

**Discovery Creek System
(Including Unnamed Leftbank Tributary of
Discovery Creek and Slough near Mouth of
Discovery Creek)
HUC 30502, Zone 3, 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. 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 completed Navigable Waters Research Reports completed to date is included at the end of this report.

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Attachments (in PDF format)

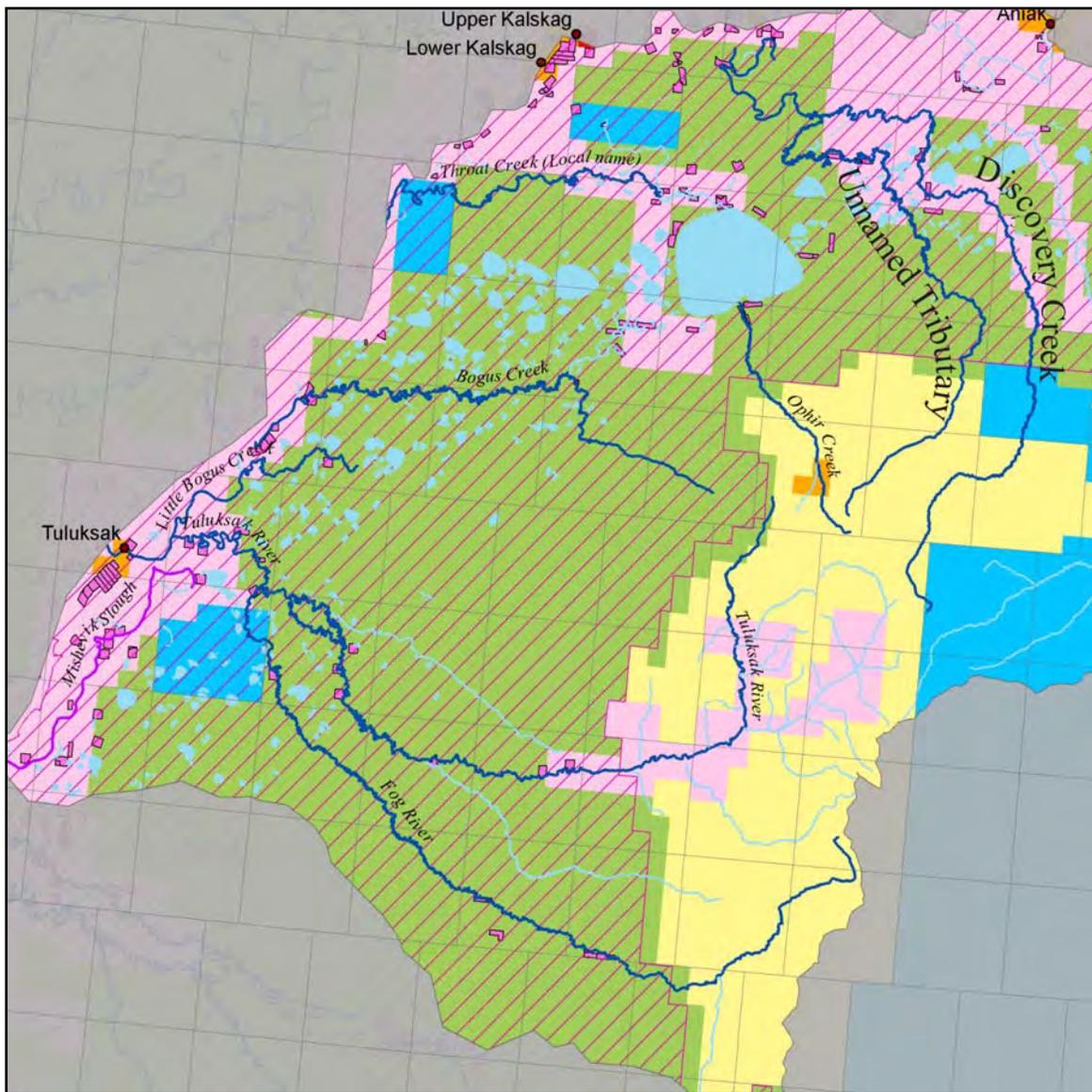
- Attachment 1.** Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, Decision to Interim Convey (DIC), September 23, 1982, BLM Files, FF-14831-A.
- Attachment 2.** Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, Decision to Interim Convey (DIC), September 30, 1982, BLM Files, FF-14871-A.
- Attachment 3.** Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, Interim Conveyance (IC) No. 741 and 742, September 30, 1983, BLM Files, FF-14831-A.
- Attachment 4.** Krissell Crandall, BLM Chief, Branch of Adjudication I, Corrected IC No. 1989, May 24, 2006, BLM Files, FF-14831-A.
- Attachment 5.** Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, IC No. 749, September 30, 1983, BLM Files, FF-14831-A, and Ramona Chinn, BLM Acting State Director, Corrected IC No. 2013, BLM Files, FF-14831-A.
- Attachment 6.** Ramona Chinn, BLM Acting State Director, Corrected IC No. 2013, August 11, 2006, BLM Files, FF-14831-A.
- Attachment 7.** Wayne A. Boden, BLM Deputy State Director for Conveyance Management, Navigable Waters in Group Survey 254 (Window 1834), May 8, 1989, BLM Files, FF-14871-EE.
- Attachment 8.** Wayne A. Boden, BLM Deputy State Director for Conveyance Management, Navigable Waters in Group Survey 256 (Window 1833), May 24, 1989, BLM Files, FF-14871-EE.
- Attachment 9.** C. Michael Brown, BLM Chief, Navigability Section, Navigable Waters in Native Allotments FF-15655 and FF-15654, June 14, 1991, BLM Files, FF-14831-EE and U.S. Survey No. 10005.
- Attachment 10.** Wayne A. Boden, BLM Deputy State Director for Cadastral Survey, Supplemental Navigability Determination for Reports on Window 1834 (Group Survey 254: May 8, 1989) and Window 1833 (Group Survey 256: May 24, 1989), October 30, 1991, BLM Files, FF-14871-EE.

- Attachment 11.** Robert Lloyd, BLM Assistant District Manager, Lands, Final Easement Recommendations for Lands to be Conveyed to The Kuskokwim Corporation, Successor in Interest to Aniak Limited, May 11, 1994, BLM Files, FF-14831-EE.
- Attachment 12.** Bernice P. Leskoskey, BLM Land Law Examiner, Branch of Southwest Adjudication, DIC lands to The Kuskokwim Corporation and Calista Incorporated, July 15, 1994, BLM Files, FF-14831-A.
- Attachment 13.** Ann Johnson, BLM Chief, Branch of Southwest Adjudication, IC No. 1598 and 1599, October 31, 1994, BLM Files, FF-14831-A.
- Attachment 14.** Jerry B. Lewis, Acting BLM Chief, Survey Preparation Section, Memorandum on Navigable Waters Within Certain Village Selected and Interim Conveyed Lands for the Village of Aniak, December 19, 2002, BLM Files, FF-14831-EE.
- Attachment 15.** Denny Benson, BLM Easement Coordinator, Memorandum on Final Easement Recommendations and Patent Easement review for Lands near the Village of Kalskag to be Patented to The Kuskokwim Corporation, September 2, 2004, BLM Files, FF-14871-A.
- Attachment 16.** Robin D. Middleton, BLM Land Law Examiner, DIC lands to the Kuskokwim and Calista Corporations, June 23, 2008 BLM Files, FF-14871-A.
- Attachment 17.** Richard Thwaites, BLM Chief, Land Transfer Adjudication II, Patent Nos. 50-2008-0432 and 50-2008-0433, August 6, 2008, BLM Files, FF-14871-A.
- Attachment 18.** Master Title Plats (MTPs): T. 17 N., Rs. 59-60 W.; T. 16 N., Rs. 59-60 W., SM.
- Attachment 19.** MTPs: T. 16 N., Rs. 57-59 W.; T. 15 N., R. 57 W.; T. 14 N., R. 57 W.; T. 13 N., R. 57 W.; T. 12 N., Rs. 58-59 W., SM.
- Attachment 20.** MTPs: T. 16 N., R. 58 W.; T. 15 N., R. 58 W.; T. 14 N., R. 58 W.; T. 13 N., R. 58 W., SM.
- Attachment 21.** U.S. Survey No. 10532, officially filed September 12, 1991.
- Attachment 22.** U.S. Survey No. 10257, officially filed September 12, 1991.
- Attachment 23.** U.S. Survey No. 4121, officially filed June 25, 1992.
- Attachment 24.** U.S. Survey No. 6541, officially filed December 21, 1982.
- Attachment 25.** U.S. Survey No. 9950, officially filed June 25, 1992.
- Attachment 26.** U.S. Survey No. 10005, officially filed June 25, 1992.
- Attachment 27.** William Peak, BLM Field Notes, Tuluksak River and Discover Creek, June 13, 1978, BLM Files, FF-14888.

**Discovery Creek System (Including Unnamed Leftbank Tributary of
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HUC 30502, Zone 3, Kuskokwim River Region
II-B Interim Summary Report

I. Introduction

The Discovery Creek System is comprised of Discovery Creek, its principle unnamed tributary, and a waterbody of connected sloughs near its mouth. The system is located in the Kuskokwim Delta region, in the northern most portion of Zone 3 within HUC 30502 (Figure 1).



**Figure 1. Map of Zone 3, HUC-30502,
showing the location of Discovery Creek System.**

Discovery Creek is in the Seward Meridian (SM). It comprises twelve townships and 68 sections: Township (T.), Range (R.), Section (Sec.). Discovery Creek heads at Sec. 19, T. 12 N., R. 58 W., SM. The creek flows generally north and northwest for 80 river milesⁱ where it empties into the Kuskokwim River in Sec. 30, T. 17 N., R. 59 W., SM.ⁱⁱ

T. 12 N., R. 58 W., Sec. 19	T. 13 N., R. 57 W., Sec. 04	T. 16 N., R. 58 W., Sec. 07
T. 12 N., R. 58 W., Sec. 18	T. 15 N., R. 57 W., Sec. 33	T. 16 N., R. 59W., Sec. 12
T. 12 N., R. 59 W., Sec. 13	T. 15 N., R. 57 W., Sec. 28	T. 16 N., R. 59 W., Sec. 01
T. 12 N., R. 59 W., Sec. 12	T. 15 N., R. 57 W., Sec. 20	T. 16 N., R. 59 W., Sec. 02
T. 12 N., R. 59 W., Sec. 11	T. 15 N., R. 57 W., Sec. 21	T. 16 N., R. 59 W., Sec. 11
T. 12 N., R. 59 W., Sec. 01	T. 15 N., R. 57 W., Sec. 17	T. 16 N., R. 59 W., Sec. 10
T. 13 N., R. 58 W., Sec. 34	T. 15 N., R. 57 W., Sec. 08	T. 16 N., R. 59 W., Sec. 03
T. 13 N., R. 58 W., Sec. 27	T. 15 N., R. 57 W., Sec. 07	T. 16 N., R. 59 W., Sec. 04
T. 13 N., R. 58 W., Sec. 22	T. 15 N., R. 57 W., Sec. 06	T. 16 N., R. 59 W., Sec. 09
T. 13 N., R. 58 W., Sec. 23	T. 16 N., R. 57 W., Sec. 31	T. 16 N., R. 59 W., Sec. 08
T. 13 N., R. 58 W., Sec. 14	T. 16 N., R. 58 W., Sec. 36	T. 16 N., R. 59 W., Sec. 07
T. 13 N., R. 58 W., Sec. 13	T. 16 N., R. 58 W., Sec. 25	T. 16 N., R. 59 W., Sec. 06
T. 13 N., R. 57 W., Sec. 18	T. 16 N., R. 58 W., Sec. 26	T. 16 N., R. 60 W., Sec. 01
T. 13 N., R. 57 W., Sec. 07	T. 16 N., R. 58 W., Sec. 27	T. 16 N., R. 60 W., Sec. 12
T. 13 N., R. 57 W., Sec. 17	T. 16 N., R. 58 W., Sec. 34	T. 16 N., R. 60 W., Sec. 11
T. 13 N., R. 57 W., Sec. 08	T. 16 N., R. 58 W., Sec. 33	T. 16 N., R. 60 W., Sec. 02
T. 13 N., R. 57 W., Sec. 09	T. 16 N., R. 58 W., Sec. 32	T. 16 N., R. 60 W., Sec. 03
T. 13 N., R. 57 W., Sec. 04	T. 16 N., R. 58 W., Sec. 29	T. 16 N., R. 60 W., Sec. 04
T. 13 N., R. 57 W., Sec. 33	T. 16 N., R. 58 W., Sec. 20	T. 17 N., R. 59 W., Sec. 31
T. 13 N., R. 57 W., Sec. 28	T. 16 N., R. 58 W., Sec. 17	T. 17 N., R. 60 W., Sec. 36
T. 13 N., R. 57 W., Sec. 21	T. 16 N., R. 58 W., Sec. 08	T. 17 N., R. 59 W., Sec. 30
T. 13 N., R. 57 W., Sec. 16	T. 16 N., R. 58 W., Sec. 09	
T. 13 N., R. 57 W., Sec. 09	T. 16 N., R. 58 W., Sec. 05	

The slough near the mouth of Discovery Creek comprises one township. This waterbody consists of three interconnected sloughs. The most northeastern slough begins in Sec. 28, T. 17 N., R. 59 W., and flows north into Sec. 21 where it curves southward back into Sec. 28, joining a second slough in Sec. 29, T. 17 N., R. 59 W., SM. The second slough begins in Sec. 31, T. 17 N., R. 59 W., SM, and flows to the northeast into Sec. 29 where it curves to the southwest and into Sec. 32. From there, it curves to the northwest into Sec. 31, T. 17 N., R. 59 W., SM. Here the slough joins a narrow slough, 0.17 river miles long, that connects to Discovery Creek at river mile 1 in Sec. 31, T. 17 N., R. 59 W., SM. (Figures 2 and 3).

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.

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

T. 17 N., R. 59 W., Sec. 31 T. 17 N., R. 59 W., Sec. 32 T. 17 N., R. 59 W., Sec. 21
T. 17 N., R. 59 W., Sec. 29 T. 17 N., R. 59 W., Sec. 31 T. 17 N., R. 59 W., Sec. 28

The Unnamed Tributary of Discovery Creek heads from Sec. 25, T. 13 N., 59 W., on the west side of Mt. Hamilton and flows generally north and northwest to its confluence with Discovery Creek in Sec. 8, T. 16 N., R. 59 W., SM. The unnamed left bank tributary of Discovery Creek comprises six townships.

T. 13 N., R. 59 W., Sec. 25	T. 14 N., R. 58 W., Sec. 01	T. 16 N., R. 59 W., Sec. 24
T. 13 N., R. 59 W., Sec. 24	T. 15 N., R. 58 W., Sec. 36	T. 16 N., R. 59 W., Sec. 13
T. 13 N., R. 58 W., Sec. 19	T. 15 N., R. 58 W., Sec. 25	T. 16 N., R. 59 W., Sec. 23
T. 13 N., R. 58 W., Sec. 18	T. 15 N., R. 58 W., Sec. 26	T. 16 N., R. 59 W., Sec. 22
T. 13 N., R. 58 W., Sec. 08	T. 15 N., R. 58 W., Sec. 27	T. 16 N., R. 59 W., Sec. 21
T. 13 N., R. 58 W., Sec. 05	T. 15 N., R. 58 W., Sec. 22	T. 16 N., R. 59 W., Sec. 20
T. 13 N., R. 58 W., Sec. 04	T. 15 N., R. 58 W., Sec. 21	T. 16 N., R. 59 W., Sec. 19
T. 13 N., R. 58 W., Sec. 03	T. 15 N., R. 58 W., Sec. 16	T. 16 N., R. 59 W., Sec. 30
T. 14 N., R. 58 W., Sec. 34	T. 15 N., R. 58 W., Sec. 09	T. 16 N., R. 60 W., Sec. 25
T. 14 N., R. 58 W., Sec. 35	T. 15 N., R. 58 W., Sec. 08	T. 16 N., R. 60 W., Sec. 24
T. 14 N., R. 58 W., Sec. 26	T. 15 N., R. 58 W., Sec. 05	T. 16 N., R. 59 W., Sec. 18
T. 14 N., R. 58 W., Sec. 23	T. 15 N., R. 58 W., Sec. 06	T. 16 N., R. 59 W., Sec. 17
T. 14 N., R. 58 W., Sec. 14	T. 16 N., R. 58 W., Sec. 31	T. 16 N., R. 59 W., Sec. 08
T. 14 N., R. 58 W., Sec. 11	T. 16 N., R. 59 W., Sec. 36	
T. 14 N., R. 58 W., Sec. 12	T. 16 N., R. 59 W., Sec. 25	

The nearest villages to the mouth of Discovery Creek System are Aniak, 17 air miles to the north, and Upper and Lower Kalskag Villages, 25 miles west of the mouth of Discovery Creek. Aniak is 92 air miles northeast of Bethel and 317 miles west of Anchorage. Kalskag lies 30 miles west of Aniak, 99 miles northeast of Bethel and 348 miles west of Anchorage. Discovery Creek was a local name reported in 1948 by the United States Coast and Geodetic Survey (USC&GS).¹

II. Land Status

The Discovery Creek System flows through State, Federal and Native (ANCSA and Native allotment) lands (Figures 2-6). Beginning at its headwaters, Discovery Creek flows one river mile through State land. The creek flows through BLM lands for a distance of 15 miles where it enters State land and flows for seven miles. The creek then crosses through the Yukon Delta National Wildlife Refuge (NWR) for three miles until reaching Native corporation land at river mile 53. From there, the creek flows 40 river miles through Native corporation land crossing over briefly into the Yukon Delta NWR at river mile 41 and 27. Near the confluence of Discovery Creek and its left bank Unnamed Tributary at river mile 12.5, Discovery Creek flows through a section of the Yukon Delta NWR for 8.5 river miles. Discovery Creek then crosses onto Native corporation land at river mile 4.1 and continues through Native corporation land until flowing between two Native allotments, in its first river mile, to the confluence with the Kuskokwim River.

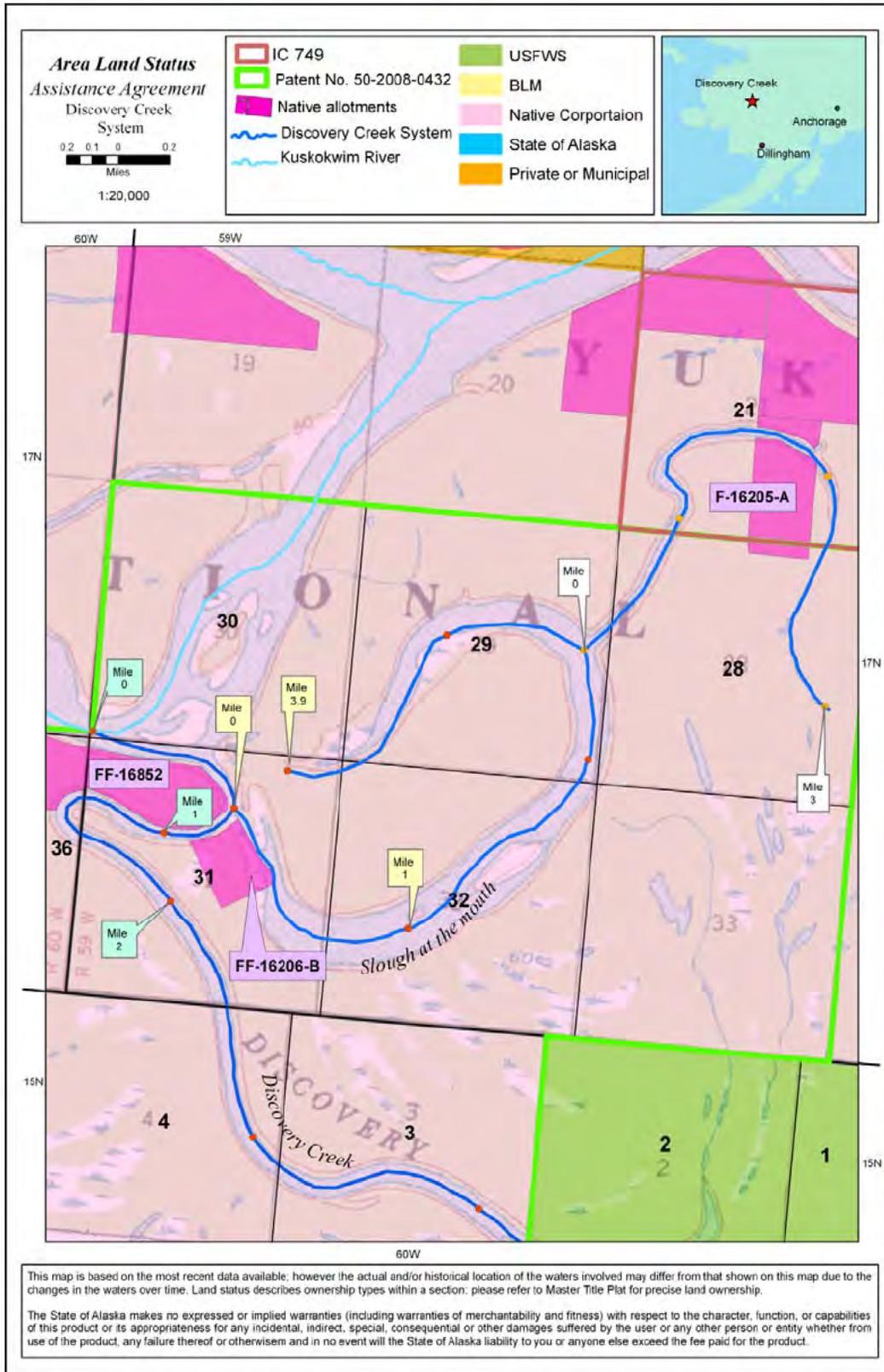


Figure 2. Land status map of the slough at the mouth of Discovery Creek.

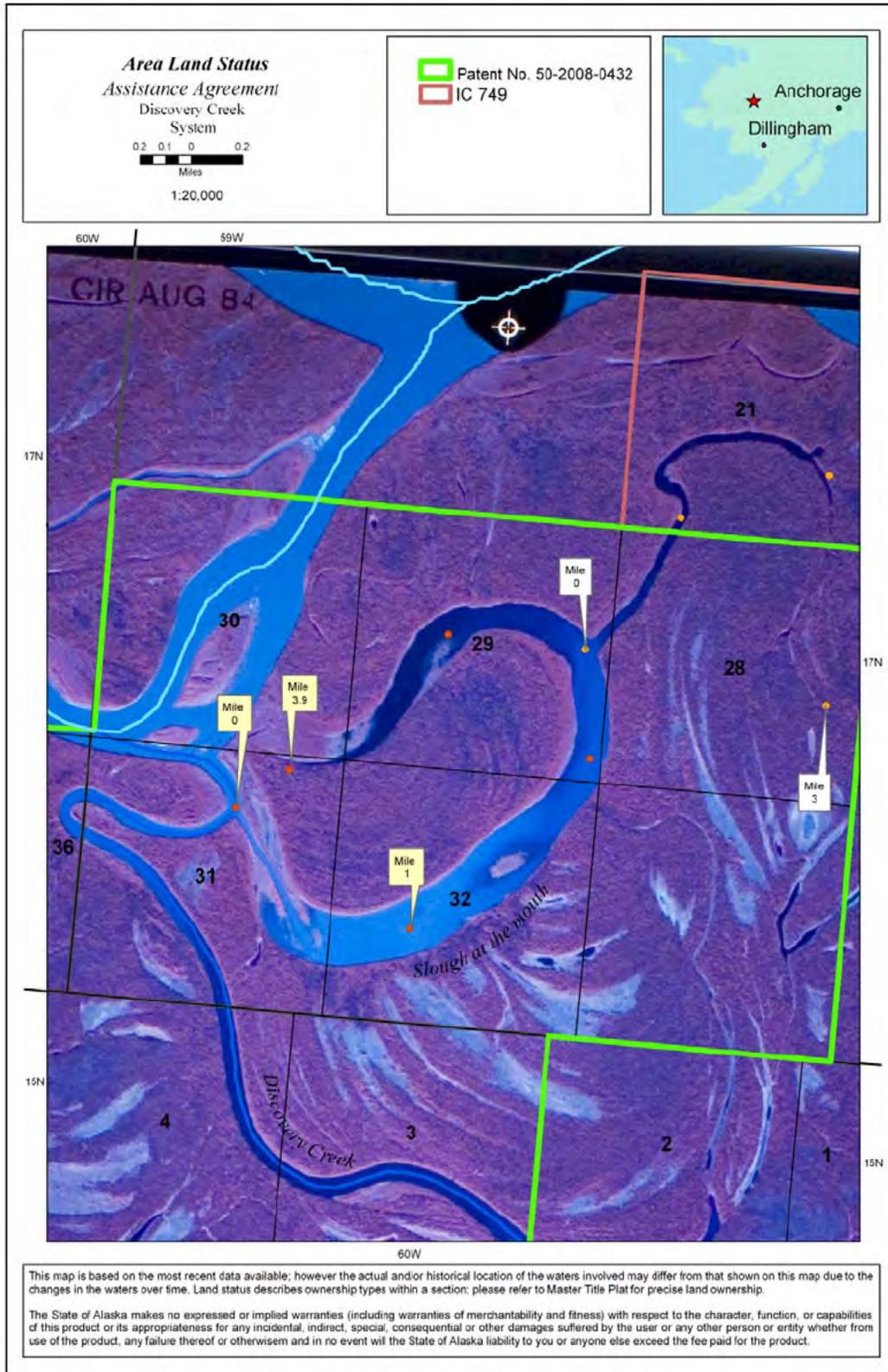


Figure 3. Map of slough at the mouth of Discovery Creek. Aerial photo illustrates the three sloughs that make up the waterbody.

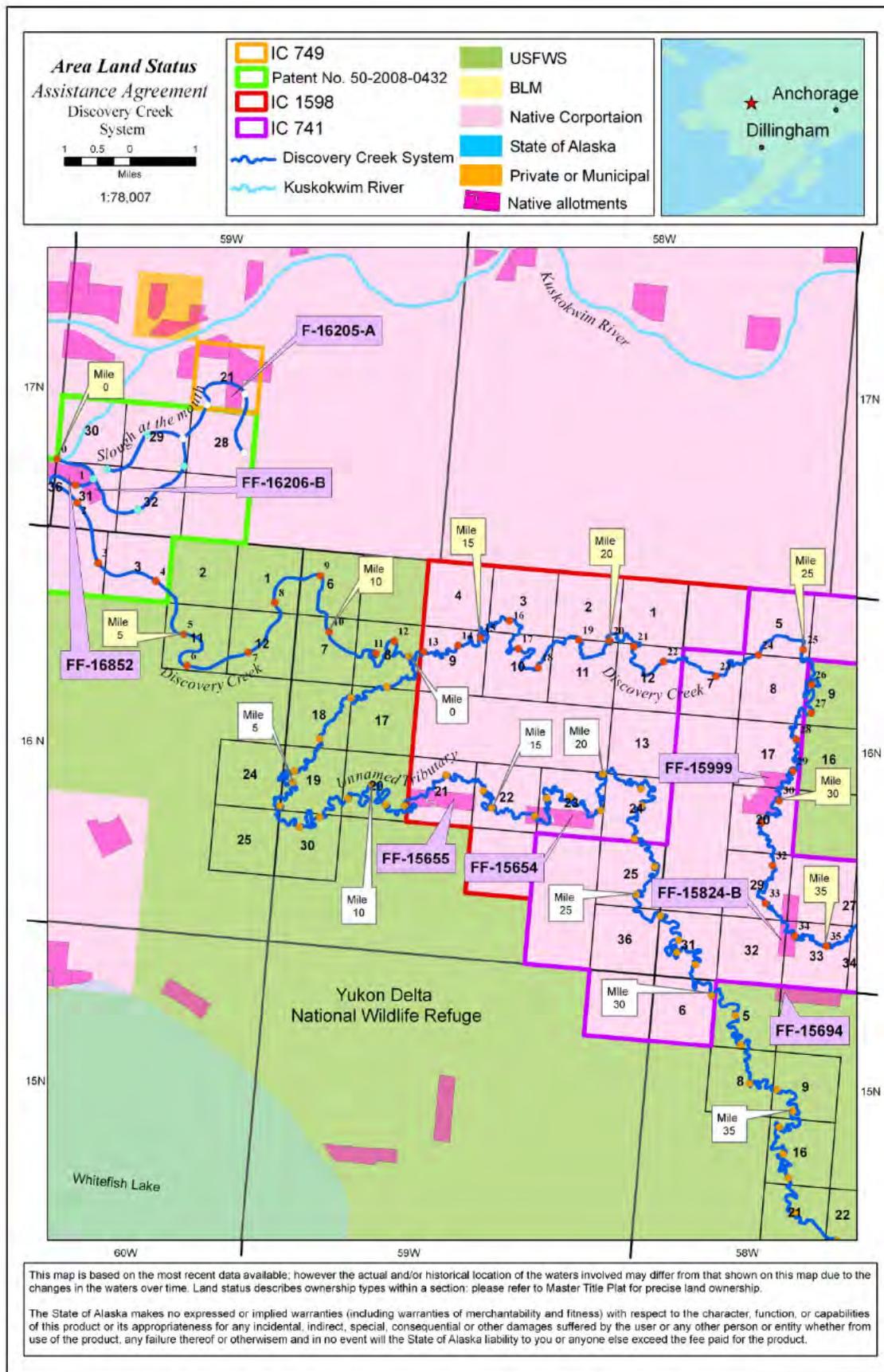


Figure 4. Land status map of lower Discovery Creek and its Unnamed Tributary. The four land conveyances are outlined.

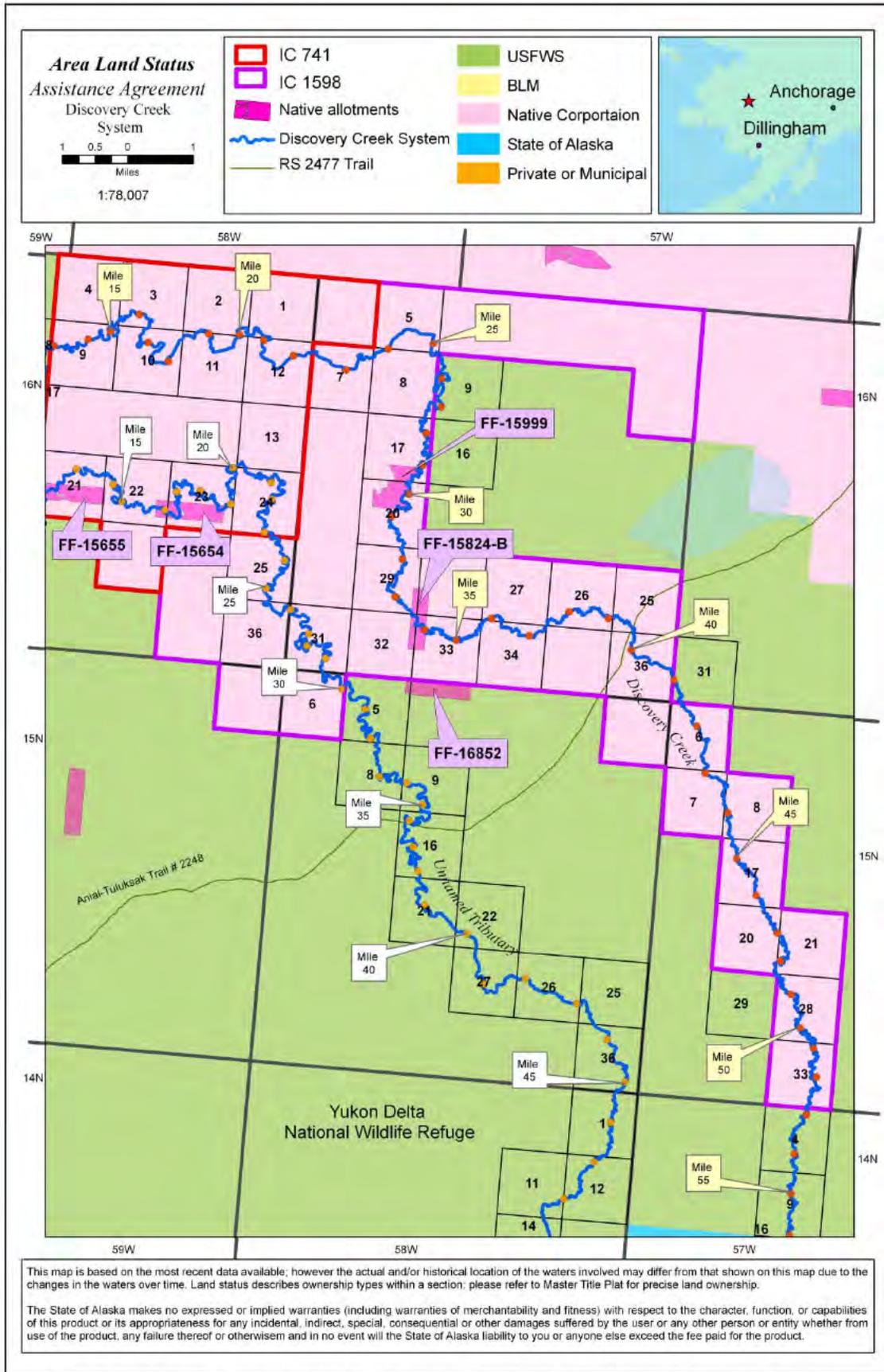


Figure 5. Land Status map of middle and upper Discovery Creek and its Unnamed Tributary.

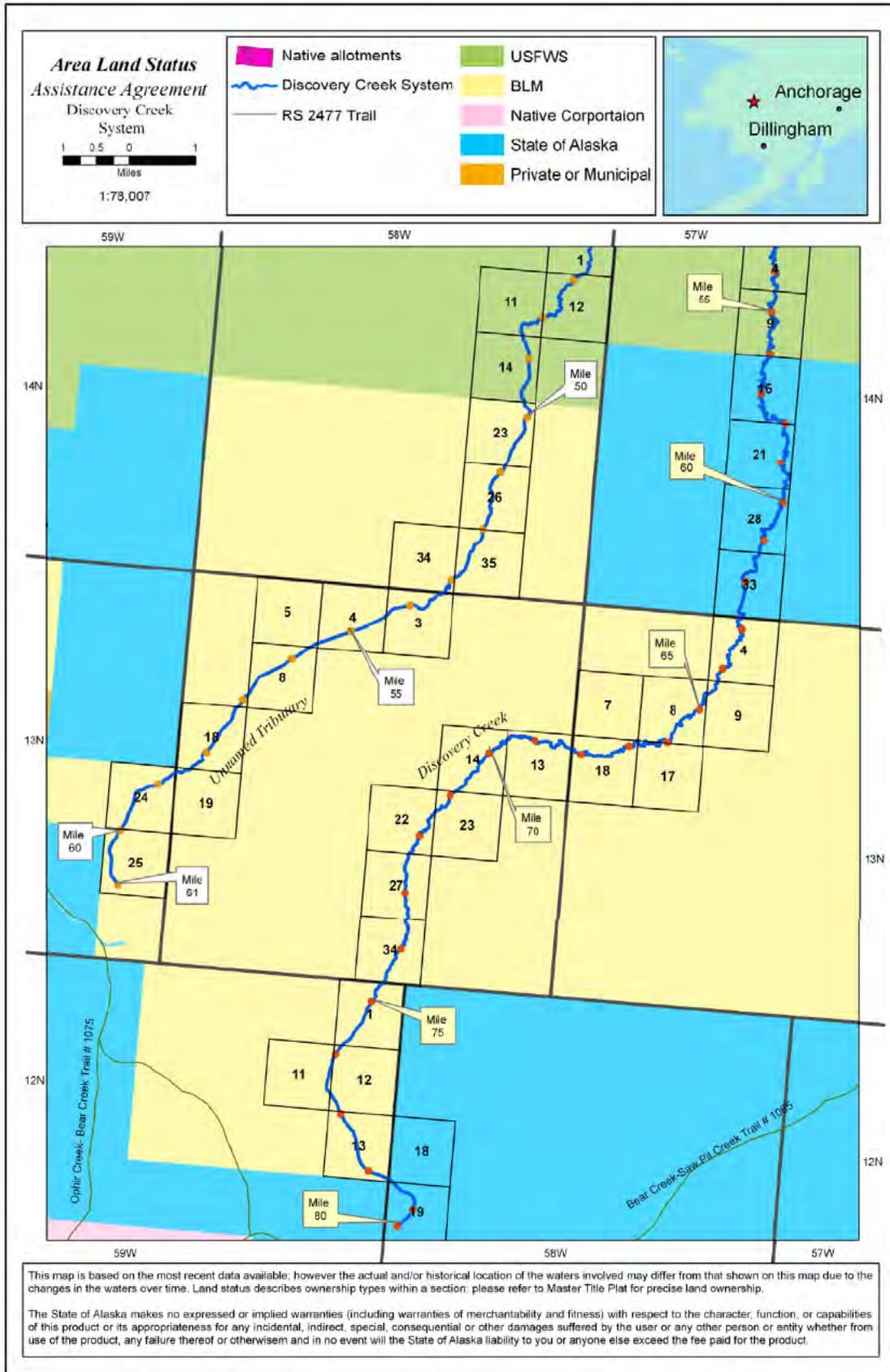


Figure 6. Land status map of upper Discovery Creek and its Unnamed Tributary.

Beginning at its headwaters, the left bank Unnamed Tributary of Discovery Creek flows through BLM land for 11 river miles. Subsequently the tributary flows through a section of the Yukon Delta NWR for 20 river miles until crossing through Native corporation land for 17 river miles. The tributary passes through two Native allotments at river miles 16 and 12 then flows through a section of Yukon Delta NWR land for 11 river miles to its confluence with Discovery Creek.

The slough near the mouth of Discovery Creek is contained entirely within Native corporation lands and is associated with two Native allotments. Three sloughs make up this waterbody. The northeastern slough is 3 river miles long and empties into a meander lake that is 3.9 river miles long. The meander lake joins Discovery creek via a short 0.17 river mile slough (Figure 2 and 3).

The State selected lands on upper Discovery Creek are under two separate selections. At river mile 80, the State selected the entire T. 12 N., R., 58 W., SM, as part of a larger selection (FF-15353) on February 1, 1972. The BLM issued a Tentative Approval (TA) on July 14, 1975 as TA No. 19750064. The second selection occurred on December 31, 1992 when the State selected land that encompassed river mile 56 through river mile 62, in T. 14 N., R. 57 W., S.M., under AA-076495. The BLM issued TA No. 20060003 on December 29, 2005. Both of these selections have yet to be patented.

President Theodore Roosevelt established the Yukon Delta NWR in 1909 as a preserve and breeding ground for native birds. The portion of the refuge including the Discovery Creek System, was withdrawn from unreserved public lands managed by the BLM in 1972 (Public Land Order 5184, March 9, 1972) and transferred to the federal refuge system under the Alaska National Interest Lands Conservation Act (ANILCA, PL 96-487) of 1980. Title to the refuge lands is held by the United States; the U.S. Fish and Wildlife Service is the manager of these lands.

The Alaska Native Claims Settlement Act (ANCSA) was signed into law on December 18, 1971, with the intention of resolving aboriginal land claims in Alaska. The law established 13 Native regional corporations and over 200 Native village corporations. Of the regional corporations established, only 12 were entitled to select 44 million acres of land in Alaska to be distributed among these corporations. For the village selected lands, the village corporations are entitled to the surface estate and the subsurface estate goes to the regional corporation. The regional corporations are entitled to the surface and the subsurface estates. The Kuskokwim Corporation formed on April 25, 1977 when ten ANCSA village corporations from the middle Kuskokwim River, including Aniak and Kalskag, merged to form one village corporation. The Kuskokwim Corporation became the successor in interest to the village selected lands along Discovery Creek, the Unnamed Tributary of Discovery Creek and the unnamed slough near the mouth of Discovery Creek. The Calista Corporation is the regional Native Corporation for the middle Kuskokwim River villages. Eight Native allotments are located along the Discovery Creek System.

III. BLM Navigability Determinations and Land Conveyance History

The BLM conveyed lands along Discovery Creek System in four separate conveyances. The first land conveyance action dates from September 23, 1982, when Ann Johnson, BLM's Chief of the Branch of ANCSA Adjudication, issued a Decision to Interim Convey (DIC) lands to The Kuskokwim Corporation. The selected lands, bordering Discovery Creek and its Unnamed Tributary, are described in the DIC as including parts of T. 16 N., Rs. 58-59 W., and T. 15 N., Rs. 57-58 W., SM (Figure 5). The BLM determined Discovery Creek non navigable in the selection area from river mile 22.1 to river mile 52.9. The Unnamed Tributary was also determined non navigable within the selection area from river mile 23 to river mile 30. The criteria used for this navigability determination was use for "travel, trade and commerce."² (Attachment 1)

The second land conveyance dates from September 30, 1982 when the BLM issued a DIC to The Kuskokwim Corporation for selected lands that included the northern most portion of the slough at the mouth of Discovery Creek in Sec. 21, T. 17 N., R. 59 W., SM. The BLM determined the slough at the mouth of Discovery Creek non navigable citing the criteria of use for "travel, trade, and commerce."³ (Attachment 2)

On September 30, 1983, the BLM issued IC No. 741 to The Kuskokwim Corporation for the surface estate and IC No. 742 to the Calista Corporation for the subsurface estate of those lands identified in the DIC issued on September 23, 1982. The submerged lands beneath Discovery Creek in IC Nos. 741 and 742 included river mile 22.1 to river mile 52.9, but excluded a section of the river from river mile 41.0 to river mile 41.5 which flows through the Yukon Delta NWR in Sec. 31, T.16 S., R. 57 W., SM. Also described in IC No. 741 are the lands that include the Unnamed Tributary from river mile 23 to river mile 30 (Figure 5).⁴ (Attachment 3) A correction was issued by the BLM for IC Nos. 741 and 742 under IC No. 1989, but the correction does not pertain to Discovery Creek.⁵ (Attachment 4)

On September 30, 1983, the BLM, issued IC No. 749 to The Kuskokwim Corporation for selected lands (identified in the DIC issued on September 30, 1982) including Sec. 21, T. 17 N., R. 59 W., SM., surrounding the northern end of the slough at the mouth of Discovery Creek (Figures 2 and 3). Excluded from IC No. 749 was Native allotment F-16205 Parcel A (bisected by the slough). The BLM determined the slough at the mouth of Discovery Creek non navigable.⁶ (Attachment 5) Ramona Chinn, BLM Acting State Director, corrected IC No. 749 with IC. No. 2013 on August 11, 2006. The corrected IC did not pertain to the Discovery Creek System.⁷ (Attachment 6)

On May 8, 1989, Wayne A. Boden, BLM Deputy State Director for Conveyance Management, issued a Memorandum of Navigable Waters in Group Survey 254, which included portions of the Discovery Creek System. The BLM determined Discovery Creek a meanderable waterbody in Sec. 36, T. 17 N., R. 60 W., SM., river mile 0.6 to 0.7 (Figure 2) within the Upper Kalskag selection area. The BLM identified the criteria for navigability as use by "crafts larger than a one-man kayak."⁸ (Attachment 7)

The BLM issued a Memorandum for Navigable Waters in Group Survey 256 on May 24, 1989. The BLM addressed waters on ANCSA lands that were scheduled for survey, contained Native allotments, or were selected by the State. The BLM determined Discovery Creek navigable from river mile 13 to river mile 22 in Secs. 1-4 and 9-12, T. 16 N., R. 59 W., SM. The determination was based on NASA aerial photographs and interviews with four local Natives with experience boating on the river. One of those interviewed was Gerald “Jerrie” Simeon who had experience boating on the river to his cabin 15 miles upstream from the mouth of Discovery Creek. The BLM also indicated that the creek was likely navigable “well beyond the selected lands.” The BLM determined four sloughs of Discovery Creek navigable along with what he identified as a navigable meander lake. The BLM stated “there is no doubt that during high water periods all these water bodies are susceptible to navigation by canoe, raft and jet boat.”⁹ (Attachment 8)

On June 14, 1991, C. Michael Brown, BLM Chief of the Navigability Section, wrote a letter to the BLM Chief of Special Instructions Section, in response to a question about the navigability of the Unnamed Tributary of Discovery Creek that flows through Native allotments FF-15655 and FF-15654, including a lake and its outlet in Native allotment FF-15654. Brown acknowledged in the letter that previous BLM reports in 1989 did not identify these water bodies as navigable. Brown determined the Unnamed Tributary of Discovery Creek navigable and determined navigable a lake and its outlet in Native allotment FF-15655. He wrote that “after examining the aerial photos and considering the field surveyor’s report that the Native allottees boat up this stream to reach their claims, we agree that the stream, the lake and its outlet are navigable.”¹⁰ (Attachment 9)

On October 30, 1991, the BLM issued a Supplemental Navigable Waters Memorandum for Reports on Window 1834 (Group Survey 254: May 8, 1989) and Window 1833 (Group Survey 256: May 24, 1989) determining the Unnamed Tributary of Discovery Creek navigable for an unspecified distance. Initially, a contracted field surveyor notified Orrin Frederick of the BLM Cadastral Survey that Native allotment FF-15655 included a navigable stream plus a tributary and a connecting lake which had not been listed in the subject reports. Frederick stated that “this stream (unnamed) is used by locals in riverboats to reach the allotment areas and beyond.”¹¹ (Attachment 10)

Robert Lloyd, BLM Assistant District Manager of Lands, issued a memorandum, on May 11, 1994 to the BLM Chief of the Branch Southwest Adjudication on final easement recommendations for lands to be conveyed to The Kuskokwim Corporation, successor in interest to Aniak Limited. This memorandum determined Discovery Creek to be a “major waterway” within Secs. 1-4, 9-16, T. 16 R., 59 W., SM.¹² (Attachment 11)

The third decision to convey lands along the Discovery Creek System dates from July 15, 1994 when Bernice P. Leskoskey, a BLM Land Law Examiner, issued a DIC to The Kuskokwim Corporation for lands selected in Secs. 1-4, 9-16, 21- 24 and 27, T. 16 N., R. 59 W., SM. This included the uplands along Discovery Creek from river mile 13 to river mile 22.1 and the uplands along Unnamed Tributary from river mile 12 to river mile 23. Leskoskey stated in the DIC that navigable waterways would be identified at the time of survey.¹³ (Attachment 12)

On October 31, 1994, Ann Johnson, BLM Chief of the Branch of Southwest Adjudication, issued IC No. 1598 to The Kuskokwim Corporation for the surface estate of Secs. 1-4, 9-16, 21- 24 and 27, T. 16 N., R. 59 W., SM. This included the uplands along Discovery Creek from river mile 13 to river mile 22.1 and the uplands along Unnamed Tributary from river mile 12 to river mile 23 (Figure 4). The IC excluded submerged lands under navigable waters, but added that the navigable waters “will be identified at the time of survey.”¹⁴ (Attachment 13)

On December 19, 2002, Jerry B. Lewis, Acting BLM Chief, Branch of Survey Planning and Preparation, issued a memorandum on “Navigable Waters within Certain Village Selected and Interim Conveyed Lands for the Village of Aniak.” In this memorandum, the BLM affirmed all previous navigability determinations for these waters made in reports dated August 23, 1982, May 24, 1989 and October 30, 1991. The memorandum stated:

the BLM-Alaska navigability determinations are based on the Federal law of title navigability. Title to unreserved lands underlying navigable waters vested in the State at the time of statehood. As a general rule, inland waters are navigable if, at the time of statehood, they were used, or were susceptible to use for travel, trade and commerce.

The BLM determined Discovery Creek navigable from river mile 13 to river mile 22.2, and the Unnamed Tributary navigable (Figure 8) from river mile 12 to river mile 23.¹⁵ (Attachment 14)

On September 2, 2004, the BLM Easement Coordinator Denny Benson issued a Memorandum on Final Easement review for Lands near the Village of Kalskag to be patented to The Kuskokwim Corporation. No easements were reserved. In the memorandum, the BLM stated that Discovery Creek was determined a major waterway.¹⁶ (Attachment 15)

The fourth decision to convey lands that are included in the Discovery Creek System occurred on June 23, 2008, when Robin D. Middleton, a BLM Land Law Examiner, issued a DIC for lands selected by the Kuskokwim and Calista Corporations. Lands to be conveyed that pertained to lower Discovery Creek and the slough near its mouth were in Secs. 29- 32, T.17 N., R. 59 W.; Sec. 36, T. 17 N., R. 60 W.; and Secs. 3 and 4, T. 16 N., R. 60 W., SM (Figure 4). Discovery Creek was determined navigable within these lands. The slough near the mouth of Discovery Creek was determined non navigable. An IC was not issued for these lands. The conveyance went straight to patent.¹⁷ (Attachment 16)

On August 6, 2008, Richard Thwaites, the BLM’s Chief of Land Transfer Adjudication II, issued Patent No. 50-2008-0432 to the Calista Corporation and Patent No. 50-2008-0433 to The Kuskokwim Corporation. This included the submerged lands beneath Discovery Creek from river mile 0 to river mile 4.1.¹⁸ (Attachment 17)

Navigability determinations for the Discovery Creek System are summarized in Table 1 and shown in Figures 7 and 8. Discovery Creek has been meandered and segregated from river mile 0 to river mile 12.5 in T. 17 N., Rs. 59-60 W., to its confluence with the Unnamed Tributary in Secs. 6-8, T. 16 N., R. 59 W., SM. (Attachment 18) Discovery Creek has not been meandered or segregated from river mile 12.5 to river mile 80 as shown in T. 16 N., Rs. 57-59 W.; T. 15 N.,

R. 57 W.; T. 14 N., R. 57 W.; T. 13 N., R. 57 W.; and T. 12 N., Rs. 58-59 W., SM. (Attachment 19) The Unnamed Tributary has been meandered and segregated in U.S. Survey No. 10005 as shown on T. 16 N., R. 59 W., SM. No other portion of the Unnamed Tributary has been meandered or segregated in T. 16 N., R. 58 W.; T. 15 N., R. 58 W.; T. 14 N., R. 58 W.; and T. 13 N., R. 58 W., SM. (Attachment 20) The sloughs at the mouth of Discovery Creek have been meandered and segregated in T. 17 N., R. 59 W., SM.

Table 1: Summary of Navigability Determinations.

Date	River Section	Type Decision and Substance	Criteria
9/23/82 (Attachment 1)	Middle Discovery Creek Middle Unnamed Tributary	Discovery Creek determined non-navigable from river mile 22.1 to river mile 53 in village selection area. Unnamed Tributary determined non-navigable from river mile 23 to river mile 30 in village selection area.	Travel, trade and commerce
9/30/82 (Attachment 2)	Slough at mouth of Discovery Creek	Slough determined non-navigable in village selection area.	Travel, trade and commerce
5/8/89 (Attachment 7)	Discovery Creek	Discovery Creek determined a meanderable waterbody in Sec. 36, T. 17 N., R. 60 W., SM, within the Upper Kalskag selection area.	Craft larger than a one-man kayak
5/24/89 (Attachment 8)	Lower Discovery, and the slough near its mouth	Discovery Creek determined navigable from river mile 13 to river mile 22.1 in village selection area. Four sloughs were also determined navigable.	Based on NASA aerial photos and locals ability to boat up the river.
6/14/91 (Attachment 9)	Unnamed Tributary	Unnamed Tributary determined navigable in Native allotments FF-15655 and FF-15654 at river miles 12, 16, and 18.	Aerial photos and use by locals in river boats
10/30/91 (Attachment 10)	Unnamed Tributary	Unnamed Tributary determined navigable for an unstated distance.	use by locals in river boats
12/19/02 (Attachment 14)	Lower Discovery and Unnamed Tributary	Reaffirmed previous navigability determinations and determined Discovery Creek navigable from river mile 12 to river mile 23.	Use or was susceptible to use for travel, trade and commerce.
6/23/08 (Attachment 16)	Lower Discovery and slough near its mouth	Discovery Creek determined navigable from river mile 0 to river mile 4.1. Slough near its mouth determined non-navigable,	Not stated

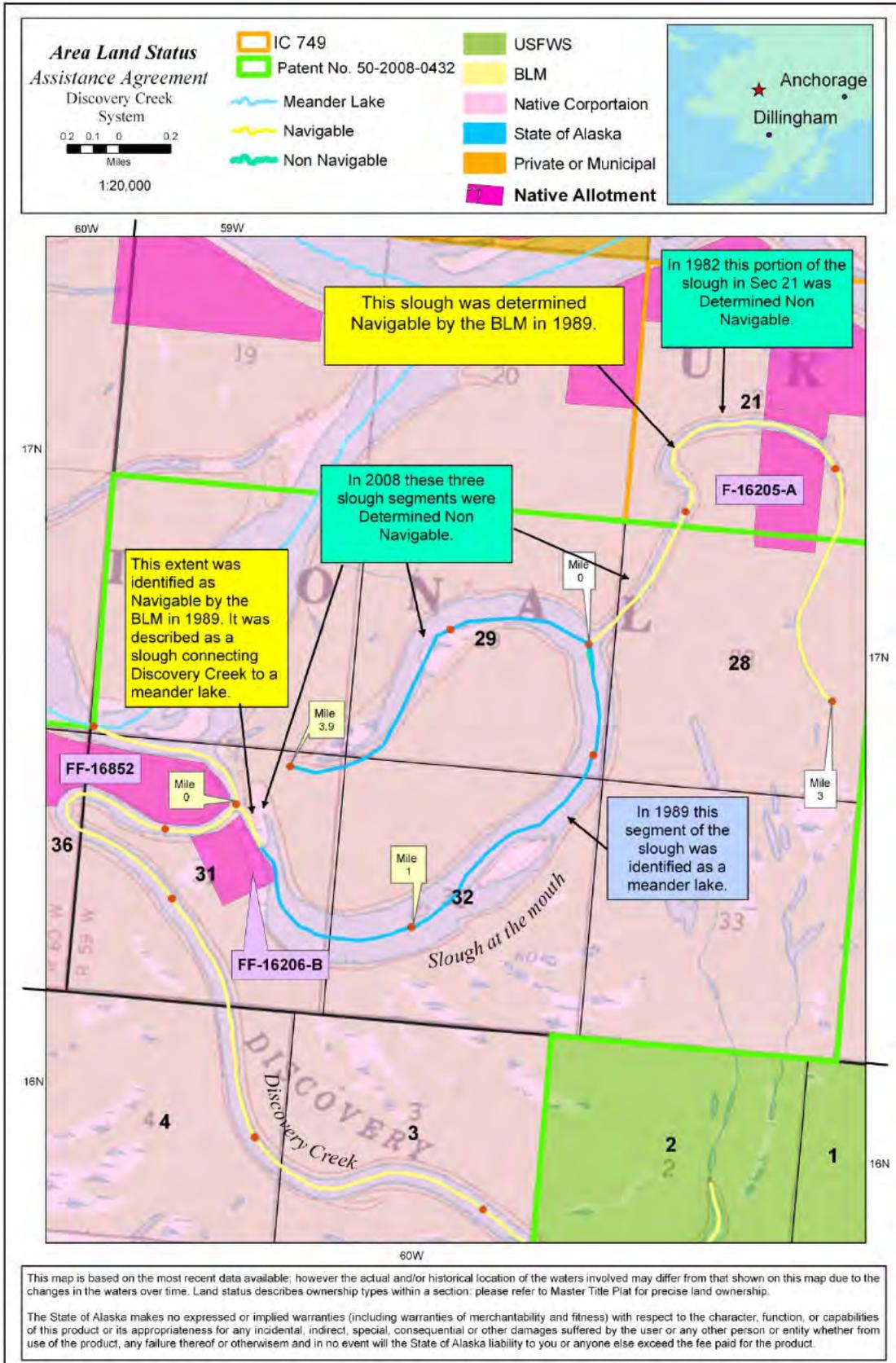


Figure 7. Lower Discovery Creek BLM Navigability Determinations. Detail of the slough at the mouth of Discovery Creek.

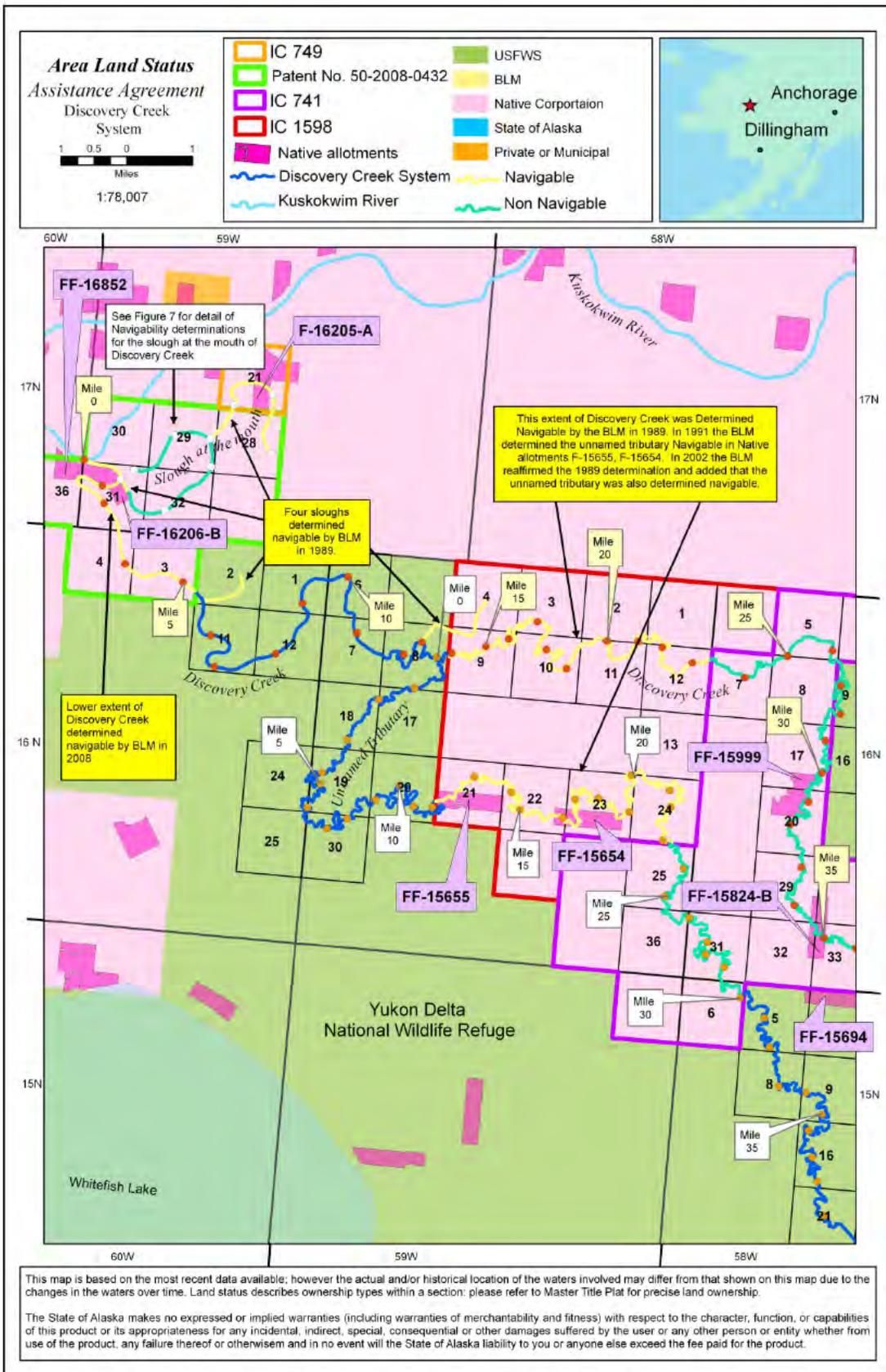


Figure 8. Lower Discovery Creek BLM Navigability Determinations.

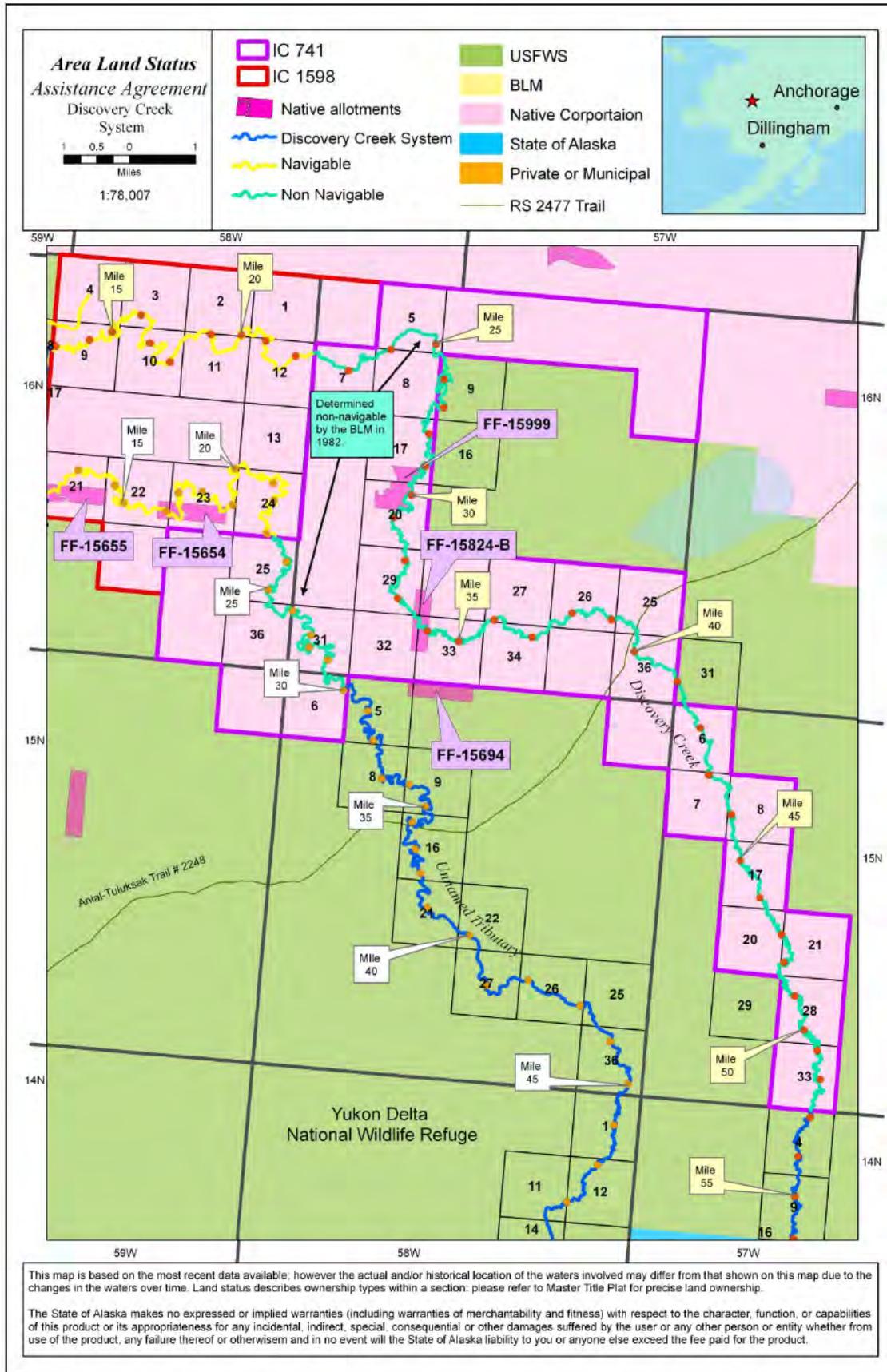


Figure 9. Middle Discovery Creek BLM Navigability Determinations.

IV. Physical Character of the Waterway

The Discovery Creek System is part of a vast network of lakes and streams where the topography is flat and barriers to water travel are few. Discovery Creek is a meandering stream 80 river miles long. Discovery Creek drains an area of 234 square miles. The creek is less than 250 feet wide with a channel gradient of 24 feet per mile over a range in elevation of 50 to 1,600 feet.¹⁹ Its principal Unnamed Tributary is 61 river miles long and enters Discovery Creek at river mile 12.5. Discovery Creek has a mud-bottom and varies in depth. During mid-summer it can be as shallow as 12 inches, particularly at the mouth where the creek is widest. The two sloughs near the mouth of Discovery Creek make up 6.9 miles of waterway.²⁰

Discovery Creek is located within the transitional climate zone, which is between the maritime and continental climatic zones. This transition zone in the Kuskokwim Delta area extends 100 to 150 miles inland. Precipitation averages 16 inches in the area near Tuluksak Village, with snowfall of 50 inches. Summer temperatures range from 62° Fahrenheit (F) to 42° F. Winter temperatures can range from 19° F to -2° F.²¹

No hydrologic information is available for Discovery Creek System. Discovery Creek, its Unnamed Tributary, and the sloughs near its mouth appear to be in their natural and ordinary condition from the time of statehood.

V. Evidence of Use of the Waterway

Early Native Use of Discovery Creek

The historical subsistence pattern for residents of villages of the middle Kuskokwim River indicates that Natives utilized the lowland waterways that dominant the landscape. In the 1950s, Anthropologist Charles Oswalt made numerous trips to the central Kuskokwim River between McGrath and Tuluksak interviewing local Natives about their way of life. In his introduction to *Mission of Change in Alaska*, Oswalt named Aniak resident Sam Simian (Simeon), as a source of information of the Native life way on the central Kuskokwim.ⁱⁱⁱ Oswalt compiled his interviews and wrote a general description of the subsistence pattern for the central Kuskokwim, which includes the use of boats during the Native subsistence cycle.

According to Oswalt, in the spring Native familial groups traveled from Kalskag and Aniak to dispersed hunting camps along the waterways between Whitefish Lake and the Kuskokwim River. Typically, a man placed a skin boat (*bidarra*) on a flat bedded boat sled and filled it with supplies necessary for the months ahead. He would also bring a kayak or birch bark canoe which he would fill with fishing and hunting supplies. Dogs were harnessed to the sled to pull it with the help of the adults while the small children would ride on top of the loaded sled. Families traveled the still frozen winter trails to established inland camps and waited for the rivers and lakes to melt. As the ice break up allowed, the men and boys took the kayaks or canoes to fish,

ⁱⁱⁱ Sam Simeon owns Native allotment F-15999 on Discovery Creek.

hunt, and trap. The women prepared the harvests for the winter using various methods of preservation. The families timed their travel back to the Kuskokwim River for arrival after the spring flood and the break up of the river ice. They traveled the waterways in skin boats back to their permanent river villages carrying the families, supplies and harvest.²² This pattern changed little over time. In recent decades, change occurred predominately in the equipment used to access the resource areas and the time spent away from the village.

Recent Native Use of Discovery Creek 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 approved many of these areas as allotments, under the Native Allotment Act, and transferred title to the land to the applicants. Eight individuals applied for Native allotments on the Discovery Creek System.

Aleck N. Kameroff of Kalskag, applied for Native Allotment F-16205 on June 19, 1975. Parcel A (Figure 10) consists of 80 acres on the upper slough at the mouth of Discovery Creek in Sec. 21, T. 17 N., R. 59 W., SM. (Attachment 16) Kameroff claimed use of the land since 1967 for seasonal subsistence living. These activities include berry collecting from May to September, hunting from September to December and trapping from November to April.²³ Paul Kameroff, the applicants uncle, signed a Statement of Witness on which he checked the box next to “dock or boat landing” as present on the land.²⁴ Cliff Ellis, a BLM Realty Specialist, visited the parcel in June 1975 with a village appointed representative. The Native allotment application and the report from Ellis’ field examination did not indicate how the applicant accessed the allotment.²⁵ This allotment was surveyed as Lots 4 and 5, U.S. Survey No. 10532 and certificated on June 2 1992 as 50-92-0350. (Attachment 21)

Sara Levi of Lower Kalskag applied for Native allotment FF-16852 on March 21, 1972. The 160 acre parcel is located at the confluence of the Kuskokwim River and the west bank of Discovery Creek at river mile 0 in Sec. 31, T. 17 N., R. 59 W., and in Sec. 36, T. 17 N., R. 60 W., SM. Levi claimed use of the land for seasonal subsistence activities since 1959. These activities included fishing, gathering wood and collecting berries from June through September.²⁶ Gerald T. McWilliams, a BLM Realty Specialist, visited the parcel (Figure 11) on June 27, 1975 with Sara Levi’s husband Peter Levi and local village coordinator Sinka Williams. The Native allotment application and the report from McWilliams’ field examination did not indicate how the applicant accessed the allotment.²⁷ This allotment was surveyed as Lot 1, U.S. Survey No. 10257 and certificated on June 5, 1992 as 50-92-0357. (Attachment 22)



Figure 10. River Mile 1.6 on the second slough at the mouth of Discovery Creek at Aleck N. Kameroff's Native allotment F-16205-A. Photo taken in June of 1975 by BLM Realty Specialist, Clifford D. Ellis.

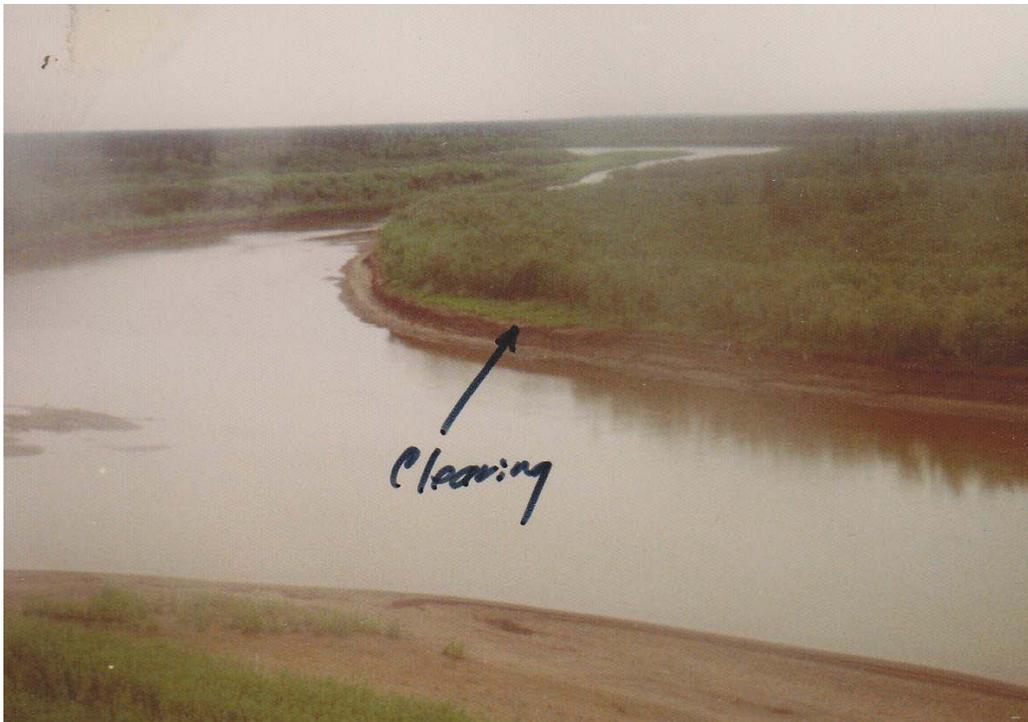


Figure 11. River mile 0 of Discovery Creek. Sara Levi's Native allotment FF-16852. The view is looking westerly. Discovery Creek is the water way depicted. Photo taken on June 27, 1975 by BLM Realty Specialist, Gerald T. McWilliams.

On March 10, 1978, Paul Kameroff Jr. of Kalskag applied for a Native allotment (FF-16206) consisting of four parcels. Parcel B, consisting of 40 acres (Figure 12), is located on the east bank of Discovery Creek (river mile 0) at its confluence with the Kuskokwim River in Sec. 31, T. 17 N., R. 59 W., SM. (Attachment 16) On his application, Kameroff Jr. claimed use of the land since 1967 for fish camp and hunting from June to December. He stated that he had used the land prior to 1967 as a boy and young man hunting with his fathers and brothers. Kameroff stated that Parcel B is “within reach from Kalskag by boat.”²⁸ His application describes the parcel as located 12 miles from Kalskag on the old river, on Discovery Creek. Included in an application witness statement is a diagram of the parcel depicting a boat landing, camp site and fire pit.²⁹ BLM Realty Specialist, Cliff Ellis, visited the parcel in July of 1975 with the applicant. Ellis determined that the applicant used the land for the claimed activities, including fishing with a set net for whitefish. The field examination report did not indicate how the applicant accessed the parcel.³⁰ The parcel was surveyed as Lot 2, U.S. Survey No. 10257 and certificated in 1992 as 50-92-0346. (Attachment 22)



Figure 12. River mile 0.5 of Discovery Creek. Paul Kameroff Jr.’s Native allotment F-16206-B. View is looking north from campsite at the confluence of Discovery Creek and the first slough at the mouth of Discovery Creek. Black arrow points to a set net in the slough. Photo taken in July 1975 by BLM Realty Specialist Cliff Ellis.

Sam Simeon (deceased)^{iv} of Aniak applied for a 160-acre parcel Native allotment (FF-15999) on September 19, 1957. The parcel is located at river mile 30 on Discovery Creek, in Secs. 17 and 20, T. 16 N., R. 58 W., SM. In his application, Simeon claimed use of the land since 1897, indicating that he was approximately 67 years old when he applied. The application did not include information on the seasons and types of subsistence activities conducted on the parcel.³¹ In a Land Examination Report dated May 18, 1960, BLM Lands and Minerals Officer Robert J. Coffman wrote that improvements found on the land included a 12 x 14-foot frame cabin, a 10 x 12-foot log cabin, an outhouse, tent frame and a cache. “The buildings were habitable but were not in use at the time of the examination. The site is in one of the local trapping areas and is used as a trapping headquarters during the trapping season.”³² On January 8, 1962, Simeon submitted a second Native allotment application stating that he resided on the parcel from October to June of each year between 1956 and 1960 for trapping activities. He kept seven sled dogs on the parcel, but resides at a fish camp at another site from June to September.³³ On August 23, 1974, BLM Land Law Examiner Gary McWilliams visited the parcel for a field review. By that time Simeon was deceased, so McWilliams was accompanied by Gerald Simeon, the applicant’s grandson. McWilliams reiterated the observations made during the BLM field review conducted in 1960 but did not indicate how the parcel was accessed.³⁴ The parcel was surveyed as U.S. No. Survey 4121 (Attachment 23) on June 25, 1992 and certificated on November 16, 1992 as No. 50-93-0035.

Gerald Francis Simeon of Aniak applied for a Native allotment (FF-15824) on June 15, 1971, consisting of two parcels. Parcel B is 150 acres and located at river mile 34 of Discovery Creek in Secs. 28, 29, 32 and 33, T. 16 N., R. 58 W., SM (Figure 13). Simeon claimed year-round use of the parcel starting in 1962 for seasonal subsistence use including picking berries and hunting.³⁵ BLM Realty Specialist Gary McWilliams visited the parcel in August 1974 with the applicant. McWilliams stated in his field report that the area where the parcel is located “is used heavily by the Native population for subsistence hunting and trapping purposes.” McWilliams did not indicate how the parcel was accessed.³⁶ The parcel was surveyed as U.S. Survey No. 6541 (Attachment 24) and certificated as 50-84-0110.

On June 19, 1971, Joseph L. Simeon of Kalskag applied for Native allotment FF-15694. This 160 acre parcel is located between river mile 35 of Discovery Creek and river mile 31 of the Unnamed Tributary in Secs. 4 and 5, T. 15 N., R. 58 W., and Sec. 33 T. 16 N., R. 58 W., SM. Simeon claimed use of the land since April of 1943 for seasonal subsistence living. This use included fishing for pike, hunting muskrat in the spring, and moose and bear hunting in the fall.³⁷ BLM Realty Specialist Clifford P. Ellis visited the parcel in June of 1975 with village representative William J. Gregory. Ellis did not indicate how the parcel was accessed in his field report.³⁸ The parcel was surveyed as U.S. Survey No. 9950 (Attachment 25) and certificated as 50-84-0110.

^{iv} Sam Simeon was an informant for Anthropologist Wendell H. Oswalt during his field research on the subsistence patterns of central Kuskokwim Natives during the 1950s.



Figure 13. River mile 34 of Discovery Creek. Gerald Francis Simeon's Native allotment F-15824-B. Aerial view of campsite looking northeast. Discovery Creek is behind the allottee's tent frame. Photo taken in June of 1975 by BLM Realty Specialist Cliff Ellis.

*Native Use of Unnamed Tributary of Discovery Creek
Documented in Native Allotment Files*

William Gregory of Kalskag applied for a Native allotment (FF-15655) on June 19, 1971. This 160-acre parcel is located in Sec. 21, T. 16 N., R. 59 W., SM., at river mile 12, of the Unnamed Tributary of Discovery Creek. Gregory claimed use of the parcel since 1964 for seasonal subsistence activities from May to December. However he also stated that he had been hunting in the area with his father since he was two years old. Gregory indicated that he used the land for spring camp, hunting rats, setting fish net, and hunting in the fall and winter.³⁹ BLM Realty Specialist, Clifford D. Ellis, visited the location in June of 1975 with the applicant and Steve J. Gregory. In his field report, Ellis did not indicate how the applicant accessed the parcel.⁴⁰ The parcel was surveyed as Lots 1, 2, 3, and 4, U.S. Survey No. 10005 (Attachment 26) and certificated as 50-93-0424.

Steven J. Gregory of Kalskag applied for a Native allotment (FF-15654) on March 7, 1972. This 160-acre parcel is located in Secs. 22 and 23, T. 16 N., R. 59 W., SM., at river mile 16 of the Unnamed Tributary (Figure 14). Gregory claimed seasonal use of the land since 1966 for subsistence activities during May through December. The seasonal activities included spring camp and hunting and trapping. He also stated that he used the land for years before 1966 when

he started hunting and trapping with his fathers and brothers.⁴¹ BLM Realty Specialist Clifford D. Ellis visited the parcel in June of 1975 with the applicant (Figure 14). Ellis did not indicate how the applicant accessed the parcel in his field report.⁴² The parcel was surveyed as Lots 6 and 7, U.S. Survey No. 10005. (Attachment 26)



Figure 14. River mile 16 of the Unnamed Tributary. Steven J. Gregory's Native allotment F-15654. Aerial view looking southwest. Red circle is the northeast corner of the allotment parcel. The Unnamed Tributary is in the foreground. Photo taken in June of 1975 by BLM Realty Specialist Cliff Ellis.

BLM Field Work, Interviews with Local Natives, and Boat Use on Discovery Creek

On June 12, 1978, BLM employee William Peaks attempted to enter Discovery Creek from the Kuskokwim River. He was unsuccessful in an attempt to drive a jet boat up Discovery Creek, having “found [the] mouth silted in and impassable.”⁴³ (Attachment 27) This was the basis for BLM’s early determinations of non-navigability for the lower portion of Discovery Creek in T. 17 N., R. 59 W., SM. In 1989 Wayne Boden, BLM Deputy State Director for Conveyance Management, reported on telephone interviews conducted by Donald Koenig of the BLM Navigability Section. In these interviews “Jerrie” [Gerald] Simeon, of Aniak, stated that “the mud-bottomed stream does get very low at times, as little as twelve inches – particularly in the first few miles where it is very wide.” Simeon, who has Native allotment FF-15824-B, believed

travel up the creek offered no problems to a jet boat, canoe or raft. He believed that a jet boat could get eight to ten miles up this creek. Simeon's description was supported by J. Peterson, R. Peterson and A. Morris, each who had been on this stream beyond the selection area [above river mile 13].⁴⁴ (Attachment 6)

The villages of the middle Kuskokwim, including Aniak and Kalskag, have a subsistence based economy with low cash flow and limited access to commercially produced goods. The surrounding river drainages are rich in fish and game resources and valued as areas for subsistence harvest by local residents. In 1982, the Alaska Department of Fish and Game (ADF&G) conducted a study to document the use of the Aniak and Oskawalik river drainages for fishing, hunting, trapping and berry picking activities. The ADF&G researchers documented that Aniak and Kalskag residents used 16 to 20-foot wooden or aluminum boats powered by a 15 to 35-horsepower outboard motors for transportation in the summer on the middle Kuskokwim River drainages. Many up river areas are accessible by jet boat, but most households only owned boats with prop units.⁴⁵ The seasonal round of Aniak and Kalskag residents that have Native allotments on the Discovery Creek System includes making trips up these creeks for salmon, resident fish species, and other resources. The people are based in their communities during the spring and summer, but make trips up the Discovery Creek System to collect berries, firewood, freshwater fish, muskrats, and the remnants of summer resident waterfowl. During September and October they travel upriver on longer trips in search of moose. Trapping occurs in the winter months.

VI. Summary

In 1982, the BLM determined Discovery Creek and its Unnamed Tributary non-navigable within Native village selected lands. The BLM determined Discovery Creek navigable from its mouth to river mile 4.1 in 2008 and from river mile 13 to river mile 22.1 in 1989. In 1998, the BLM determined the Unnamed Tributary of Discovery Creek navigable within Native allotments at river mile 12, 16, and 18. The BLM also determined the Unnamed Tributary navigable for an unspecified distance. The BLM determined Discovery Creek navigable from its mouth upstream to river mile 4.1 in 2008, but determined the sloughs near the mouth of the creek to be non-navigable.

Eight Native allotments are associated with Discovery Creek, its Unnamed Tributary and the sloughs near the mouth of Discovery Creek. Five of the allottees used their parcels in the open season (when the creeks were not frozen) in the years prior to statehood. Seven of the allottees used their parcels after 1959 during the open season. The BLM field reports for these Native allotments did not indicate how the allottees accessed their parcels. One parcel included a boat dock and another allottee described his allotments "within reach by boat." Native allotment holders on Discovery Creek used their allotments from river mile 0 to river mile 35 in the open season, while allottees on the Unnamed Tributary of Discovery Creek used their parcels in the open season as far up stream as river mile 16. The BLM's navigability determinations issued in 1989 and later state that Natives accessed their parcels by boat.

Endnotes

- ¹ Donald J. Orth, *Dictionary of Alaska Place Names*, Geological Survey Professional Paper 506, United States Geological Survey, Washington, D.C., 1971, p. 274.
- ² Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, DIC, September 23, 1982, BLM Files, F-14831-A.
- ³ Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, DIC, September 30, 1982, BLM Files, F-14871-A.
- ⁴ Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, IC Nos. 741 and 742, September 30, 1983, BLM Files, F-14831-A, and Krissell Crandall, BLM Chief, Branch of Adjudication I, Corrected IC No. 1989, BLM Files, F-14831-A.
- ⁵ Krissell Crandall, BLM Chief, Branch of Adjudication, Corrected IC No. 1989, BLM Files, F-14831-A.
- ⁶ Ann Johnson, BLM Chief, Branch of ANCSA Adjudication, IC No. 749, September 30, 1983, BLM Files, F-14831-A, and Ramona Chinn, BLM Acting State Director, Corrected IC No. 2013, BLM Files, F-14831-A.
- ⁷ Ramona Chinn, BLM Acting State Director, Corrected IC No. 2013, BLM Files, F-14831-A.
- 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 Files, F-14871-EE.
- ⁹ Wayne A. Boden, BLM Deputy State Director for Conveyance Management, memorandum on Navigable Waters in Group Survey 256 (Window 1833), May 24, 1989, BLM Files, F-14871-EE.
- ¹⁰ C. Michael Brown, BLM Chief, Navigability Section, to BLM Chief Special Instructions Section, memorandum on Navigable Waters in Native Allotments F-15655 and F-15654, June 14, 1991, BLM Files, F-14831-EE.
- ¹¹ Wayne A. Boden, BLM Deputy State Director for Conveyance Management, Supplemental Navigability Determination for Reports on Window 1834 (Group Survey 254: May 8, 1989) and Window 1833 (Group Survey 256: May 24, 1989), October 30, 1991, BLM Files, F-14871-EE.
- ¹² Robert Lloyd, BLM Assistant District Manager, Lands, to BLM Chief, Branch of Southwest Adjudication, Final Easement Recommendations for Lands to be Conveyed to the Kuskokwim Corporation, Successor in Interest to Aniak Limited, May 11, 1994, BLM Files, F-14831-EE.
- ¹³ Bernice P. Leskoskey, BLM Land Law Examiner, Branch of Southwest Adjudication, Decision to Convey Lands to the Kuskokwim Corporation and Calista Incorporated, July 15, 1994, BLM Files, F-14831-A.
- ¹⁴ Ann Johnson, BLM Chief, Branch of Southwest Adjudication, IC Nos. 1598 and 1599, October 31, 1994, BLM Files, F-14831-A.
- ¹⁵ Jerry B. Lewis, Acting BLM Chief, Survey Preparation Section, to Acting Chief, Branch of Survey Planning and Preparation, Memorandum on Navigable Waters Within Certain Village Selected and Interim Conveyed Lands for the Village of Aniak, December 19, 2002, BLM Files, F-14831-EE.
- ¹⁶ Denny Benson, BLM Easement Coordinator, Memorandum on Final Easement Recommendations and Patent Easement review for Lands near the Village of Kalskag to be Patented to the Kuskokwim Corporation, September 2, 2004, BLM Files, F-14871-A.
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