KINEGNAK And UNALUK RIVERS

HUC 30502, Zone 1, Kuskokwim River Region

FINAL

INTERIM SUMMARY REPORT

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Office of History and Archaeology Department of Natural Resources State of Alaska

Kuskokwim Assistance Agreement 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 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. A list of the Navigable Waters Research Reports completed to date is included at the end of this report.

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Attachments (in PDF format)

- Attachment 1. Robert W. Arndorfer, BLM Deputy State Director for Conveyance Management, to Deputy State Director for Cadastral Survey, Memorandum on Navigable Waters in group Survey No. 194 (Window 1704), June 6, 1988, BLM files, F-14862 (75.4).
- Attachment 2. Ron Swanson, Manager of State Interest Determinations, Department of Natural Resources, to Robert Arndorfer, BLM Deputy State Director for Conveyance Management, Letter disagreeing with June 6, 1988 memorandum, June 28, 1988, BLM files, F-14862-EE.
- Attachment 3. Dina Torres, Land Transfer Resolution Specialist, Resolution Branch (962), to Robert Lloyd, Chief, BLM Land Transfer Adjudication, Memorandum on Final Easements for Lands to be Conveyed to Calista Corporation, January 7, 2009, BLM files, AA-10376-1.
- **Attachment 4.** Laura Matus, Lead Land Law Examiner, BLM Branch of Calista Adjudication, Legislative Approval of Native Allotment Confirmed, F-13780 Parcels A and B, October 2, 1992, BLM files, F-13780.
- **Attachment 5.** Ramona Chinn, Acting BLM State Director, Decision to Convey Lands, July 27, 2007, BLM files, AA-10313.
- **Attachment 6.** John A. Sroufe, Acting State BLM Director, Decision to Convey Lands, January 27, 2009, BLM files, AA-10312, AA-10376, and AA-10377.
- **Attachment 7.** David Rukke, BLM Realty Specialist, Memorandum to File F-14862-EE, Interviews for Group Survey No. 194 (Window 1704), November 21, 1986, BLM files, F-14862-EE.
- **Attachment 8.** U.S. Survey No. 13743, officially filed August 4, 2008.
- **Attachment 9.** U.S. Survey No. 10531, officially filed October 11, 1991.
- Attachment 10. U.S. Survey No. 13742, officially filed January 11, 2008.
- Attachment 11. U.S. Survey No. 13741, officially filed January 31, 2008.
- Attachment 12. U.S. Survey No. 9618, Lots 1 and 2, officially filed October 24, 1991.
- Attachment 13. U.S. Survey No. 10533, officially filed October 11, 1991.

Kinegnak and Unaluk Rivers, HUC 30502, Zone 1 Phase II-B: Interim Summary Report

KINEGNAK and UNALUK RIVERS

HUC 30502, Zone 1, Kuskokwim River Region II-B Interim Summary Report

I. Introduction

The Kinegnak River and its principle tributary the Unaluk River are located in the Kuskokwim River Region, in the southern most portion of Zone 1 within HUC 30502 (Figure 1). The Kinegnak River is 32 river milesⁱ long and contained entirely within the Togiak National Wildlife Refuge (NWR).

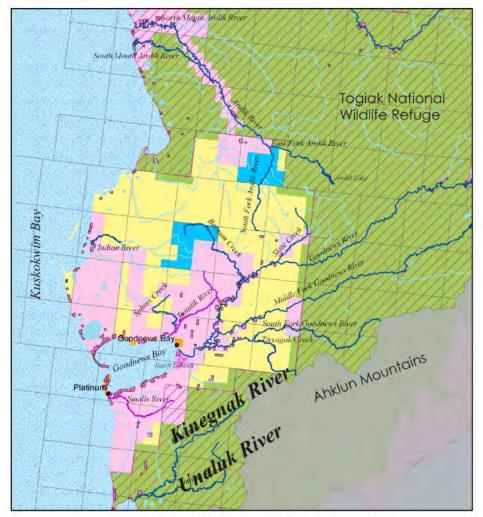


Figure 1. Map of Zone 1, HUC-30502, showing the location of the Kinegnak and Unaluk rivers.

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

The Kinegnak River comprises six townships: Township (T.), Range (R.), Seward Meridian (SM):

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T. 13 S., R. 72 W., SM
T. 13 S., R. 73 W., SM
T. 14 S., R. 73 W., SM
T. 14 S., R. 74 W., SM
T. 15 S., R. 74 W., SM
T. 16 S., R. 74 W., SM
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The Kinegnak River heads at Sec. 29, T. 13 S., R. 72 W., SM, and flows in a southwest direction into Chagvan Bay.

The Unaluk River is 26 river miles long and flows in a westerly direction to its confluence with the Kinegnak River at river mile 2.5 in Sec. 33, T. 15 S., R. 74 W., SM. The Unaluk River heads in Sec. 23, T. 14 S., R. 72 W., SM, and is bounded entirely by the Togiak NWR.

The Unaluk River comprises four townships:

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T. 14 S., R. 72 W., SM
T. 15 S., R. 72 W., SM
T. 15 S., R. 73 W., SM
T. 15 S., R. 74 W., SM
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The nearest villages to the mouth of the Kinegnak and Unaluk rivers are Platinum, 14.4 air milesⁱⁱ to the north, and Goodnews Bay Village, 20 miles to the north. Togiak is 50 air miles to the east. The community of Platinum is located approximately 11 miles southwest of Goodnews Bay Village on the South Spit of the mouth of Goodnews Bay. As of the 2000 Census, Platinum had a population of 41. Goodnews Bay Village is located on the north shore of Goodnews Bay at the mouth of the Goodnews River. It is 116 air miles south of Bethel, 110 miles northwest of Dillingham and 400 miles west of Anchorage. As of the 2000 Census, the population of Goodnews Bay was 230.

Kinegnak and Unaluk are Yupik names reported in 1938 by Gerald Fitzgerald of the United States Geological Survey (USGS). A village with the name Kinegnak (now abandoned) was located at the confluence of the Kinegnak River and Kookuluk Creek, inland from Chagvan Bay, at river mile 1. The village was listed in the 1890 Census as "Kinegnagmiut" and "Kniegnagamute," meaning "Kinegnak people". The population in 1890 was 76.¹

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ii All air mile distances in this report are based on measurements from: http://sdms.ak.blm.gov/isdms/imf.jsp?site=sdms

II. Land Status

The Kinegnak and Unaluk rivers flow entirely within the boundaries of the Togiak NWR. In the townships where the Kinegnak and Unaluk rivers flow, there was no Federal land withdrawal, reserve, or reservation at the time of statehood.

On January 20, 1969, the Secretary of the Interior issued Public Land Order (PLO) 4583 withdrawing 265,000 acres of that area and designating it the Cape Newenham NWR. In 1971, the Secretary of the Interior withdrew these lands under Sections 17(d)(1) and 17(d)(2) of the Alaska Native Claims Settlement Act (ANCSA). Congress failed to take action before the five-year deadline expired for the (d)(2) lands being considered for additions in the National Park, Refuge, Forest, and Wild and Scenic River Systems. On November 16, 1978, the Secretary of the Interior invoked his emergency withdrawal powers, under Section 204(e) of the Federal Land Policy Management Act (FLPMA), and withdrew nearly 110 million acres of land throughout Alaska. Most of the present Togiak NWR was covered by this withdrawal, including lands which had been available to the Natives but had not yet been selected.

The Togiak NWR was established under the authority of The National Wildlife Refuge Administration Act of 1966 (as amended) 16 U.S.C. 668dd and PLO 5703 issued on February 11, 1980 by the Secretary of the Interior under Section 204 of the FLPMA. On December 2, 1980, the Togiak NWR was officially created under the Alaska National Interest Lands Conservation Act (ANILCA). This act, among other things, rescinded PLO 5703 and designated all of the withdrawn land as a wildlife refuge. In addition, ANILCA made Cape Newenham NWR a unit of Togiak NWR.² Title to refuge lands is held by the United States. The Togiak NWR is managed by the U.S. Fish and Wildlife Service (USF&WS).

Under Section 14(h)(1) of ANCSA, regional native corporations are entitled to select lands, that contain Native historic and cemetery sites. Once the lands are conveyed, the corporation is given fee title to both the surface and subsurface estate for the land. Under this authority, Calista Corporation, the regional corporation for Goodnews Bay, selected six parcels along the Kinegnak River and one site on the Unaluk River as ANCSA 14(h)(1) sites. There have been no village selected lands under ANCSA along the Kinegnak and Unaluk Rivers.

Native lands along the Kinegnak River consist of eight parcels of land. Two parcels are certificated Native allotments: 50-93-0115 (FF-13780-B), and 50-92-0580 (FF-17831). Six parcels are ANCSA 14(h)(1) historic and cemetery sites conveyed to the Calista Corporation under four patent Numbers (Tables 1 and 2).

Native lands along the Unaluk River consist of one ANCSA 14(h)(1) historic and cemetery site conveyed to the Calista Corporation under Patent No. 50-2007-0699 (Table 3).

Table 1. Native Lands Abutting the Kinegnak River in T. 16 S., R. 74 W., SM.

River Mile	Sec.	BLM file	U.S. Survey	Patent No.	Owner	Туре	Historic name
.2	5,6	AA- 10376	13743 Lot 3	50-2009- 0169	Calista	14(h)(1)	Kangirnaq/ Kinegnak
.4	5	AA- 10376	13743 Lot 2	50-2009- 0169	Calista	14(h)(1)	Kangirnaq/ Kinegnak

Table 2. Native Lands Abutting the Kinegnak River in T. 15 S., R. 74 W., SM.

River Mile	Sec.	BLM file	U.S. Survey	Patent No.	Owner	Туре	Historic name
1	32	FF- 13780	9618	50-93- 0115	Heirs of Walter Smith	Native allotment	n/a
1.2	32	FF- 17831	9618	50-92- 0580	Willie T. Echuck Sr.	Native allotment	n/a
1	32	AA- 10376	13743 Lot 1	50-2009- 0169	Calista	14(h)(1)	Kangirnaq/ Kinegnak
5	27	AA- 10317	10531	50-2007- 0699	Calista	14(h)(1)	Kiangqayarmiu
6	26	AA- 10312	13742	50-2009- 0167	Calista	14(h)(1)	Kiangqayraq
10	13	AA- 10377	13741	50-2009- 0168	Calista	14(h)(1)	Qiurrliumiut

Table 3. Native Lands Abutting the Unaluk River in T. 15 S., R. 73 W., SM.

River Mile	Sec.	BLM file	U.S. Survey	Patent No.	Owner	Туре	Historic name
9	29	AA- 10313	10533	50-2007- 0699	Calista	14(h)(1)	unknown

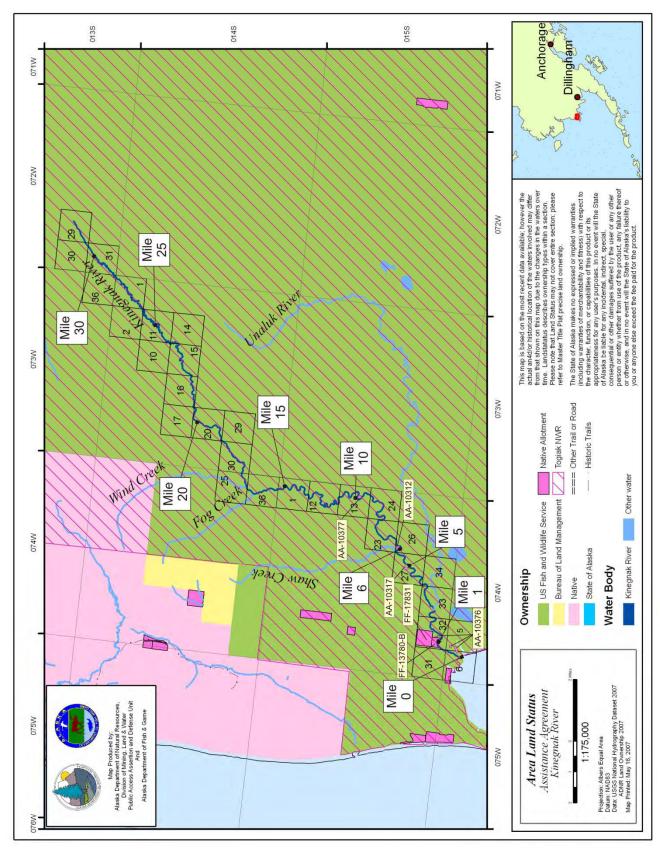


Figure 2. Map of the Kinegnak River showing river miles and land status.

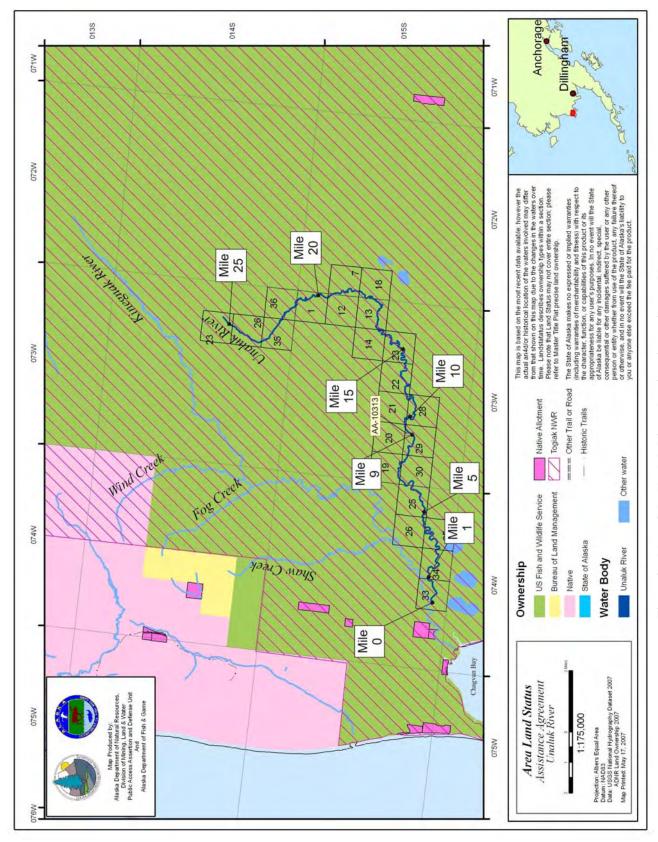


Figure 3. Map of the Unaluk River showing river miles and land status.

III. BLM Navigability Determinations

Robert Arndorfer, the BLM Deputy State Director for Conveyance Management, issued a Navigable Waters Memorandum on June 6, 1988, stating that "in general, the BLM considers nontidal water bodies navigable if they were navigable by crafts larger than a one-person kayak at the time of Statehood." For the Kinegnak and Unaluk Rivers, Arndorfer concluded that there was no need for a navigability determination because:

These rivers are within the Togiak NWR. Under the Submerged Lands Act, we are not required to make a navigability determination for these rivers because the U.S. retained title to the beds when Alaska became a State. The Kinegnak River traverses lands which have also been ANCSA selected in Ts. 14 and 15 S., R. 74 W., SM; however, a navigability determination is not required because this river was in withdrawn status at the time of Statehood.³ (Attachment 1)

No documentation has been found to support Arndorfer's claim that the lands through which the Kinegnak and Unaluk rivers flow were in withdrawal status at the time of statehood. In 1969, ten years after statehood, the Secretary of the Interior reserved the Cape Newenham NWR, withdrawing 265,000 acres that included the Kinegnak and Unaluk rivers. In 1980, under ANILCA, Cape Newenham NWR became part of the larger Togiak NWR.

In a letter dated June 28, 1988, Ron Swanson, of the Alaska State Division of Land and Water Management, challenged BLM's decision to make no navigability determinations on these rivers. In a letter to the BLM, Swanson wrote:

In your decision you state that BLM is not required to make navigability determinations for the Kinegnak and Unaluk rivers within the former Cape Newenham National Wildlife Refuge...As you know, we strongly disagree with this position based on the U.S. Supreme Court decision involving Utah Lake which has been confirmed by IBLAⁱⁱⁱ in Susitna River and most recently Katalla River. We request that you reconsider your position and make navigability determinations in these withdrawn areas pursuant to the criteria in Utah Lake.⁴ (Attachment 2)

There is no indication in the BLM files that the agency replied to the State's concerns over the necessity of making a navigability determination.

In a Final Easements Memorandum dated January 7, 2009, a BLM Land Transfer Resolution Specialist, Dina Torres, determined there were no major waterways within lands selected by the Calista Corporation along the Kinegnak and Unaluk rivers pursuant to Sec. 14(h)(1) of ANCSA. The BLM also decided that no easements along the rivers needed to be reserved. The selected lands identified in the memorandum along the Kinegnak River were AA-10312, AA-10376, and AA-10377 in T. 15 S., R. 74 W., and AA-10376 in T. 16 S., R. 74 W., SM. (Attachment 3)

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iii Interior Board of Land Appeals

In the 1990s, two Native allotment parcels along the Kinegnak River were conveyed to applicants. In both cases, no navigability determinations were made regarding the Kinegnak River. On October 2, 1992, BLM Lead Land Law Examiner Laura Matus issued a Decision approving conveyance of a 40-acre Native allotment parcel (F-13780-B) at river mile 1 to Walter Smith (deceased) of Goodnews Bay. The BLM made no mention of navigable waters, although they did reserve a right-of-way for ditches and canals constructed by authority of the United States. (Attachment 4) The Native allotment was certificated on February 4, 1993 (50-93-0115). The other Native allotment (FF-17831) is located just north of F-13780-B and does not front on the Kinegnak River. It was certificated on August 24, 1992 (50-92-0580).

On July 27, 2007, Ramona Chinn, acting BLM State Director, issued a DIC for lands selected along these two rivers under ANCSA Section 14(h)(1) to the Calista Corporation. Selections approved for conveyance included AA-10313 on the Unaluk River at river mile 9, and AA-10317 on the Kinegnak River at river mile 10. No navigability determinations or easements were made in this DIC.⁷ (Attachment 5) These two 14(h)(1) sites were conveyed to Calista Corporation in 2007 in Patent No. 50-2007-0649. The BLM issued a DIC on the other three Section 14(h)(1) sites on the Kinegnak River on January 27, 2009 for AA-10312, AA-10376, and AA-10377, without making navigability determinations.⁸ (Attachment 6) The three Section 14(h)(1) sites were conveyed to Calista Corporation on March 19, 2009 in Patent Nos. 50-2009-0167, 50-2009-0168, and 50-2009-0169.

IV. Physical Character of the Waterway

The Kinegnak River flows 31 river miles through the Togiak NWR as shown in Figure 1. The river heads in a valley east of Pyramid Mountain in Sec. 29, T. 13 S., R. 72 W., SM. There are no major lakes or glaciers that head the Kinegnak River. The river flows generally southwest to its confluence with Wind and Fog creeks near river mile 16. From there, the river meanders south in a wide valley to the lowlands where it winds southwest and empties into the northwest corner of Chagvan Bay in Sec. 6, T. 16 S., R. 74 W., SM. The river is shallow at the mouth with an approximate depth of one foot, but upriver the depth can be as much as eight feet. (Attachment 7) The Kinegnak River has one principal tributary, the Unaluk River. Wind, Fog, Shaw, and Kookukluk creeks and numerous lesser tributaries also flow into the Kinegnak River, draining an area of 78.2 square miles. (1)

The Unaluk River is 26 river miles in length. The river heads in Sec. 23, T. 14 S., R. 72 W., SM, from an unnamed mountain, and flows in a southerly direction to river mile 17 where it turns to flow in a westerly direction to its confluence at river mile 2.5 of the Kinegnak River. The Unaluk River drains an area of 52.1 mi square miles and the river is located entirely within the Togiak NWR. ¹²

The Kinegnak and Unaluk rivers are within the transitional climate zone, which is between the maritime and continental climatic zones. This transition zone in the Yukon-Kuskokwim Delta area extends 100 to 150 miles inland.¹³ Average annual precipitation in the town of Platinum, the closest community to the Kinegnak and Unaluk rivers, is 22 inches, with 43 inches of

snowfall. Summer temperatures range from 41 to 57 degrees Fahrenheit (F) while winter temperatures average 6 to 24 degrees F. ¹⁴

The USF&WS conducts stream flow monitoring of the Kinegnak River by using a stream gage located three air miles upstream from the confluence with the Unaluk River. The gage is located in the SW ¼ NE ¼ Sec. 23, T 15 S., R. 74 W., SM, on the right bank of the river (Figure 4). The USF&WS also maintains a stream gage on the right bank of the Unaluk River, eight river miles upstream from the confluence with the Kinegnak River (Figure 5). The USF&WS has collected stream flow data from these two gages, but had not completed its analysis of the data as of January 2011. In general, the Kinegnak and Unaluk rivers are similar in that peak flow for spring breakup (snow melt peak) occurs in mid-May each year. A mid-summer period of lower flows occurs in late July to early August and a second peak occurs with the rains in the fall, normally in September/October. Winter freeze up occurs in January and the river remains frozen through breakup in March. Base flows below the ice are estimated from periodic discharge measurements made during the period of ice cover. In the confluence with the Unaluk River. The gage is located in the confluence with the confluence wi



Figure 4. Photo of the Kinegnak River from the USF&WS stream gage at river mile 7. Photo credit USF&WS.



Figure 5. Photo of the Unaluk River from the USF&WS stream gage at river mile 8. Photo credit USF&WS.

Interviews with local boaters from Goodnews Bay indicate that the Kinegnak River is tidally influenced in its lower reaches. In 1986, four people told a BLM interviewer that the river is only accessible during high tide. Ron Hyde Jr. stated that high tide extended up this river about one mile.¹⁷ (Attachment 7) The Kinegnak and Unaluk rivers appear to be in their natural and ordinary condition from the time of statehood.

V. Evidence of Use of the Waterway

Archeological and Ethnographic Information on the Kinegnak and Unaluk Rivers

Human occupation of the Kuskokwim area goes back 11,000 Before Present (BP)^{iv} to nomadic hunter gatherers of the Pleistocene. These hunter gatherers were supplanted about 3800 BP, when Eskimos from the north moved into the lower Kuskokwim drainage, bringing with them the so-called Arctic Small Tool tradition.¹⁸ Permanent occupation of the interior Kuskokwim Delta with chronological continuity began about 1,350 BP (AD 600).¹⁹ Their descendents, the *Kusquqvagmiut* (also known as Yup'ik Eskimos or mainland southwest Alaskan Eskimos), have inhabited the Kuskokwim River, its tributaries and Kuskokwim Bay down to the present as far

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^{iv} Archaeologists have adopted the approach of specifying dates in terms of years "Before Present", abbreviated as BP. The date is calculated back from AD 1950. This convention is used in this report for dates older than the nineteenth century.

inland as the village of Aniak. By 1880, their population was estimated at 3,100 people.²⁰ Archaeological test excavations on the north spit of Chagvan Bay near the mouth of the Kinegnak River contained materials dating to 2,000 BP through the historic period.²¹

From Euro-American contact in the 1870s through the late 1920s, modes of transport, besides walking, were by dog teams and kayaks in the lower Kuskokwim Bay area. The Native people spent large portions of time in nonpermanent settlements spread out along the rivers draining into Kuskokwim Bay, alternating their subsistence harvest activities between coastal camps in the summer and inland camps in the winter. When the time came to travel from the inland camps to the coast after spring breakup, familial groups used the rivers to assist their travel. The women walked along the rivers while the elderly drifted down the river in boats or kayaks, pushing with a pole or oar. Men traveled overland on foot to hunt or herd reindeer. Outboard motors became available to the Natives in the 1930s, but kayaks and oar boats continued to be used. As local Natives became involved in the cash economy from the 1930s into the 1950s, they settled into more condensed and permanent communities. This did little to change the seasonal harvesting rounds, but it did change the mode of transportation. With outboard motors and snowmachines, what had been extended camping trips became overnight or day trips by power driven boats. 22

In 1890, the U.S. Census counted 76 people at a village called *Kinegnagmiut* on the north side of the Cape Newenham isthmus.²³ Sometime after 1890 a village was settled at the mouth of the Kinegnak River. Later, this village moved one river mile upstream from Chagvan Bay on the right bank of the Kinegnak River. From this village of Kinegnak, Natives traveled up the Kinegnak and Unaluk rivers and down into Chagvan Bay for subsistence harvesting activities. They also traveled to other villages for dances.²⁴ After the establishment of a U.S. Bureau of Indian Affairs (BIA) School at Goodnews Bay Village in 1931, the population of Kinegnak Village began to move to Goodnews Bay. Kinegnak Village was abandoned as a permanent village by the late 1950s.²⁵

After the abandonment of the village, former residents continued to use the Kinegnak and Unaluk rivers for subsistence harvesting. Two Native allotments and five ANCSA 14(h)(1) historic sites were applied for and conveyed along the Kinegnak and Unaluk rivers. In 1987, the BIA conducted field investigations these ANCSA 14(h)(1) sites. Oral interviews with local residents conducted in the mid-1980s by both the BIA and the BLM indicate use of the lower portions of both rivers.

Information on the use of the Kinegnak River from BIA ANCSA reports

Archaeologists from the BIA identified three different site locations for the Kinegnak Village on the Kinegnak River representing various stages of occupation. The general area where these three village sites were located is shown in Figures 6 and 7. The residents of the most recent settlement of Kinegnak Village abandoned it by 1950. Large depressions representing the remains of traditional semi-subterranean sod houses were visible on the surface at the location of the abandoned village along with the remains of a wood framed store, and the remains of a men's house (*qasgiq*). The surface are depressions representing the remains of a men's house (*qasgiq*).

^v The store was once operated by Joe Jean who also operated a store in Goodnews Bay and, in 1919, staked the first gold claim, called Discovery Claim, on Wattamuse Creek.



Figure 6. Aerial view looking north of Kinegnak River from river mile 0-1. View is looking north. Photo from BIA site visit to AA-10376 in 1987.



Figure 7. Aerial view looking west over Kinegnak River from river mile 0-1. View is looking west towards Chagvan Bay. Photo from BIA site visit to AA-10376 in 1987.

Down river from the historic site of the village of Kinegnak, AA-10376 (U.S. Survey No. 13743, Lot 1)²⁷ (Attachment 8), are two older sites for the village of Kinegnak in Secs. 5 and 6, T. 16 S., R. 74 W., SM, at the mouth of the Kinegnak River. The BIA investigated these two locations as two separate parcels both identified as *Kanigirnaarmiut* (Figures 6 and 7). One parcel, AA-10376 (lot 3, U.S. Survey No. 13743), consists of three house depressions and the other, AA-10376 (lot 2, U.S. Survey 13743), has thirty five cultural depressions, four of which are large enough to be the remains of semi-subterranean sod houses.²⁸

The BIA conducted oral interviews with former residents of the village in 1984 and 1986 and included the interviews in their 1988 report on AA-10376. In these oral interviews, five elder residents of Goodnews Bay and Platinum shared their knowledge of the former village of *Kangirnaq* (Kinegnak). The information provided by the five elders is summarized below.

John James recalled that Kinegnak was a settlement where lots of families lived. He remembered specifically that dances were held there at the *qasgiq* (men's house).²⁹

Louis Smith described *Kangirnaq* as having a large population and a *qasgiq* where they used to dance. He stated that residents from *Kangirnaq* traveled to attend dances at *Avgun*, a village on the North Fork of the Goodnews River at the mouth of Barnum Creek. He added that while his family was living at *Kangirnaq*, they frequently used other locations up the *Kanirnaq* (Kinegnak) and *Ungalaqliq* (Unaluk) rivers.³⁰

Willie Samuels, a resident of Platinum born in 1909, described *Kangirnaq* as a year-round village. He added that the residents of *Kangirnaq* (Kinegnak), *Asvigyaq* (Osviak) and *Mumterat* (Goodnews Bay) took turn hosting dances.³¹

Susie Bavilla of Goodnews Bay identified the location of AA-10376 (U.S. Survey No. 13743, lot 2) as the location of the older village of *Kangirnaq*. Her grandparents were from the more recent location of Kinegnak at AA-10376 (U.S. Survey No. 13743, Lot 1) located at river mile 1. She stated that winter residents of *Kangirnaq* went to the north spit at the entrance of Chavgan Bay in the spring to harvest geese, seals and squirrels. They returned to the village in the fall to fish.³²

Margaret Kilbuck Echuck and her husband Willie Echuck accompanied the BIA archaeologists to the Kinegnak River for an on-site interview. The couple discussed their memories of living on the Kinegnak River and identified village house sites and graves for the archaeologists. In regard to the Kinegnak River, Willie Echuck stated that "both the river and Kookukluk Creek were considerably wider 40 years ago than they are now. A kayak was needed to cross the creek when it flooded." He also added that "the residents of *Kangirnaq* would travel by kayak to the mouth of the bay to hunt seal."³³

Upriver five miles, in Sec. 27, T. 15 S., R. 74 W., SM, is *Kiangayarmiut* AA-10317 (U.S. Survey No. 10531), a historic site last occupied in the 1930s and 1940s by two families with ties to Kinegnak.³⁴ (Attachment 9) Margaret Kilbuck Echuck stated in an interview with the BIA in 1986 that she lived with her family at this site when she was a child. In addition, Louis Smith stated that his family had customarily used several locations upriver from Kinegnak. His father (Walter Smith) had a house at *Kiangayarmiut* (AA-10317) and another at (*Qiurrliumiut*)

AA-10377. Another elder Charlie Kavelala (born in 1914) stated that people camped at *Kiangayarmiut* in the fall, but did not stay there all winter.³⁵

The site of *Kiangqayaraq* AA-10312 (U.S. Survey No. 13742) is located upriver from the mouth of the Kinegnak River at river mile 6, in Sec. 26, T. 15 S., R. 74 W., SM.³⁶ (Attachment 10) The BIA archaeologists visited this site in 1992. They concluded that this historic site was a seasonal camp occupied one winter by Walter Smith, the Native miner who discovered the platinum nugget that started the mining boom in the Salmon River drainage north of the Kinegnak River.³⁷ Smith lived in the village of Kinegnak and built a semi-subterranean sod dwelling sometime between 1925 and 1935. The site also included a two room sod house and was used by other residents of Kinegnak.³⁸

The site of *Qiurrliumiut* AA-10377 (U.S. Survey No. 13741) is located at river mile 10 in Sec. 13, T. 15 S., R. 74 W., SM.³⁹ (Attachment 11) Calista Corporation identified this location on its Regional Corporation Selection Application for an ANCSA 14(h)(1) site as an "old village."⁴⁰ Elders residing in the village of Goodnews Bay in 1986 indicate that they were knowledgeable about repeated occupations of this location. The initial occupation occurred prior to 1900. Margaret Echuck stated that when she was about five or six years old, she stayed there with her family in a sod house "to catch fish, before the river was frozen or the ground was covered with snow." Other elders recalled that during their travels in the area they saw the remains of a house at *Qiurrliumiut*.⁴¹

Documented Native use is concentrated on the lower Kinegnak River in T. 15 S., R. 74 W., SM, and T. 16 S., R. 74 W., SM. The remaining townships through which the Kinegnak River flows, T. 13 S., Rs. 72-73 W., and T. 14 S., Rs. 73-74 W., SM, have no Native selections, Native allotments, or ANCSA Sec. 14(h)(1) sites.

Moravian Missionary Visits to Kinegnak

The Moravian missionary Reverend Schoechert traveled to "a village beyond Goodnews Bay" in the winter of 1909 to a place called *Ganerchanak*, also known as Portage Bay. This was the village Kinegnak. Over the years, Schoechert spoke there five times, including once twelve years earlier. According to *The Dictionary of Alaska Place Names*, Chagvan Bay has name variations of Portage Bay and Tchagvan Bay. Chagvan Bay was identified as Portage Bay on an 1899 USGS chart. In 1910, Schoechert returned to Portage Bay to take a census. He recorded 75 people living there. That same year, the village at Portage Bay [Kinegnak] requested that the Moravians send a helper to their village. To meet this request, George Nukachluk and his wife moved to Portage Bay.

Recent Local Use of the Kinegnak River in BLM Interviews and State Subsistence Reports

The BLM Realty Specialist David Rukke interviewed 17 people in the Goodnews Bay area and the results of those interviews are contained in a report dated November 21, 1986. Seven of

those interviewed discussed the Kinegnak River. Their accounts are summarized below.⁴⁵ (Attachment 7)

Keith Shultz, an Alaska Department of Fish and Game (ADF&G) biologist, stated that Chagvan Bay is popular among local Native boaters during duck hunting season in the fall. Shultz did not believe the river was navigable due to the lack of water in the bay when the tide was out. Shultz added that locals from Platinum use three-wheelers to access the river in Tps. 14-15 S., R. 74 W., SM, from the three-wheeler trail that branches off the Goodnews Mining Camp road. 46

Willie Echuck, a Native resident of Platinum has a certificated Native allotment on the Kinegnak River, stated that he had taken his 18-foot Lund a quarter mile up the Kinegnak River in Chagvan Bay. He described the river as only a foot deep. He added that in order to get to the mouth there must be a high tide. He described Chagvan Bay as a large sand and mud flat when the tide is out. Mr. Echuck thought it might be possible to drag a raft up the river and float down, but added that there is not enough water for his 18-foot Lund or BLM's smallest commercial craft. He said that a person could walk all the way up the river bed. He also referred to the old village of Kinegnak, near the river mouth, stating that it has been abandoned for sometime.⁴⁷

Dave Fisher, manager of the Togiak NWR, stated that although he had never been on the Kinegnak River in a boat, a refuge employee named Mark established a camp near its mouth last fall. Mark took his Zodiac with a keel about a mile upstream with a propeller-driven outboard. Mark told Fisher that he needed the tide to cross the mud flats of Chagvan Bay and get into the Kinegnak River. Once in the river, he found it was deep enough for BLM's smallest craft with a propeller to travel upstream. From Fisher's comments it was unclear how far Mark had gone upstream. However, Fisher made it clear that a flat bottomed boat could travel farther upstream than a Zodiac with a keel.⁴⁸

Ron Hyde Jr., a commercial river guide, stated that Chavgan Bay is shallow and full of kelp and seaweed which would plug a jet boat motor. Getting to this river was tricky, but he said once on the river it was similar to the South Fork of the Goodnews River and averaged three feet deep. He believed that high tide extended up this river about one mile. In addition to the Native allotments and the old village site on the lower river, there were trapper's cabins upstream in the hills along the Kinegnak River. Hyde said that a propeller-driven boat comparable to BLM's commercial boat and typical load could be taken upstream to the cliffs and hills. In the fall, Native boaters use the Kinegnak River on high water upstream into T. 14 S., R. 73 W., SM (river mile 16). Ron had taken his 18-foot Lund with a 35 to 65-horsepower motor with a propeller up the river through Sec. 12, T. 15 S., R. 74 W., SM (river mile 13.5). Beyond there, the riverbed had rocks that have fallen into the river from the 50-foot high cliffs. The river becomes too shallow as the gradient increases. He believed this was the upper limit of navigation for BLM's boat and load.⁴⁹

Peter Samuels, the Mayor of Platinum in 1986, stated that he had taken a boat similar to the BLM's smallest commercial boat with a propeller up the Kinegnak River. He described the river as having a depth of three to eight feet once past the sand bar in Chavgan Bay. Samuels said that it was "possible to go upstream by travelling back and forth across the river following the

channel and the cut banks." He stated that he has travelled upstream an estimated five to eight miles or until "the first cliff on the right," but did not continue because he had no reason to. 50

Ron Hyde Sr., a commercial river guide, stated that he had taken an 18-foot boat with a propeller motor up the Kinegnak River "into the hills" before turning around. He believed that BLM's commercial boat could be taken upstream for this distance with a propeller and a thousand pound load. During the first 13 miles the river climbs less than a hundred feet.⁵¹

Oscar Snyder, an elder Native resident of Platinum estimated to be over 70-years old, stated, according to the BLM interviewer, that he:

was one of the only old timers [left] that used to live at the old village site of Kinegnak. In those days the Natives did not have outboard motors. All the travel was done by canoe or kayak. He remembered taking a canoe several miles upstream from the old village and drift fishing for chum salmon. He said the river was real deep in some places but also had some hard to get over places. He remembered the village of Kinegnak being empty each spring and fall. The Natives, he said, were upriver hunting and trapping with canoes that provided their primary means of travel.⁵²

Ron Whittom, a local miner at Platinum, stated that he had flown over the Kinegnak River and observed Native boaters upstream. He said the river was a popular spot for duck hunting in the fall.⁵³

Recent Native Use of the Kinegnak River Documented in Native Allotment Files

The BLM began collecting information in the 1970s to adjudicate Native allotment applications filed by local Natives who have fished, hunted and picked berries on the lands in their area. The Natives accessed favorite spots along the river for hunting, trapping, fishing and berry picking by boat. These favorite spots, through customary use, developed into exclusive use areas. The federal government recognized many of these areas as allotments and transferred title to the land to the applicants.

Two separate Native allotments on the Kinegnak River were surveyed as Lots 1 and 2, U.S. Survey 9618. The BLM identified these allotments as FF- 17831 (U.S. Survey No. 9618, lot 1) and FF-13780-B (U.S. Survey No. 9618, lot 2). ⁵⁴ (Attachment 12)

Walter Smith (deceased) of Goodnews Bay applied for a Native allotment (FF-13780) split into four parcels on November 4, 1970. Parcel B consists of 40 acres and is located at river mile 1. Smith stated on the application that he began using the land in May of 1919. He used the land seasonally from May through October for hunting, trapping and fishing. The application did not indicate how Smith accessed the land. On July 17, 1978, BLM Realty Specialist Russel D. Blome visited the site by helicopter accompanied by Charlie Chingliak and James Smith, Walter Smith Sr.'s son (Figure 8). Blome did not indicate in his report how Smith had accessed the

parcel, but he did note that the site was the old abandoned village of Kinegnak.⁵⁶ The land was certificated on February 4, 1993 under Certificate No. 50-93-0115.



Figure 8. Aerial view looking northeast over Kinegnak at river mile 1. The black circle indicates a BLM corner marker of Walter Smith's Native allotment FF-13780-B. The small tributary is Kookukluk Creek. Photo by Russel D. Blome, BLM Realty Specialist, July 17, 1978.

Willie T. Echuck of Togiak applied for a 160-acre Native allotment (FF-17831) on January 1, 1971. The parcel is located on the north side of Walter Smith's Native allotment, at river mile 1.2. In his application, Echuck wrote that he has occupied the parcel since August 19, 1946. He used the land seasonally for berry picking during August and September, fishing during May through September and trapping from November through April. He did not state how he accessed the site. ⁵⁷ In 1978, BLM Realty Specialist Blome conducted a field examination of the allotment, accessing the parcel by helicopter (Figure 9). The field report states that Echuck accessed the tract "by boat, walking, or by dogsled." ⁵⁸ The land was certificated on August 24, 1992 under Certificate No. 50-92-0580.



Figure 9. Down river view of the Kinegnak River at river mile 1.2 from Willie Echuck's Native allotment FF-17831. Photo by Russel D. Blome, BLM Realty Specialist, July 17, 1978.

Information on the use of the Unaluk River from BIA ANCSA Reports

On November 10, 1975, the Calista Corporation applied for an ANCSA 14(h)(1) historic site on the Unaluk River in Sec. 29, T. 15 S., R. 73 W., SM, at river mile 9. The corporation did not state the name or significance of the site. In 1986, Goodnews Bay resident Louis Smith told BIA archaeologists that his family had customarily used the location (AA-10313) on the Unaluk River. His father, Walter Smith, had built a house there. Archeologists for the BIA visited AA-10313 on June 20, 1986. They located a total of 13 surface depressions representing two distinct sites on an upper and lower terrace of the Unaluk River (Figure 10). The BIA archaeologist concluded that the two sites were a satellite camp of the village of Kinegnak used for fall and winter subsistence procurement. The sites were last occupied 50-60 years ago. The BIA determined the site eligible as an ANCSA Sec. 14 (h)(1) Native historical place. This location was surveyed as U.S. Survey No. 10533. (Attachment 13) The BLM issued Patent No. 50-2007-0699 for the sites to the Calista Corporation on September 10, 2007.

Ron Hyde Jr. discussed the Unaluk River with BLM Realty Specialist David Rukke during interviews conducted in 1986. He stated that the Natives travel up the Unaluk River to reach the lakes south of the river for duck hunting.⁶¹

There are no Native allotments or village corporation lands on the Unaluk River. There is one conveyed regional corporation parcel, an ANSCA 14 (h)(1) site river mile 9. Evidence of use is concentrated on the lower portions of the river (Figure 10).



Figure 10. Aerial view of the Unaluk River, looking northeast. Photo credit BIA, June 20, 1986.

VI. Summary

The BLM has made no navigability determinations for the Kinegnak and the Unaluk rivers, even though there are Native allotments and ANSCA 14 (h)(1) sites along the Kinegnak River. In 1988, the BLM asserted that the two rivers are exempt from determinations of navigability because they were pre-statehood withdrawals. Both rivers are located entirely within the Togiak NWR, which was not reserved at the time of statehood. The State requested that navigability

determinations be made for the Kinegnak and Unaluk rivers, citing the U.S. Supreme Court decision involving Utah Lake. There have been reports by local users that the first mile of the Kinegnak River above its mouth is tidally influenced.

Two Native allotments and four ANCSA 14(h)(1) sites are located along the lower Kinegnak River between river mile 0 to river mile 10, with a history of use prior to 1959. The now abandoned village of Kinegnak at river mile 1 was the main village on the Kinegnak and Unaluk rivers. The upriver sites were satellite camps used during seasonally subsistence activities. There is one ANCSA 14(h)(1) site along the Unaluk River at river mile 9. The use of this location is also associated with the abandoned village of Kinegnak.

Interviews with residents of Goodnews Bay and Platinum, conducted in the mid-1980s by the BIA and the BLM, indicate that local Natives still use the Kinegnak and Unaluk rivers for subsistence harvests. These residents in the 1980s were typically using 16 to 18-foot skiffs with 35 to 70-horsepower outboard motors for subsistence. Chagvan Bay has shallow tidal flats at low tide. Local residents described Kinegnak River as tidally influenced and boats have been used by locals to travel upriver as far river mile 16 on the Kinegnak River and as far as river mile 9 on the Unaluk River.

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