

Israthorak Creek
HUC 30502, Zone 4, Kuskokwim River Region

Draft
INTERIM SUMMARY REPORT

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Phase II-B Submission

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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. 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 materials located in 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, analyses 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. For other completed Navigable Waters Research Reports in this series, see: <http://www.dnr.state.ak.us/mlw/nav/naar/>. The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government.

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Attachments (in PDF format)

- Attachment 1.** Clifford Ells, BLM Realty Specialist, Draft SD Memo for Lower Kalskag May 5, 1980, BLM file F-4888-EE.
- Attachment 2.** Marty Karstetter and Paul Johnson, BLM Realty Specialists, Memorandum on Meeting held with the Kuskokwim Corporation Concerning Lands near Stony River, Sleetmute, Red Devil, Georgetown, Crooked Creek, Napaimute, Russian Mission, Aniak, Upper Kalskag, and Lower Kalskag, May 17, 1982, BLM file F-14888-EE.
- Attachment 3.** Robert W Faithful, Assistant to the State Director for Conveyance Management, letter to Glenn Fredericks of the Kuskokwim Corporation, August 20, 1982, BLM file F-14888-EE.
- Attachment 4.** Robert D. Arnold, BLM Assistant to the State Director for Conveyance Management, Memorandum on Final Easements for the Kuskokwim Corporation for the Village of Lower Kalskag, August 25, 1982, BLM file F-14888-EE.
- Attachment 5.** Anne Johnson, Chief of BLM Branch of ANCSA Adjudication, Decision, September 30, 1982, BLM file F-14888-EE.
- Attachment 6.** Anne Johnson, Chief of BLM Branch of ANCSA Adjudication, Interim Conveyance Nos. 745 and 746, September 30, 1983, BLM file F-14888.
- Attachment 7.** Edgar A. Earnhart, BLM Realty Specialist, Memorandum on Interviews for Group Survey 254 (Window 1834), August 4, 1989, BLM file F-14888-EE.
- Attachment 8.** Wayne A. Boden, BLM Deputy State Director for Conveyance Management, Memorandum on Navigable Waters in Group Survey 254 (Window 1834), May 8, 1989, BLM file F-14888-EE.
- Attachment 9.** Wayne A. Boden, BLM Deputy State Director for Conveyance Management, Memorandum on Navigable Waters in Group Survey 268 (Window 1836), May 8, 1989, BLM file F-14888-EE.
- Attachment 10.** Laura Lagstrom, BLM Navigable Water Specialist, Memorandum on Interviews for Nunapitchuk Window, 2001, March 21, 2001, BLM Navigability Section Files, Alaska Regional Office.
- Attachment 11.** Laura Lagstrom, Navigability Report: Israthorak Creek, June 5, 2002, BLM Navigability Section Files, Alaska Regional Office, BLM files.
- Attachment 12.** Laura Lagstrom, Navigability Report: Left Bank Tributary of Israthorak Creek, June 5, 2002, BLM Navigability Section Files, Alaska Regional Office.
- Attachment 13.** Gust C. Panos, Chief of BLM Branch of Mapping Sciences, Memorandum on Navigable Waters in Native Allotments Scheduled for Survey – Nunapitchuk 2001 (Group Surveys 254, 268 and 270), August 29, 2002, BLM file F-16023-A.
- Attachment 14.** Jerry B. Lewis, Chief of BLM Survey Preparation and Navigability Section, Memorandum on Navigable Waters within ANSCA-Selected and Interim Conveyed (IC) Lands in the Lower and Upper Kalskag Project Area (CANA-1, Calista Region), January 15, 2004, BLM file F-14888-EE.
- Attachment 15.** Denny Benson, Easement Coordinator, BLM Branch of Land Transfer Services, Memorandum on Notice of Proposed Easement Recommendations for the Village of Lower Kalskag, August 31, 2004, BLM file F-14888-EE.
- Attachment 16.** Denny Benson, Easement Coordinator, BLM Branch of Land Transfer Services, Memorandum on Final Easement Recommendations and Patent Easement

Review for Lands near the Village of Lower Kalskag, December 2, 2004, BLM file F-14888-EE.

Attachment 17. Richard Thwaites, BLM Chief, Branch of Land Transfer Services, Patent Nos. 50-2005-0430 and 50-2005-0431, September 7, 2005, BLM file F-14888-A.

Attachment 18. Richard Thwaites, BLM Chief of Land Transfer Adjudication II, Interim Conveyance Nos. 2179 and 2180, December 10, 2008, BLM file F-14888.

Attachment 19. Richard Thwaites, BLM Chief of Land Transfer Adjudication II, Interim Conveyance Nos. 2278 and 2279, September 21, 2009, BLM file F-14823.

Attachment 20. Barbara Opp Waldal, Land Law Examiner, BLM Land Transfer Adjudication Branch, Intent to Issue Patent, November 28, 2011, BLM file F-14888-EE.

Attachment 21. Robert L. Lloyd, BLM Acting Deputy State Director, Division of Lands and Cadastral, Patent Nos. 50-2013-0170 and 50-2013-0171, September 19, 2013, BLM file F-14888-A.

Attachment 22. Master Title Plats (MTPs) for Israthorak Creek.

Attachment 23. U.S. Surveys for Israthorak Creek.

Israthorak Creek

HUC 30502, Zone 4, Kuskokwim River Region

II-B Interim Summary Report

I. Introduction

Israthorak Creek is located in the Yukon-Kuskokwim Delta Region, Zone 4 within HUC 30502 (Figure 1). Israthorak Creek is a watercourse connecting the Kuskokwim River and the Pikmiktalik River.

The name Israthorak Creek is the Eskimo name reported by the United States Coast and Geodetic Survey in 1949.¹ Variant names found in documents include “Eliaq,” “Illie’yuk” and other phonetic variants. The name Israthorak Creek, used in this report, is the name recorded in the United States Geologic Survey (USGS) Geographic Names Information System (ID: 1403975) and is the name used to label the creek in the USGS Russian Mission B-5 Quad map.²

Israthorak Creek comprises a main channel that is an anabranch of the Kuskokwim River, connecting to the Pikmiktalik River over a course of 99.4 river miles. There are also two tributary sloughs, one right at the head of the creek from the Kuskokwim River that connects to the Kuskokwim River southwest of Israthorak Creek’s head, and the other at river mile 95.3 connects to a slough of the Kuskokwim River to the east. A third tributary is a stream that connects to Israthorak Creek at river mile 10, and flows east and then west into a lake just to the west of the creek.

There are no permanent, year-round settlements on Israthorak Creek, but the creek was the site of several historical settlements, ranging from several hundred years to several decades old. Most of the residents of these settlements migrated to neighboring villages like Tuluksak, Lower Kalskag, Akiak, and Akiachak, as well as other surrounding communities, during a period of consolidation following epidemics in the early twentieth century and the building of Bureau of Indian Affairs (BIA) schools starting in the 1930s. Residents of these villages who descended from those who lived along Israthorak Creek still use the creek extensively, both through Native allotments located on the creek, and through other travel and subsistence activity.

Figure 1. Map of HUC-30502 Zone 4 showing location of Israthorak Creek.

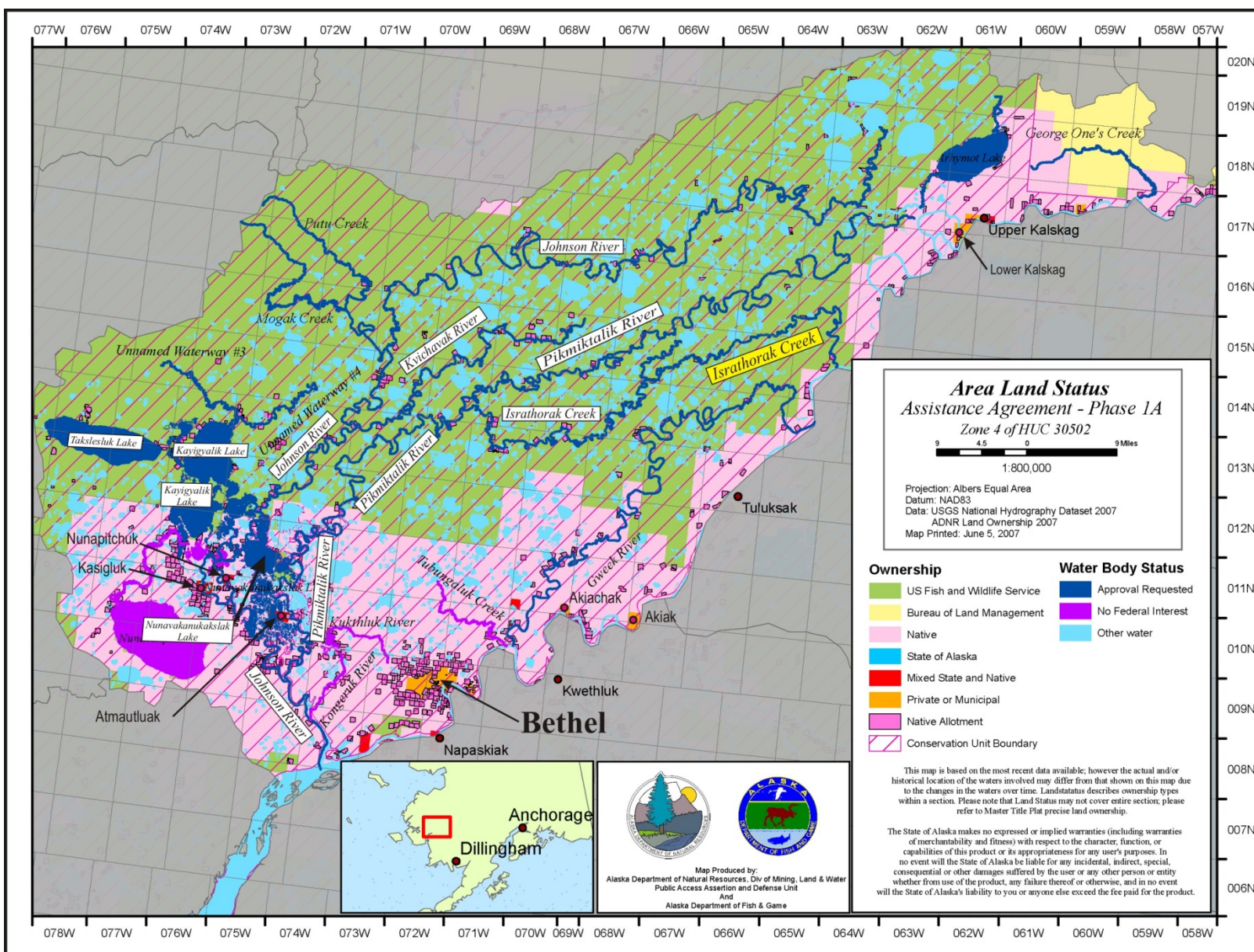


Figure 1. Map showing the location of the Israthorak Creek within Zone 4 of HUC-30502 in the Kuskokwim River Region.

Israthorak Creek is 99 miles long and primarily flows through the Yukon Delta National Wildlife Refuge (NWR). It is in 14 townships and 95 sections: Township (T.), Range (R.), Section (Sec.), Seward Meridian (SM):

T. 14 N. R. 64 W. Sec. 11	T. 14 N. R. 65 W. Sec. 06	T. 12 N. R. 68 W. Sec. 06
T. 14 N. R. 64 W. Sec. 10	T. 14 N. R. 66 W. Sec. 12	T. 13 N. R. 68 W. Sec. 35
T. 14 N. R. 64 W. Sec. 03	T. 14 N. R. 66 W. Sec. 13	T. 12 N. R. 69 W. Sec. 01
T. 14 N. R. 64 W. Sec. 02	T. 14 N. R. 66 W. Sec. 14	T. 12 N. R. 69 W. Sec. 02
T. 15 N. R. 64 W. Sec. 35	T. 14 N. R. 66 W. Sec. 23	T. 12 N. R. 69 W. Sec. 12
T. 14 N. R. 64 W. Sec. 01	T. 14 N. R. 66 W. Sec. 15	T. 12 N. R. 69 W. Sec. 11
T. 15 N. R. 64 W. Sec. 36	T. 14 N. R. 66 W. Sec. 22	T. 12 N. R. 69 W. Sec. 03
T. 15 N. R. 63 W. Sec. 31	T. 14 N. R. 66 W. Sec. 21	T. 13 N. R. 68 W. Sec. 33
T. 15 N. R. 64 W. Sec. 34	T. 14 N. R. 66 W. Sec. 16	T. 13 N. R. 68 W. Sec. 32
T. 15 N. R. 64 W. Sec. 27	T. 14 N. R. 66 W. Sec. 17	T. 13 N. R. 68 W. Sec. 31
T. 15 N. R. 64 W. Sec. 26	T. 14 N. R. 66 W. Sec. 20	T. 12 N. R. 69 W. Sec. 04
T. 15 N. R. 64 W. Sec. 22	T. 14 N. R. 66 W. Sec. 19	T. 12 N. R. 69 W. Sec. 09
T. 15 N. R. 64 W. Sec. 23	T. 14 N. R. 66 W. Sec. 30	T. 12 N. R. 69 W. Sec. 05
T. 15 N. R. 64 W. Sec. 14	T. 14 N. R. 67 W. Sec. 25	T. 12 N. R. 69 W. Sec. 08
T. 15 N. R. 64 W. Sec. 15	T. 14 N. R. 67 W. Sec. 26	T. 12 N. R. 69 W. Sec. 07
T. 15 N. R. 64 W. Sec. 21	T. 14 N. R. 67 W. Sec. 35	T. 12 N. R. 70 W. Sec. 12
T. 15 N. R. 64 W. Sec. 16	T. 14 N. R. 67 W. Sec. 34	T. 12 N. R. 70 W. Sec. 11
T. 15 N. R. 64 W. Sec. 20	T. 13 N. R. 67 W. Sec. 03	T. 12 N. R. 70 W. Sec. 10
T. 15 N. R. 64 W. Sec. 29	T. 13 N. R. 67 W. Sec. 04	T. 12 N. R. 70 W. Sec. 15
T. 15 N. R. 64 W. Sec. 19	T. 13 N. R. 67 W. Sec. 09	T. 12 N. R. 70 W. Sec. 16
T. 15 N. R. 64 W. Sec. 30	T. 13 N. R. 67 W. Sec. 10	T. 12 N. R. 70 W. Sec. 09
T. 15 N. R. 65 W. Sec. 24	T. 13 N. R. 67 W. Sec. 15	T. 12 N. R. 70 W. Sec. 04
T. 15 N. R. 65 W. Sec. 25	T. 13 N. R. 67 W. Sec. 16	T. 12 N. R. 70 W. Sec. 08
T. 15 N. R. 65 W. Sec. 36	T. 13 N. R. 67 W. Sec. 17	T. 12 N. R. 70 W. Sec. 05
T. 15 N. R. 65 W. Sec. 35	T. 13 N. R. 67 W. Sec. 20	T. 13 N. R. 69 W. Sec. 31
T. 14 N. R. 65 W. Sec. 02	T. 13 N. R. 67 W. Sec. 19	T. 13 N. R. 69 W. Sec. 30
T. 14 N. R. 65 W. Sec. 03	T. 13 N. R. 68 W. Sec. 24	T. 13 N. R. 70 W. Sec. 36
T. 15 N. R. 65 W. Sec. 34	T. 13 N. R. 67 W. Sec. 30	T. 13 N. R. 70 W. Sec. 25
T. 14 N. R. 65 W. Sec. 04	T. 13 N. R. 68 W. Sec. 25	T. 13 N. R. 70 W. Sec. 26
T. 14 N. R. 65 W. Sec. 05	T. 13 N. R. 67 W. Sec. 31	T. 13 N. R. 70 W. Sec. 27
T. 14 N. R. 65 W. Sec. 08	T. 13 N. R. 68 W. Sec. 36	
T. 14 N. R. 65 W. Sec. 07	T. 12 N. R. 68 W. Sec. 05	

The nearest villages to Israthorak Creek are Tuluksak, Lower Kalskag, Akiachak, and Aniak. These villages are located on the Kuskokwim River. Native Allotment applicants on Israthorak Creek are primarily residents of Akiachak with some also residing within Tuluksak and Lower Kalskag which are located within 20 air miles of Israthorak Creek.

II. Land Status

Israthorak Creek flows within the boundaries of the Yukon Delta NWR. and through Alaska Native Claims Settlement Act (ANCSA) Native corporation lands and Native allotments.

In 1909 a federal withdrawal of lands within the present day Yukon Delta NWR created a preserve and breeding ground for birds. The federal government continued to add lands to the preserve through 1961. In 1980, under the Alaska National Interest Lands Conservation Act (ANILCA), the existing preserve was expanded and transferred to the federal refuge system creating the Yukon Delta NWR.³ The expanded withdrawal in 1980 included Israthorak Creek. Title to the refuge lands is held by the United States. The United States Fish and Wildlife Service (USF&WS) is the manager of these lands.

The ANCSA was signed into law on December 18, 1971. The law established 13 Native regional corporations and over 200 Native village corporations. The village corporations and 12 of the regional corporations were entitled to the conveyance of over 44 million acres of land in Alaska to be distributed among these corporations based on population and other established principles. The 13th Native Corporation was not entitled to land conveyances as it was formed for Alaska Natives who were living outside of the State of Alaska. For the village-conveyed lands, the village corporations are entitled to the surface estate and the regional corporations are entitled to the subsurface estates.

The Kuskokwim Corporation (successor to Lower Kalskag, Inc.), the village corporation for Lower Kalskag, holds title to surface estate of ANCSA lands conveyed in 1983 in T. 14 N., R. 64 W., SM, covering river miles 95.7 to 99.4. These lands were patented in 2013.ⁱⁱ Tulkisarmute, Inc., the village corporation for Tuluksak, holds title to surface estate of ANCSA lands conveyed in 2009 in T. 12 N., Rs. 68 and 69 W, SM, covering river miles 16 to 32.2. These lands were patented in 2012 (corrected in 2013).ⁱⁱⁱ The Calista Corporation, the regional corporation for the area, holds subsurface estate to these conveyed lands.

There are 19 Native allotments abutting or close by Israthorak Creek. The Alaska Native Allotment Act of 1906 permitted individual Alaska Natives to acquire title to up to 160 acres of land. The Act was repealed in 1971 with the passage of ANCSA. A savings clause preserved allotment applications still pending as of the effective date of ANCSA on December 18, 1971.⁴ However, a number of Native allotment applications collected by Rural Cap in the 1970's were lost and never processed. Those affected by this event petitioned a Federal court under *Fanny Barr v. the United States*. Under the court settlement, individuals were allowed to submit new applications past the original ANCSA deadline. Twenty Alaska Native allotments were reviewed for this report due to their proximity to Israthorak Creek. Of those twenty Alaska Native allotments, sixteen applicants had their residence in Akiachak, and two each had residences in Lower Kalskag and Tuluksak.

ⁱⁱ Patent No. 50-2013-0170.

ⁱⁱⁱ Patent No. 50-2012-0233, corrected Patent No. 50-2013-0042.

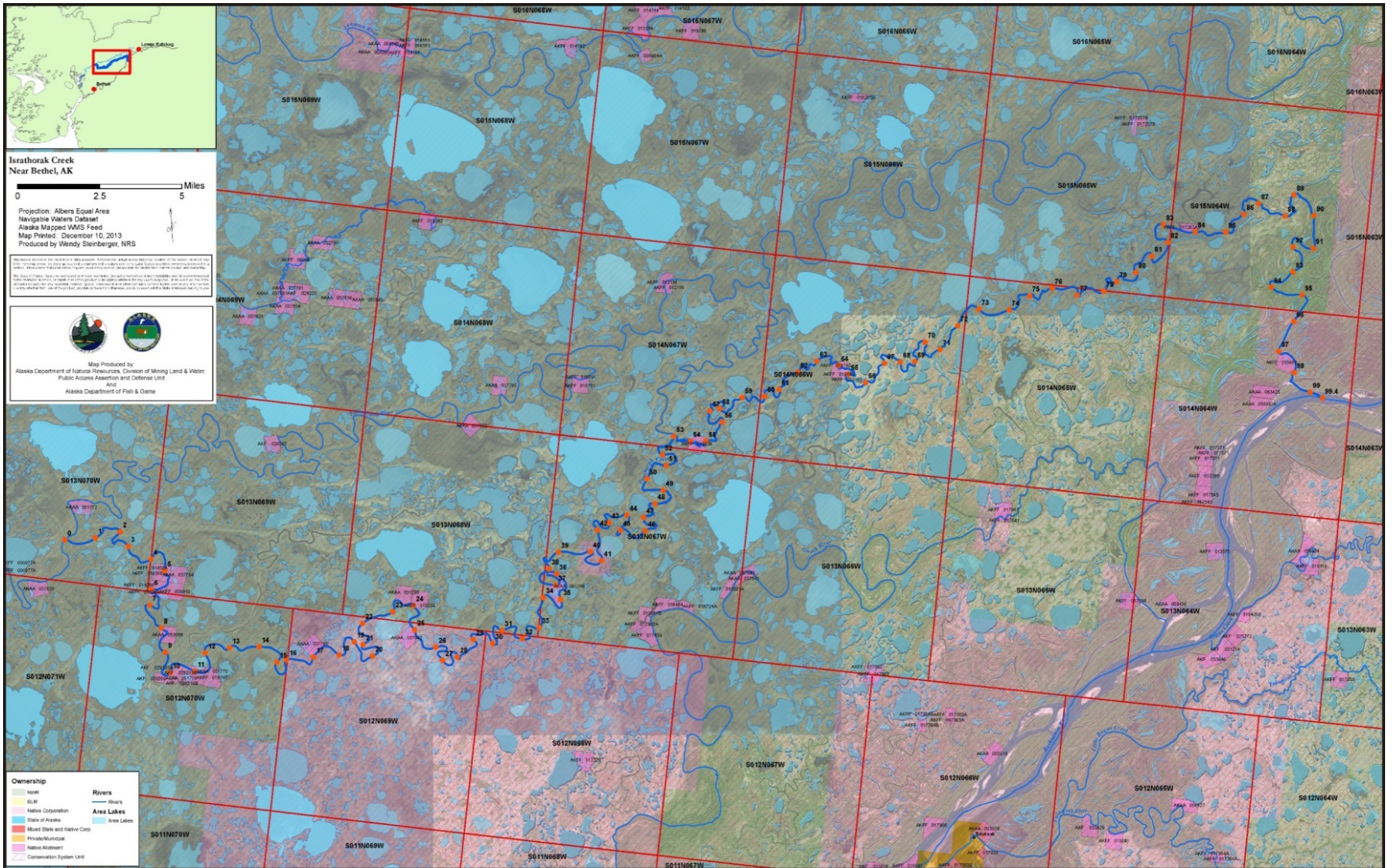


Figure 2. Map of Israthorak Creek showing land status and the creek from river mile 0.0 to 99.

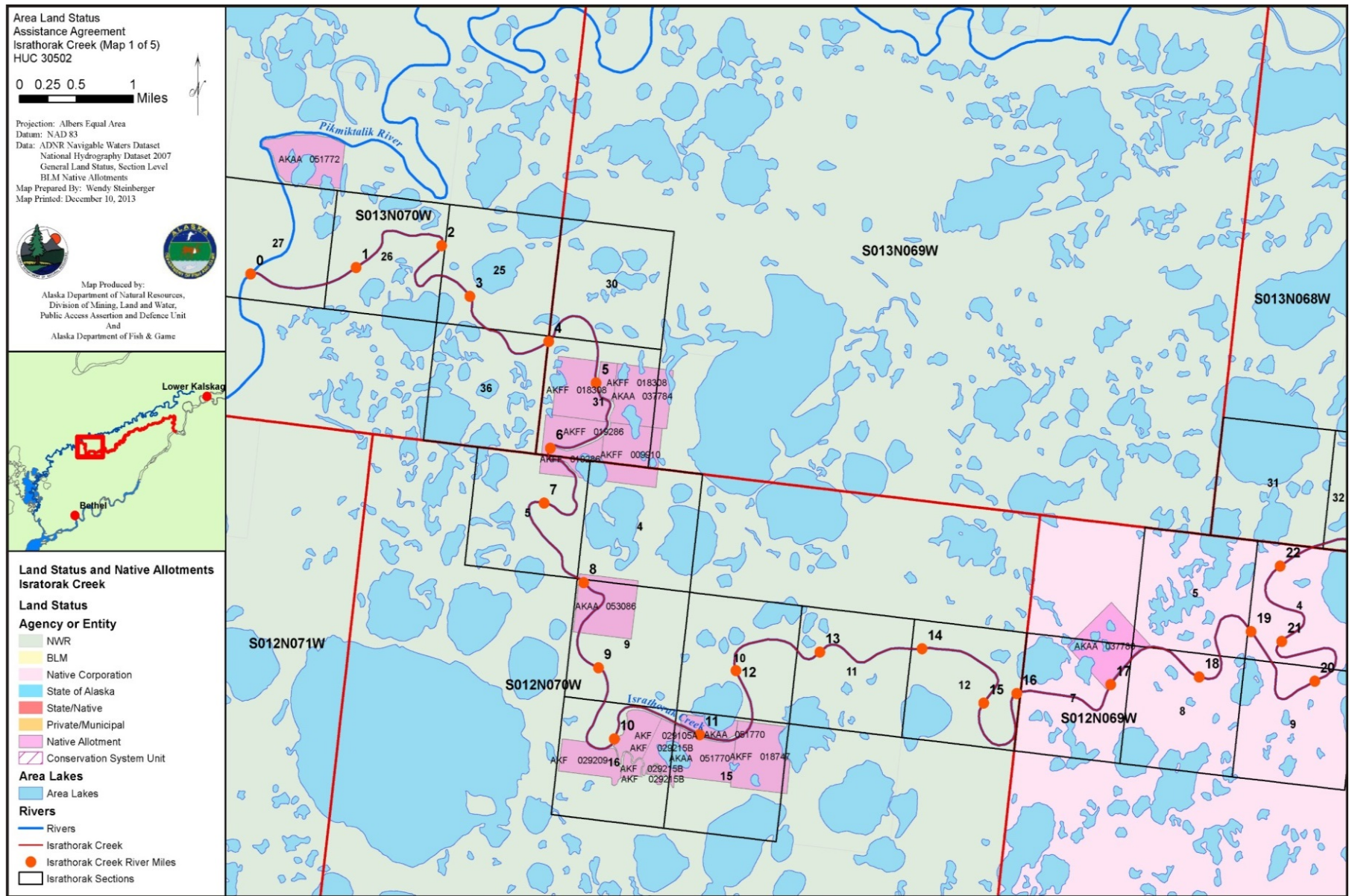


Figure 3. Map of Israthorak Creek showing land status and the creek from river mile 0.0 to 22.

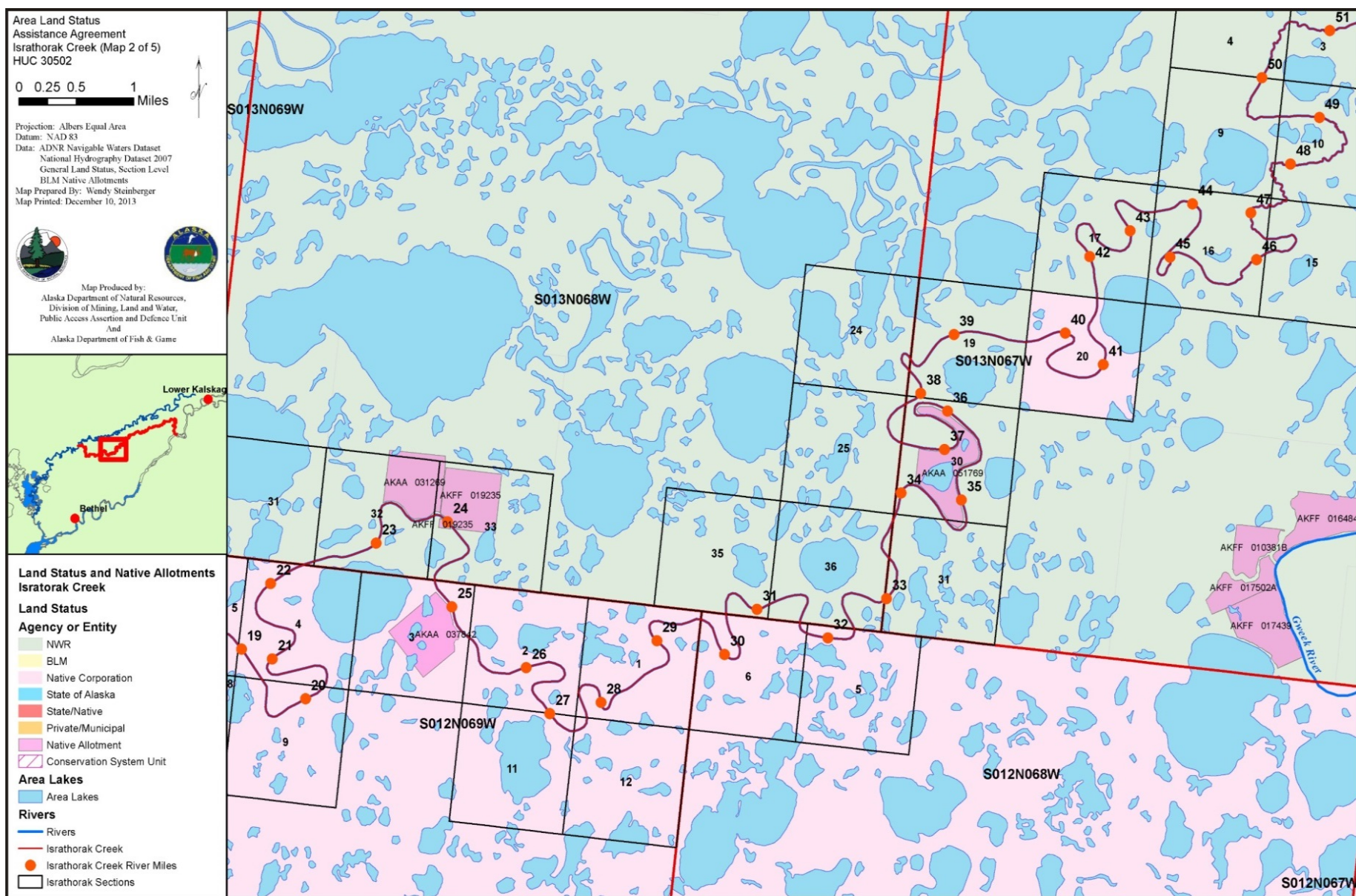


Figure 4. Map of Israthorak Creek showing land status and the creek from river mile 19 to 51.

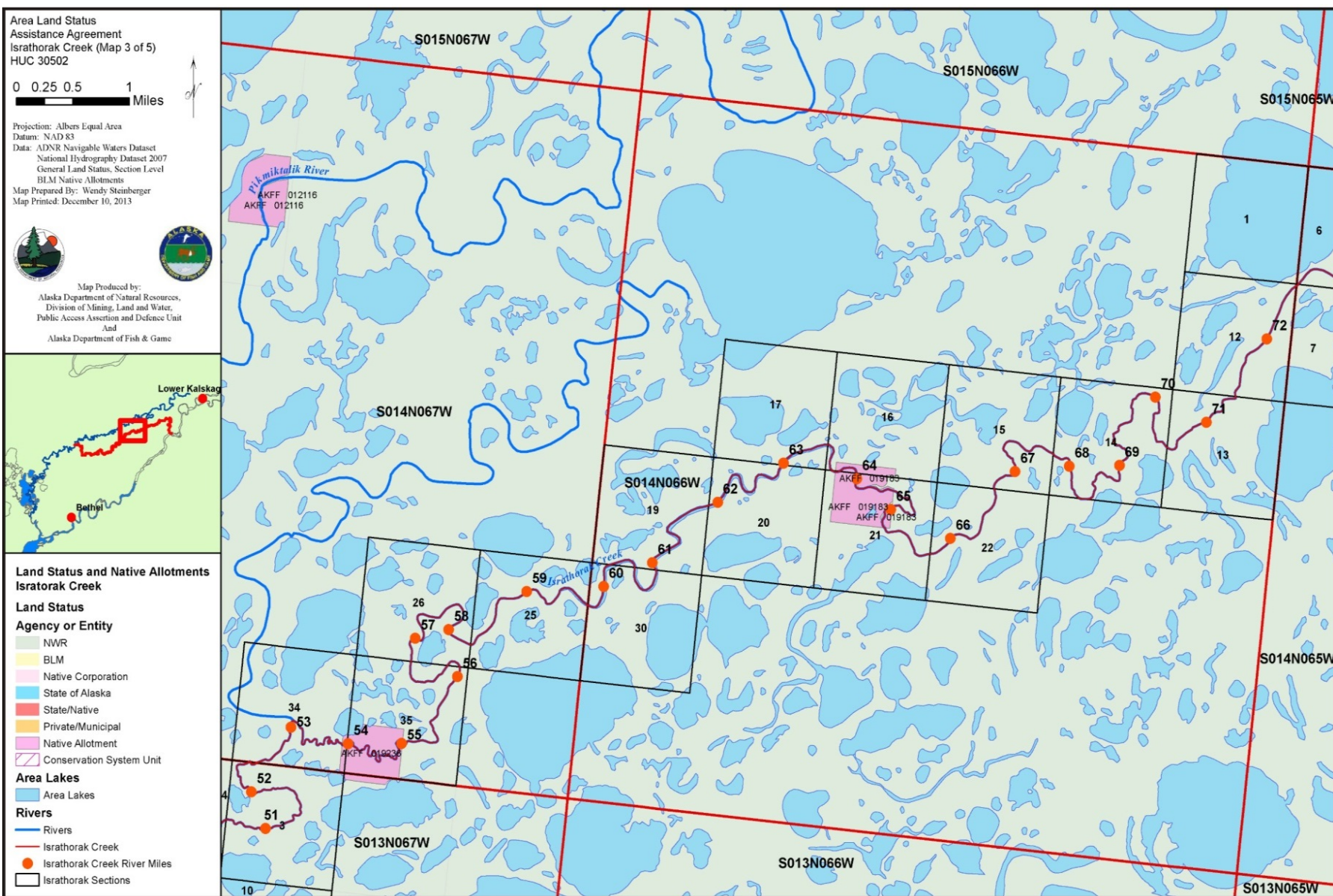


Figure 5. Map of Israthorak Creek showing land status and the creek from river mile 51 to 72.

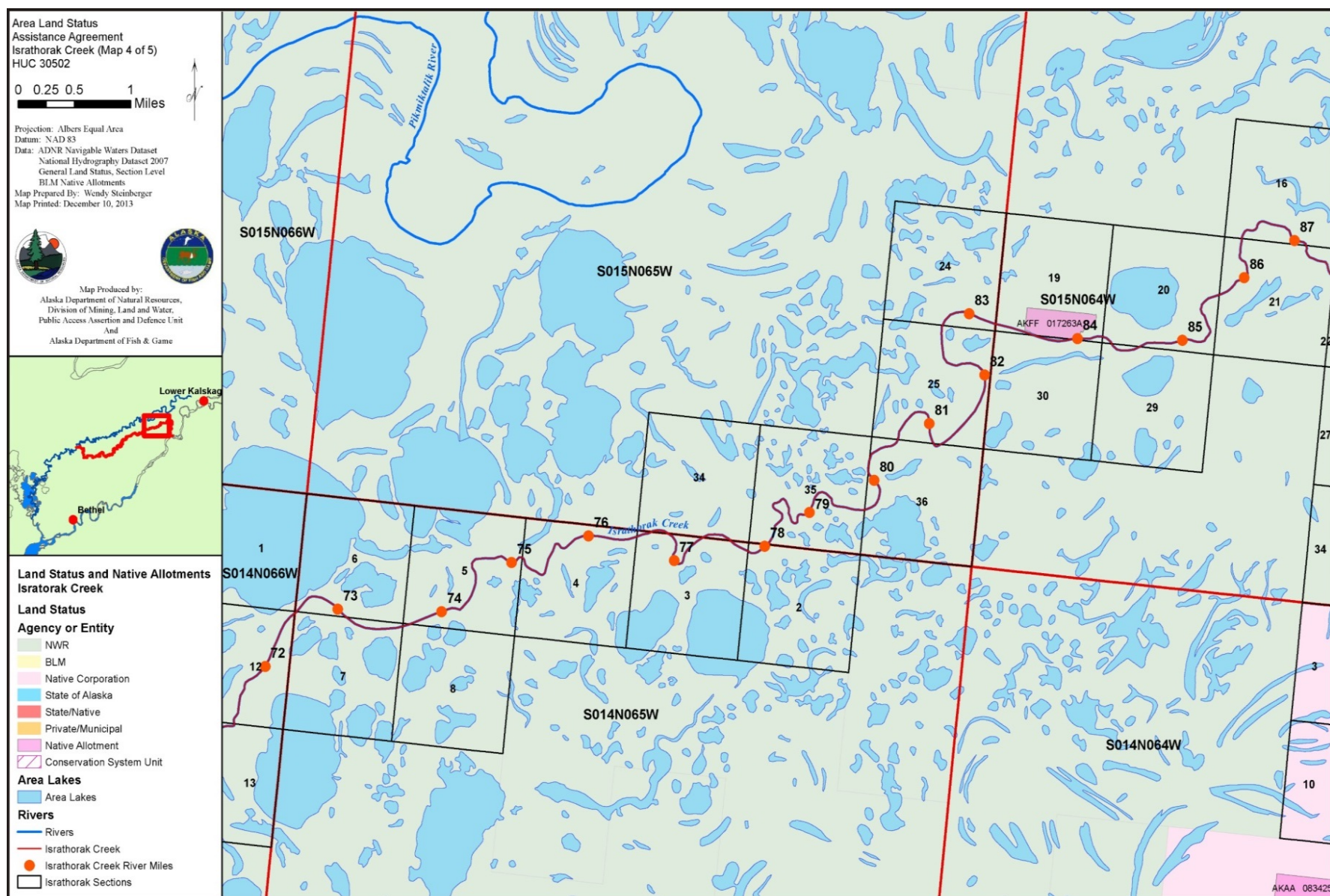


Figure 6. Map of Israthorak Creek showing land status and the creek from river mile 72 to 87.

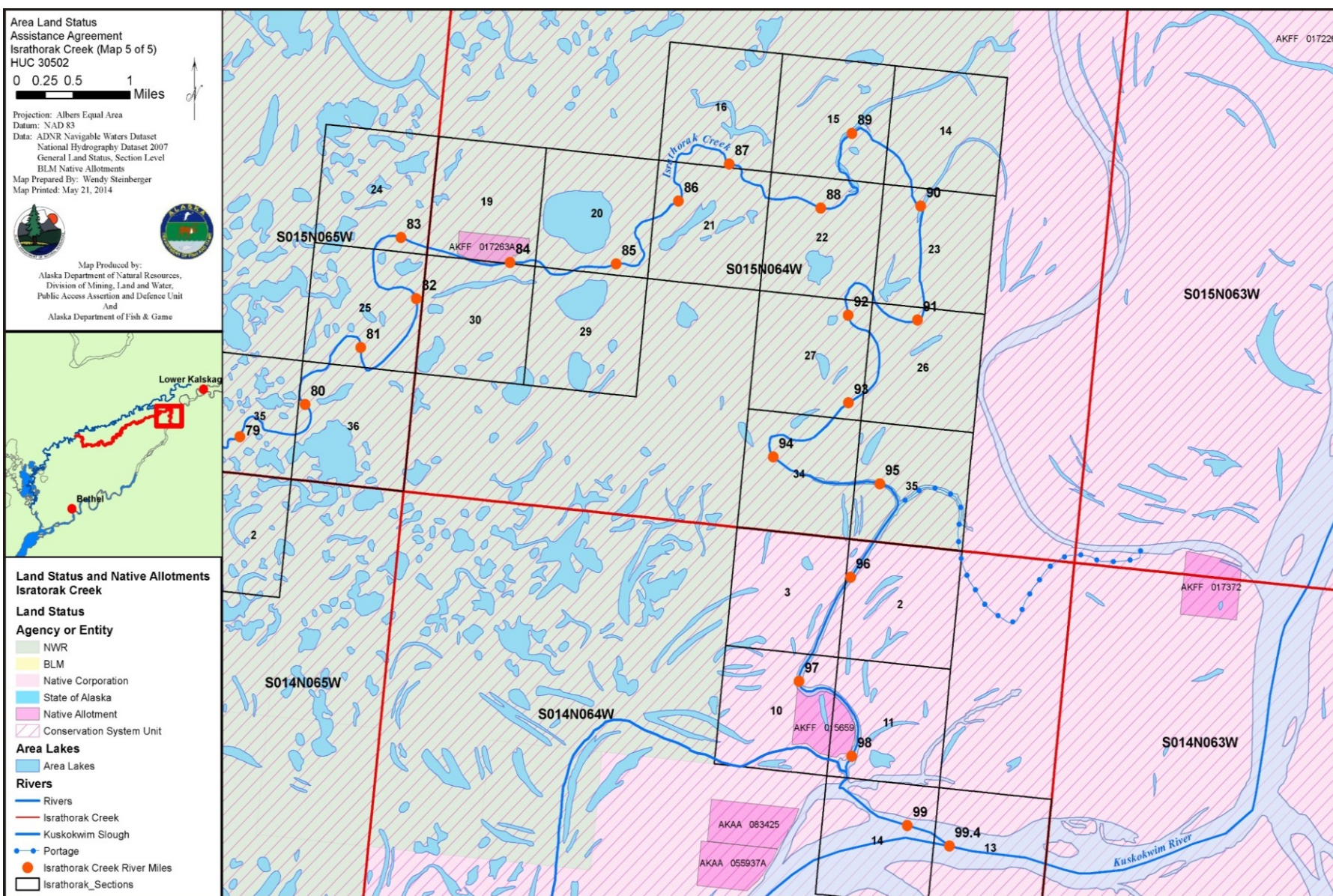


Figure 7. Map of Israthorak Creek showing land status and the creek from river mile 79 to 99.

III. BLM Navigability Determinations

The Bureau of Land Management (BLM) began actively seeking information on navigable waters in the Israthorak Creek area in the 1980s in preparation for land conveyances under ANCSA. The Kuskokwim Corporation and the Calista Regional Corporation selected ANCSA lands near the confluence of Israthorak Creek and the Kuskokwim River (river miles 95.7 to 99.4) in the 1980s.

The BLM first addressed the navigability of the water bodies within the Israthorak Creek area in a May 5, 1980 memo that did not list Israthorak Creek as navigable. (Attachment 1) The memo listed proposed easements to access public lands, since Israthorak Creek was considered non-navigable. A one acre site easement (EIN 17 E) was proposed upland of the ordinary high water mark in Sec. 12, T. 15 N., R. 64 W., SM, on the right bank of an unnamed slough of the Kuskokwim River, to facilitate access to public lands and to serve as a trailhead for trail EIN 17a. This proposed trail easement (EIN 17a E), twenty-five feet in width ran westerly from the site easement to public lands in Sec. 11, T. 15, N., R. 64 W., SM, and provided overland access between the unnamed, navigable slough off the Kuskokwim River and public lands.⁵

BLM personnel discussed these easement recommendations in a meeting with representatives of The Kuskokwim Corporation in Anchorage on April, 29 and 30, 1982, summarized in a memorandum dated May 17, 1982.⁶ The Kuskokwim Corporation representatives objected to these two easements, according to a summary of the meeting written by BLM officials, commenting that “public land and resources can be accessed via a side slough of Israthorak Creek which they said continues easterly from the SE¼, Sec. 11, joining a slough of the Kuskokwim in the SW¼, Sec. 12, T. 15 N., R. 64 W., Seward Meridian.... They will gather data to support the navigability of Israthorak Creek.”⁷ (Attachment 2)

On July 9, 1980, Edward J. McNamara, the Resources Manager for The Kuskokwim Corporation, wrote to Bob Arnold, the BLM Assistant State Director for ANCSA, formally requesting the BLM to determine Israthorak Creek to be navigable through the corporation’s selected and over-selected lands (river miles 99.7 to 99.4).^{iv} This letter included a statement signed by four people who claimed that “lots” of people frequently used the creek in boats fourteen to thirty feet in length and equipped with ten- to 75-horsepower motors, ascending the creek in spring and winter for hunting, trapping, and berry-picking. Three photographs, dated June 30, 1982, were attached to the letter, showing a waterbody labeled “Israthorak Creek,” with one also labeled “Lee Morgan bringing up Ed McNamara up Israthorak Creek 6/30/82.”⁸

A letter from Robert D. Arnold, BLM Assistant to the State Director, to Glenn Fredericks of The Kuskokwim Corporation on August 20, 1982, agreed to move the proposed site easement to SE¼, Sec. 19, T. 16 N., R. 63 W., SM, with the trail easement bearing northwesterly from the site to public lands in Sec. 13, T. 16 N., R. 64 W., SM. The letter noted that access “from within the conveyance area to public land and resources can be gained using the navigable sloughs of the Kuskokwim River... and navigable Israthorak Creek whose confluence with the Kuskokwim River is in the SW¼, Sec. 31, T. 15 N., R. 63 W., Seward Meridian.”⁹ (Attachment 3)

^{iv} This letter has not been found in BLM file F-14888-EE, and may be lost.

As a result of the objections from The Kuskokwim Corporation and the evidence provided by Edward McNamara, the BLM agreed that Israthorak Creek was navigable through the Lower Kalskag selections. This portion of Israthorak Creek was described as navigable by the BLM in a memorandum from Robert D. Arnold, BLM Assistant to the State Director for Conveyance Management to Chief, Division of ANCSA and State Conveyance dated August 25, 1982. (Attachment 4) The navigability determination was made from Israthorak Creek's "confluence with the Kuskokwim River in the SW¼, Sec. 11, T. 14 N., R. 64 W., to its interconnection with an unnamed slough of the Kuskokwim River in the S½, Sec. 31, T. 15 N., R. 63 W., Seward Meridian."¹⁰ This stretch of the creek runs from river miles 95.3 to 99.4, but then extends away from the creek to include approximately 2.25 miles of the interconnecting slough from Sec. 35, T. 15 N., R. 64 W., SM to its meeting with the unnamed slough of the Kuskokwim River in S½, Sec. 31, T. 15 N., R. 63 W., SM.

In a September 30, 1982 Decision, the BLM determined Israthorak Creek through Lower Kalskag's land selections as navigable, as it "[has] been or could be used in connection with travel, trade and commerce."¹¹ (Attachment 5) The attached maps do not show Israthorak Creek as navigable, and it is unclear if the attached maps were simply not updated to reflect the new navigability determination.

On September 30, 1983, the BLM issued IC Nos. 745 and 746, granting the surface estate for 84,596 acres to The Kuskokwim Corporation, 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. (Attachment 6) The main channel of Israthorak Creek was not included among the selections, but the interconnecting channel to the unnamed slough of the Kuskokwim River was in Sec. 31, T. 15 N., R. 63 W., SM and Sec. 36, T. 15 N., R. 64 W., SM, and was excluded from the conveyance.¹² The excluded area, where the interconnected channel was determined navigable, was not shown in the maps attached to the I.C.s

On June 23 1988, BLM Realty Specialist Edgar A. Earnhart conducted interviews with Wassilie Kameroff, the mayor of Lower Kalskag and a member of The Kuskokwim Corporation's board, and Evan Savage, also of Lower Kalskag, and summarized them in a memorandum dated August 4, 1988. (Attachment 7) They stated, according to Earnhart, that "use of Israthorak Creek above a point in the south half of Sec. 3, T. 14 N., R. 64 W., SM, would require extensive portaging. They confirmed that the stream entering the creek in Sec. 35, T. 15 N., R. 64 W., SM, is filled in. It had been excluded from IC 745 as navigable."¹³ On July 27, Earnhart spoke to George Morgan, Jr., who said that "he uses a one-hundred horsepower motor on an eighteen foot boat to ascend [the Israthorak] from the Kuskokwim, going up the part described as a 'slough of a slough of the Kuskokwim' to the point where it is filled in." Morgan noted that the creek is about 150 feet wide and "can be boated to what he described as filled-in areas commencing in Sec. 27,

T. 15 N., R. 64 W., SM and with several portages could be navigated by a small boat to where it essentially ends in Sec. 24, T. 15 N., R. 63 [64?] W., SM. [It] is boatable[,] [crossing] two portages, to Sec. 24, T. 15 N., R. 64 W., SM."¹⁴

On August 1, 1988, Earnhart spoke to Dennis Strom, manager of the Yukon Delta NWR in Bethel. Strom stated that in "many trips by plane observing the area, especially the around the [sic] Pikmitalik [sic] River and Israthorak Creek, he has never ceased to be amazed at the extent of penetration of the tundra by boats as large as twenty-one feet long in the fall rises of the water,

as well as in the spring.” He described Israthorak Creek as “deep, however narrow,” and traced the stream from a north branch heading in Sec. 2, T. 15 N., R. 64 W., SM, “which he is certain is boatable most of the year; the south branch, which enters/exits the Kuskokwim in Sec. 11, T. 14 N., R. 64 W., SM. he believes to flow both ways, depending on the level of the Kuskokwim.” He added that the Israthorak “connects downstream with the Pikmiktalik and he believes it is also used to to [sic] the Gweek.” Finally, Strom noted that “hunting moose, picking berries, hunting and fishing attract people in boats all over the area, many times to places where from a plane, on the map, or in pictures it would not appear possible without prohibitively long portages.”¹⁵

A navigable waters memorandum for Group Survey Area 254 dated May 8, 1989 confirmed that the interconnecting channel to the unnamed slough of the Kuskokwim River in Sec. 31, T. 15 N., R. 63 W., SM and Sec. 36, T. 15 N., R. 64 W., SM was excluded from IC Nos. 745 & 746. (Attachment 8) It describes the creek as “double-lined on the USGS Russian Mission B-5 (1954) quadrangle for its first four or five miles, and mostly single-lined through the rest of the Lower Kalskag village selection area.” It notes that Israthorak Creek at its mouth on the Kuskokwim River is over three hundred feet wide, but appears in photographs in July, 1980 to be eighty to one hundred feet wide four miles to the north, above the branch in Sec. 35, T. 15 N., R. 64 W., SM. Even further up the creek, it “appears to be dry in Secs. 14, 15, and 23, T. 15 N., R. 64 W., SM.” The photographs also show a “short branch which heads in Sec. 11, T. 15 N., R. 64 W., SM and meets the Israthorak in Sec. 35 of the township,” which also appears to be dry.¹⁶

The memorandum affirmed that “the BLM’s past determinations that Israthorak Creek is navigable from the Kuskokwim to the confluence of the unnamed slough of the Kuskokwim in Sec. 35, T. 15 R., R. 63 W., SM. I further determine the creek navigable to the tributary in Sec. 26, T. 15 N., R. 64 W., SM. The stream is over one hundred feet wide most of the way to this point. Two local people identified this as the approximate upper limit for boating.”¹⁷

In the accompanying tables, several portions and branches of Israthorak Creek are listed as being excluded from the ICs. Table 1—rivers, streams, and sloughs less than three chains wide and lakes less than fifty acres excluded from ICs and TAs—includes the tributary of Israthorak Creek in Sec. 31, T. 15 N., R. 63 W., SM (this is single-lined on USGS Russian Mission B-5, and disappears in vegetation on aerial photographs). Table 2—navigable waters on selected lands—contains navigable waters identified by aerial photo-interpretation, including part of the Israthorak Creek tributary that is double-lined in Sec. 35, T. 15 N., R. 64 W., SM. It also includes an interconnecting slough of the Kuskokwim River that connects to the mouth of Israthorak Creek in Sec. 11, T. 14 N., R. 64 W., SM and extends through Secs. 8, 9, 10, and 17 T. 14 N., R. 64 W., SM. That slough is also determined navigable in Table 3, where it passes through Native allotment F-17371 in Sec. 29, T. 14 N., R. 64 W., SM. It is also listed in Table 4.

Table 4—navigable rivers and streams less than 198 feet wide and lakes less than 50 acres in size—lists the Israthorak Creek tributary in Sec. 31, T. 15 N. R. 63 W., SM, in Secs. 1 and 2, T. 14 N., R. 64 W., SM, and in Secs. 35 (double-lined portion only) and 36, T. 15 N., R. 64 W., SM, and Israthorak Creek to the tributary in Sec. 26, T. 15 N., R. 64 W., SM. The stated navigability standard used in this memorandum is navigability at the time of statehood for crafts larger than a “one person kayak.”¹⁸

A navigable waters memorandum for Group Survey Area 268 dated May 8, 1989, used aerial photo-interpretation to identify and list Israthorak Creek as navigable “to and through Native allotment AA-51769 [river miles 34 to 37.2] in Sec. 30. T. 13 N., R. 67 W., SM.”¹⁹ (Attachment 9) That portion includes Israthorak Creek through Tps. 12 and 13 N., R., 68 W., SM and T. 12

N., R. 69 W., SM. (Table 3) The standard used was navigability at the time of statehood for a craft larger than a one-person kayak.²⁰

In early 2001, BLM Navigable Water Specialist Laura Lagstrom conducted interviews with Native allotment holders and other villagers regarding use of water bodies in the Nunapitchuk Window, as part of the BLM's Nunapitchuk 2001 survey project, and issued a summary report on March 21, 2001.^v (Attachment 10) These villagers routinely boated Israthorak Creek to reach allotments and hunting and gathering grounds during the spring and fall months, using a variety of boats. These boats ranged in size from 12 to 25 feet, made either of aluminum or wood, with motors ranging from 4- to 135-horsepower. They described Israthorak Creek as deep, with depths up to 15 feet in places, and wide, up to 150 feet in places. They traveled on Israthorak Creek to hunt moose, pick berries, trap small furbearers, fish, and hunt waterfowl. Some villagers also described the unnamed left bank tributary that meets Israthorak Creek in Sec. 16, T. 12 N., R. 70 W., SM. Oscar Sam, Sr. gave it the name *A-ley-look-sauk* ("it's kinda up here"), while Robert Charles gave it the name *Kue-voig-luq*. If Israthorak Creek was free of ice, villagers noted that it was possible to boat both it and the tributary by early June, and it was possible to boat the stream all the way to the lake in spring and summer, and possibly the fall. This tributary was up to 10 feet deep in the spring, dropping to up to 5 feet in the summer, and 20 feet wide.²¹

Two BLM navigability reports dated June 5, 2002 examined Israthorak Creek and its left bank tributary in Sec. 16, T. 12 N., R. 70 W., SM (river mile 10). The first report dealt with Israthorak Creek itself, and was based on evidence from previous navigability determinations, the Nunapitchuk 2001 survey project interviews, Native allotment files, USGS quadrangle maps, and aerial photos interpreted by Greg Balen. (Attachment 11) It notes that Israthorak Creek is double-lined on the maps for its first four or five miles, and then mostly single-lined through the rest of the Lower Kalskag village selection area (up to river mile 95.7. It is also double-lined on Russian Mission A-7 and A-8 quadrangle maps for about 45 miles beginning at its lower mouth. The memo noted the connection to the unnamed slough of the Kuskokwim River from Sec. 15, T. 15 N., R. 64 W., SM, but that the connection does not appear on the Russian Mission C-5 [sic] map. The memo cited evidence from the Native allotment files and from other testimonial evidence of continued use of Israthorak Creek by villagers of Kasigluk, Nunapitchuk, Atmautluak, Akiachak, and Tuluksak for hunting, fishing, trapping, and gathering, often carrying large loads. The report concluded that Israthorak Creek was susceptible as a route for travel, trade and commerce within seven Native allotments, with the farthest upstream being F-19183 located at river mile 65 in Sec. 21, T. 14 N., R. 66 W., SM.²²

The second report covered the left-bank tributary that meets Israthorak Creek in Sec. 16, T. 12 N., R. 70 W., SM. (Attachment 12) This tributary was approximately three miles long and sinuous, and flowed southeasterly and then westerly towards a large lake in Secs. 7, 8, and 17-20, T. 12 N., R. 70 W., SM and Secs. 12, 13, and 24, T. 12 N., R. 71 W., SM. The stream was variously called *Kuigurluq* River ("poor, dear river"), *A-ley-look-sauk*, or *Kue-voig-luq*, while a Bureau of Indian Affairs (BIA) archaeological report for a historical site at the confluence of the tributary and Israthorak Creek called the lake *Kass'uq*. The memo used the March 21, 2001 interviews, photo interpretation by Greg Balen, and USGS quadrangle maps to determine the tributary's navigability. Evidence from the interviews, Native allotment files, and surveys of the allotments, showed the tributary to be open and unobstructed. The left bank tributary was found

^v Interviews with allotment holders on Israthorak Creek are detailed in a later section of this report.

susceptible for navigation in the Native allotment claim for Agnes Charles (F-29215) in Sec., 16, T. 12 N., R. 70 W., SM, and susceptible for use as a route for travel, trade and commerce.²³

As part of the same Nunapitchuk 2001 survey project, the BLM surveyed 107 Native allotments in 36 townships. In preparation for these surveys, BLM's Branch of Mapping Sciences issued a memorandum on August 29, 2002 covering navigable waters in the Native allotments scheduled for survey, which included an appendix listing navigable waters by township. (Attachment 13) In this appendix, Israthorak Creek was listed as navigable in and through Native allotments F-19183 in T. 14 N., R. 66 W., SM; F-19236 in T. 14 N., R. 67 W., SM; F-18308 and F-19286 in T. 13 N., R. 69 W. SM; AA-51770, AA-53086, and F-18747 in T. 12 N., R. 70 W., SM; and F-19286 in T. 13 N., R. 70 W., SM. Overall, the memo reiterated the finding in the June 5, 2002 navigability report determining Israthorak Creek and its left bank tributary as navigable using the standard of susceptibility to travel, trade, and commerce.²⁴

A BLM navigability report dated January 15, 2004 reaffirmed the navigability determination for the slough connecting Israthorak Creek to the Kuskokwim River in Sec. 31, T. 15 N., R. 63 W., SM, and found the creek navigable in Secs. 1 and 2, T. 14 N., R. 64 W., SW, and the unnamed slough from the mouth of Israthorak Creek to the Kuskokwim River through Secs. 8-11 and 17. This report used the standard of susceptibility to travel, trade and commerce.²⁵ (Attachment 14)

A BLM easement notice dated August 31, 2004 stated that the "Kuskokwim River and its interconnecting sloughs along with Israthorak Creek have been determined to be major waterways."²⁶ (Attachment 15)

A BLM final easement notice dated December 2, 2004 reiterated the findings of the August 31, 2004 easement that the Kuskokwim River and Israthorak Creek have been determined to be major waterways.²⁷ (Attachment 16)

The land in Sec. 31, T. 15 N. R. 63 W. SM, where the interconnecting branch from Israthorak Creek meets the unnamed slough of the Kuskokwim River, was patented to The Kuskokwim Corporation in Patent No. 50-2005-0430 on September 7, 2005, with the subsurface estate patented to Calista Corporation in Patent No. 50-2005-0431. (Attachment 17)

On December 10, 2008, the BLM issued IC Nos. 2179 and 2180, granting the surface estate for 12,169 acres to The Kuskokwim Corporation, and the subsurface estate of those lands to Calista Corporation. (Attachment 18) This included land in Secs. 2, 3, 10, 11, and 14, T. 14 N., R. 64 W., SM through which Israthorak Creek flows. No mention was made of navigable waters in these selections.²⁸

On September 21, 2009, the BLM issue IC Nos. 2278 and 2279, granting the surface estate for 13,069 acres to Akiachak, Inc., and the subsurface estate of those lands to Calista Corporation. (Attachment 19) This included land in Secs. 5 and 6, T. 12 N., R. 68 W., SM, and Secs. 1-5, 7-9, 11, and 12, T. 12 N., R. 69 W., SM through which Israthorak Creek flows. No mention was made of navigable waters in these selections.²⁹

On November 28, 2011, the BLM released an Intent to Issue Patent for the remainder of land along Israthorak Creek selected by The Kuskokwim Corporation. (Attachment 20) Submerged lands under navigable water bodies of lesser size than 3 chains (198 feet) wide were not included in the acreage charge.³⁰ That land was patented in Patent No. 50-2012-0059 on January 10, 2012, with the subsurface estate patented to Calista Corporation in Patent No. 50-2012-0060.

These patents were subsequently corrected in Patent Nos. 50-2013-0170 and 50-2013-0171 on September 19, 2013. (Attachment 21)

Date	Area	Type, Decision and Substance	Criteria
5/5/1980 Attachment 1	Israthorak Creek (river mile 95.3)	Draft SD memo/easements: Creek determined non-navigable.	Travel, trade, and commerce; Non-major waterway
8/20/1982 Attachment 3	Upper Israthorak Creek (river miles 95.3 to 99.7) and unnamed slough of the Kuskokwim River (at river mile 99.3)	Easement recommendations for lands to be conveyed to the Kuskokwim Corporation. Moved an easement citing access was possible via “navigable Israthorak Creek.”	Not stated
8/25/1982 Attachment 4	Upper Israthorak Creek (river miles 95.3 to 99.7) and unnamed slough of the Kuskokwim River (at river mile 99.3)	Final easement, major waterway and navigability determinations for Lower Kalskag selection lands: Israthorak Creek determined navigable “...from its confluence with the Kuskokwim River in the SW 1/4, Sec. 11, T. 14 N., R. 64 W., to its interconnection with an unnamed slough of the Kuskokwim River in the S ½, Sec. 31, T. 15 N., R. 63 W., Seward Meridian.”	Travel, trade and commerce, or susceptibility thereto.
9/30/1982 Attachment 5	Upper Israthorak Creek (river miles 95.7 to 99.7)	Land application decision: Excluded submerged lands from conveyance including Israthorak Creek.	Travel, trade and commerce
5/8/1989 Attachment 6	Upper Israthorak Creek (river miles 93.5 to 99.7)	Navigable waters memo for Survey Group 254: Affirmed “the BLM’s past determinations that Israthorak Creek is navigable from the Kuskokwim to the confluence of the unnamed slough of the Kuskokwim in Sec. 35, T. 15 R., R. 63 W., SM. I further determine the creek navigable to the tributary in Sec. 26, T. 15 N., R. 64 W., SM.”	Suitable at time of statehood for crafts larger than a one person kayak.
	Tributary of Israthorak Creek (at river mile 95.3)	Navigable waters memo for Survey Group 254 (Table 1): Tributary of Israthorak Creek in Sec. 31, T. 15 N., R. 63 W., SM	Navigable rivers, streams, and sloughs less than 3 chains wide and lakes less than 50 acres in size excluded from ICs and TAs on basis of navigability maps included with ICs.
	Tributary of Israthorak Creek (at river mile 95.3) and Interconnecting slough of Kuskokwim River (at river mile 98)	Navigable waters memo for Survey Group 254 (Table 2): Israthorak Creek tributary that is double-lined in Sec. 35, T. 15 N., R. 64 W., SM.; Interconnecting slough of the Kuskokwim River from the mouth of Israthorak Creek in Sec. 11, T. 14 N., R. 64 W., SM through Secs. 8, 9, 10, 17, T. 14 N., R. 64 W., SM.	Navigable waters on selected lands identified by aerial photo-interpretation

5/8/1989 Continued	Interconnecting slough of Kuskokwim River (river mile 98)	Navigable waters memo for Survey Group 254 (Table 3): Two sloughs entering the Kuskokwim River in Native allotment F-17371, Sec. 29, T. 14 N., R. 64 W., SM.	Navigable waters in Native allotments
Attachment 6 Continued	Israthorak Creek, interconnecting slough of Kuskokwim River (at river mile 98), and tributary of Israthorak Creek (at river mile 95.5)	Navigable waters memo for Survey Group 254 (Table 4): Israthorak Creek to tributary in Sec. 26, T. 15 N., R. 64 W., SM; slough from mouth of Israthorak Creek to Kuskokwim River through Secs. 8, 9, 10, and 17, and Native allotment F-17371, in Sec. 29, T. 14 N., R. 64 W., SM; Israthorak Creek tributary in Sec. 31, T. 15 N. R. 63 W., SM, in Secs. 1 and 2, T. 14 N., R. 64 W., SM, and in Secs. 35 (double-lined portion only) and 36, T. 15 N., R. 64 W., SM	Navigable river and streams less than 198 Feet wide and lakes less than 50 acres in size
5/8/1989 Attachment 7	Lower Israthorak Creek (river miles 0 to 37.2)	Navigable waters memo for Survey Group 268: Uses aerial photography to determine navigable Israthorak Creek “to and through Native allotment AA-51769 in Sec. 30. T. 13 N., R. 67 W., SM.” This corresponds to river mile 36 on map in Figure 1.	Suitable at time of statehood for crafts larger than a one person kayak.
6/5/2002 Attachment 8	Lower Israthorak Creek (river miles 0 to 65)	Navigability report for Israthorak Creek and Left Bank Tributary: Found Israthorak Creek navigable through Native allotment F-19183. This corresponds to river mile 65 in the map in Figure 1.	Travel, trade and commerce
6/5/2002 Attachment 9	Left bank tributary (at river mile 10)	Navigability report for Israthorak Creek and Left Bank Tributary: Concluded that the left bank tributary was navigable in the Native allotment claim F-29215, citing evidence that it is boatable from its mouth to a lake.	Travel, trade and commerce
8/29/2002 Attachment 10	Lower Israthorak Creek (river miles 0 to 65) and left bank tributary (at river mile 10)	Navigable waters report for Group Surveys 254, 268 and 270: Restates the findings in the 6/5/2002 navigability report.	Travel, trade and commerce
1/15/2004 Attachment 11	Upper Israthorak (river miles 93.5 to 99.7) and sloughs (at river mile 95.3 and river mile 98)	Navigability report in ANSCA selected and Interim Conveyed lands: Reaffirmed navigability determination for slough interconnecting to the Kuskokwim River in Sec. 31, T. 15 N., R. 63 W., SM, and found navigable Secs. 1 & 2, T. 14 N., R. 64 W., SW and the unnamed slough from the mouth of Israthorak Creek to the Kuskokwim River through Secs. 8-11 and 17.	Travel, trade and commerce
12/2/2004 Attachment 13	Israthorak Creek	Final easement recommendations. Restates the determinations in the 8/31/2004 notice of proposed easement recommendations.	Not stated

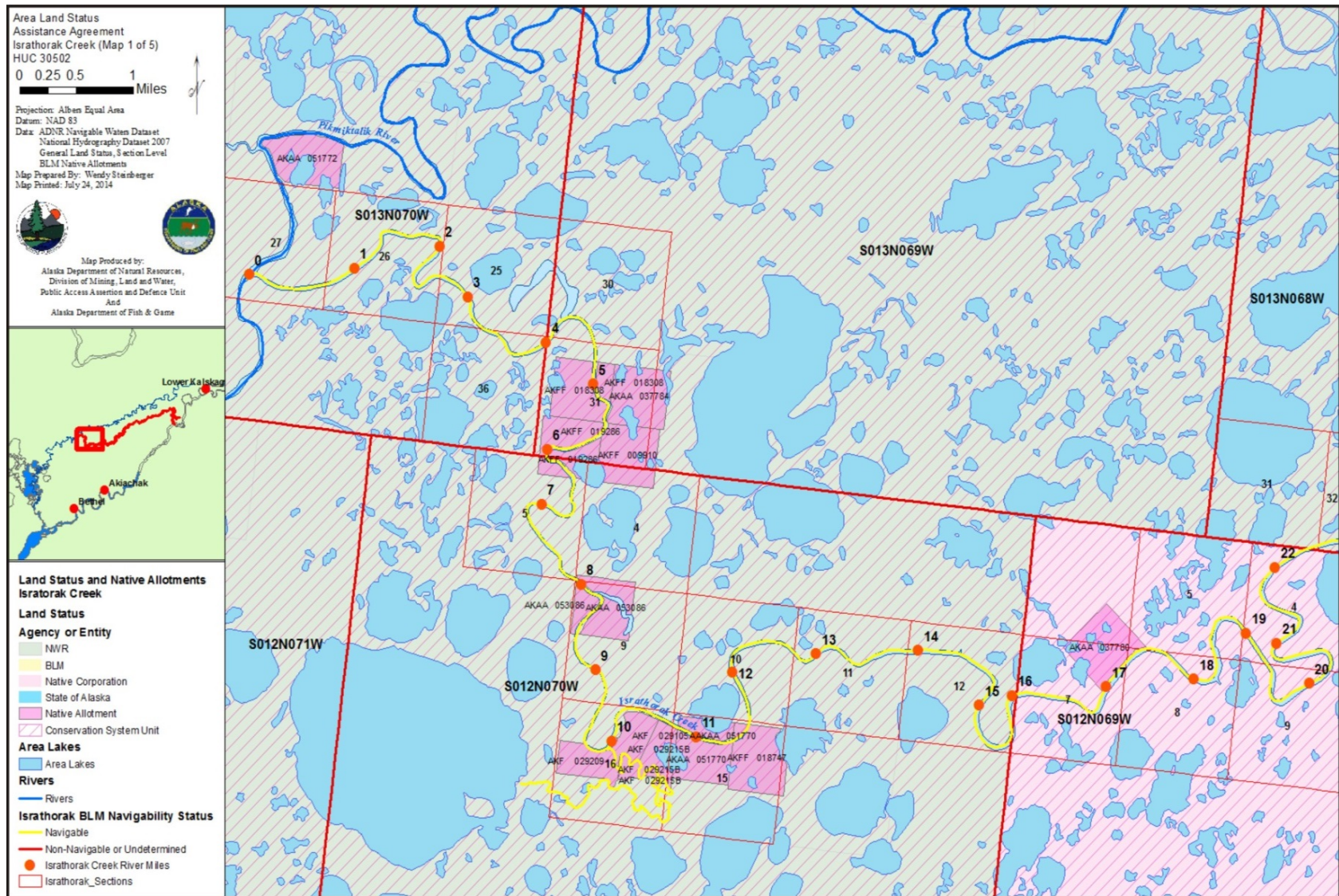


Figure 8. Map of Israthorak Creek showing portions of the river determined navigable by BLM from river mile 0.0 to 22.

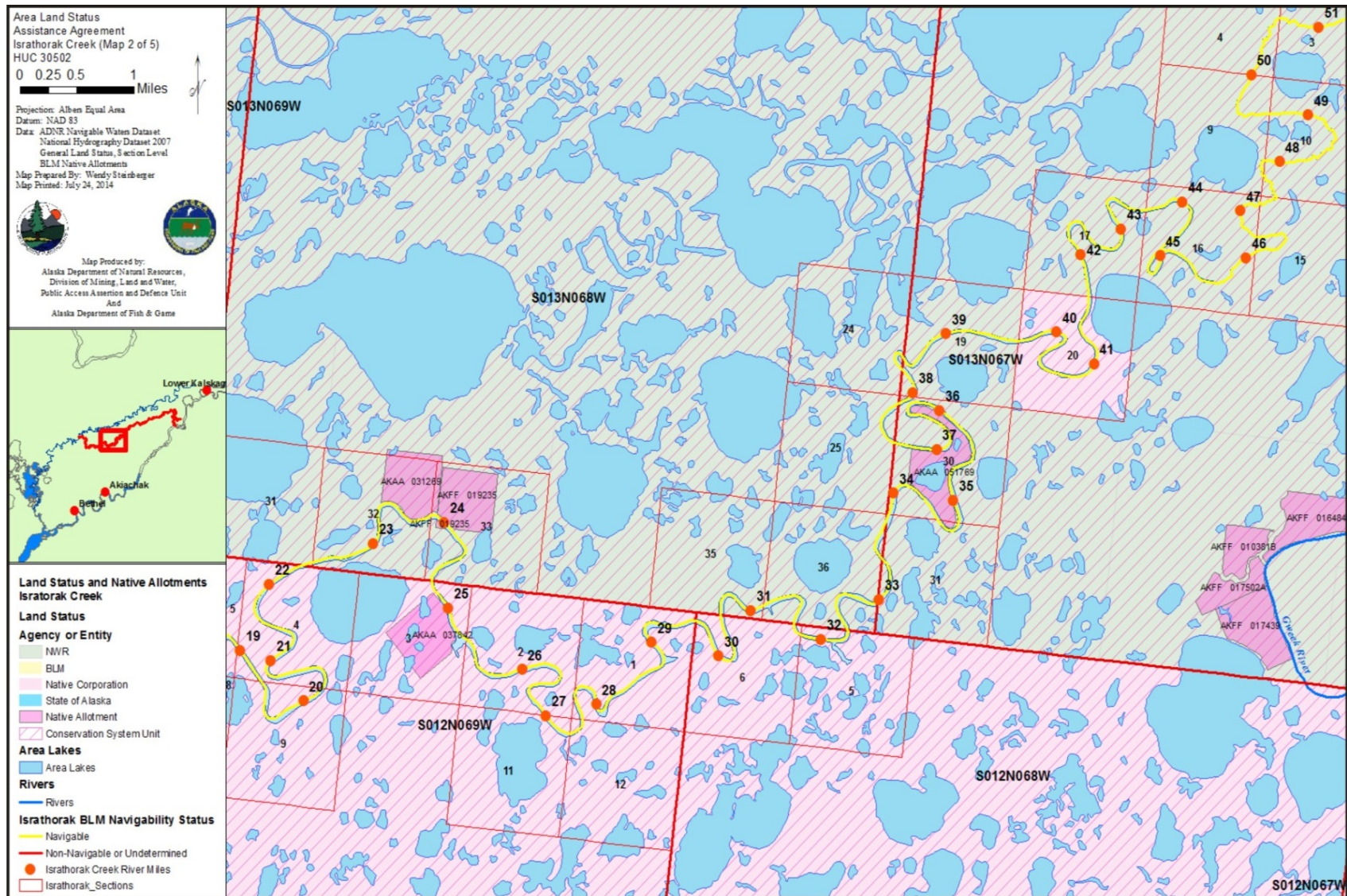


Figure 9. Map of Israthorak Creek showing portions of the creek that BLM has determined navigable from river mile 19 to 51.

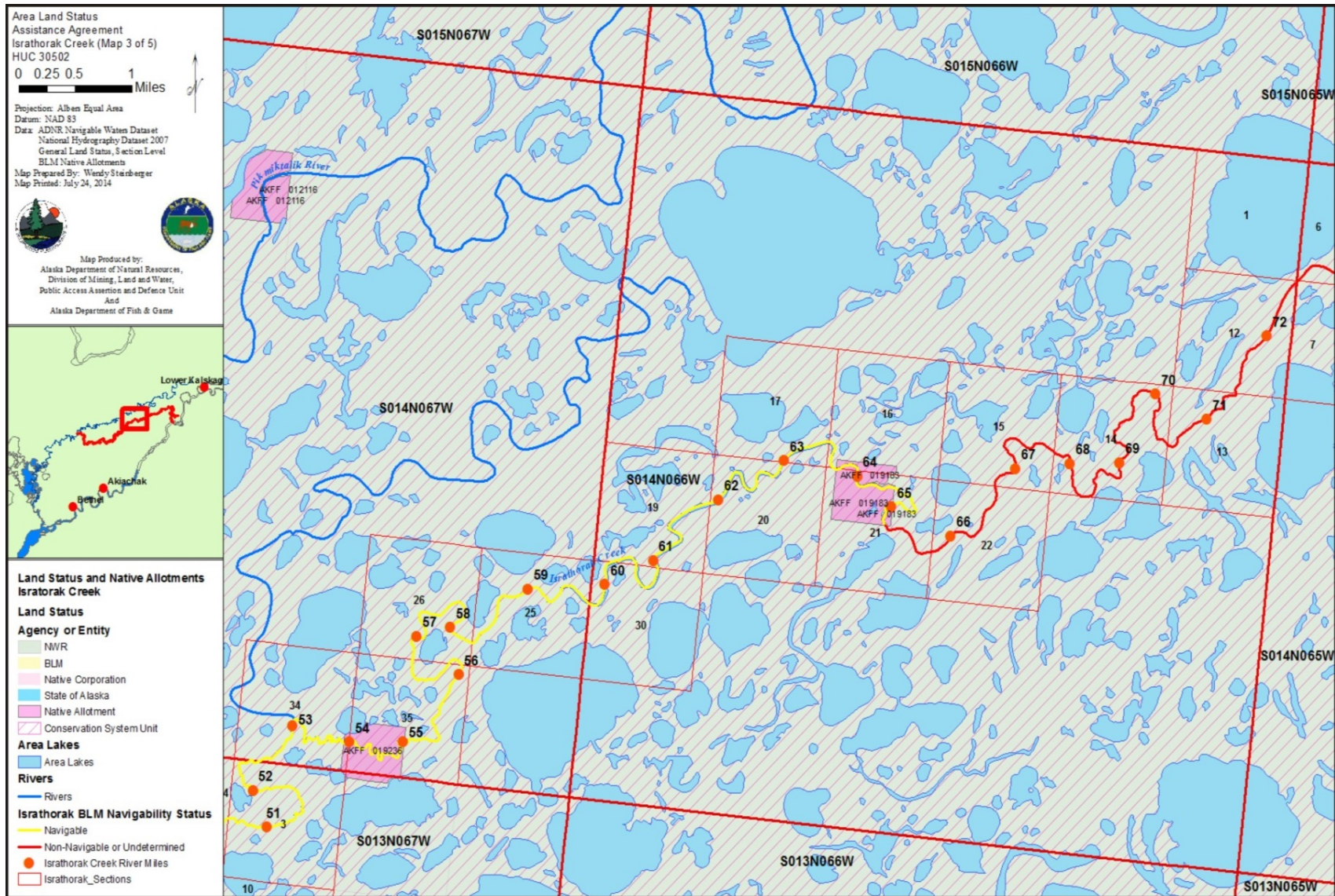


Figure 10. Map of Israthorak Creek showing portions of the creek that BLM has determined navigable and non-navigable from river mile 51 to 72.

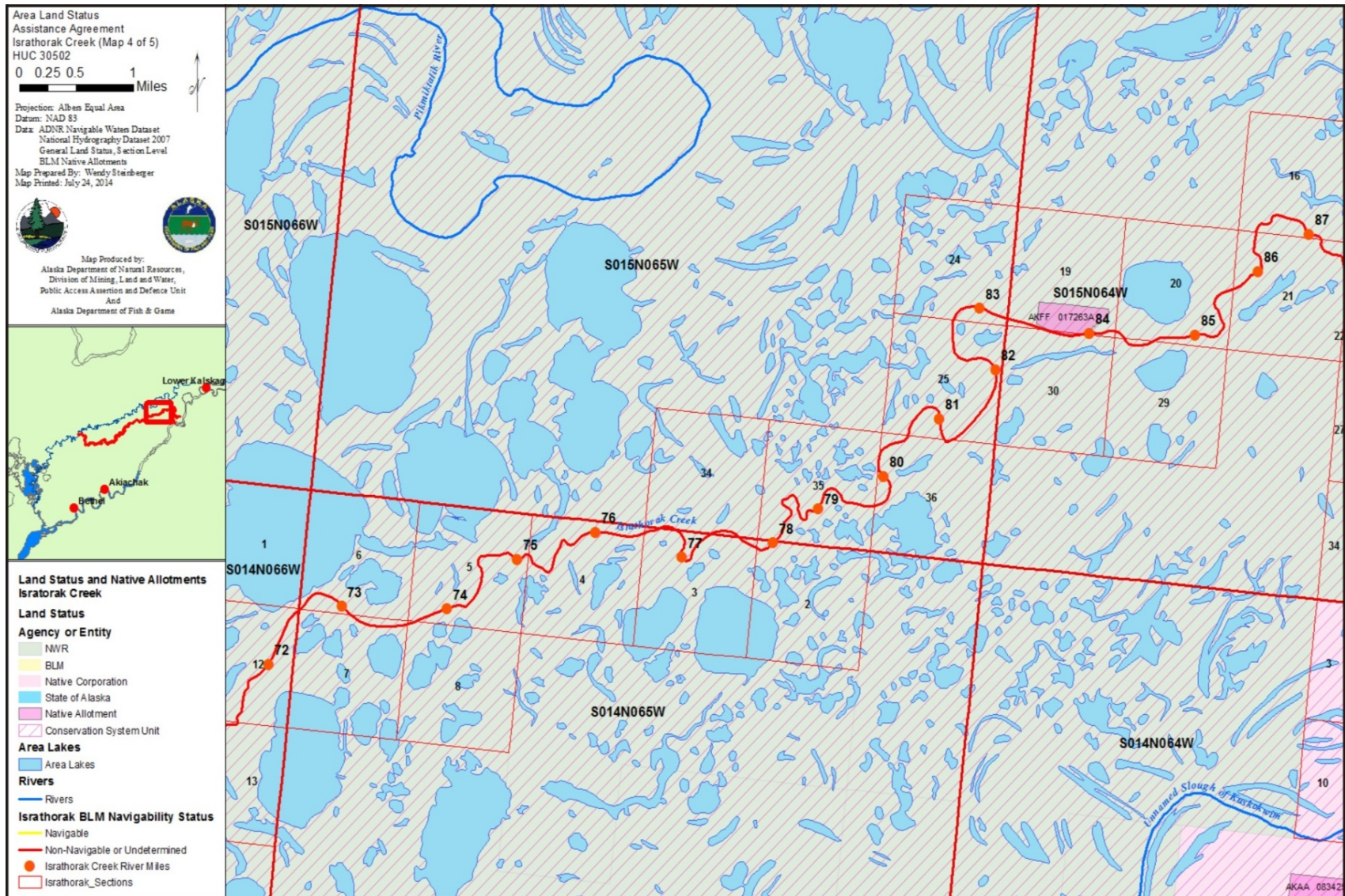


Figure 11. Map of Israthorak Creek showing the portion of the creek that BLM determined non-navigable from river mile 72 to 87.

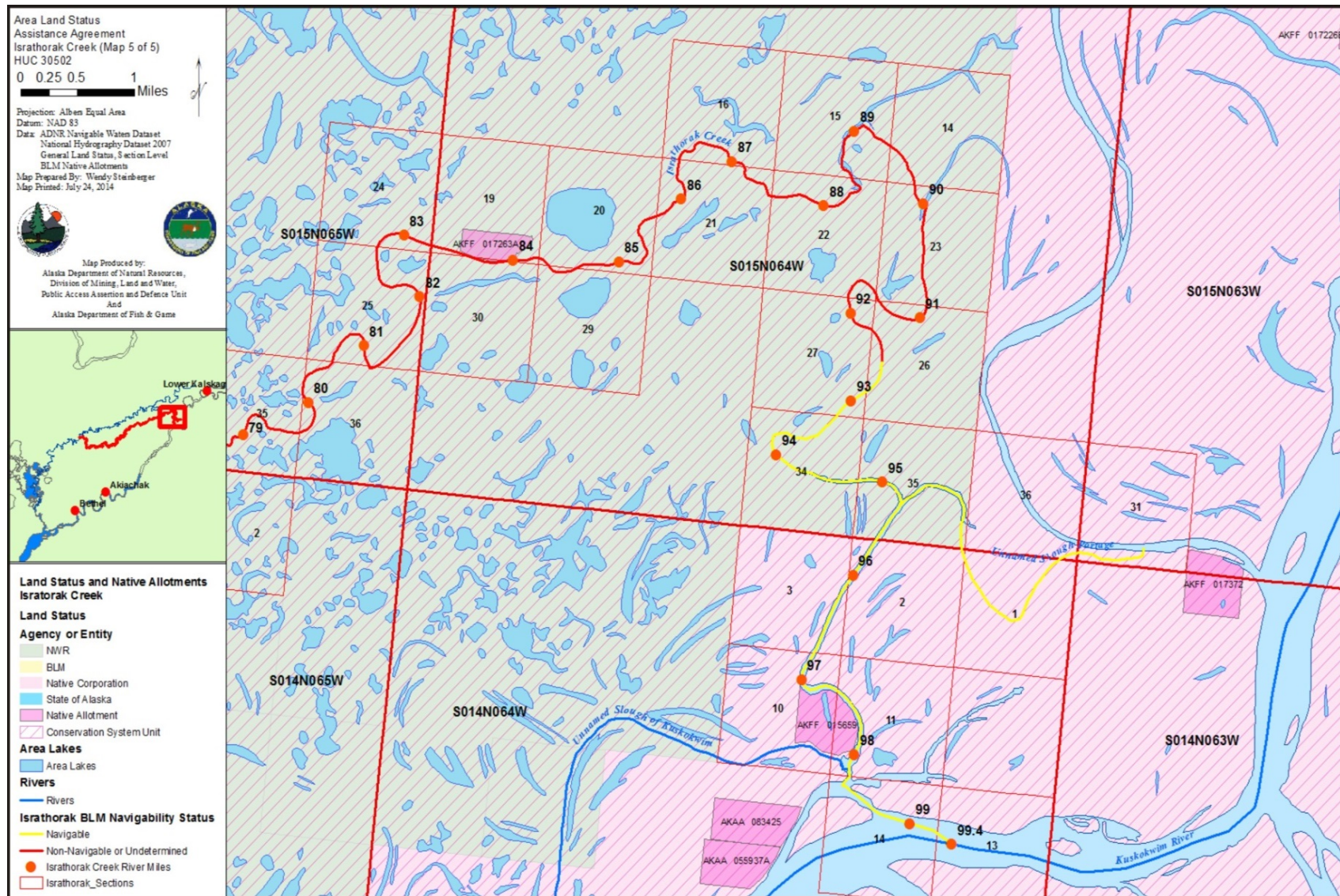


Figure 12. Map of Israthorak Creek showing the portion of the creek that BLM determined non-navigable from river mile 79 to 99.

IV. Physical Character of Israthorak Creek

The Israthorak Creek system is an approximately 99 mile long (Figure 13) anabranch of the Kuskokwim River flowing to the Pikmiktalik River.³¹ The creek includes several tributaries and interconnections with sloughs of the Kuskokwim River.

The creek begins at its headwaters along the right bank of the Kuskokwim River in SW 1/4, Sec. 11, T. 14 N. R., 64 W., SW,³² with an elevation of 30 feet.³³ At its headwaters, Israthorak Creek is over three hundred feet wide.³⁴ It first flows northerly for over five miles before turning to a generally southwesterly route until joining the Pikmiktalik River in SE 1/2, Sec. 27, T. 13 N., R. 70 W., SW. The creek flows through flat tundra that is thirty to fifty percent water in the form of lakes and wetlands and, like other streams in this region, it has an extremely low gradient and meanders through the relatively flat terrain with occasional oxbows.³⁵ Photos taken from Native allotment field reports (Figures 13 and 17) show vegetation changing along the way from tundra with willow, alders and evergreen trees near the Kuskokwim River to birch and more open tundra terrain as the creek flows towards the Pikmiktalik River.

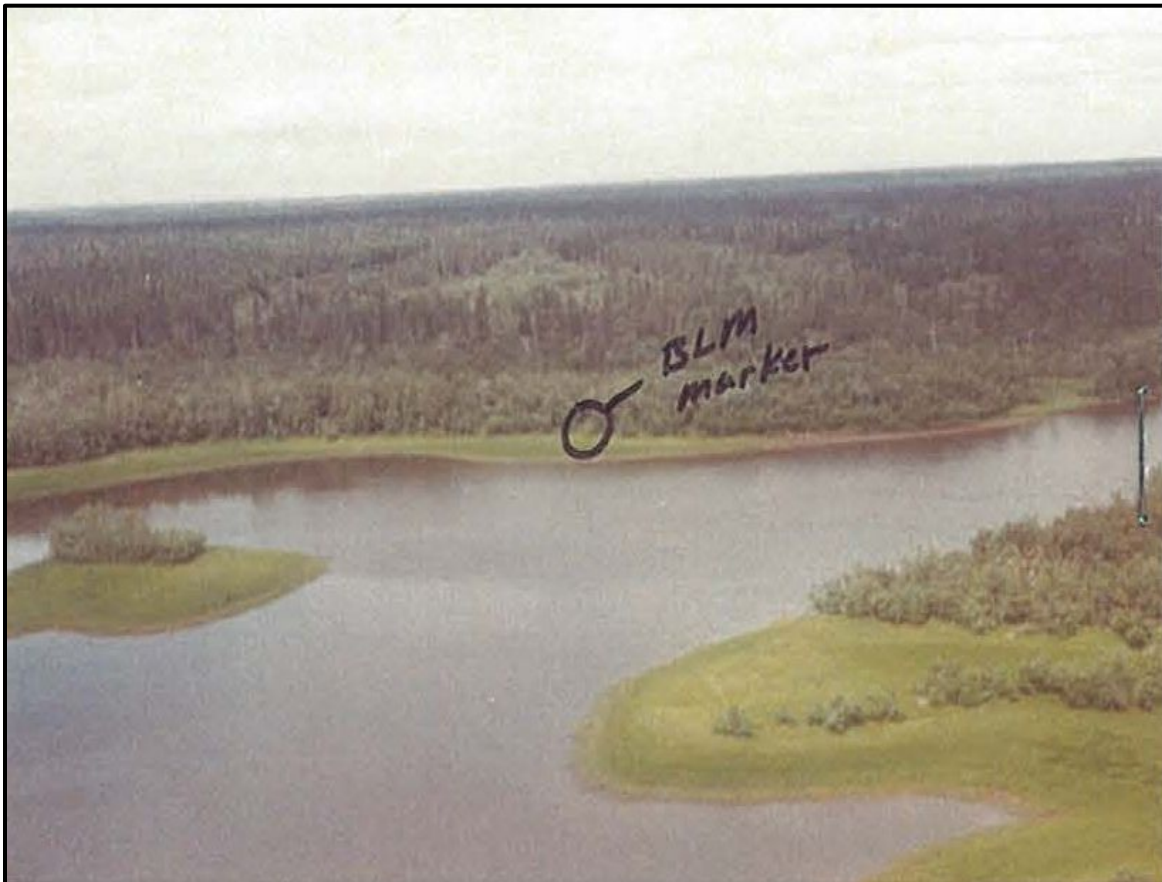


Figure 13. Israthorak Creek at river mile 98 looking westerly over Native allotment F-15659. Photo taken by the BLM on July 12, 1975.

The lands surrounding the headwaters of Israthorak Creek at SW 1/4, Sec. 11, T. 14 N., R. 64 W., SW have been described as being “covered in tundra with scattered lakes and streams.”³⁶

Trees are visible in aerial photographs (Figures 13 and 14). There is testimony from Native allotment files indicative that lands in this area are used for woodcutting and berry picking.³⁷



Figure 14. Israthorak Creek at river mile 84 looking east along Native allotment F-17263A and confluence of unnamed right bank slough. Photo taken by the BLM on June 18, 1975.

A photo taken of Native Allotment F-17263-A (Native allotment certificate 50-93-0162) at river mile 84 (Figure 14) shows mixed tundra and woodlands surrounding Israthorak Creek. The creek at times may have been obstructed by beaver dams and appears narrower in width than at river mile 95.

Israthorak Creek itself has generally been described as a wide and deep river. Both width and depth vary considerably along its course, from about ten feet to about three hundred feet wide and from 3 feet deep to very deep. At its head from the Kuskokwim River, the creek is over three hundred feet wide, but it narrows very quickly, so that approximately four miles downriver, it is only eighty to one hundred feet wide. At points several miles to the north, the creek narrows even more, and appeared in aerial photographs in the late 1980s to be dry.³⁸ Below that, there are reportedly filled-in areas between Sec. 27, T. 15 N., R. 64 W., SM and Sec. 24, T. 15 N., R. 64 W., SM, although the creek's course does appear to quickly resume.³⁹

By river mile 65 (Figure 15), the creek is once again wide and deep, reportedly four to six feet deep.⁴⁰ At Native allotment F-19236 (Native allotment certificate 50-2003-0488) (river miles 54 to 55), it is six feet deep and ten feet wide.⁴¹ The creek gradually widens by river mile 24 (Figures 16 and 17). At Native allotment AA-51770 (Native allotment certificate 50-2005-0545) (river mile 10) the creek has expanded to thirty to fifty feet wide and is very deep.⁴² It appears that the creek maintains this rough width the remainder of its course.⁴³



Figure 15. Israthorak Creek at river miles 64-65 looking over Native allotment F-19183. Photo taken by the BLM on July 12, 1976.

The tributary at river mile 10 shares the wide and deep characteristics of Israthorak Creek. Residents interviewed about its use and character described a stream that can be very deep in the spring, up to eight to ten feet.⁴⁴ Residents have estimated its width at up to twenty feet.⁴⁵

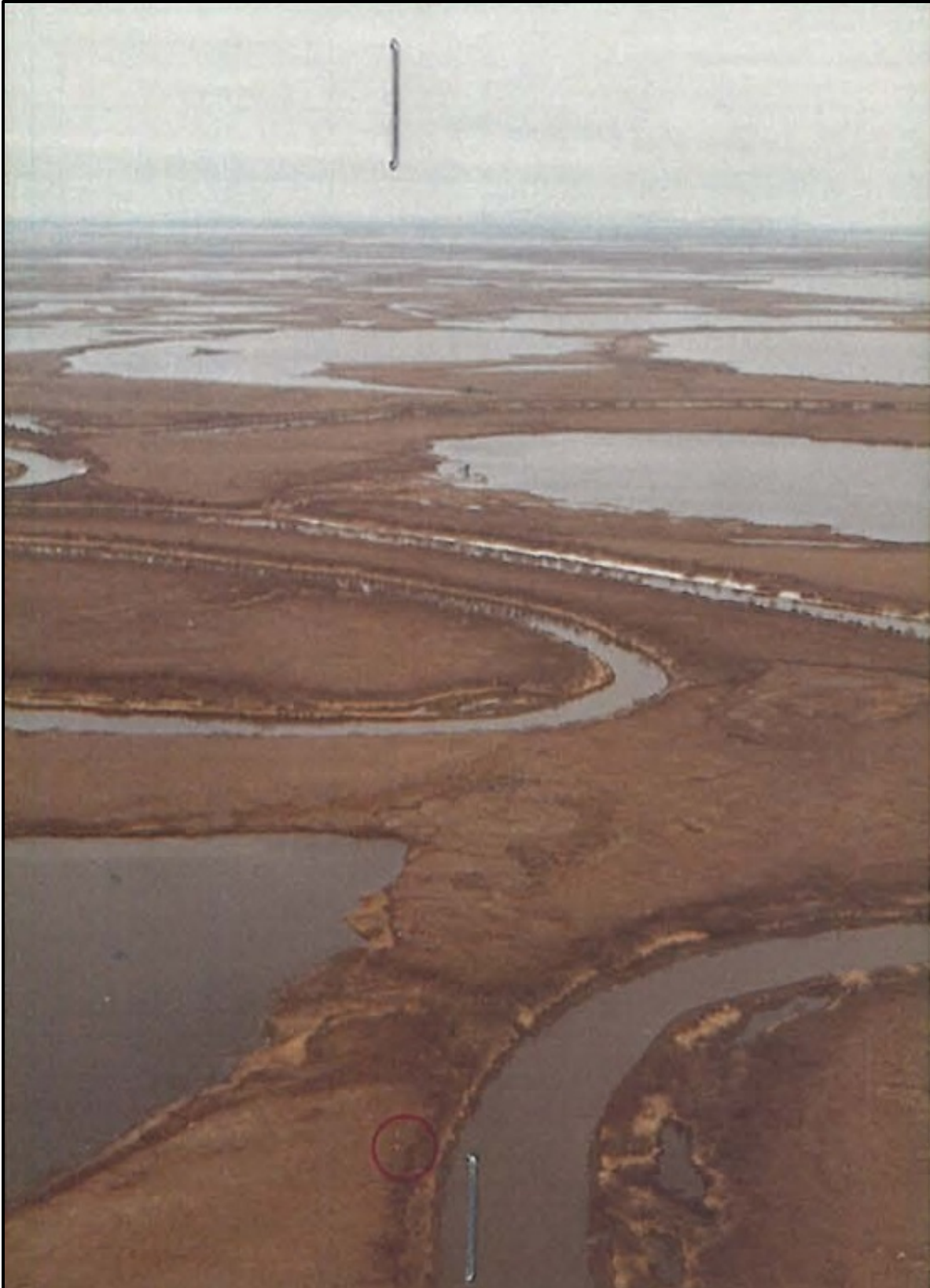


Figure 16. Israthorak Creek at river mile 35 looking northwesterly over Native allotment AA-51769. Photo taken by the BLM on May 25, 1984.



Figure 17. Israthorak Creek looking southwesterly along AA-31269 at river mile 24. Photo taken by the BLM on May 24, 1984.



Figure 18. Northwestern view of the confluence of unnamed leftbank tributary (fore and mid-ground) and Israthorak Creek (background) looking over Native allotments F-29209, F- 29105 and F-29215 at river mile 10. Photo taken by the BLM on September 5, 1984.



Figure 19. Israthorak Creek looking southwesterly across Native allotment AA-53086 at river mile 8. Photo taken by the BLM on August 5, 1979.

IV. Evidence of Use of the Waterway

Early Native Use of Israthorak Creek

Human occupation of the Kuskokwim area goes back 11,000 years to nomadic hunters of Pleistocene animals. These hunters were supplanted about 1,900 BC^{vi}, when Eskimos from the north moved into the lower Kuskokwim drainage, bringing with them the so-called Arctic Small Tool tradition.⁴⁶ Permanent occupation of the interior Kuskokwim Delta with chronological continuity began about AD 600.⁴⁷

Though, in general, boundaries between subcultural groups within the Yukon-Kuskokwim Delta prior to Russian contact are uncertain, the Kuskokwim Eskimos permanently occupying the inland region between the Yukon and Kuskokwim rivers had a more definitive local identity and are called “akúlmiut ‘dwellers in between’ or ‘tundra people’” by the local Eskimos.⁴⁸ In an Alaska Department of Fish and Game (ADF&G) technical paper, Elizabeth Andrews examined the evidence of the *Akulmiut* existing as a socioterritorial unit who are “associated with a particular geographical area as much as they are recognized as an individual polity.”⁴⁹ Reviewing historical records beginning with Lieutenant Zagoskin’s explorations for the Russian-American Company in 1842-1844, linguistic evidence from recorded Yup’ik place names within the Yukon-Kuskokwim Delta, contemporary group and place name designation from interviews, reports, and Native allotment files, Andrews demonstrates that the *Akulmiut* have existed as a distinct group among the Central Yup’ik beginning sometime before Russian contact and continuing to the present.⁵⁰ Archaeological sites nearby the inland *Akulmiut* territory suggest that the area was occupied as early as the first to seventh centuries AD. In 1880 the estimated total of all groups living on the delta, including the *Akulmiut*, in an area that ranged from the north bank of the Kuskokwim throughout the Yukon-Kuskokwim Delta to the area just north of the Yukon River was 3,100.⁵¹

The *Akulmiut* occupied a 3,000 square mile area in the lowland tundra of the Yukon-Kuskokwim Delta, including the Johnson River drainage west through the Takslesluk-Kayigyalik Lake system to the Baird Inlet-Aropuk Lake region.⁵² In addition to the *Akulmiut*, Israthorak Creek system has been used by Alaska Natives from the Kuskokwim River. Many portions of Israthorak Creek continue to be used by Alaska Natives along the Kuskokwim River known as the *Kusquqvagmiut*. The *Kusquqvagmiut* and *Akulmiut* are all descended from Eskimos known as Yup’ik Eskimos or mainland southwest Alaskan Eskimos, and all lived in similar traditional seasonal subsistence patterns.⁵³ The area between the Yukon and Kuskokwim river deltas is an alluvium-floored marshy plain containing innumerable lakes with numerous meandering low-gradient streams. It is estimated that 30 to 50 percent of the lowland is covered by lakes.⁵⁴

The *Akulmiut* have lived a traditional subsistence lifestyle on the lowland tundra of Yukon-Kuskokwim delta that spans many centuries. Subsistence is a form of production and consumption in which hunting, fishing and collecting plants are the primary sources of food and other necessities of life. Traditional Alaska Native subsistence practices involve harvesting, distributing and consuming resources. These activities include important social and religious

^{vi} BC (Before Christ) and AD (Anno Domini) are used here to label years in the Gregorian calendar, denoting years from the start of the era (AD) and those before the era (BC).

components, one of the most important of which is the distribution and exchange of subsistence products within families, between families and bands, and with Native groups outside their territory. Each Native culture in Alaska has its own set of customs and values governing the transfer of subsistence goods, falling into categories such as ceremonial, sharing, partnership, trade and commercial exchange. The cultural values that promote ceremonial feasting and distribution of subsistence resource goods have persisted in all Alaska Native groups.⁵⁵

The *Akulmiut* established permanent villages that formed a base from which they wandered in an annual round of subsistence activities. Their lifestyle centered on fishing for salmon and freshwater fish, hunting of land mammals, waterfowl, and occasionally sea mammals, and gathering berries.⁵⁶ The lakes and streams on the tundra contain whitefish, trout, pike, and a variety of other fish. Israthorak Creek and its tributaries were known for having an abundance of fish, supporting at least one permanent settlement.⁵⁷ The abundance of natural resources, especially fish, in the tundra plain gave stability to the *Akulmiut* that was equal to that of coastal communities.⁵⁸ People from the coastal communities traveled inland to hunt and fish, and those who lived permanently in inland villages on the tundra, while largely subsisting on lake fish, also visited the coast on occasion to hunt sea mammals.⁵⁹

While subsistence activities throughout the Kuskokwim were generally uniform, variations existed, especially among the *Akulmiut*, who were isolated to a larger degree than other groups within the lowland tundra region of the Yukon-Kuskokwim delta. The *Akulmiut* traditionally lived in a seasonal subsistence patterns that continue to the present day. To exploit local resources, the *Akulmiut* lived at several different locations throughout the year. These locations included a winter village, spring and fall tundra camps, and a summer fish camp. In winter the dispersed family groups of the *Akulmiut* would collectively gather at the winter village, which was their most permanent settlement throughout the year. The winter village is where they cached the majority of supplies and food throughout the year. Though little subsistence gathering was done at the village site, some fish traps were maintained near the village to provide some fresh fish during the winter months.⁶⁰

In the spring they moved to their tundra camps where they harvested waterfowl, fish, game, and furbearers. Some tundra camps were within a day's trip from the winter village, others required families to travel for many days to camps along distant tributaries.⁶¹ Families made the spring journey using a freight sled, on which they carried supplies, including a boat. In the spring camp, women and girls searched for last year's berries still on bushes. Once nearby water bodies were free of ice, women fished with hooks and lines and tended gill nets and fish traps for species such as northern pike and whitefish. Men used small canoes or kayaks to range large distances to hunt and snare waterfowl, spear fish, as well as hunt and trap furbearers, especially beaver, land otter, mink, and muskrats. After breakup, gill nets were set from boats in rivers and lakes for whitefish and pike. As migrating birds entered the area and began nesting, eggs were collected. After a couple of months the families would return to their villages, using boats to travel back with their equipment (Figure 20).⁶²



Figure 20. Bethel residents preparing for journey to spring camp, carrying their boats. Photo by Rev. Ferdinand Drebert, circa 1915. Reprinted from Lenz, *Bethel: the 1st 100 Years*, p. 62.

When the summer fishing season was nearing, families would move to camps along rivers. Families with enough members to assist with the work moved to seasonal salmon fishing camps along the Kuskokwim.⁶³ Other families moved to camps along the Johnson River area and fished for whitefish and pike. In addition to fishing, the *Akulmiut* traveled by boat on waterways throughout the tundra to pick berries and engage in bird drives on various lakes. Bird drives were often conducted in concert by multiple families. Traditionally, bird drives involved men using kayaks and boats to force birds to the east end of the lake. Birds were then speared by families waiting on the east end of the lake. Drives would yield as many as four boat loads of birds that were divided up by species among the families and transported by boat to the winter village where they were stored in pits and covered with wood grass and sod.⁶⁴

In the fall, most families boated to the camps they had occupied in the spring or additional fall camps to obtain additional food for the winter, while some families would remain within the inland tundra lakes area to continue to fish for whitefish and pike. During the fall, the women filled many containers with berries to transport back to the winter village. The men trapped blackfish and whitefish also to provide additional food cached at the winter village. Men also trapped furbearers such as mink, ground squirrels, marmots, beaver, land otter, and martens, depending on local availability. Fall ended when local streams were becoming no longer navigable. Families either returned early by boat or continued subsistence activities and waited until the conditions of the early winter were such that they could sled back to their home villages to settle for the winter.⁶⁵

While the winter villages were the most permanent place of residence for family groups among the *Akulmiut*, there was great variation in how much time was spent at any given subsistence harvest location. Depending up the year, conditions, and subsistence conditions, individuals or groups may reside at seasonal harvest locations year-round or return frequently even throughout the winter.⁶⁶ Regarding the permanence of settlements and there relation to winter villages, anthropologist Wendell Oswalt, in his book *Mission of Change in Alaska*, wrote that “all of these

settlements had an air of permanence, for some had been occupied over many generations. A camp was seldom abandoned unless there was a persistent scarcity of fish and fur animals in the vicinity.”⁶⁷

The annual subsistence cycle and customs of the *Akulmiut* were reported to have been the least changed by non-native influences among Alaska Natives at the end of the nineteenth century.⁶⁸ The relative isolation of the tundra preserved traditional seasonal migrations and interior village sites until the influenza and measles epidemic of 1900, at which time dramatic population shifts began to change settlement patterns.⁶⁹ The knowledge and skill needed to navigate the tortuous water routes of the lowland tundra of the Yukon-Kuskokwim Delta kept most non-natives from traveling into the area.

The *Akulmiut* themselves traveled extensively throughout their territory in the tundra for subsistence activities as well as areas outside their territory for purposes of trade with neighboring Alaska Native groups. Historically, trading networks linked people along the Kuskokwim River, and resource harvests were distributed widely.⁷⁰ 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.⁷¹ According to anthropologist Michael Coffing, historically “furs were important for trade, barter, and cash.”⁷²

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.⁷³ 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.”⁷⁴

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.”⁷⁵

By 1844, the *Akulmiut* were the principal source of furs for Ikogmiut, a trading station along the Yukon.⁷⁶ As trading stations were established along the Kuskokwim River, furs from the *Akulmiut* were increasingly collected at these sites. Contact with Russians produced patterns which were not part of the indigenous subsistence system, including commercial trade, credit/debt relations, and some experience with money as a medium of exchange.⁷⁷ Traders from Russian trading stations along the Yukon and Kuskokwim rivers, who were mostly Alaska Natives not from among the *Akulmiut*, traveled extensively throughout the lowland tundra, where they would make contact with *Akulmiut* hunters and trappers to obtain pelts.⁷⁸ During the summer, the traders journeyed using large, open skin boats, or bidarkas, with oars and sails; in winter, travel was by sled and dog team.⁷⁹

After the departure of the Russians in 1867, the Alaska Commercial Company monopolized the fur trade, severely restricted credit to the Natives, and conducted a flourishing business in furs at the Kuskokwim River trading posts. 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.”⁸⁰ 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.⁸¹ 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.⁸² After the Americans shifted the center of the Kuskokwim River fur trade to Bethel, the Natives’ long-standing trade with Siberia declined.⁸³ By 1884, 44% of furs exported from the Kuskokwim area came from the Alaska Commercial Company’s Bethel Station, the primary trade station for furs obtained from the *Akulmiut* at that time.⁸⁴

Until 1940, the influence of market economy on the *Akulmiut* was mostly through fur trade, and this was mostly a cashless credit or trade system. The market after World War II fluctuated extensively as demand and prices for most fur species declined in southwest Alaska. In the 1950s and 1960s, participation in fur trade declined further due to centralizing forces such as compulsory school attendance. Throughout this time, most of the trapping was done while hunting and harvesting resources for domestic consumption with minimal effects on traditional seasonal subsistence cycles.⁸⁵

Following devastating influenza and smallpox epidemics at the turn of the century, Native populations in the Yukon-Kuskokwim delta region dropped drastically. By the early 1930s, most of the population had consolidated into several villages such as Tuluksak, Lower and Upper Kalskag, Akiak, and Akiachak, even as they continued to use the land around the former village sites much as they had as when they lived there.⁸⁶ 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.”⁸⁷

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.”⁸⁸ The villagers often kept strong connections with their former living places. Most of the Native allotments along Israthorak Creek were claimed by residents of Tuluksak, Lower Kalskag,

Akiachak, and residents from other villages such as Nunapitchuk and Atmautluak also used Israthorak Creek for travel and for subsistence activities.⁸⁹

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.⁹⁰ 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.”⁹¹ Thus, the generational use of the many villages and camps on Israthorak Creek by their residents would continue even as those residents and their descendants relocated to Tuluksak, Aniak, Akiachak, and elsewhere.

Commercial salmon fishing began along the Kuskokwim in 1913 and, subsequently, salmon harvesting for distribution in local markets developed as an industry in the Kuskokwim Bay area.⁹² Native people from the lower Kuskokwim area became involved in the commercial fishing industry between 1930 and 1954. In 1934, the Alaska Fisheries Act was amended, permitting commercial harvest of King salmon for export from the Yukon and Kuskokwim Rivers by “native Indians and bona fide permanent white inhabitants” along the rivers. From 1935 on, *Akulmiut* families increasingly established fish camps for commercial purposes along the Kuskokwim.⁹³ 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.⁹⁴ Still, as commercial fishing activity increased and greater centralization of the *Akulmiut* population along the Kuskokwim and Johnson River occurred, salmon fishing for distribution or export as well as for subsistence purposes became an increasing part of the annual subsistence activity of the *Akulmiut*.⁹⁵ These people used boats to travel between villages and to seasonal camps to fish.

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.⁹⁶ After World War II, wage labor in canneries became an increasing part of *Akulmiut* economy and annual subsistence cycle. As this occurred, nets and boats associated with commercial fishing activities increasingly became incorporated into annual *Akulmiut* and *Kusquvagmiut* subsistence activities.

While the main focus of village activity for those residents of Tuluksak and Lower Kalskag who use the 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.⁹⁷ A study of subsistence activity in the village of Kwethluk noted that some residents fished commercially in the area upriver near Tuluksak.⁹⁸ 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.⁹⁹

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, also worked as a cannery foreman in Naknek.¹⁰⁰ Joe Demantle, Sr. worked on the steamboats that ran between Bethel and McGrath, and also worked at a cannery in Bethel.¹⁰¹ 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.¹⁰²

Increased salmon harvesting activities in the Kuskokwim area had an effect on the types of boats used to navigate waterways. Customarily, river travel was by kayak or larger skin boat. By the mid-1920s, the *Akulmiut* attached sails to boats to transport families and goods from tundra spring camps to the lower Kuskokwim River. By 1930, some *Akulmiut* adopted wooden plank boats with small outboard motors. During this time, canvas started to replace skin on kayaks, which continued to be used on many of the waterways.¹⁰³

There is considerable archaeological and historical evidence of early Native habitation and use on much, if not all, of Israthorak Creek. BIA fieldwork and oral history interviews conducted in the early 1980s investigated more than 20 ANCSA Sec. 14 (h)(1) cemetery and historical sites along or near Israthorak Creek that showed Native habitation or activity from the pre-contact period through the nineteenth and twentieth centuries. Between river miles 10 and 65, the BIA investigated seven sites that showed evidence of having been villages dating back as early as the middle of the nineteenth. Two more village sites were investigated one to two miles south of river miles 75 and 78, and were believed to date back to the period of the Bow and Arrow War. Many of these sites contain the remains of structures, several house depressions, tent frames, cache sites, fish catching and processing equipment, refuse pits, sleds, graves, and other historical debris.¹⁰⁴

Many of these sites saw most of their activity up to the 1930s, when the introduction of BIA schools along the villages of the Lower Kuskokwim region consolidated much of the local population. The connections to these sites remained among the people who now lived in Tuluksak, Akiachak, Akiak, and surrounding villages. They continued to visit the sites during the spring and fall, using them as camps for the same subsistence activities they had pursued when they had lived there. This activity continued up to the time of the BIA investigations, and may continue to the present day.¹⁰⁵

Several other sites were also identified along and around Israthorak Creek, from river mile 11.5 to river mile 74, and south of river mile 78. These were mainly spring and fall camps, as well as winter camps, trapping camps, and traveler stopping places. These sites showed much of the same evidence of use as the village sites, with house depressions, tent frames, cache pits, cut wood and stumps, sleds and kayaks, and graves visible. In addition, they showed signs of more recent use, including barrel stoves, metal and enamelware utensils, Blazo cans, and even an abandoned snowmachine. The evidence points to continued use up to the time of the BIA investigations, and likely to the present day. Israthorak Creek would have likely been a travel route to these sites, including to sites that do not lie on the creek itself.¹⁰⁶

Oral histories conducted in conjunction with the site investigations revealed stories behind the use and activities at the sites. One of the sites that dated back to the Bow and Arrow War period was occupied sporadically during the period to reduce the threat of surprise attacks.¹⁰⁷ Other sites contained graves of known individuals, or structures built by specific families.¹⁰⁸ One site is associated with several well-known stories, including one that reports that a disgruntled shaman occupied the site after he moved away from the Moravian mission at Akiachak.¹⁰⁹ Several of the sites were known for their particular subsistence advantages, such as good muskrat hunting, and at least two sites were used by reindeer herders before the failure of the herds in the 1930s.¹¹⁰

Non-Native Use of the Israthorak Creek Area Prior to Statehood

Early Russian and American explorers and missionaries used local Natives as guides during their travel within the Kuskokwim River drainage and the lowland tundra region of the Yukon-Kuskokwim Delta. Russian traders began exploring the Yukon and Kuskokwim rivers in the early 1790s via an overland route from a post at Lake Iliamna. Reports of a large population of people in the area as well as an abundance of fur-bearing animals led the Russians to try and extend trading into the Yukon River and Kuskokwim basin areas a few decades later once sea-otter trade had declined and trade in lesser-valued furs increased. In the 1830s traders found furs within the Kuskokwim River area to be plentiful and, in 1833, Kolmakov established a trading post along the Kuskokwim at the mouth of the Kolmakov River.¹¹¹

A redoubt at St. Michael established in 1833 allowed Russians to extend trade far up the Yukon River and eventually they discovered an alternative route to the Kuskokwim River.¹¹² An outpost of St. Michael called *Ikogmiut* was established near the portage to the Kuskokwim River in order to extend trade to inland areas between the Yukon and Kuskokwim rivers.¹¹³ Unable to establish access into the Kuskokwim basin from the sea or find an overland route to Cook Inlet, Russians devoted their efforts to extending influence to the headwaters of the Kuskokwim and the area between the rivers. By 1841, Kolmakov post was upgraded to a Redoubt and became the chief base of operations on the Kuskokwim River.

Every summer, Russian and Native traders working for the trading posts traveled by boat to small posts along the river where they met and traded with Natives. These traders, from both the Yukon posts to the north and the Kuskokwim posts in the south, traveled throughout the Takslesluk-Kayigyalik Lakes area of the *Akulmiut* to obtain pelts from *Akulmiut* trapping and hunting as part of their annual subsistence cycles.¹¹⁴

After the Alaska Purchase of 1867, the Alaska Commercial Company hired Reinhold Separe to represent the firm at Kolmakov. Separe, in the 1870s, maintained trading posts at Vinasale and Mumtrekhlagamute (near Bethel). Both operated into the 1890s.¹¹⁵ By 1903 the first reported resident trader in the *Akulmiut* area was living in Nunachuk, south of Kayigyalik Lake. Between 1918 and the early 1930s, Dillingham trader Frank Waskey traveled throughout the *Akulmiut* area from the Kuskokwim River to Baird Inlet collecting furs. Waskey traveled by sled in the winter and by three-holed kayak in the summer.¹¹⁶

Use of the Israthorak Creek System to Access Native Allotments

The BLM began collecting information in the 1970s to adjudicate Native allotment applications filed by local Natives who had a tradition of subsistence harvests on land in their area. The Natives accessed favorite spots along the river by boat for hunting, trapping, fishing and berry picking. These favorite spots, through customary use, developed into exclusive use areas. The federal government approved many of these areas as allotments and transferred title to the land to the applicants. Travel to allotments throughout the Israthorak Creek System during the open season was by small boats powered by outboard motors.¹¹⁷ Nineteen Native allotments are on lands along the banks of the Israthorak Creek System. Interviews with Native Allotment holders indicate that the allotments and surrounding lands are used for hunting, fishing, trapping, berry picking and gathering wood for fuel.¹¹⁸ BLM files for these allotments document local Natives travelling throughout the system by boat to reach their parcels (Figure 21). For the location of these Native allotments, see Figure 2 on page 6.



Figure 21. Boats beached at Lower Kalskag. Undated photo from BLM file FF-14888-EE.

Waska Helmick of Tuluksak applied for a Native allotment (F-15659) in 1970.¹¹⁹ The parcel is located on the left bank of Israthorak Creek¹²⁰ at river mile 98 (Secs. 10 and 11, T. 14 N., R. 64 W., SM). The applicant claimed seasonal use June through December of the land since 1965 for fishing, trapping¹²¹ and berry picking.¹²² Ricky M. Elliott, a BLM Realty Specialist, visited the parcel with guide Nick Alexie on July 12, 1975 and noted the presence of a mud house (Figure 22) that had fallen into disrepair.¹²³ Elliot did not state how the applicant accessed the parcel, but the applicant described the allotment's location as "About 35 miles north of Tuluksak *by river*."¹²⁴ (emphasis added). The parcel was officially surveyed and filed as Lot 1, U.S. Survey No. 10068 on June 25, 1992 and was certificated as No. 50-93-0540 on August 30, 1993.¹²⁵



Figure 22. Mudhouse at Native allotment F-15659. Photo taken by BLM on July 12, 1975.

Elias Wise of Lower Kalskag applied for a Native allotment (FF-17263-A) in 1971.¹²⁶ The parcel is located on the right bank of Israthorak Creek¹²⁷ at river mile 84 (Sec. 19, T. 15 N., R. 64 W., SM). The applicant claimed seasonal use of the land since 1936 for hunting, fishing, trapping, berry picking and fuelwood gathering June through August, and November through March.¹²⁸ Rhett S. Wise, a BLM Realty Specialist, visited the parcel with the applicant on June 18, 1975 and noted that the parcel appeared well suited for the claimed uses and noted the

presence of an “old washtub; sled runner and a few old cans.”¹²⁹ The field report did not state how the applicant accessed the parcel.¹³⁰ The parcel was officially surveyed and filed as Lot 1, U.S. Survey No. 10074 on June 25, 1992 and was certificated as No. 50-93-0162 on March 16, 1993.¹³¹

Joseph Demantle of Tuluksak applied for a Native allotment (FF-19183) which was processed in 1972.¹³² The parcel straddles Israthorak Creek¹³³ at river mile 64 (Sec. 21, T. 14 N., R. 66 W., SM). The applicant claimed seasonal use of the land for traditional Alaska Native subsistence activities including hunting, berry picking, and trapping April through November since 1942.¹³⁴ Ricky M. Elliott, a BLM Realty Specialist, visited the parcel with the applicant on July 12, 1975 and noted that resources for these activities were found on the land, that it was well-suited for such uses and that there was a tent frame (Figure 23) present.¹³⁵ The field report did not state how the applicant accessed the parcel.¹³⁶ The parcel was officially surveyed on September 20, 2001 and filed as Lots 1 and 2, U.S. Survey No. 12976 on August 8, 2002 and was certificated as No. 50-2003-0355 on July 7, 2003.¹³⁷



Figure 23. Tent frame at Native allotment F-19183. Photo taken by BLM on July 12, 1975.

Adjacent to Demantle’s allotment is the site of *Itqercaraq*, an abandoned village formerly used by people now residing in Tuluksak and Akiachak. In an interview with BLM Navigable Water

Specialist Laura Lagstrom, Demantle described how he accessed the allotment from 1930-1950. Most of the time, he initially traveled by dog team, equipped with a 20-foot wooden boat with a four or eight horse-power motor that he would later use on the creek after the ice had melted off. The load on this boat included “up to six people, their dogs, camping gear and at times one or two loaded canoes in tow.” He believed that the creek was boatable from spring break up, as early as mid-May, through freeze up, near the first of October, and estimated the river depth during each season. In the spring, the depth could range from four feet to very deep, while in the summer and fall the depth would be less, only up to five to six feet. After 1970, he stopped going to his allotment during open water season, largely due to the increase in beaver dams along the creek, which the animals would rebuild quickly if they were cleared. An acquaintance of Demantle’s, Robert Nick of Nunapitchuk, traveled up near Demantle’s allotment in the late 1990s, but was only able to reach a spot about 10 miles below the allotment. The allotment was still in use by Demantle’s sons and grandsons for hunting at the time of the interview, but only in the winter.¹³⁸

Roland Nose of Akiachak applied for a Native allotment (FF-19236) which was processed in 1972.¹³⁹ The parcel (Figure 24) straddles Israthorak Creek¹⁴⁰ at river miles 54-55 (Sec. 35, T. 14 N., R. 67 W., SM). The applicant claimed the parcel for trapping, hunting, and fishing from November through January since 1957.¹⁴¹ Susan C. Baker, a BLM Realty Specialist, visited the parcel with the applicant on August 27, 1974, and noted that the land appeared well-suited to the claimed uses. Through discussion with the applicant, Baker concluded that the applicant had been using the area for a number of years in a traditional Native subsistence lifestyle. Baker also noted the presence of an old spring camp.¹⁴² The field report did not describe how the applicant accessed the parcel. The parcel was surveyed and officially filed as Lots 1 and 2, U.S. Survey No. 12982 on August 8, 2002.¹⁴³ It was certificated as No. 50-2003-0488 on August 29, 2003.¹⁴⁴



Figure 24. Israthorak Creek between river miles 54 and 55 looking north over Native allotment F-19236. Photo taken by the BLM on August 27, 1974.

Nose was later interviewed by BLM Navigable Waters Specialist Laura Lagstrom as part of the Nunapitchuk 2001 survey project. In this interview, he described how he reached the allotment from the Gweek River using a “smaller boat” and 15-horsepower motor to navigate an unnamed creek and pond to reach Israthorak Creek. This route was chosen instead of the Johnson and Pigmikhtalik Rivers to save travel time and fuel costs. The applicant believed Israthorak Creek to be open and deep to Joseph Demantle’s allotment (F-19183, river miles 64 to 65), but shallower in the fall. Still, on his return to Akiachak in the fall it was possible for him to carry a 1,000 pound load, though with some difficulty. He also identified a mud house along the creek, which he believed to belong to Nelson Nose of Kwethluk.¹⁴⁵

Ruth Lomack of Akiachak applied for a Native allotment (AA-51769).¹⁴⁶ The parcel abuts the right bank of Israthorak Creek (Figure 25) at river miles 35-37 (Secs. 30 and 31, T. 13 N., 67 W., SM). The applicant claimed the parcel for trapping and fishing in fall and winter,¹⁴⁷ and berrypicking in late summer and fall starting in 1958.¹⁴⁸ Russel D. Blome, a BLM Realty Specialist, visited the parcel on May 25, 1984 with the applicant’s representative and noted that the habitat supported the claimed uses and that snowmachines were used to access the parcel.¹⁴⁹

The parcel was surveyed as U.S. Survey No. 10275 and certificated as No. 50-93-0350 on July 28, 1993.¹⁵⁰



Figure 25. Israthorak Creek at river mile 37 on Native allotment AA-51769. Photo taken by the BLM on May 25, 1984.

Annecia Nick of Akiachak applied for a Native allotment (AA-37842) in 1970.¹⁵¹ The parcel abuts the left bank of Israthorak Creek (Figure 26) at river mile 25 (Sec. 3, T. 12 N., 69 W., SW). The applicant claimed use of the parcel for traditional subsistence hunting, fishing, trapping November through January and berrypicking, harvesting “natural grown” goods since 1923.¹⁵² Joe C. Morris Jr., a BLM Realty Specialist, visited the parcel with Nick’s representative on April 16, 1985 and stated that there were natural resources present to support the claimed uses. Morris also noted that boats and snowmachines were used to access the parcel.¹⁵³ The parcel was surveyed as Lot 1, U.S. Survey No. 10411 on August 25, 1992¹⁵⁴ and certificated as No. 50-93-0536 on September 16, 1993.¹⁵⁵



Figure 26. Israthorak Creek looking southeasterly over Native allotment AA-37842 at river mile 25. Applicant accessed allotment via boat and snowmachine. Photo taken by the BLM on April 16, 1985.

Adolph Nick of Akiachak applied for a Native allotment (FF-19235) in 1971.¹⁵⁶ The parcel straddles Israthorak Creek (Figure 27) at river mile 24 (Sec. 33, T. 13 N., 68 W., SM)). The applicant claimed use of the parcel since 1941 for seasonal subsistence use for hunting, trapping, and berrypicking March through December.¹⁵⁷ Wayne R. Dawson, a BLM Realty Specialist visited the parcel with the applicant's representative on September 11, 1974 and noted that the parcel appeared well suited to these activities, but did not note how the parcel was accessed.¹⁵⁸ The parcel was surveyed as Lots 1 and 2, U.S. Survey No. 10234 on August 31, 1991 and certificated as No. 50-93-0428 on August 25, 1993.¹⁵⁹



Figure 27. Israthorak Creek looking southeast at Native allotment FF-19235 at river mile 24. Photo taken by the BLM on September 11, 1974.

Tom Wassilie of Akiachak applied for a Native allotment (AA-31269) on December 5, 1979.¹⁶⁰ The parcel abuts the right bank of Israthorak Creek (Figure 28) between river miles 23 and 24 (Sec. 32, T. 13 N., 68 W., SM). Wassilie claimed use of the parcel as a camp since 1957 for seasonal subsistence uses including hunting, fishing, and trapping from November through January.¹⁶¹ Sylvia K. Hale, a BLM Realty Specialist, visited the parcel with the applicant on May 25, 1984. Hale concluded that the parcel was “probably” suitable for the claimed uses and that a winter trail was present on the western half of the parcel.¹⁶² The parcel was surveyed as Lot 1, U.S. Survey No. 10234 on August 31, 1991 and certificated as No. 50-93-0538 on September 16, 1993.¹⁶³ A BLM Navigable Waters Specialist wrote in March 2001 that this allotment was the approximate upper limit for boating with a 22-foot Yukon Raider boat with a 130-horsepower motor and large load of cargo during the summer when water levels fell.¹⁶⁴



Figure 28. Israthorak Creek looking northeasterly across Native allotment AA-31269 at river mile 24. Photo taken by the BLM on May 24, 1984.

William Noah of Akiachak applied for a Native allotment (AA-37780) in 1970.¹⁶⁵ The parcel abuts the right bank of Israthorak Creek (Figure 29) at river mile 17 (Secs. 5, 6, 7, and 8, T. 12 N., R. 69 W., SM). The applicant claimed seasonal use of the land for hunting, trapping, fishing, and berrypicking since 1954.¹⁶⁶ Russel D. Blome visited the parcel with the applicant's representative on May 24, 1984. Blome noted that the land was suitable for the claimed uses and noted the presence of a steambath, tent frame, a dog sled, an old village site and gravesites adjacent to the parcel.¹⁶⁷ Access was listed as by boat or snowmachine.¹⁶⁸ The parcel was surveyed as U.S. Survey No. 10402 on September 3, 1991 and certificated as No. 50-93-0430 on August 25, 1993.¹⁶⁹

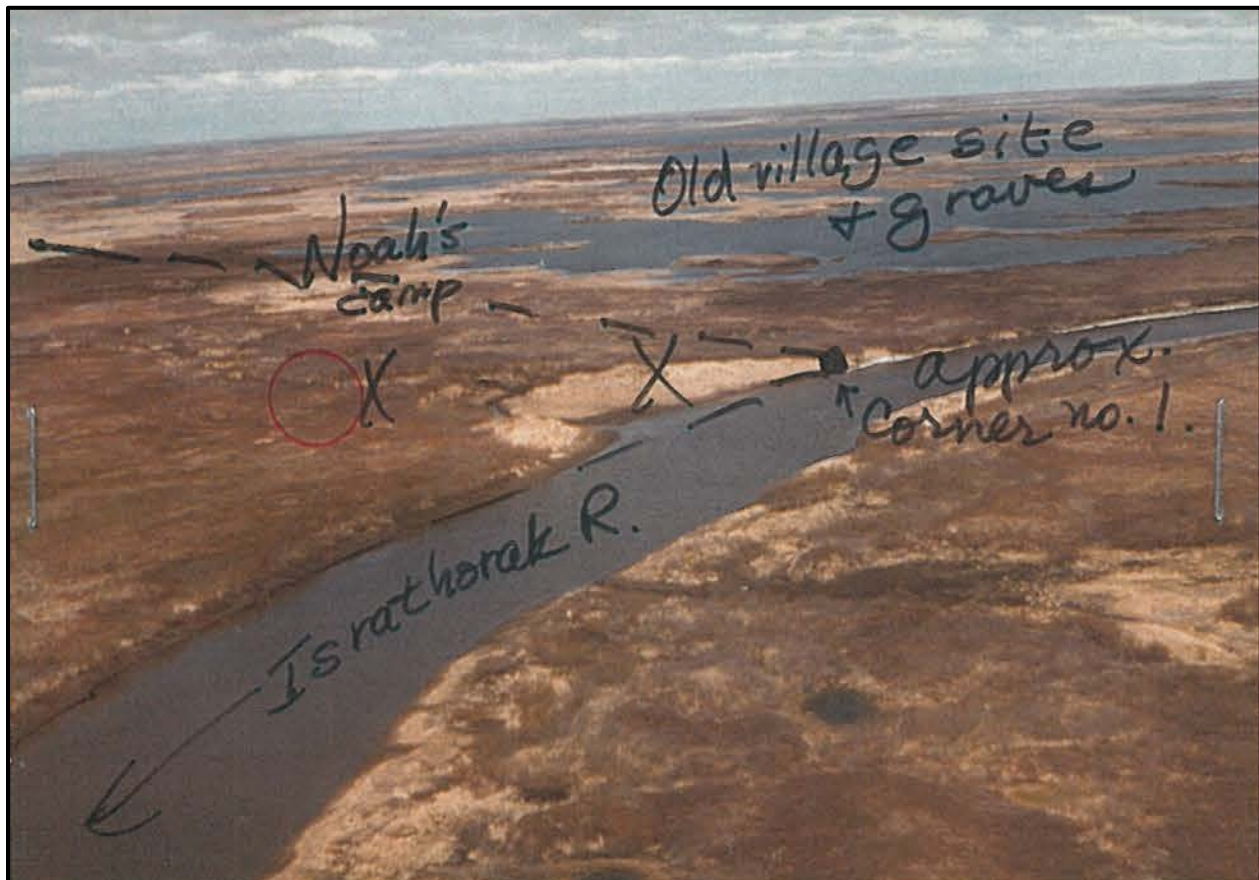


Figure 29. Israthorak Creek looking northerly across Native allotment AA-37780 at river mile 17. Photo taken by the BLM on May 24, 1984.

Isaac James of Akiachak applied for a Native allotment (FF-18747) in 1971.¹⁷⁰ The parcel straddles Israthorak Creek between river miles 11 and 12 (Sec. 15, T. 12 N., R. 70 W., SM). The applicant claimed use of the parcel since 1954 as a seasonal subsistence camp for hunting, fishing, and berrypicking from June through December.¹⁷¹ Wayne R. Dawson visited the parcel with the applicant on August 28, 1974. Dawson noted that the land appeared well-suited for the applicant's claimed uses and reported that the applicant stated that the parcel was used as a spring camp. Dawson noted the presence of a cabin (Figure 30), a canoe (Figure 31), a barabara (Figures 32 and 33), snowmachine sled, and the grave of the applicant's father.¹⁷² The parcel was surveyed as Lots 1 and 2, U.S. Survey No. 13019 on July 24, 2002 and certificated as No. 50-2003-0087 on January 24, 2003.¹⁷³



Figure 30. Native cabin at Israthorak Creek from Native allotment FF-18747 at river mile 11. Photo taken by the BLM on August 28, 1974.



Figure 31. Canoe used by applicant at Native allotment FF-18787 at river mile 11. Photo taken by the BLM on August 28, 1974.



Figure 32. Barabara or mudhouse used by applicant at Native allotment FF-18787 at river mile 11. Photo taken by the BLM on August 28, 1974.



Figure 33. Barabara or mudhouse used by applicant at Native allotment FF-18787 at river mile 11. Photo taken by the BLM on August 28, 1974.

Pauline Frederick of Akiachak applied for a Native allotment (AA-51770) in 1983.¹⁷⁴ The parcel straddles Israthorak Creek (Figure 34) at river mile 11 (Sec. 15 , T. 12 N., R. 70 W., SM). The applicant claimed seasonal use of the parcel spring through fall from 1942 through the present¹⁷⁵ for berrypicking, trapping, hunting, and fishing, using a tent for shelter.¹⁷⁶ Meg Jensen, a BLM Realty Specialist, visited the parcel on May 30, 1983. Jensen noted that the applicant accessed the parcel by boat and indicated the presence of several gravesites west of the parcel.¹⁷⁷ The parcel was surveyed as Lots 3 and 4, U.S. Survey No. 13019 on September 20, 2001 and certificated as No. 50-2005-0545 on September 24, 2005.¹⁷⁸

Pauline's son, Moses Frederick, spoke to BLM Navigability Specialist Laura Lagstrom regarding his use of Israthorak Creek to reach his mother's allotment. He described the creek as between 30 and 50 feet wide around his mother's allotment, and very deep in the spring. At the time of the interview, he was boating the river every spring around the third week of May in a 22-foot alumaweld boat with a 100-horsepower propeller-driven motor. In the summer, when he took his family with this boat to go berry picking, the creek was shallower than in the spring, but still unobstructed.¹⁷⁹



Figure 34. Israthorak Creek looking easterly over Native allotment AA-51770 at river mile 11. Photo taken by the BLM on May 30, 1984.

Agnes Charles of Akiachak applied for a Native allotment (F-29215-B) in 1962.¹⁸⁰ The parcel abuts the left bank of Israthorak Creek between river mile 10 and 11 (Sec. 16, T. 12 N., R. 70 W., SM). The applicant claimed seasonal use of the parcel during spring, fall, and winter for hunting, fishing and trapping.¹⁸¹ Witness statements supporting the applicant's claim indicate this use began in 1947, confirming and expanding the claimed uses to also include berrypicking and woodcutting.¹⁸² Russel D. Blome visited the parcel on May 25, 1984 with the applicant's representative. Blome noted the presence of an old house pit near the unnamed creek. He concluded that the land was suited to the claimed uses and that the applicant accessed the land by snowmachine and boat.¹⁸³ The parcel was surveyed as Lots 3, 4, and 5, U.S. Survey No. 13073 on August 12, 2001 and certificated as No. 50-2003-0088 on January 24, 2003.¹⁸⁴

Herman Frederick of Akiachak applied for a Native allotment (F-29105-A) in 1968.¹⁸⁵ The parcel abuts the left bank of Israthorak Creek between river mile 9 and 10 (Sec. 16, T. 12 N., R. 70 W., SM). The applicant claimed seasonal use the parcel in winter and spring for trapping and fishing.¹⁸⁶ Sarah C. Baker visited the parcel on September 8, 1974 with the applicant. Baker noted the presence of three grave markers and concluded that the parcel appeared well suited to the claimed uses.¹⁸⁷ The parcel was surveyed as Lot 2, U.S. Survey No. 13073 on September 20, 2001 and certificated as No. 50-2007-0557 on June 22, 2007.¹⁸⁸

Alice Sam of Akiachak applied for a Native allotment (F-29209) in 1962.¹⁸⁹ The parcel abuts the left bank of Israthorak Creek (Figure 35) at river mile 10 (Sec. 16, T. 12 N., R. 70 W., SM). The applicant claimed use of the parcel for waterfowl hunting in the spring and trapping and fishing since 1962.¹⁹⁰ Russel D. Blome visited the parcel on May 25, 1984. Blome concluded that the land seemed suitable for the claimed uses and that access was via boat and snowmachine.¹⁹¹ The parcel was surveyed as Lot 1, U.S. Survey No. 13073 on August 12, 2001 and certificated as N. 50-2003-0039 on December 3, 2002.¹⁹²



Figure 35. Israthorak Creek looking westerly over Native allotment F-29209 at river mile 10. Connection of leftbank tributary and unnamed lake is visible in the background. Photo taken by the BLM on May 30, 1984.

Alice Sam's husband, Oscar Sam, Sr. used Israthorak Creek to reach the allotment, which lies on the small left bank tributary that he called "A-ley-look-suak." He boated the creek in a 24-foot wooden boat with several propeller driven motors ranging from 18-to 60-horsepower. He carried up to six to seven people (two adults and five children), camping gear, a drum of gas, and six extra gas tanks. After this boat burned while travelling on Israthorak Creek, he used an 18-foot Lund with a 40 horsepower propeller motor. At the allotment, he hunted ducks and muskrat in

the spring, and the family went berry picking in the summer. In the spring, he would telephone “tundra people” or other villagers from Atmautluak and ask them if Israthorak Creek was clear of ice. Normally, he would be able to reach the allotment by boat by the first or second week of June, travelling about a day from Akiachak to his wife’s allotment.¹⁹³

Oscar Sam also gave details about the unnamed tributary, calling it very deep in the spring (deeper than the length of an oar), about 5 feet deep during the summer. He estimated that the stream was on average 20 feet wide, though it narrowed in some sections and was wider in others. He usually boated the stream in the spring and summer, up to the end of August, when it was unobstructed all the way to the lake, but not in the fall because it became too shallow.¹⁹⁴

Robert Charles of Akiachak likewise boated to the small unnamed tributary, which he called “Kue-voig-luq,” as it passed through his mother’s allotment. He used a 22-foot custom-made aluminum boat with a 135-horsepower propeller-driven motor. He traveled to the lake in the spring, around the middle of May, and his family went salmon berry picking in July. His usual load when travelling with his family was “seven to nine people, extra gas, grub, a tent, clothing, and a stove.” During dryer and warmer summers, the tributary became shallow and he was not able to reach the lake. Charles estimated the stream range between 8 and 10 feet deep in the spring along its whole course, but the depth decreased to 4 to 5 feet in July and August. There were some beaver dams and beaver houses on the stream and lake, but they could be bypassed. Although he did not boat the stream during the fall, he believed that the rainy season at the end of summer would have made the stream deep enough to boat. The lake was also boatable if one stayed straight into it from the stream. Charles noted that “villagers from Akiachak, Atmautluak, Nunapitchuk, Kasigluk, Bethel, and other surrounding communities regularly boat to this area to spring camp and hunt muskrat and beaver.”¹⁹⁵

Eddie Alexie of Akiachak applied for a Native allotment (AA-53086) in 1983.¹⁹⁶ The parcel straddles Israthorak Creek at river mile 8 (Sec. 16, T. 12 N., R. 69 W., SM). The applicant claimed seasonal use of the parcel from April through June for hunting, and November through December for hunting, fishing, and trapping since 1950.¹⁹⁷ Sylvia K. Hale visited the parcel with the applicant on May 22, 1984. Hale noted that the parcel was probably usable for the claimed uses and that access was probably via riverboat in summer and snowmachine or ATV in winter.¹⁹⁸ The parcel was surveyed as Lots 1 and 2, U.S. Survey No. 13005 on September 20, 2001 and certificated as No. 50-2003-0086 on January 24, 2003.¹⁹⁹

William Lomack of Akiachak applied for a Native allotment (FF-9910) in 1968.²⁰⁰ The parcel abuts the right bank of Israthorak Creek between river miles 5 and 6 (Sec. 4, T. 12 N., R 70 W., and Sec. 31, T. 13 N., R. 69 W., SM). The applicant claimed seasonal use of the parcel during fall and winter for hunting, trapping, fishing, fowling, and berrypicking from 1930 to present.²⁰¹ Sarah C. Baker, a BLM Realty Specialist, visited the parcel with the applicant’s representative on September 8, 1974. Baker noted the parcel appeared well suited to the claimed uses and the presence of multiple improvements such as a mudhouse, steambath, and fish cache (Figure 36).²⁰² The parcel was surveyed as Lot 1, U.S. Survey No. 12999 and certificated as No. 50-2003-0277 on May 22, 2003.²⁰³



Figure 36. Joseph Lomack in front of cache at Native allotment FF-9910 at river mile 6. Photo taken by the BLM on September 8, 1974.

Charlie Lomack of Akiachak applied for a Native allotment (FF-19286) in 1970.²⁰⁴ The parcel straddles Israthorak Creek at river mile 6 (Secs. 4 and 5, T 12 N., R. 70 W., and Sec. 31, T. 13 N., R. 69 W., SM). The applicant claimed seasonal use of the land from October through December for trapping and fishing since 1914.²⁰⁵ BLM Realty Specialist Sarah C. Baker visited the allotment with the applicant's representative. Baker noted that it appeared well suited to the claimed uses and that it shared the improvements described for FF-9910.²⁰⁶ The parcel was surveyed as Lots 2 and 3, U.S. Survey No. 12999 and certificated as 50-2003-0009 on October 29, 2003.²⁰⁷

John Lomack of Akiachak applied for a Native allotment (AA-37784) in 1983.²⁰⁸ The parcel abuts the right bank of Israthorak Creek (Figure 37) at river mile 5 (Secs. 31 and 32, T. 13 N., R. 69 W., SM). The applicant claimed seasonal use of the parcel for every month except March for hunting, trapping, fishing, and berrypicking since 1936.²⁰⁹ Joe C. Morris Jr., a BLM Realty Specialist, visited the parcel with the applicant on May 22, 1984 and noted that the parcel was suitable for the claimed uses. Morris noted that the applicant accessed the parcel via boat and snowmachine.²¹⁰ The parcel was surveyed as Lot 6, U.S. Survey No. 12999 on June 4, 2001 and certificated as No. 50-2003-0206 on April 15, 2003.²¹¹



Figure 37. Looking northwesterly over Native allotment AA-37784 at river mile 6. Israthorak Creek is visible in fore and midground and the Pikmiktalik River is visible in the background. Photo taken by the BLM on September 8, 1974.

Joseph Lomack of Akiachak applied for a Native allotment (FF-18308) in 1970.²¹² The parcel straddles Israthorak Creek at river mile 5 (Sec. 31, T. 13 N., R. 69 W., SM). The applicant claimed seasonal use of the parcel in fall and winter for hunting and fishing since 1932.²¹³ Sarah C. Baker, a BLM Realty Specialist, visited the parcel with the applicant's representative on September 8, 1974. Baker noted that the land seemed suited for the claimed uses and that the improvements noted in FF-9910 were used in common by the applicants.²¹⁴ The parcel was surveyed as Lots 4 and 5, U.S. Survey No. 12999 on June 4, 2001 and certificated as No. 50-2003-0132 on March 10, 2003.²¹⁵

Joseph Lomack's son Jackson also described Israthorak Creek around his father's allotment. He noted that villagers from Nunapitchuk, Atmautluak, and Kasigluk boat the creek every year. He stated that the creek varies in width, but is very wide near the allotment. The creek, he added, is deep enough that he could not reach the bottom with an oar. He boated the creek between 1978 and 1980 near the end of May in a 22-foot wooden boat with a 115 horsepower Evinrude propeller-driven motor. He also boated beyond his father's allotment towards a lake.²¹⁶

Table 2 summarizes the Native allotments along Israthorak Creek and how they were accessed. In total, there are 19 allotments, ranging from river mile 5 to river mile 98. Chronologically, one

Native allotment holder has used the parcel since the 1910s, one since the 1920s, four since the 1930s, four since the 1940s, six since the 1950s, and three since the 1960s. All but one of the 19 were used during open water season, and all but one were in winter. Of the 18 used in open water season, boat use is described in 13 of these Native allotments, and 5 Native allotments do not indicate how they were accessed in open season.

Table 2. Native allotments along Israthorak Creek indicating how allotment holders accessed their parcels during the open water and winter seasons.

Allotment Number	River Mile(s)	Parcel Owner	Village	Used Since	Open Season/ Means of Access	Frozen Season/ Means of Access
F-15659	98	Washa Helmich	Tuluksak	1965	Yes/Probably Boat	Yes/Unknown
FF-17263-A	84	Elias Wise	Lower Kalskag	1936	Yes/Unknown	Yes/Sled
FF-19183 & <i>Itqercarq</i>	64	Joseph DeMantle	Tuluksak	1942	Yes/Boat	Yes/Dog Team
FF-19236	54-55	Roland Nose	Akiachak	1957	Yes/Boat	Yes/Unknown
AA-51769	35-37	Ruth Lomack	Akiachak	1958	Yes/Unknown	Yes/Snowmachine
AA-37842	25	Annecia Nick	Akiachak	1923	Yes/Boat	Yes/Snowmachine
FF-19235	24	Adolph Nick	Akiachak	1941	Yes/Unknown	Yes/Unknown
AA-31269	23-24	Tom Wassillie	Akiachak	1957	Yes/Boat	Yes/Unknown
AA37780	17	William Noah	Akiachak	1954	Yes/Boat	Yes/Snowmachine
FF-18747	11-12	Issack James	Akiachak	1954	Yes/Boat	Yes/Snowmachine
AA-51770	11	Pauline Fredrick	Akiachak	1942	Yes/Boat	
F-29215-B	10-11	Agnes Charles	Akiachak	1947	Yes/Boat	Yes/Snowmachine
F-29105-B	9-10	Herman Fredricks	Akiachak	1968	Yes/Unknown	Yes/Unknown
F-29209	10	Alice Sam	Akiachak	1962	Yes/Boat	Yes/Snowmachine
AA-53086	8	Eddie Allexie	Akiachak	1950	Yes/Boat	Yes/Snowmachine and ATV
FF-9910	5-6	William Lomack	Akiachak	1930	Yes/Unknown	Yes/Unknown
FF-19286	6	Charles Lomack	Akiachak	1914		Yes/Unknown
AA-37784	5	John Lomack	Akiachak	1936	Yes/Boat	Yes/Snowmachine
F-15659	5	Joseph Lomack	Akiachak	1932	Yes/Boat	Yes/Unknown

Residents of nearby villages also accessed Native allotments along Israthorak Creek, even if the allotments were not theirs. Robert Charles visited Roland Nose's allotment (river miles 54 to 55) in the 1970s and 1980s, reaching it by an 18-foot Lund with a 70-horsepower propeller motor. In an interview with Laura Lagstrom, he described "Elaiq" as very long, with heads at several big lakes. He felt, according to the interviewer, that people could boat this area in the summer, but only for salmon berries. He added that some villagers from the surrounding area hunt moose in the fall beyond Roland Nose's allotment. Some of these hunters used larger boats—22 feet long with 88 horsepower motors—but they had to drag their boats beyond Nose's allotment with a snowmachine because the stream was not deep enough throughout.²¹⁷

Another villager who accessed Roland Nose's allotment by boat was George Peter. Twice Peter boated up Israthorak Creek to Nose's allotment around the second week of May in a 12-foot aluminum Harborcraft boat with a 15-horsepower Mariner propeller-driven motor. According to the interviewer, Peter felt that the creek is deep up to the Nose allotment from the end of May to the second or third week of June. During the summer, the creek is too shallow to reach the allotment. Come fall, the level would rise so that it was once again boatable for about six to seven weeks during September and October. Peter also used the creek to reach William Lomack's allotment (river mile 5.5) and Tom Wassilie's allotment (river miles 23 to 24). The creek, he said, is only boatable up to Wassilie's allotment in the summer. When visiting Wassilie's allotment, he was using a 22-foot Yukon Raider boat with a 130-horsepower Johnson motor, carrying his 12 foot boat, 110 gallons of gas, some camping gear, food, and two adults. Peter stated that people from Atmautluak, Nunapitchuk, and Kasigluk boat the river during September to hunt moose. He described Israthorak Creek as on average 6 feet deep, but only 10 feet wide near Nose's allotment.²¹⁸

Moses Pavilla, Sr. provided Laura Lagstrom with considerable detail about his use of Israthorak Creek. He used the creek, along with many villagers from Nunapitchuk and Atmautluak, every September after the rains to go moose hunting near the upper end or at a slough above Tuluksak, on the Kuskokwim River. On Israthorak Creek, he used a 25 foot whitewater aluminum boat with a 112-horsepower Evinrude propeller motor. He took weekend trips with up to "eight adults, a child, camping gear, about 90 gallons of gas, and sometimes a small 14' boat to save gas." According to him, depending on how much rain falls before the autumn, the creek can remain deep near the upper end "about two or three weeks between the middle of August through September," ranging from 3 to 15 feet deep. Before the rain, during the summer, the creek may only be 1 to 3 feet deep. Overall, he provided estimates of river depth during different seasons: 4 to 5 feet at the mouth and 3 to 15 feet at the upper end in spring; less deep in the summer to mid-July; and 3 to 15 feet in the fall. He described the creek as 11 to 150 feet wide. He also noted that there are beaver dams all along the creek, but that they can be bypassed ("jumped") with a large enough motor.²¹⁹

Morris Moochin of Atmautluak described the region around the upper end of Israthorak Creek as "famous for its abundance of subsistence, huntable animals," and thus used by many people from the villages of Kasigluk, Nunapitchuk, Atmautluak, and others along the Kuskokwim River every year. Moochin and his son used an 18-foot Lund boat with a 65-horsepower Evinrude propeller-driven motor in September 1998 to reach an area "north of Tuluksak but below Lower Kalskag" with a load of about 800 pounds. He noted some shallower areas near the upper end of

the creek, but he was able to boat past them without lifting his motor. The creek was deep enough to boat all the way to the end, with an estimated average width of 40 to 50 feet. Most of his travel was normally in the first to third week of September, as the creek got shallower after that.²²⁰

Moochin also boated to the area near Elias Wise's allotment F-17263-A, river miles 84 to 84.5 (Native allotment certificate No. 50-93-0162) in Sec. 19, T. 15 N., R. 64 W, SM, to hunt moose. He described the creek around this area as deep between the end of September to the first of October, when it began to freeze. The creek was 3 feet deep. He stated that the creek was narrow at this point, but still much wider than their boats, and that it used to be wider. There were times when the river was shallower at this time, but he believed that it was still deep enough to be boatable.²²¹

Billy Gilman of Atmautluak also hunted moose near the end of Israthorak Creek. He boated the creek in September, in an 18-foot aluminum skiff with a 55-horsepower propeller motor, carrying two adults and about 30 gallons of gas. He had also boated the creek in the spring, when the channel was deeper. On one of the trips, he used a 22-foot boat with a 90-horsepower propeller motor carrying up to 1,000 pounds consisting of "two drums of gas, groceries, camping supplies, and tents." He was able to boat back downstream after shooting a moose. He described the river as very deep, ranging 4 to 5 feet for at least two weeks in September, and longer if it rains. It got shallower at the end of September. At the upper area, he estimated that the creek was 30 to 50 feet wide, and wider near the mouth. He was able to navigate the creek all the way to the end, "right below Kalskag or to the tree line near the Kuskokwim river," although some places were narrow and other times he had to cross beaver dams. He also noted that many villagers head for their spring camps on Israthorak Creek.²²²

*Recent Native Travel on Bogus Creek Document
In Subsistence Studies and other Sources*

The Israthorak Creek System is used extensively for subsistence harvesting throughout the year by residents of villages on the middle Kuskokwim River, including Tuluksak, Akiak, and Akiachak, and the *Akulmiut* villages, including Atmautluak, Nunapitchuk, and Kasigluk.²²³ These activities are based on long-standing traditional ways of life going back generations, and are also tied into larger economic and social systems in the region. Studies of these subsistence systems, like Wendell H. Oswalt's examination of Napaskiak in 1956, 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 Israthorak 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 concept 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 Lower Kalskag 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 BLM 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.”²²⁴

Overall, the social and cultural lifestyles of the population of the villages around Israthorak Creek have not changed much from their pre-European contact character. As Fienup-Riordan points out, 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.²²⁵ 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.”²²⁶

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.”²²⁷ 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.²²⁸

Wolfe characterized as “extensive” the non-commercial distribution and exchange networks for fish and game products in Quinhagak and other southwest Alaska communities.²²⁹ 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.”²³⁰

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.²³¹ 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.²³² 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.²³³

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.”²³⁴

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.²³⁵ 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.²³⁶ The open usufruct rights^{vii} 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.²³⁷

While some of this sharing reflects social perceptions of prestige and community standing, sharing also serves to distribute wealth more evenly amongst the residents, making economic activity a cooperative endeavor and maintaining egalitarian consumption as well as production.²³⁸ 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.²³⁹

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.”²⁴⁰ 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

^{vii} “Usufruct” is the right to utilize and enjoy the profits and advantages of something belonging to another so long as the property is not destroyed or altered in any way.

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.²⁴¹

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."²⁴² More recent studies of subsistence along the Kuskokwim River have also found considerable subsistence activity in the area around Israthorak Creek.²⁴³

During open water seasons, boats are used extensively in all subsistence activities as harvesters travel widely throughout the region from upstream of McGrath to Baird Inlet.²⁴⁴ 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.²⁴⁵ 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.²⁴⁶

During the open water season Israthorak Creek is accessed via the Kuskokwim, Pikkimiklik, and Gweek Rivers.²⁴⁷ Michael Coffing's study of Kwethluk subsistence found 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. 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.²⁴⁸

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.²⁴⁹ Although none of the subsistence reports specifically mention the use of any particular types of boats or motors on Israthorak Creek, these descriptions from Kwethluk match up with the description of the types of boats used on Israthorak Creek from the Native allotment files and oral interviews.

Boats are utilized for non-salmon fishing by setting nets, dipnetting, and drifting for fish during the spring, summer, and fall.²⁵⁰ Non-salmon fish species have long been an important part of subsistence within *Akulmiut* villages²⁵¹ and are important to the residents of Akiachak.²⁵² Seasonal camps and old village locations are often placed near good fishing locations because of the importance of the food source. Israthorak Creek was noted for its abundance of blackfish.²⁵³

During interviews with residents in 2001, BLM's Laura Lagstrom documented that Israthorak Creek was boated by people during the fall moose season.²⁵⁴ In addition, residents from villages both upriver and downriver of Tuluksak were also reported to utilize similar territories for moose hunting.²⁵⁵ 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 (Figure 26 in the report), Israthorak Creek is within the known moose hunting area, less than a day's travel from Kwethluk.²⁵⁶ 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."²⁵⁷ Residents of nearby villages including Lower Kalskag also reported hunting moose in the Israthorak Creek area.²⁵⁸

Caribou hunting also tends to cover a wide area, often including where Israthorak Creek meets the Kuskokwim River. Hunters from Akiachak and Tuluksak have used the lands around Israthorak Creek in their hunts. 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.²⁵⁹

Bear hunting activities encompassed the Israthorak Creek area, usually at approximately the same time as moose and caribou hunting.²⁶⁰ Most bears were hunted in August and September, but some brown bears were hunted in the spring as well, and occasionally in the summer.²⁶¹ 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.²⁶²

In the early 1930s, 43,000 reindeer grazed along the Kuskokwim River system. Their numbers declined precipitously in the early 1940s. From oral histories taken by BIA investigators of the various ANCSA Sec. 14(h)(1) cemetery and historical sites along and around Israthorak Creek, villagers told of sites used for reindeer herding up to the 1930s. Two sites in particular were remembered as either reindeer herder camps, or for the reindeer herders.²⁶³ It is not clear how the herders reached the herding area from Akiachak or Tuluksak, but Israthorak 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.²⁶⁴ 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. A good portion of the area around Israthorak Creek, especially towards the Pikmiktalik River area, appears on the maps of furbearer hunting and trapping in subsistence studies.²⁶⁵

The other category of small-game hunting and trapping demonstrates comparable patterns. This small-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 Israthorak Creek and the area around the creek appears on the maps of small-game hunting and trapping areas in the Kwethluk and Akiachak subsistence studies respectively.²⁶⁶

Hunting for waterfowl is one of the more common subsistence activities among village residents near Israthorak Creek. By one count, villagers harvest over 30 types of birds and eggs in a year, mostly various ducks, geese, swans, and cranes.²⁶⁷ 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.²⁶⁸ Most of the activity takes place within a short distance from the villages, because of the relative difficulty of travel at times, and Israthorak Creek appears within the traditional hunting zones. According to the maps in subsistence studies, Israthorak Creek is a route for waterfowl hunting.²⁶⁹

Plants, including berries, are harvested in the Israthorak 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, crowberries (mossberries/blackberries), and low-bush cranberries. Residents regularly also gather plants such as Hudson's Bay tea, stinkweed, wild rhubarb, celery, and others.²⁷⁰ Native allotment files all note berry picking, plant gathering, and wood gathering as subsistence activities among the Native residents of Tuluksak who have allotments on and around Israthorak Creek. Residents from Akiachak also noted Israthorak Creek, at its head at the Kuskokwim River, as a source of berries, plants, and wood.²⁷¹

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.²⁷² 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.²⁷³

These subsistence reports corroborate the evidence in Native allotment files and oral interviews with residents. All of the Native allotment files located along the whole of Israthorak Creek mention some combination of fishing, hunting, trapping, and gathering among the uses of the sites. These lists not only include large game hunting such as moose, but also include several allotments that were used for waterfowl hunting, particularly along the lower portion of the

creek, and small-game hunting near the small tributary at river mile 10. Much of this activity was undertaken from boats, either to access the allotments or during the activity itself.

V. Summary

Israthorak Creek is an anabranch of the Kuskokwim River that connects it to the Pikmiktalik River, departing from the former approximately 17 air miles north of Tuluksak. For most of its course, it flows through the Yukon Delta NWR, but for several miles it passes through the selected lands of two Native village corporations. For its last 3.5 river miles, it flows through land selected by The Kuskokwim Corporation, successor to Lower Kalskag, Inc., the village corporation for Lower Kalskag. Higher up, between river miles 16 and 32.2, Israthorak Creek flows through lands conveyed to Akiachak Limited, the village corporation for Akiachak. Both of these areas have been patented. Israthorak Creek also passes through twenty Native allotments.

Israthorak Creek is a generally wide, deep, meandering stream, although it does not appear that its course remains clear all the way from the Kuskokwim River to the Pikmiktalik River. At the Kuskokwim River, where it heads, it is approximately 300 feet wide, but within four miles, it narrows to less than 150 feet. By around river mile 93, in Sec. 27, T. 15 N., R. 64 W., SM, the creek is often filled, but is passable by portaging. However, the river widens again around river mile 89 in Sec. 15, T. 15 N., R. 64 W., SM, and generally remains above 50 feet in width, although it does narrow to about 30 feet in places, and down to 10 feet in others. It continues to range from 30 to 50 feet wide to its confluence with the Pikmiktalik River in Sec. 27, T. 13 N., R. 70 W., SM.

There are several tributaries of Israthorak Creek that have been determined navigable. The first is a slough that connects with Israthorak Creek right at its head on the Kuskokwim River, in Sec. 11, T. 14 N., R. 64 W., SM, flows west and then south before connecting with the Kuskokwim River in Sec. 28, T. 14 N., R. 64 W., SM. There is also an interconnecting slough that connects with Israthorak Creek in Sec. 35, T. 15 N., R. 64 W., SM, at river mile 95.5, and connects with a slough of the Kuskokwim River in Sec. 31, T. 15 N., R. 63 W., SM. Finally, there is a small tributary stream that connects with Israthorak Creek in Sec. 16, T. 12 N., R. 70 W., SM, at river mile 10, flowing east and then west to connect to a lake in Sec. 17, T. 12 N., R. 70 W., SM.

The BLM initially regarded Israthorak Creek as non-navigable, and listed it that way in its earliest navigability documents in the 1970s. However, as the BLM conducted more detailed investigations among the residents of the communities around Israthorak Creek in the early 1980s, it became clear that Israthorak Creek was both navigable along much of its course, and a fairly heavily travelled watercourse by those residents. By 1982, the BLM began revising its easements and navigability decisions to reflect the use of Israthorak Creek, especially near its head on the Kuskokwim River and on the interconnecting sloughs between the Kuskokwim River and Israthorak Creek. Later navigability determinations added the lower sections, from its

confluence with Pikmiktalik River to river mile 65. Other navigability determinations in 1989 and 2002 found the three main tributaries navigable.

Information gained from investigations of Native allotments and ANCSA Sec. 14(h)(1), cemetery and historical sites have largely corroborated the navigability determinations. Most of the Native allotments are placed along the lower 65 river miles of Israthorak Creek, and have historically received significant river traffic for the purpose of hunting, fishing, trapping, and gathering. Similar activities were prevalent along the approximately 7 river miles of the upper creek that have been determined navigable. In addition, residents of nearby villages have also reported boating the creek to Native allotment F-17263-A (Native allotment certification 50-93-0162) at river mile 84, approximately 15 miles downriver from its head at the Kuskokwim River, and others have stated that the entire creek, from the Kuskokwim River to the Pikmiktalik River, is boatable.

BLM files document how Native allotment parcels were accessed for the nineteen allotments along Israthorak Creek. Of these nineteen allotments, BLM files document that 13 were accessed by boats. Travel for subsistence purposes during open water seasons was generally by boat. These Native allotments included one applicant who accessed his parcel annually beginning in 1914, one that accessed her parcel beginning in 1923, four Native applicants beginning in the 1930s, four Native applicants beginning in the 1940s, six Native applicants beginning in the 1950s, and three Native applicants beginning in the 1960s.

These subsistence activities along the length of Israthorak Creek support the findings of several federal and state studies on the nature of the subsistence economy and society among the residents of the Yukon-Kuskokwim delta region. 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 boats on Israthorak 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

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