel B. The Native Allotment Field Report stated that the lands were claimed for fishing and berry picking. Access was by boat and snow machine.⁸⁰ On a Statement of Witness form, Mrs. Alexie stated that the land was used for hunting in addition to fishing and berry picking.⁸¹ Her husband specified that hunting took place there during each season. In addition, berry picking took place in spring, summer, and fall; fishing from June to September; and food gathering from July to September.⁸² A Native Allotment Field Report filed on September 17, 1984 stated, "Since 1959 the applicant has used this land for picking berries, fishing for white fish, pike, and king salmon and for trapping beavers, muskrat, otter, lynx, and fox." The report mentioned the existence of some old graves and building sites to the south of the parcel.⁸³ The allotment was certificated in 1993.^{xx}

William Napoka of Tuluksak (now deceased) applied in 1970 for a Native allotment (FF-16119) consisting of 160 acres on the left bank of Bogus Creek (Figure 16) between river miles 4.5 and 6.0. Mr. Napoka claimed that he began using his land in 1965

^{xx} Native allotment certificate 50-93-0544

between May and September for trapping and spring camp.⁸⁴ During the field inspection of the parcel on July 13, 1975, Mr. Napoka accompanied the examiner to the site. The Native Allotment Field Report stated that the lands were claimed for trapping and spring camp. The examiner noted the remains of tent racks and a cabin, as well as an old barrel stove and cans, which led the examiner to conclude that Mr. Napoka had been using the area for a number of years.⁸⁵ Affidavits from William Napoka, Ida Napoka (William's wife), and Tommy Owen (relative) filed in support of the application all declare that William Napoka used the allotment for hunting, berry picking, trapping, food gathering, wood gathering and cutting, and fishing in the spring, summer, and winter seasons.⁸⁶ The allotment was certificated in 2006.^{xxi}



Figure 16. Bogus Creek at Native allotment FF-16119, at river mile 5, showing a camp clearing. From BLM Field Report prepared in 1975 by Ricky M. Elliott.

A later environmental investigation in 2004 was prepared by BLM Realty Specialist Rodney Huffman, and included affidavit testimony from Mr. Napoka's son, Carl Napoka. According to Carl Napoka, the family "would travel to the allotment in early fall and remain until the snows and freeze came." When Carl Napoka was around 10 years old (circa 1951), he began attending school in Tuluksak. From then on, they only remained at the camp a short time, at least a month, so that the children could attend school in the fall and winter. Carl Napoka recalled his father fishing, picking berries, and setting traps on the allotment, including "a Black Fist Trap [sic] in a creek that flowed into the Bogus

^{xxi} Native allotment certificate 50-2006-0425

River [sic] on his allotment.” The family stayed in a camp, which consisted of a tent, fish rack and small smoke house, but that camp was washed away by high water. Although Carl Napoka did not state how the family accessed the camp, he mentioned departing the camp by dog team, but only after the snows and freeze came. He also remembered seeing a boat with a five-horsepower motor on the creek past the allotment in the 1940s when he was very young.⁸⁷



Figure 17. Barrel stove and cans on Native allotment FF-16119, at river mile 5, showing a camp clearing. Photo from BLM Field Report prepared in 1975 by Ricky M. Elliott.

Herman Hawk of Tuluksak applied in 1975 for a Native allotment (AA-56434) consisting of 160 acres on the right bank of Bogus Creek between river miles 4 and 5.5 (Figure 18). Mr. Hawk began using his parcel in 1951 from May to July for set netting and from July to August for berry picking. Prior to that time he had used the land for ice fishing. He also gathered wood there.⁸⁸ During the field inspection of the parcel on June 11, 1986, Mr. Hawk and Noel Owen, an interpreter from Tuluksak, accompanied the examiner to the site. The Native Allotment Field Report indicated that Mr. Hawk claimed the lands for berry picking and wood gathering and also used it “for a fish camp to set his nets in the summer.” The examiner noted the existence of a wooden tripod, some cut wood, and berries at the parcel.⁸⁹ On an affidavit that Mr. Hawk filed with the State of Alaska Third Judicial District, he stated that he “would travel to my allotment by boat.” He noted that he also used the allotment for subsistence hunting, including fall moose hunting. In the spring he hunted muskrat and fished for whitefish. He also set a trap line. His family camped with him there during the summer.⁹⁰ Page 2 of U.S. Survey No. 10492 conducted in 1991 shows two smokehouses and a sauna at the southwest corner of the

property near the confluence of an unnamed slough and Bogus Creek.⁹¹ The allotment was certificated in 2006.^{xxii}



Figure 18. Bogus Creek at Native allotment AA-56434 at river mile 5, facing southwest. BLM photo from Native allotment Field Report prepared in 1986 by Joe C. Morris, Jr.

In 2004, Rodney Huffman, a BLM Realty Specialist, filed an “Environmental Preliminary Analysis and Certificate of Inspection and Possession Report” in which he noted the existence of two small structures on Mr. Hawk’s parcel, including “a platform or collapsed wall maybe of the smokehouse referenced in the U.S. Survey.”⁹² In an affidavit filed in 2003, Mr. Hawk told a field examiner that there were tent poles, a fire pit, trap line, and fallen trees from gathering wood on his allotment. He stated, “Everybody knew this was my land. My camp was visible, as well as my trap line that ran through my allotment.” He said that he customarily traveled back and forth to his allotment throughout the year and usually stayed a week at a time.⁹³

Elia Evan of Lower Kalskag applied in 1971 for a Native allotment (FF-16534) divided into four parcels. Parcel D consists of 40 acres at river miles 44-44.3 of Bogus Creek, which bisects the parcel, forming two lots, as shown on U.S. Survey No. 10065.⁹⁴ Mr. Evan began using his Native allotment in 1948 on a seasonal basis from May to September for fishing, from September to December for hunting, and from November to April for trapping.⁹⁵ During the field inspection of the parcel on June 25, 1975, Elia

^{xxii} Native allotment certificate 50-2006-0426

Evan and Iftukim Evan accompanied the examiner to the site. The Native Allotment Field Report indicated that the lands were claimed for fishing, hunting, and trapping.⁹⁶ Mr. Evan claimed to use the parcel in the spring, summer, and fall months, when the creek was open, in addition to the winter months. No mention was found in the file regarding how he accessed the parcel, however, Dennis Strom believed that Evan originally located his trapping allotment by coming up Bogus Creek from the Kuskokwim River.⁹⁷ The allotment was certificated in 1993.^{xxiii}

Iftukim Evan of Lower Kalskag applied in 1971 for a Native allotment (FF-17303) divided into two parcels. Parcel A consists of 120 acres straddling a tributary of Bogus Creek that once was thought to be Bogus Creek itself. The parcel is in Secs. 15, 22, and 23, T. 14 N., R. 61 W., SM. Mr. Evan began using the parcel in 1964 and used it from May to September for fishing and from November to December for trapping.⁹⁸ During the field inspection of the parcel on June 15, 1975, Mr. Evan accompanied the examiner to the site. The Native Allotment Field Report indicated that the lands were claimed for trapping during the winter and spring.⁹⁹ The Aniak-Tuluksak Trail (RST 24), a state-claimed RS 2477 trail, crosses Mr. Evan's allotment with a 25-foot trail easement.¹⁰⁰ The allotment was certificated in 1995.^{xxiv}

Alexander Levi of Lower Kalskag applied in 1971 for a Native allotment (F-16348) consisting of 160 acres in Secs. 14 and 15, T. 14 N., R. 61 W., SM. This parcel straddles Bogus Creek as the creek was once believed by the BLM to be configured. Its location is on what is now considered to be a tributary of Bogus Creek. Mr. Levi began using the parcel in 1962 in November and December for trapping.¹⁰¹ During the field inspection of the parcel in July 1975, Mr. Levi accompanied the examiner to the site. The Native Allotment Field Report indicated that the lands were claimed for "subsistence trapping in season." The examiner noted the existence of cut branches near a campsite spot and a branch tripod marking a winter trail route leading toward Lower Kalskag from the Tuluksak area. Mr. Levi's allotment is shown as Lot 3 on U.S. Survey No. 10063. The survey notes for Lot 3 describe three creek crossings, including one that is 100 links (66 feet) wide and 48 inches deep, another that is 60 links (39.5 feet) wide and 120 inches deep, and a third that is 65 lks (42.8 feet) wide and 120 inches deep. The survey area was accessed by helicopter. Mr. Levi stated that he accessed the parcel in winter. There is no indication in the file of how he accessed his parcel, but the trail marker on his allotment suggests that he accessed it overland or that it was possible to access the allotment overland, probably by dog team and later by snowmachine.¹⁰² The allotment was certificated in 2005.^{xxv}

Fred Passamika [aka Passimika] of Kalskag applied in 1971 for a Native allotment (F-15679) consisting of 160 acres in Secs. 10 and 11, T. 14 N., R. 61 W., SM. The allotment lies on one of the small tributaries and lakes that feed into the unnamed right-bank tributary that was once labeled as the main channel of Bogus Creek. Mr. Passamika

^{xxiii} Native allotment certificate 50-93-0245

^{xxiv} Native allotment certificate 50-95-0501

^{xxv} Native allotment certificate 50-2005-0069

began using the parcel in 1967 from November to April for hunting and trapping.¹⁰³ A field inspection of the parcel was conducted on June 19, 1975, with Mr. Passamika accompanying the examiner to the site. The Native Allotment Field Report states that Mr. Passamika claimed the lands for hunting and trapping. No specific improvements or indications of use were found on the site, but Mr. Passamika claimed a tent as an improvement. However, Mr. Passamika was familiar with the subject lands, and stated that he and his father ran a trapline on the parcel. The parcel was accessed by air, and there is no indication in the file about how Mr. Passamika accessed the site.¹⁰⁴ Mr. Passamika's allotment is shown as Lot 1 on U.S. Survey No. 10063, and was certificated in 1993.^{xxvi}

Nick Passamika [aka Passimika] of Kalskag applied in 1970 for a Native allotment (F-15680) consisting of 160 acres in Secs. 11 and 12, T., 14 N., R. 61 W., SM. The allotment lies on several of the small tributaries and lakes that feed into the unnamed right-bank tributary that was once labeled as the main channel of Bogus Creek. Mr. Passamika began using the parcel in 1950 from November to March, primarily for trapping for furs.¹⁰⁵ Wayne Dawson conducted a field examination on June 1, 1983, with Mr. Passamika's son, Fred Passamika, accompanying him. The Native Allotment Field Report states that Nick Passamika claimed the lands for hunting and trapping. No specific improvements were found on the parcel, but Fred Passamika claimed a tent frame as an improvement. There was no information about how Mr. Passamika accessed the site, but the site was used in early spring when the ground was snow covered.¹⁰⁶ Mr. Passamika's allotment is shown as Lot 2 on U.S. Survey No. 10063, and was certificated in 1993.^{xxvii}

John Crisco of Lower Kalskag applied in 1971 for a Native allotment (F-17001-B) consisting of 100 acres in Secs. 8 and 9, T. 14 N., R. 60 W., SM. The allotment lies near the southwestern shore of Whitefish Lake, approximately 1.7 miles from the head of the tributary that was once labeled as the main channel of Bogus Creek. Mr. Crisco began using the parcel in 1964 from June to August and from July to December, for a fish camp, for hunting, for gathering wood and berries, and for trapping.¹⁰⁷ Rhett S. Wise conducted a field examination with Mr. Crisco and Sinka Williams, the village coordinator, on June 12, 1980. The Native Allotment Field Report states that Mr. Crisco claimed the lands for hunting and berry picking. Mr. Crisco stated that bear hunting is very good in the area and that mink and otter are plentiful. He claimed no improvements on the site. There was no information about how Mr. Crisco accessed the site. Mr. Crisco's allotment is shown on U.S. Survey 10010, and was certificated in 1993.^{xxviii}

Summary

A review of Native allotment files reveals important information about the use of Bogus Creek as an access route for boat travel to and from Native allotments along the river and its tributaries. Individuals from villages in the region traveled to their allotments in boats

^{xxvi} Native allotment certificate 50-93-0515

^{xxvii} Native allotment certificate 50-93-0490

^{xxviii} Native allotment certificate 50-93-0460

during the open-water season (in spring, summer, and fall—from May to October) to harvest a variety of resources for subsistence purposes. All of the allotments on the lower section of Bogus Creek, as well as Elia Evan's at river mile 44, were used for fishing, usually salmon and different varieties of non-salmon fish (including whitefish, pike, trout, grayling, and char), often using set nets. Several were used for berry picking (salmonberries, blueberries, and low-bush cranberries) and wood gathering. Three applicants also used their lands for hunting, mostly moose or bear. Most of these allotments were used for trapping, usually for beaver, lynx, mink, muskrat, otter, and fox, although this activity was more likely to take place in the months when the river was frozen.

Although the applications do not always make clear how long the applicants were using their parcels, many did indicate that they camped on the lands, anywhere from a few days to a few months. Those who did not camp used the parcels as day-use locations for fishing and berry picking and wood gathering, indicating a greater number of trips on the river. Camping usually involves traveling greater distances, most often in groups of two or more, and transporting larger loads that include fuel, tents, supplies, and equipment, as well as harvested resources on the return trip. At least one applicant smoked and dried fish on his allotment, which would require a longer stay to ensure that the fish was ready for transport back to the village. Some allotments were also accessed in winter by dog team and later by snowmachine.

Many Native allotment files do not address access, but those that do indicate that boats were a common means for travelling from village to allotment. During the open months, when the allotments were used for salmon and set net fishing, berry picking, wood gathering, and hunting, boats would have been the best means of getting supplies and harvested resources to and from the allotments. It is also clear from Carl Napoka's statement about his time as a child on his father's allotment that boats were in use going back to the 1940s and earlier, probably before motorized boats came into common use.

For decades Native people used their Native allotments annually on a seasonal basis. Villagers who used the six downriver allotments used them regularly, building structures, stoves, and fish traps for use over the seasons and years. At least one of these parcels, and possibly more, was located on the likely former village site of Kwigalogamiut, indicating that the villagers of Tuluksak had familial connections to the site and to Bogus Creek. Despite their ancestors' decision to relocate from Kwigalogamiut, they continued to use the area for subsistence activities, traveling to and from Tuluksak even when schooling for their children reduced the time they could spend away from the village. Some of the files contain accounts of intergenerational use, in which the allotment holder went to the land as a child with parents or grandparents, or, more recently, took his or her children to the allotment to participate in subsistence activities. Spouses and children of deceased allotment holders continue to use the land for subsistence harvesting. Native Allotment Application Statement of Witness forms indicate that relatives and other Native people who were known to the allotment holders have used their allotment lands with permission, suggesting more widespread use of (and access to) Native allotment lands.

The Native allotment files document annual seasonal use that spans the decades before and after statehood. The use of Native allotments was most often documented from the 1950s, with use also documented from the 1940s or 1960s, through the 1970s, 1980s or 1990s. Some Native allotment files and BLM interviews include specific information about boats, motors, loads, and numbers of people who were transported to the allotments by boat. Yup'ik place names and historical sites that are mentioned in connection with Native allotments along the river are indicators of use. These patterns held true for the seventh allotment along Bogus Creek, more than forty miles upriver of the mouth. Elia Evan used this allotment throughout the year, and according to testimony from Dennis Strom and Iftikim Evan, most likely reached it in the ice-free seasons by boat.

Statements made by Tuluksak residents regarding use of Bogus Creek also support the year-round use detailed in the Native allotment files. John Napoka, Richard Phillip, and Lucy Napoka all mention accessing Whitefish Lake from Tuluksak by way of Bogus Creek, especially during the spring time when the waters are higher. Joe Demantle, Sr. and Marie Napoka spoke of camping among the remnants of *Kwigalogamiut* while berry-picking and fishing. Their comments correlate to the earlier use of Bogus Creek from the late-nineteenth and early-twentieth centuries, when a permanent settlement was located at its mouth, and continuing connections between the residents of Tuluksak and Bogus Creek.

All but one of the allotments on Bogus Creek consists of 160-acre parcels. This suggests that these areas were the prime lands that the allotment applicants used for much of their subsistence activities. The only exception is Elia Evan's allotment on the upriver portion of Bogus Creek. In his application, Mr. Evan noted that he uses land around all four parcels that he claimed in different seasons for different uses and different kinds of fish, but that he was limited to applying for 160 acres for his allotment. It is possible that the other applicants also used other lands in different seasons in much the same way, but decided to only apply for one allotment parcel in an area that they used most often and found most productive, rather than break them up as Elia Evan did.

The allotments between Bogus Creek and Whitefish Lake, while not a part of Bogus Creek itself, also show some signs of the types of use and access. Unlike many of the downriver allotments, which follow the contours of the land and water bodies, these allotments are all laid out in long rectangular parcels. This layout implies that the primary use of these allotments was for trapping, since the shape allowed for the laying of trap lines across a substantial area. The primary claim of use for all of these allotments, with the exception of John Crisco's near Whitefish Lake, was for winter and spring trapping, and there was evidence in the field examination reports that the area was good for trapping, especially of mink and otter. This usage and evidence of furbearing animals accords with the testimony of Tuluksak villagers who found the area south of Whitefish Lake to be good for mink and otter, and who often met villagers from Lower Kalskag on the rivers and lakes in the spring, when waters were high.

Table 2. Native allotments along Bogus Creek indicating how allotment holders accessed their parcels during the open water season

<u>Allotment Number</u>	<u>River Mile(s)</u>	<u>Parcel Owner</u>	<u>Village</u>	<u>Use start</u>	<u>Open season use/Mean of Access</u>	<u>Day use</u>
F-33646	0.25	Nicholai Japheth	Tuluksak	1964	Not stated/Not stated	Not Stated
F-31214	0.25-0.9	James Lott, Sr.	Tuluksak	1948	Yes/ Not stated	Frequent trips
F-25272	0.9-1.3	Paul Hawk	Tuluksak	1955	Yes/ Canoe (July-Aug)	Camped on site
FF-18420-B	1.5-2	Mollia R. Alexie	Tuluksak	1959	Yes/ Boat	Not stated
F-16119	4-5.5	Herman Hawk	Tuluksak	1951	Yes/ Boat	Fish camp
F-56434	4.5-6	William Napoka	Tuluksak	1965	Yes/ Boat in, dog-team out	Spring camp, fall camp from early fall to first snows
FF16537-D	44-44.3	Elia Evan	Lower Kalskag	1948	Yes/ Not stated	Camped on land w/ tent

Early Native Use of Bogus Creek up to Statehood

Human occupation of the Kuskokwim area goes back 11,000 years to nomadic hunters of Pleistocene animals. These hunters were supplanted about 1,900 B.C., when Eskimos from the north moved into the lower Kuskokwim drainage, bringing with them the so-called Arctic Small Tool tradition. Permanent occupation of the interior Kuskokwim Delta with chronological continuity began about AD 600. Their descendants, the *Kusquvagmiut* (also known as Yup'ik Eskimos or mainland southwest Alaskan Eskimos), have inhabited the Kuskokwim River and its tributaries down to the present as far inland as the village of Aniak. By 1880, their population was estimated at 3,100. The Central Yup'ik Eskimos established permanent villages that formed a base from which they traveled in an annual round of subsistence activities, following seasonal abundance of resources. Their way of life centered on fishing for salmon and freshwater fish, hunting land mammals, sea mammals, and waterfowl, and gathering berries.

Two archaeological sites are located near the upriver sections of Bogus Creek, in Sec. 28, T. 14 N., R. 60 W., SM, showing prehistoric occupation of the area. These sites are approximately 7.5 miles from the source of Bogus Creek. They contained flakes of chert, including at least one that was retouched bifacially. Some of the material at one site was collected and is stored at the Washington State Museum.¹⁰⁸

Yup'ik people traditionally distributed and exchanged subsistence products on a community-wide basis. Anthropologist Ann Fienup-Riordan noted that individual economic production was undertaken in order to fulfill community social obligations. Traditional values of respect, hospitality, and reciprocity underlay a system of sharing and exchange between households, within the community, and between communities. Fienup-Riordan noted that Yup'ik people believe that "what comes freely must be given freely in order to ensure that it will return."¹⁰⁹

Historically, trading networks linked people along the Kuskokwim River, and resource harvests were distributed widely.¹¹⁰ Trading relationships existed between the people of the Yukon-Kuskokwim delta and those of the tundra and rivers farther inland. Sea mammal products from the coast were exchanged for furs and dried fish from upriver.¹¹¹ According to anthropologist Michael Coffing, historically "furs were important for trade, barter, and cash."¹¹²

Even before direct contact occurred between Russians and Alaska Native people, European goods, such as iron tools, tobacco, and beads, were traded across Bering Strait. This Siberian trade continued throughout the Russian era in Alaska and effectively cut into the trading operations of the Russian-American Company.¹¹³ In a subsistence report on Quinhagak and other southwestern Alaska Native communities, anthropologist Robert J. Wolfe and other scholars stated that parka squirrels and marmots from the Kuskokwim area were important components of this Siberian trade. They were traded "north to the Yukon River for caribou and domestic reindeer skins from Siberia via Bering Strait and Norton Sound traders."¹¹⁴

By 1818, Russian fur traders had built Alexandrovski Redoubt on Nushagak Bay. Within a few years of 1818, the Russians established trade directly with the Native people of the Kuskokwim River area. Native trappers traded furs to the Russian traders for "cloth, wool blankets, metal products such as knives, flint, spears, needles, pots, cups, mirrors, copper rings; and personal adornment, such as clothing, earrings, bracelets, and the like." In 1841, the Russian American Company established Kolmakovski Redoubt, a trading station along the central Kuskokwim River, upriver from the mouth of Bogus Creek.¹¹⁵

Hutchinson, Kohl, and Company (later the Alaska Commercial Company) purchased the assets of the Russian American Company after the United States purchased Alaska from Russia in 1867. The company continued the Kuskokwim River trade from the former Russian post at Kolmakovski Redoubt. Alaska Commercial Company trading posts on Nushagak Bay and the Kuskokwim River carried on what anthropologists described as a "flourishing business in furs."¹¹⁶ In the early 1870s, they moved their operations

downriver to Bethel and established that community's first trading post. In the 1880s, Eskimos from the lower Kuskokwim River traded at Bethel for "tobacco, tea, drilling, needles, powder and lead, knives and axes, hardtack, twine for fish nets, sugar and flour, and cooking utensils." They also traded for muskets.¹¹⁷ Sheldon Jackson reported in 1886 that as early as 1884, the Alaska Commercial Company traded netting twine to residents of the lower Kuskokwim River for squirrel skins.¹¹⁸ After the Americans shifted the center of the Kuskokwim River fur trade to Bethel, the Natives' long-standing trade with Siberia declined.¹¹⁹

According to stories told among residents of Tuluksak, residents of a village known as *Uuravik*,^{xxix} located just up the Kuskokwim River from the mouth of Bogus Creek, relocated at some time between the 1600s and early 1800s (before the arrival of Europeans). Some residents went east towards what became Kalskag, some went across the Kuskokwim, while others went downriver towards Bogus Creek to form the village of Kuigurluq.^{xxx} They settled an "old site" first, and lived there long enough to leave gravesites. This old site was located on a hill or bluff above the river, and there are remnants of *qasqigs* and other buildings remaining.^{xxxi} The newer settlement location contained the church.¹²⁰ In his study *Historic Settlements along the Kuskokwim River*, Wendell H. Oswalt located a village named *Ogavik* in Sec. 21, T. 14 N., R. 63 W., SM, approximately 7 miles northeast of *Kwigalogamiut*. Its population declined around the turn of the twentieth century, largely due to epidemics, and many of its residents moved to Tuluksak around 1913 in anticipation of a school being built there. By 1922, the site was largely abandoned.¹²¹

According to the 1880 U.S. Census, *Kwigalogamiut*^{xxxii} was the largest village reported along the Kuskokwim River in. *Kwigalogamiut*, located near the mouth of Bogus Creek, had a population of 314 in 1880. Moravian missionary William H. Weinland passed by the village on July 10, 1884, and wrote in his diary, "This was at one time quite a large village, when Mr. Clark had his station here." Oswalt explained that John W. Clark, who had been a trader at Anvik on the Yukon River in 1869, presumably left *Kwigalogamiut* in about 1880 to open a store at Nushagak."¹²²

^{xxix} *Uuravik* is variously spelled *Uravik* [Andrews and Peterson, 1983], *Ogavik* [Oswalt, 1980], *Uknavik* [Orth, 1967], *Ougavik* [Schwalbe, 1951], and *Oravik* [J. Lott, 1983]. See Elizabeth Andrews and Raymond Peterson, *Wild Resource Use of the Tuluksak River Drainage by Residents of Tuluksak, 1980-1983*, Technical Paper Number 87, Alaska Department of Fish and Game, Division of Subsistence, 1983, p. 9.

^{xxx} The migration from *Uuravik* is wrapped up in a mythological story involving the kidnapping of a woman from the Yukon River to the Kuskokwim River by a great warrior. Her husband's father was a shaman who sent a great goose over *Uuravik*. The goose opened its belly and poured out blood over the village. People scattered, and the ground caved in creating great ditches, and the people abandoned the village.

^{xxxi} It is not clear whether the "old site" is *Kwigalogamiut* or another earlier village site.

^{xxxii} *Kwigalogamiut* is variously spelled *Kwigalogamute*, *Kwigalok*, *Kwikagamut*, *Queiehochlogamiut*, *Quigolok* [Oswalt], *Kuigurlurmiut* [Andrews], *Kwikak*, and *Queekagamut* [Orth]. Orth speculated that it could be the same place shown in Russian by P. Tikhmeniev on his 1861 map as "S[eleniye] Kviguglyugmyut."

Another trader, a Russian named Ivan Lukin, traded along this section of the Kuskokwim River starting in 1868, and probably lived across from Kwigalogamiut in 1884. His father, Semen I. Lukin, had opened a temporary post at Ogavik approximately 10 miles upriver from Kwigalogamiut in 1844, primarily for trading with the Yup'ik of the area. Ivan himself had extensive trading and travel experience across Alaska, and had succeeded his father as the Russian-American Company manager at Kolmakovskiy.¹²³

Although Russian influence did not extend all the way down the Kuskokwim River in the middle of the nineteenth century, there was important contact between Russians and the people of Kwigalogamiut prior to the establishment of Lukin's trading post. Some village residents had likely converted in the first half of the century, and several, including the local chief, spoke Russian. In 1862, a Russian-Orthodox monk-priest named Illarion Peremeshko traveled from Komakovski Redoubt down the Kuskokwim River on a missionary trip among the peoples of the lower river. He stopped at Kwigalogamiut and persuaded the chief, Sergey Makesha, to accompany him as translator and protector. Both men—as well as the chief at Akiak, Yakov, who also accompanied Peremeshko—recognized that not only could a Native leader accompanying a European provide help with the language, but could also provide some cultural translation that could smooth over difficulties, especially when Peremeshko upset villagers with anti-shamanistic preaching. The Natives also benefitted from trading advantage built on a positive relationship with the Church, and by preventing bloodshed against missionaries or traders that could lead to Russian retaliation against surrounding villages. The mission trip was partially successful, gaining several new converts, although tensions with the traditional elements of the local population caused Peremeshko to cut his trip short on the advice of his Native companions.¹²⁴

At the end of the nineteenth century, the Moravian Church began missionary work among the people of *Kwigalogamiut*, along with those of nearby Aniak, *Ogavik*, and Tuluksak. Starting in the winter of 1895 Reverend Ernst Weber, who had recently started a mission in Ogavik, “felt comfortable with David and another helper, going on a mission trip to *Tulaksagamute* [Tuluksak] and *Quichaluk* [*Kwigalogamiut*], the two down-river villages closest to Ogavik.” During the months of March and April, David worked with Reverend Weber and the people of *Kwigalogamiut* to hew logs for a planned chapel. After David left for Tuluksak, another Helper, Ivan, took over the building of a chapel in *Kwigalogamiut*. By mid-winter 1895-1896, a 14-foot by 17.5-foot chapel was completed at *Kwigalogamiut*, and Ivan's work led to large numbers of congregants at Christmas celebrations. By 1896-1897, Weber and Ivan added pews to the chapel, and expanded the average participation at Communion to fourteen people, with two confirmations that winter. In June 1897, *Ogavik* had 42 Moravian Church members, while *Kwigalogamiut* had 17, and Tuluksak had 24.¹²⁵

Reverend Weber and his wife went out on furlough in 1897 and tragically were drowned while returning to Alaska in 1898. They were replaced at *Ogavik* by Brother and Senior Ben Helmich in August 1898. Helper Ivan died in the epidemic that occurred in the summer of 1900 that killed many members of the church in Tuluksak and

Kwigalogamiut.¹²⁶ The influenza epidemic in 1900 was devastating to *Kwigalogamiut*, and Oswalt noted that most of the population of *Kwigalogamiut* died, so that only a few families lived there in 1906.¹²⁷ By 1905, the Moravian Church records noted that *Ogavik* and Tuluksak had a combined population of 110 persons who were affiliated with the Moravian Church, but no mention was made of *Kwigalogamiut*.¹²⁸

Following the influenza epidemic in 1900, *Kwigalogamiut* declined fairly rapidly. By the early 1930s, most of the population had consolidated in Tuluksak, even as they continued to use the land around the former village site much as they had as when they lived there.¹²⁹ These kinds of population movements were not uncommon in the region, especially in the wake of devastating epidemics. According to anthropologist Ann Fienup-Riordan, there was a “regular pattern of and mechanisms for movement between villages and seasonal camps.” This movement created an “ability to regroup” that was “built into the system,” as “group identity was a cultural reality realized in constant demographic variation, not a fixed, bounded system subject to the vagaries of natural disaster.”¹³⁰

Consolidation of this sort was widespread through the 1940s following the high tolls of the epidemics of the late-nineteenth and early-twentieth centuries. The survivors of the epidemics often abandoned their contaminated sites and consolidated into new sites located around trading posts, schools, mission posts, or other infrastructure. These new villages could contain residents from up to a dozen village groups, and from several different traditional regional groupings. Yet even with this centralization into new permanent and year-round settlements, “individuals and individual families might move out from these sites on a daily or seasonal basis.”¹³¹

As a result of these cultural mechanisms, those former *Kwigalogamiut* residents of Tuluksak retained strong ties to the former village area, and “maintained a dual residence and continued to move back and forth between Tuluksak and the Bogus Creek settlement for some time.” Many Tuluksak residents then claimed allotments along Bogus Creek.¹³² Joe Demantle, Sr. remembered that movement of residents between Lower Kalskag, Bogus Creek, and Tuluksak was common, and that Tuluksak residents moved back and forth from Bogus Creek in his lifetime. In those days, before Tuluksak began growing, the local preacher traveled up to Bogus Creek and to *Uuravik* [*Ogavik*], just upriver of *Kwigalogamiut*. Once the church was built in Tuluksak, however, residence on Bogus Creek declined. Eventually, there were only two houses left, which were used primarily for camping during fishing season. The buildings eventually decayed (Figure 19), but the church bell remained at the Bogus Creek site for a time. Eventually someone took it, likely, Demantle believed, as a souvenir from a hunt.¹³³



Figure 19. Remnants of former village site of *Kwigalogamiut* on Native allotment F-31214, river mile 0.5. BLM photo from Native allotment Field Report prepared in 1975 by Ricky M. Elliott.

As Fienup-Riordan notes, the Yup'ik traditionally did not focus on possession of a particular location, but rather on the relational ties to previous generations that used the location and had a definite relationship to the species taken at the same place.¹³⁴ Even after relocating to a new village, “current village residents often continue to exploit the territory of the village group in which they were born, regardless of the most proximate location of the resource or the distance from their present place of residence.”¹³⁵ Thus, the generational use of sites along Bogus Creek by the residents of *Kwigalogamiut* would continue even as those residents and their descendants relocated to Tuluksak and elsewhere.

After the final consolidations of *Kwigalogamiut* with Tuluksak and other villages by the early 1930s, most Native use of Bogus Creek was by residents of these communities traveling between them and their campsites on the creek. Four of the six downriver allotments were in use starting in the late-1940s to the early 1950s, while the other two saw use starting in the mid-1960s. Elia Evan's upriver allotment was in use from 1948. Statements from the allotment holders in their applications show connections to those parcels from before their personal use.

James Lott Sr. moved from *Kwigalogamiut* (on Bogus Creek) to Tuluksak so that his children could go to school. The Native allotment lands that he claimed are at the old village site. He noted on his Native allotment application that the site “is far from the school so I have to move into a Village in order to keep my children in school during the main winter months.”¹³⁶ Similarly, Carl Napoka’s family shortened the length of their stays on their allotment on Bogus Creek in the 1950s, when he began school in Tuluksak.¹³⁷

Subsistence activity was not the only method of resource exploitation among the Natives of the Kuskokwim region. In the early 1900s, independent traders built stores and warehouses in Bethel and bartered with the Eskimos for furs. Other villages, including Kwigalogamiut, had their own local traders and relationships that often went back to Russian times.¹³⁸ Quinhagak elder Kenneth Cleveland told an interviewer that “Furs and occasionally fish were...used as a form of currency for basic trade items such as tea, coffee, sugar, flour, rifles, ammunition, pots and pans, some clothing, and occasionally milk.” Money was not used until much later, after people began working for wages and fishing commercially.¹³⁹

In order to protect salmon stocks and the interests of subsistence fishermen in the Kuskokwim region, the federal government placed limits upon commercial fishing operations prior to 1913. A small commercial harvest began in Kuskokwim Bay in 1913 and continued for a few years.¹⁴⁰ Native people from the lower Kuskokwim area became involved in the commercial fishing industry between 1930 and 1954. After 1930, commercial operators processed small numbers of salmon in the Kuskokwim Bay area. The commercial fishing industry in the Kuskokwim drainage was largely undeveloped before 1960. The Kuskokwim had relatively few salmon and lacked infrastructure and proximity to established markets.¹⁴¹

Few Native people worked for wages until World War II, when a lack of available Asian workers for salmon cannery jobs prompted the hiring of Native workers. After the war ended, airplanes came into greater use in the region, and new airfields in the villages facilitated travel from lower Kuskokwim villages to the canneries. Chinese labor dominated cannery work in the region during the early twentieth century. Few Native people were employed in canneries until World War II.¹⁴²

While the main focus of village activity for those residents of Tuluksak and Lower Kalskag who use Bogus Creek and surrounding areas is subsistence, there is some formal commercial activity as well. There is a limited commercial salmon fishery in the Kuskokwim region, and villagers often alternate their fishing activities between commercial and subsistence fishing while at their summer fish camps.¹⁴³ A study of subsistence activity in the village of Kwethluk noted that some residents fished commercially in the area upriver near Tuluksak.¹⁴⁴ The proceeds from this commercial fishing, limited though they are by fixed licensing, does help provide a cash supplement to the subsistence economy already in place, one often used to pay for the tools of subsistence, including boats, motors, snowmachines, and fuel.¹⁴⁵

Similarly, Tuluksak residents have found employment in other activities, including cannery work or work on boats on the Kuskokwim River. John Napoka, a Tuluksak resident who fished and trapped in the Bogus Creek area, also worked as a cannery foreman in Naknek.¹⁴⁶ Joe Demantle, Sr. worked on the steamboats that ran between Bethel and McGrath, and also worked at a cannery in Bethel.¹⁴⁷ While it is mostly women and younger men who perform this work, usually in the absence of a commercial fishing license, it is another means to supplement subsistence with cash earnings.¹⁴⁸

Traditionally the Eskimo people of the lower Kuskokwim region used kayaks, canoes, and poling boats for river transportation. After the turn of the twentieth century, they began to use plank boats of a type introduced by prospectors. Outboard motors did not become popular among the Native people until after World War I, although a few non-Natives used them as early as 1914. Innovations such as plank boats and outboard motors enabled people to tend their nets from their home village, but required a source of money for fuel and maintenance.¹⁴⁹

More efficient forms of transportation adopted during this period enhanced the ability of Native people to provide meat and other resources for their families and communities. By about 1930, more people in the region were able to purchase outboard motors, along with other tools useful for subsistence activities, including rifles and ammunition.¹⁵⁰ Between 1955 and 1979, disposable income from commercial fishing allowed Native people to purchase aluminum boats, outboard motors and snowmachines. Kayaks, oar boats, and sailboats also continued to be used. Snowmachines were introduced as early as 1955, but did not begin to replace dog teams until the late 1960s and early 1970s. The use of snowmachines reduced the need to harvest large numbers of fish for use as dog-team “fuel,” but increased the need for cash with which to purchase fuel for snowmachines.¹⁵¹

Boats with outboard motors and snowmachines streamlined subsistence activities.¹⁵² Native people continued to travel to seasonal camps in the course of subsistence fishing, hunting, and berry picking.¹⁵³ Certain set net and fish camp sites along the rivers were “recognized as traditional use areas of particular kinship groups or clusters of kinship groups in each community,” and they later served as the basis for Native allotment selections.¹⁵⁴

Recent Native Travel on Bogus Creek Documented in Subsistence Studies and Other Sources

Although Bogus Creek has not been directly examined for its subsistence use, it lies squarely within an area that has seen considerable study of subsistence activity and patterns. Some studies, like Wendell H. Oswalt’s 1956 examination of Napaskiak, go back to pre-statehood, but more recent studies by Ann Fienup-Riordan in 1982, Elizabeth Andrews and Raymond Peterson in 1983, and Michael Coffing in 1991 and 1998 show

that these patterns have not changed very much over the decades. While these studies cover different locations and villages, evidence suggests that use of Bogus Creek generally fits those patterns and that subsistence activity was, and continues to be, prevalent on the creek.

Reports on subsistence economies in Western and Southwestern Alaska support the idea that subsistence activities are more than local household hunting and gathering. In 1982, anthropologist Ann Fienup-Riordan studied an area extending from Scammon Bay south to Quinhagak and up the Kuskokwim River as far as Akiak. Tuluksak and the former village of Kwigalogamiut are just upriver from the upper extent of her study area, and share many of the same cultural and geographic characteristics. She prepared a report on the area for the Bureau of Land Management Outer Continental Shelf Office. She reported that “the most striking feature of the study area is the fundamental dependence of its inhabitants on the products of the rivers and the sea, both traditionally and at present.” She noted that the way of life of the Native people of that region “is inexorably bound up with the seasonal cycling of fish and game.”¹⁵⁵

Overall, the social and cultural lifestyles of the population of the villages around Bogus Creek have not changed much from their pre-European contact character. As Fienup-Riordan argues, the peoples of the Yukon-Kuskokwim Delta region continue to maintain their subsistence lifestyle, with only marginal adoption of market commercial activity and other social and cultural changes. Survival and prosperity continue to be largely tied to the use of the land and its resources, and patterns of subsistence activity remain crucial to that use. In addition, a strong subsistence ideology still instills life for Native villagers of the region, informing nearly all aspects of their lives.¹⁵⁶ Outside market forces have made an impact, but they have also been integrated into the subsistence economy to create a “unique hybrid of old and new economic features which draw upon and preserve the inherent identity of the traditional socioeconomic foundation.”¹⁵⁷

Beyond that, subsistence activities tie the communities together through economic means. Anthropologist Robert J. Wolfe and a team of researchers completed a major subsistence study of Quinhagak and three other southwest Alaska villages in 1983 for the ADF&G Division of Subsistence and the U.S. Department of the Interior Minerals Management Service. Although the study did not extend into the Kuskokwim river area, it did look at Quinhagak and Goodnews Bay villages on the Kuskokwim Bay coastline, where many of the subsistence patterns are very similar to the neighboring river villages.

Distribution of the subsistence harvest takes place chiefly through non-commercial exchange networks (primarily through sharing and trade). Wolfe noted that “Every economic system has mechanisms for moving goods from producers to consumers.”¹⁵⁸ In southwestern Alaska villages, local food and materials are distributed not through the market, as in industrially based economies, but primarily through local networks, along kinship lines. This distribution takes place through formal and informal sharing, trade, and cash sale to family and non-family members within the community and in other communities.¹⁵⁹

Wolfe characterized as “extensive” the non-commercial distribution and exchange networks for fish and game products in Quinhagak and other southwest Alaska communities.¹⁶⁰ As the report found, producers in the studied communities “rarely hunted and fished for a single person or household. Instead, subsistence products flowed out from the producer to large numbers of persons. Distribution did not usually involve markets or prices, although at times subsistence products were purchased in small-scale transactions.”¹⁶¹

As many local residents originally hailed from other nearby or regional villages, there is often a familial network throughout several villages in the region, which is maintained by physical visits and trading of subsistence resources.¹⁶² In a later report, anthropologist Michael Coffing found that residents of Kwethluk, which lies approximately 75 airmiles north of Quinhagak, shared resources with residents of Bethel, Napaskiak, Togiak, Kasigluk, Akiak, Akiachak, Kipnuk, Eek, Napakiak, Chuathbaluk, Tuluksak, and elsewhere.¹⁶³ In addition, villagers in the region have adapted even external forms of commerce, such as cash, and integrated them into the subsistence economy, further breaking down the distinctions between market and subsistence economic activities.¹⁶⁴

Wolfe notes that there are advantages to a subsistence-based economy in the small native villages. Where capital is limited for large-scale investment, subsistence technology, even larger items like boats, nets, and motors, is small-scale and affordable. This affordability puts the capital needed for production into reach for even small families, and makes entry into the economy easier. The same is true for the capital needed for conveyance, processing, and distribution of products, and those larger capital items—drying racks, smoke houses, and freezers—are often shared amongst and even between families. As a result, capital acquisition “is usually no barrier to production, as commonly is the case in industrial-capital economies, where technology is at a level of cost and complexity to require firms organized beyond the family.”¹⁶⁵

The structure of the subsistence economy thus tends to be more egalitarian and class-less than outside economic structures. The right of access to resources is socially-held and is protected by traditional usage patterns.¹⁶⁶ This system of property relations provides equal and open access to lands and natural resources to all members of the community, again making access to the economy easier for even small or marginal families.¹⁶⁷ The open usufruct^{xxxiii} rights to traditional territories of the social group help maintain the stability of the larger community by preventing any particular individual or family from being left outside of the subsistence economy, including those individuals who are physically or otherwise constrained from participating in resource harvesting.¹⁶⁸

While some of this sharing reflects social perceptions of prestige and community standing, sharing also serves to distribute wealth more evenly amongst the residents,

^{xxxiii} “Usufruct” means the right to enjoy the use and advantages of another's property short of destroying or wasting its substance.

making economic activity a cooperative endeavor and maintaining egalitarian consumption as well as production.¹⁶⁹ Broader sharing activity, including intercommunity sharing, also serves to move resources from areas of high abundance to areas of relatively lower abundance, enabling communities that lack certain resources, for instance inland communities that do not have access to seal oil, to gain these resources in exchange for surplus local resources. These exchanges are often within extended families in different communities, although not necessarily so.¹⁷⁰

With road travel limited to non-existent across most of the region, most of the hunting, gathering, and distribution is conducted by boats in summer, and by snowmachines and all-terrain vehicles (ATVs) in winter. Michael Coffing authored a 1991 subsistence study of nearby Kwethluk for the ADF&G Division of Subsistence, based upon observations that he had made in 1986-1987. The report described the region's streams, sloughs, and lakes as "a web, interconnecting the communities with one another and providing access to seasonal camps and subsistence harvest areas."¹⁷¹ Boats ply those waterways from late May through mid-October. Tuluksak residents use fishing boats and skiffs for local transportation to Bethel and other villages during the open season. There is also considerable migration between the villages on the Kuskokwim. For example, Coffing noted that many residents of Kwethluk originated from other communities, including now-abandoned settlements in the lower Kuskokwim region. He noted Kwethluk villagers who hailed from Bethel, Akiak, Eek, Tuluksak, Akiachak, Napaskiak, and other communities.¹⁷²

Although Coffing's 1991 subsistence study of Kwethluk focused on the residents of Kwethluk, he noted that they "used a substantial area for obtaining wild foods, including inland mountains, rivers, and coastal marine waters... [extending] from Kuskokwim Bay to McGrath, and from Baird Inlet to the Nushagak River. Contemporary patterns of land use were closely linked to historical use patterns and traditional use areas."¹⁷³

A variety of boats, including canoes, kayaks, wooden skiffs, and aluminum boats, have been used on the lower Kuskokwim River tributaries. By the late 1960s, the number of canvas-covered kayaks was declining as men built plank boats or purchased aluminum boats.¹⁷⁴ Anthropologist Wendell Oswalt described the wooden boats that were in use on the lower Kuskokwim in the early 1960s. They were three feet wide, with a pointed bow that was decked over to about three feet and a square stern. The boats were made from spruce planks six or eight inches wide, about twenty-four feet long, and one-half inch thick. They were powered by outboard motors ranging from 1½ to 32-horsepower. Kayaks or canoes continued to be used for hunting muskrats in the spring and for transporting light loads. Small sleds were used to haul them over portages.¹⁷⁵

Closer to Bogus Creek, Michael Coffing's study of Kwethluk subsistence found similar variety among the boats used for the activities. These boats ranged from 16 to 24 feet, with over 50% over 20 feet long. Most of the longer boats were wooden, with the remainder aluminum. While the aluminum boats were purchased completed from stores in Bethel, Kwethluk, or nearby, wooden boats were locally made by individuals, usually

with the assistance of residents known to have expertise. Thus, the wooden boats were not as expensive as the aluminum boats, but they also did not last as long, as an aluminum boat could last up to 20 years (while wooden boats only lasted four to ten years), and were relatively maintenance free. However, wooden boats could be repaired locally, while repairs to aluminum boats had to be done in Bethel or some place having specialized equipment.¹⁷⁶

These boats could be used for all sorts of riverine travel, from the main Kuskokwim River channel to the smaller tributaries, and even along the coast of the bay. Most of the motors were of a smaller outboard variety, under 100 horsepower, with a fairly even distribution between those under 30 horsepower, those between 31 and 66 horsepower, and those between 66 and 100 horsepower.¹⁷⁷ Although none of the subsistence reports specifically mention the use of any particular types of boats or motors on Bogus Creek, these descriptions from Kwethluk match up with the description of the types of boats used on Bogus Creek from the Native allotment files and oral interviews.

In their report of the subsistence activities of Tuluksak residents, Elizabeth Andrews and Raymond Peterson noted that the range for moose hunting among these residents was within about 12 miles of the village, which includes portions of Bogus Creek. Residents accessed these areas by boat and on foot during the ice-free hunting season. In addition, residents from villages both upriver and downriver of Tuluksak were also reported to utilize similar territories for moose hunting.¹⁷⁸ Michael Coffing's Technical Paper on subsistence in Kwethluk noted that fall moose hunters ranged far up the Kuskokwim River in boats measuring up to 24 feet long, constructed from wooden planks. On the accompanying map, Bogus Creek is within the known moose hunting area, less than a day's travel from Kwethluk.¹⁷⁹ Coffing described how hunters traveling upriver "kept a sharp lookout for moose, stopping to investigate tributaries, sloughs, and meadows which were productive on past hunting trips.... Experienced hunters often returned to the same hunting areas year after year, but also hunted new areas, especially if they found other hunters already hunting their familiar areas."¹⁸⁰

Caribou hunting also tends to cover a wide area, often including the Bogus Creek region. Hunters from Akiachak have used the lands around Bogus Creek in their hunts, as have hunters from Kwethluk. Again, these hunts can occur at nearly any point in the year, and thus boat access to the hunting grounds is as important in the late summer as snowmachine access is in winter.¹⁸¹

Bear hunting activities encompassed the Bogus Creek area, usually at approximately the same time as moose and caribou hunting.¹⁸² Most bears were hunted in August and September, but some brown bears were hunted in the spring as well, and occasionally in the summer.¹⁸³ In these large-mammal hunting trips, boats provide both a means of transportation to the hunt sites, and a means of transporting large amounts of meat back home. Thus, the meat is often butchered at the kill site and taken by boat back to the campsite, where it can then be dried for transportation home. Boat transportation also allows hunters to return with the larger parts of the animal, for instance moose antlers.¹⁸⁴

In the early 1930s, 43,000 reindeer grazed along the Kuskokwim River system. Their numbers declined precipitously in the early 1940s. From about 1908 through the 1940s, residents of the Kuskokwim River village of Akiachak herded reindeer southeast of Whitefish Lake, in the vicinity of Mt. Hamilton, which is approximately 5 miles east of the head of Bogus Creek. These herders eventually gained stock in the Kuskokwim Reindeer Company.¹⁸⁵ In an interview with researchers from the University of Alaska Fairbanks, Peter Lott of Tuluksak stated that the reindeer herders had a corral up on Kuigeurluyagaq (upper Bogus Creek) at the beginning of the mountains where they would band (mark) and castrate the reindeer. This corral is marked on Bogus Creek near its head on maps from the AHP CPSU and ANCSA 14(h)(1) Historical and Cemetery Sites Collection at the University of Alaska Fairbanks in Sec. 20, T. 13 N., R. 60 W., SM..¹⁸⁶ It is not clear how the herders reached the herding area from Akiachak or Tuluksak, but Bogus Creek would have provided a possible avenue from the Kuskokwim River in both ice-free and ice-covered seasons.

Other important categories of subsistence hunting and trapping are small game and fur-bearing animals. This latter category includes beaver, mink, otter, muskrat, lynx, and fox, among others, which are hunted and trapped throughout the year.¹⁸⁷ These types of animals could provide both food and clothing for personal and community use, and a source of cash for residents through the sale of their furs. Nearly all of the Native allotment holders on Bogus Creek cited small-game hunting and trapping amongst their subsistence activities, and small-game hunting and trapping were noted in other interviews with residents. For example, John Napoka highlighted the area around the upriver end of Bogus Creek and towards Whitefish Lake as a prime area for capturing fur-bearing animals, especially mink and otter. He stated that the furs from the mink trapped in that area could fetch a higher price than those trapped elsewhere, since they tended to be darker and of higher quality. While much of the harvest of these animals was in the fall through the spring, when the rivers are iced-over, open water harvesting is also common, using small boats for day trips.¹⁸⁸ John Napoka noted that the period after break-up in the spring, when water levels were high, was also a productive time, and travel was by boat.¹⁸⁹ Most of the lower portion of Bogus Creek appears on the map of furbearer hunting and trapping in the Akiachak subsistence study.¹⁹⁰

The other category of small-game hunting and trapping sees comparable patterns. This game includes ptarmigan, hares, squirrels, marmot, porcupine, and grouse. These are shot and trapped in much the same way as furbearers, at much the same times of year. A substantial portion of Bogus Creek, and all of the area around the creek, appears on the map of small-game hunting and trapping areas in the Kwethluk and Akiachak subsistence studies respectively.¹⁹¹

Hunting for waterfowl is one of the more common subsistence activities among village residents near Bogus Creek. By one count, villagers harvest over 30 types of birds and eggs in a year, mostly various ducks, geese, swans, and cranes.¹⁹² Since many of these species are migratory, they are only available in the region during the spring through fall

seasons, meaning that much of the hunting is done with small boats, often in conjunction with snowmachines and ATVs during the initial breakup period. In the late summer and fall, waterfowl hunting and egg collection take place in conjunction with other subsistence activities such as berry picking and moose hunting, with travel primarily by boat.¹⁹³ Most of the activity takes place within a short distance from the villages, because of the relative difficulty of travel at times, and Bogus Creek appears within the traditional hunting zones. According to the map in the Akiachak subsistence study, Bogus Creek is a route for waterfowl hunting, likely towards Whitefish Lake.¹⁹⁴

Plants, including berries, are harvested in the Bogus Creek drainage, along with wood for building use and fuel. From mid-summer through the fall, Native people of the region travel by boat to favorite berry picking locations where they harvest salmonberries, blueberries (Figure 20), crowberries (mossberries/blackberries, Figure 21), and low-bush cranberries. Residents regularly also gather plants such as Hudson's Bay tea, stinkweed, wild rhubarb and celery, and others.¹⁹⁵ Native allotment files all note berry picking, plant gathering, and wood gathering as subsistence activities among the Native residents of Tuluksak who gained allotments on and around Bogus Creek. Residents from both Kwethluk and Akiachak also noted Bogus Creek as source of berries, plants, and particularly wood.¹⁹⁶



**Figure 20. Blueberries located on Native allotment F-25272 at river mile 1.
BLM photo from Field Report prepared in 2005 by Dorthy J. Bonds.**



Blackberries

Figure 21. Blackberries located on Native allotment F-25272, at river mile 1. BLM photo from Field Report prepared in 2005 by Dorothy J. Bonds.

Generally, berry-picking expeditions take place alongside fishing and other subsistence activities, involving family groups who go to fish camps for longer periods of time, or as a secondary activity while hunting moose, caribou, or bear.¹⁹⁷ Most wood is harvested in September and October, and is brought back to the village by boat. Another important source of wood—driftwood—is sometimes collected by boat and brought back for use in the village.¹⁹⁸

While boats cannot be used on Bogus Creek after freeze-up, the area remains an important source of subsistence resources, and the creek continues to serve as an important avenue of travel to areas of hunting, trapping, and possibly even fishing. Villagers from Tuluksak have told interviewers about use they made of Bogus Creek and trails around it, particularly the Aniak-Tuluksak trail (RST 24), to access winter camps around Whitefish Lake. Likewise, villagers in Kwethluk and Akiachak, just downriver from Tuluksak, have indicated to subsistence researchers that they continue to hunt and trap furbearing animals, small game, and waterfowl along Bogus Creek and around Whitefish Lake.¹⁹⁹ The evidence of fishing in the area is less precise, but there is evidence of non-salmon fishing by residents of these villages downriver of Bogus Creek, especially on and around Whitefish Lake.²⁰⁰

In summary, Bogus Creek is no longer the center of subsistence activities in the region. However, it remains an important area of use among residents of nearby villages, including Tuluksak, Akiachak, Lower Kalskag, Kwethluk, and perhaps as far as Napaskiak. These subsistence activities extend beyond simple hunting and gathering of local resources, and constitute a fully developed economic system that operates among the people of the Kuskokwim River region, and incorporates aspects of related systems, including the cash economy of urban Alaska. The result is that Bogus Creek is intimately tied into the economic system that operates among the villagers who utilize the resources on and near the creek.

Studies of subsistence activities around the Kuskokwim River region have consistently shown that they form a relatively stable and long-term economic basis for the people of the region. The resources available to residents—including salmon and other fish, large land mammals, furbearing animals, waterfowl, berries and other plants, and wood—are abundant, and the traditions around their harvest regulate their use within the community. Beyond that, customs surrounding relations between the residents provide for a substantial distribution system within and between communities, which results in those who are less able or less successful in resource gathering sharing in the abundance and avoiding deprivation. This economic system has persisted for generations in these communities, but it has also been adaptive enough to allow for the integration of other economic modes, particularly the cash economy based around government service jobs, sale of furs and other traditional products, and particularly commercial fishing.

The studies also make clear that Bogus Creek is still an active area for these subsistence activities, even though the population that once resided there has moved elsewhere. These residents had ties to the Bogus Creek area, and continued to use the creek and surrounding lands as they and their predecessors had done prior to the population movements. As a result, residents from Tuluksak, Kwethluk, Akiachak, and Lower Kalskag noted Bogus Creek on maps as one of the areas in which they continue to fish, hunt, gather berries and plants, and trap. The wide range of resources and activities in use make Bogus Creek an important part of the subsistence economy of the region.

VI. Summary

Bogus Creek is a typical tundra stream for most of its course after descending from the Kilbuck Mountains east of the Kuskokwim River. For much of its length, it is a deep stream meandering through low-lying permafrost land with low tundra vegetation, before connecting with sloughs entering the Kuskokwim River. The creek begins in the Yukon Delta NWR, but approximately half of its course lies within the lands conveyed to Napaskiak, Inc. and Tulkisarmute, Inc., the Native corporations for the villages of Napaskiak and Tuluksak, respectively.

The BLM has generally held most of Bogus Creek to be navigable. Starting at its mouth, the creek has been determined navigable through both Tulkisarmute, Inc. and Napaskiak, Inc. lands, up to river mile 32. In addition, the BLM has determined Bogus Creek

navigable through Elia Evan's Native allotment at river mile 44. Summarizing the BLM's position on Bogus Creek for the USF&WS in 1995, BLM Navigability Specialist C. Michael Brown wrote that "The Bureau of Land Management (BLM) has consistently held that this creek is navigable," referring to the portion of the creek "as far upstream as the Native allotment, F-16534 Parcel D, located in Sec. 32, T. 14 N., R. 61 W., SM." (river mile 44)²⁰¹ There has been no determination upriver of that allotment, which is generally reported as shallower and interrupted by beaver dams. None of the tributaries have been held as navigable throughout the determination process, although the two right-bank tributaries meeting Bogus Creek in Sec. 11, T. 13 N., R. 64 W., SM and the left-bank tributary, the Qavinngalria, meeting Bogus Creek in Sec. 3, T. 13 N., R 62 W., SM have been determined navigable as of 1989, but not in subsequent BLM documents.

In general, the BLM has characterized Bogus Creek as a "continuous, medium-to-high meandering, deep-channeled creek... free of obstructions." The agency has recognized it as a "continuous transportation corridor,"²⁰² and the creek has been recognized as a "deep tundra stream" that is "measured in feet, not inches."²⁰³ Photos taken during Native allotment field examinations and during the BIA archaeological investigation of Kassiglut Atliit corroborate these descriptions. Although the tributary that was once thought to be the main channel of Bogus Creek has been reported as having many beaver dams and shallow water, Bogus Creek itself does not appear to be obstructed, at least through the Native allotment at river mile 44.

There are seven Native allotments that lie along or across Bogus Creek, six near the mouth in T. 13 N., R. 64 W., SM, and a seventh farther upriver in Sec. 32, T. 14 N., R. 61 W., SM. All of these allotments were used for subsistence activities, including fishing, hunting, berry and plant gathering, and trapping, and most of the use dates back to before statehood.

Much of the use that Bogus Creek has seen, and continues to see, is related to Native subsistence activities, particularly fishing, hunting, berry and plant gathering, and trapping. The Native allotment holders along the creek as far upstream as river mile 44 all used their lands for these purposes, most of them in open-water seasons. There is evidence from their allotment application files that they used boats with outboard motors extensively to reach their lands on the creek. Likewise, the residents of Tuluksak have used, and continue to use, the area around Bogus Creek for subsistence activities. The former semipermanent village site of Kassiglut Atliit at the confluence of Bogus Creek and Qavinngalria Creek shows evidence of this use, both in the past and in more recent times. Reports from oral interviews conducted by the BIA when investigating the village site and by UAF for oral histories include extensive mention of the use of Bogus Creek by Tuluksak residents.

This subsistence use corroborates the subsistence activities studied by various anthropologists and researchers in reports for federal and state agencies, and other similar sources. These reports show the importance of subsistence not only as a means of resource gathering and use, but also as an economic system that can integrate into

neighboring economic systems. The use of Bogus Creek varies from season to season and year to year, but it is centrally located within an area of heavy subsistence use among the residents of nearby villages.

Endnotes

¹ Brown, C. Michael. *Alaska's Kuskokwim River Region: A History*. Anchorage, Alaska, Bureau of Land Management State Office, 1983, p. 29. Brown stated that Bogus Creek "enters a slough of the Kuskokwim River at river mile 3. The slough itself enters the Kuskokwim River at river mile 108." It is unclear what he meant by that description.

² Donald J. Orth, *Dictionary of Alaska Placenames*. Geological Survey Professional Paper 506, United States Geological Survey, Washington, D.C.: GPO, 1971, p. 149; GNIS Detail – Bogus Creek http://geonames.usgs.gov/apex/f?p=gnispq:3::NO::P3_FID:1399247

³ Oral History of Nicholai Peter, in Report of Investigation for Kassiglut Atliit, Calista Corporation, BLM files AA-10427, p. 6; Email correspondence between Mark Rice and Robert Drozda of the Alaska and Polar Regions Collections & Archives, Elmer E. Rasmuson Library, University of Alaska Fairbanks, May-June 2014.

⁴ Oral History of Nicholai Peter, in Report of Investigation for Kassiglut Atliit, p. 6.

⁵ Orth, *Dictionary of Alaska Placenames*, p. 149.

⁶ Oral History of Nicholai Peter, in Report of Investigation for Kassiglut Atliit, p. 6.

⁷ Field Map 88CAL12A comprised of 1:63,360 scale USGS mapsheet (Russian Mission A-4) with annotations by Robert Drozda. The original map is on file at the BIA ANCSA Office, Anchorage. Digital copies on file at BIA ANCSA and UAF Rasmuson Library Archives, AHP CPSU and ANCSA 14(h)(1) Historical Places and Cemetery Sites Collection, Fairbanks, Alaska, Summer 1988.

⁸ Email correspondence between Mark Rice and Robert Drozda of the Alaska and Polar Regions Collections & Archives, May-June 2014.

⁹ Oral History of Peter Waskie and Peter Napoka, in Report of Investigation for Kassiglut Atliit, p. 5.

¹⁰ Field Map 88CAL12A comprised of 1:63,360 scale USGS map sheet (Russian Mission A-4) with annotations by Robert Drozda. The original map is on file at the BIA ANCSA Office, Anchorage. Digital copies are on file at BIA ANCSA and UAF Rasmuson Library Archives, AHP CPSU and ANCSA 14(h)(1) Historical Places and Cemetery Sites Collection, Fairbanks, Alaska, Summer 1988.

¹¹ Lott, Peter, tape recorded interview and transcript, Dennis Griffin, interviewer, Vernon Chimegalrea, interpreter, June 23, 1988, recorded at Tuluksak, Alaska, Tape 88CAL034. Transcribed, entered into computer, and edited by Lucy Coolidge Daniels, Irene Reed, and Sophie Manutuli Shield, AHP CPSU and ANCSA 14(h)(1) Historical Places and Cemetery Sites Collection, Alaska and Polar Regions Collections and Archives, Rasmuson Library, University of Alaska Fairbanks, and BIA ANCSA Office, Anchorage.

¹² Land Abstract Summary, Alaska Department of Natural Resources, <http://dnr.alaska.gov/projects/las/#custflag/y/activeonlyflag/n/section/00/township/013N/range/064W/reporttype/abstract/casetype/0/meridian/S/searchtype/land>.

¹³ Richard Thwaites, BLM Chief, Land Transfer Adjudication II Branch, Interim Conveyance Nos. 2244 and 2245, July 30, 2009, BLM files F-14902-A and F-14902-A2.

¹⁴ Certificate of Eligibility, May 31, 1989, BLM files AA-10427; Decision, June 19, 2009, BLM files F-14902-A.

¹⁵ Letter from Jason Cheney, Alaska Department of Fish and Game, Division of Sport Fish, to Robert Loyd [sic], Bureau of Land Management, Alaska State Office, February 19, 2009, BLM Easement file F-14902-EE, p. 1.

¹⁶ Board of Road Commissioners, *Annual Report of the Alaska Road Commission, Fiscal Year 1925, Part II, Operations*, Juneau, Alaska, 1925, p. 71.

¹⁷ John Napoka and Richard Phillip, interviewed by Bill Schneider, Louann Rank, Marla Statscewich, and Freda Alexie, September 22, 2004, Tape #H2004-07-10, Tuluksak Jukebox Program, located at <http://jukebox.uaf.edu/yupit/tuluksakjbx/htm/John.htm>.

¹⁸ Brown, *Alaska's Kuskokwim River Region, A History*, p. 494.

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- ¹⁹ The BLM Division of Resources issued their recommendation based on the criteria that Bogus Creek was “used by boats capable of carrying in excess of 1,000 pounds and used to obtain access to seasonally used camps or native allotments.” Cited in Brown, *Alaska’s Kuskokwim River Region: A History*, pp. 494-495.
- ²⁰ Edgar A. Earnhart, BLM Realty Specialist to F-14888-EE, Memorandum on Supplemental Interviews for Group 254 (Window 1834), March 28, 1989, BLM files F-14888-EE, pp. 1-2.
- ²¹ Edgar A. Earnhart, BLM Realty Specialist, to F-16534 (Parcel D), Memorandum on Supplementary Navigability Report Interview with Dennis Stromm [sic], Assistant Manager, Yukon Delta National Wildlife Refuge, Group 254 (Window 1834), April 4, 1989, BLM files F-14888-EE, pp. 1-2.
- ²² Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum on Navigable Waters in Group Survey No. 268 (Window 1836), May 8, 1989, BLM file F-14949, p. 2.
- ²³ Ibid., BLM files F-14949-EE.
- ²⁴ Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum on Navigable Waters in Group Survey No. 254 (Window 1834), May 8, 1989, BLM file F-14949-EE, p. 8.
- ²⁵ Letter from C. Michael Brown, BLM Navigable Waters Specialist, to Michael B. Rearden, Refuge Manager, Yukon Delta NWR, December 13, 1995, BLM files, Office 2628 (930), p. 3.
- ²⁶ Dominica VanKoten, Chief, BLM Navigability Section, to Chief, Branch of Survey Planning and Preparation, Memorandum on Navigable Waters within the Tuluksak Village Project Area, August 15, 2006, BLM file F-14949-A.
- ²⁷ Land Selection Application F-14902-A, from Napaskiak, Inc., November 22, 1974, BLM files, F-14902-A; Final Priorities for Napaskiak, Inc., sent to Ramona Chinn, BLM Deputy State Director, May 8, 2006, included with correspondence with BLM, February 1, 2010, BLM files, F-14902-A2.
- ²⁸ Chief, Navigability Section (927) to Chief, Branch of Survey Planning and Preparation (927), Memorandum on Navigable Waters within Survey Group No. 1019, May 1, 2007, BLM files F-14902-A, p. 1.
- ²⁹ Ibid., p. 2.
- ³⁰ Decision, June 19, 2009, BLM files F-14902-A2, pp. 2-3.
- ³¹ Clay, Roger. *A Compilation of Hydrologic Data on the Kuskokwim Region*, Alaska Department of Natural Resources, Division of Geological & Geophysical Surveys, Anchorage, Alaska, 1983, p. 72.
- ³² Ibid.
- ³³ Natalie M. Cooper, Chief of BLM Navigability Section to Chief, BLM Branch of Survey Planning and Preparation, Memorandum on Navigable Waters within Group Survey No. 1019, May 1, 2007, BLM file F-14902-EE, p. 2.
- ³⁴ C. Michael Brown, *Kuskokwim River Region: A History*, p. 29.
- ³⁵ Natalie M. Cooper, Chief, BLM Navigability Section, to Chief, BLM Branch of Survey Planning and Preparation Subject, Memorandum on Navigable Waters within Group Survey No. 1019, May 1, 2007, BLM file F-14902-E, p. 2.
- ³⁶ Cited in Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum on Navigable Waters in Group Survey No. 254 (Window 1834), May 8, 1989, BLM file F-14949-EE, p. 8.
- ³⁷ Natalie M. Cooper, Chief, BLM Navigability Section, to Chief, BLM Branch of Survey Planning and Preparation Memorandum, on Navigable Waters within Group Survey No. 1019, May 1, 2007, BLM file F-14902-E, p. 2.
- ³⁸ Alaska Native Allotment Application and Evidence of Occupancy for Elia Evan, April 2, 1971, Native allotment file FF-16534-D, BLM files, Anchorage.
- ³⁹ Wayne A. Boden, Deputy BLM State Director for Conveyance Management, to Deputy BLM State Director for Cadastral Survey, Memorandum on Navigable Waters in Group Survey 254 (Window 1834), May 8, 1989, BLM file F-14949-EE, p. 8.
- ⁴⁰ Natalie M. Cooper, Chief, BLM Navigability Section, to Chief, BLM Branch of Survey Planning and Preparation, Memorandum on Navigable Waters within Group Survey No. 1019, May 1, 2007, BLM file F-14902-E, p. 2.

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- ⁴¹ Report of Investigation for Kassiglut Atliit, Calista Corporation, BLM files AA-10427.
- ⁴² Ricky M. Elliott, BLM Land Law Examiner, Native Allotment Field Report, July 13, 1975, Native allotment file F-33646, BLM files; Native Allotment application of James Lott Sr., April 17, 1963, BLM files, Native allotment file F-31214, BLM files; Dwight Hovland, BLM Natural Resource Specialist, Native Allotment Field Report, September 17, 1984, Native allotment file FF-18420, BLM files.
- ⁴³ Joe C. Morris, Jr., BLM Realty Specialist, Native Allotment Land Report, November 11, 1986, Native allotment file AA-56434, BLM files; Ricky M. Elliott, BLM Land Law Examiner, Native Allotment Field Report, July 13, 1975, Native allotment file F-16119, BLM files.
- ⁴⁴ Dorothy J. Bonds, BLM Realty Specialist, Native Allotment Field Report, September 12, 2005, Alaska Native Allotment Application, April 1, 1960, Native allotment file F-25272, BLM files.
- ⁴⁵ Brown, *Kuskokwim River Region: A History*, p. 29.
- ⁴⁶ *Ibid.*, p. 747.
- ⁴⁷ *Ibid.*, p. 745.
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