

Little Bogus Creek and Yukaniluk Creek
HUC 30502, Zone 3, Kuskokwim River Region

FINAL
INTERIM SUMMARY REPORT

Prepared by Edwin Shoaf, ACC, Historian

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PREFACE

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

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

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

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

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Attachments (in PDF format)

- Attachment 1.** Curtis V. McVee, BLM State Director, Final Easements for the Village of Tuluksak, June 9, 1981, BLM Files, F-14949-EE.
- Attachment 2.** Sandra C. Thomas, Acting Chief, BLM Branch of ANCSA Adjudication, Decision to Interim Convey, March 3, 1982, BLM Files, F-14949-A.
- Attachment 3.** Robert D. Arnold, Assistant to the BLM State Director for Conveyance Management, Interim Conveyance Nos. 542 and 543, August 27, 1982,

BLM Files, F-14949-A.

Attachment 4. Wayne A. Boden, Deputy BLM State Director for Conveyance Management, Navigable Waters in Group Survey No. 268, May 8, 1989, BLM Files, F-14949.

Attachment 5. Master Title Plats (MTP's)

Little Bogus Creek and Yukaniluk Creek HUC 30502, Zone 3, Kuskokwim River Region II-B Interim Summary Report

I. Introduction

Little Bogus Creek and Yukaniluk Creek are located in the Kuskokwim Delta Region, in the southwestern section of Zone 3 within HUC 30502 (Figure 1). Yukaniluk Creek originates in a series of small water bodies approximately 14 air milesⁱ northeast of Tuluksak. It flows for 13 milesⁱⁱ west into Little Bogus Creek. Little Bogus Creek heads in a small unnamed lake approximately six air miles northeast of Tuluksak and flows for 8.3 miles into the Tuluksak River. The creeks drain the surrounding wetlands in the

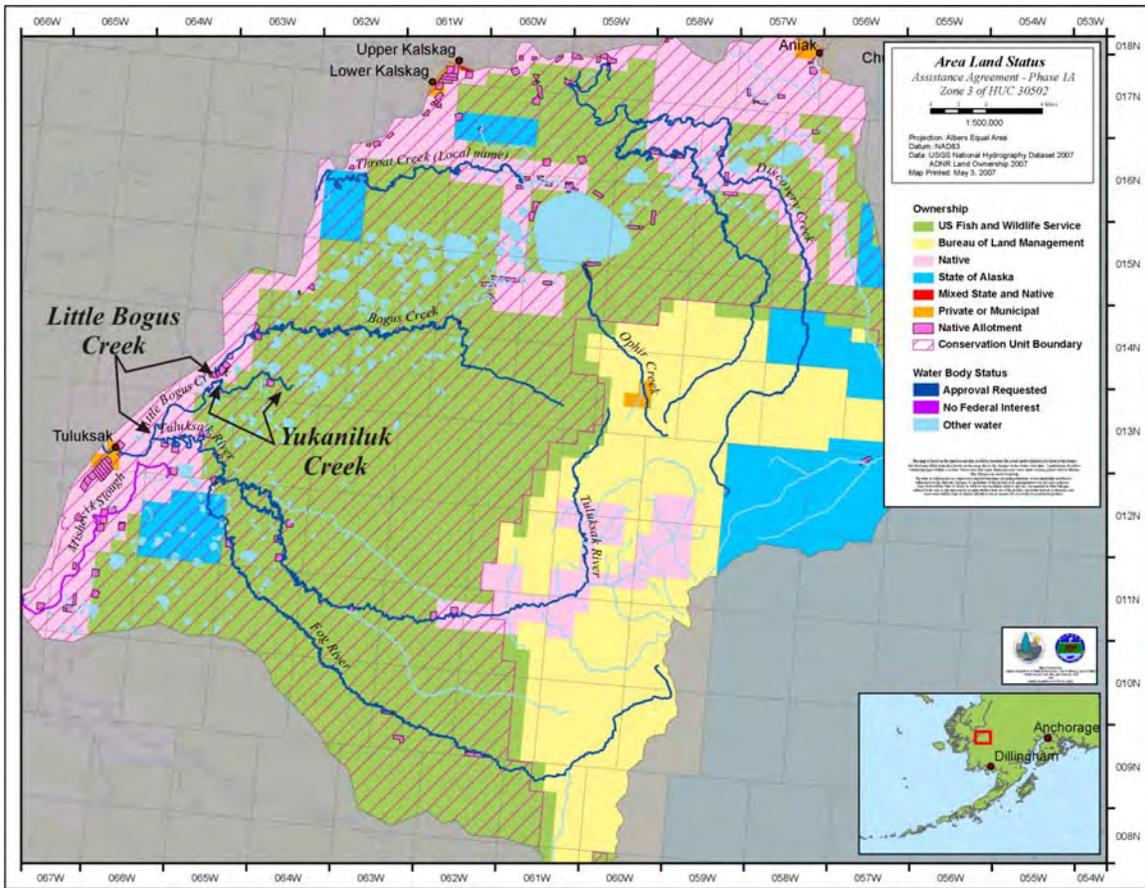


Figure 1. Map showing the location of Little Bogus Creek and Yukaniluk Creek within Zone 3 of HUC-30502 of the Kuskokwim River region.

ⁱ Air mile measurements taken using the Spatial Data Management System (SDMS) of the BLM-Alaska.

ⁱⁱ 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.

southcentral portion of the Yukon Delta National Wildlife Refuge (Yukon Delta NWR). Bethel is the nearest regional hub.

Little Bogus Creek crosses Native corporation and Yukon Delta NWR land. Yukaniluk Creek crosses Native corporation and Yukon Delta NWR land. There is one Native allotment along the banks of Yukaniluk Creek. Together the two creeks cross three townships in the Seward Meridian (SM).

TRM: Township (T.), Range (R.), SM:

T. 13 N., R. 63 W., SEC. 28	T. 13 N., R. 64 W., SEC. 34
T. 13 N., R. 63 W., SEC. 29	T. 13 N., R. 64 W., SEC. 35
T. 13 N., R. 63 W., SEC. 30	T. 12 N., R. 65 W., SEC. 03
T. 13 N., R. 63 W., SEC. 32	T. 12 N., R. 65 W., SEC. 05
T. 13 N., R. 64 W., SEC. 24	T. 12 N., R. 65 W., SEC. 07
T. 13 N., R. 64 W., SEC. 25	T. 12 N., R. 65 W., SEC. 08
T. 13 N., R. 64 W., SEC. 26	T. 12 N., R. 65 W., SEC. 09
T. 13 N., R. 64 W., SEC. 27	T. 12 N., R. 65 W., SEC. 10
T. 13 N., R. 64 W., SEC. 28	T. 12 N., R. 65 W., SEC. 18
T. 13 N., R. 64 W., SEC. 32	T. 12 N., R. 65 W., SEC. 19
T. 13 N., R. 64 W., SEC. 33	

II. Land Status

Federal, Native village, regional corporation, and Native allotment lands surround Little Bogus Creek and Yukaniluk Creek (Figure 2). Native lands surround the entirety of Little Bogus Creek and the lower half of Yukaniluk Creek. Yukon Delta NWR lands surround the upper half of Yukaniluk Creek. One Native allotment is an inholding within federal lands along Yukaniluk Creek.

Portions of Little Bogus and Yukaniluk creeks are located within lands which were selected by Native villages in the 1970's under the Alaska Native Claims Settlement Act (ANCSA) of 1971 (Figure 2). The BLM conveyed land abutting Little Bogus Creek and the lower section of Yukaniluk Creek to Tulkisarmute Village Corporation in Interim Conveyance (IC) No. 542. The subsurface estate was conveyed to Calista Corporation in IC No. 543 in 1982.

The upper portion of Yukaniluk Creek is located within the Yukon Delta NWR (Figure 2). The Yukon Delta NWR 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 federal refuge lands in Alaska is held by the United States. The U.S. Fish and Wildlife Service (USF&WS) is the manager of the Yukon Delta NWR.

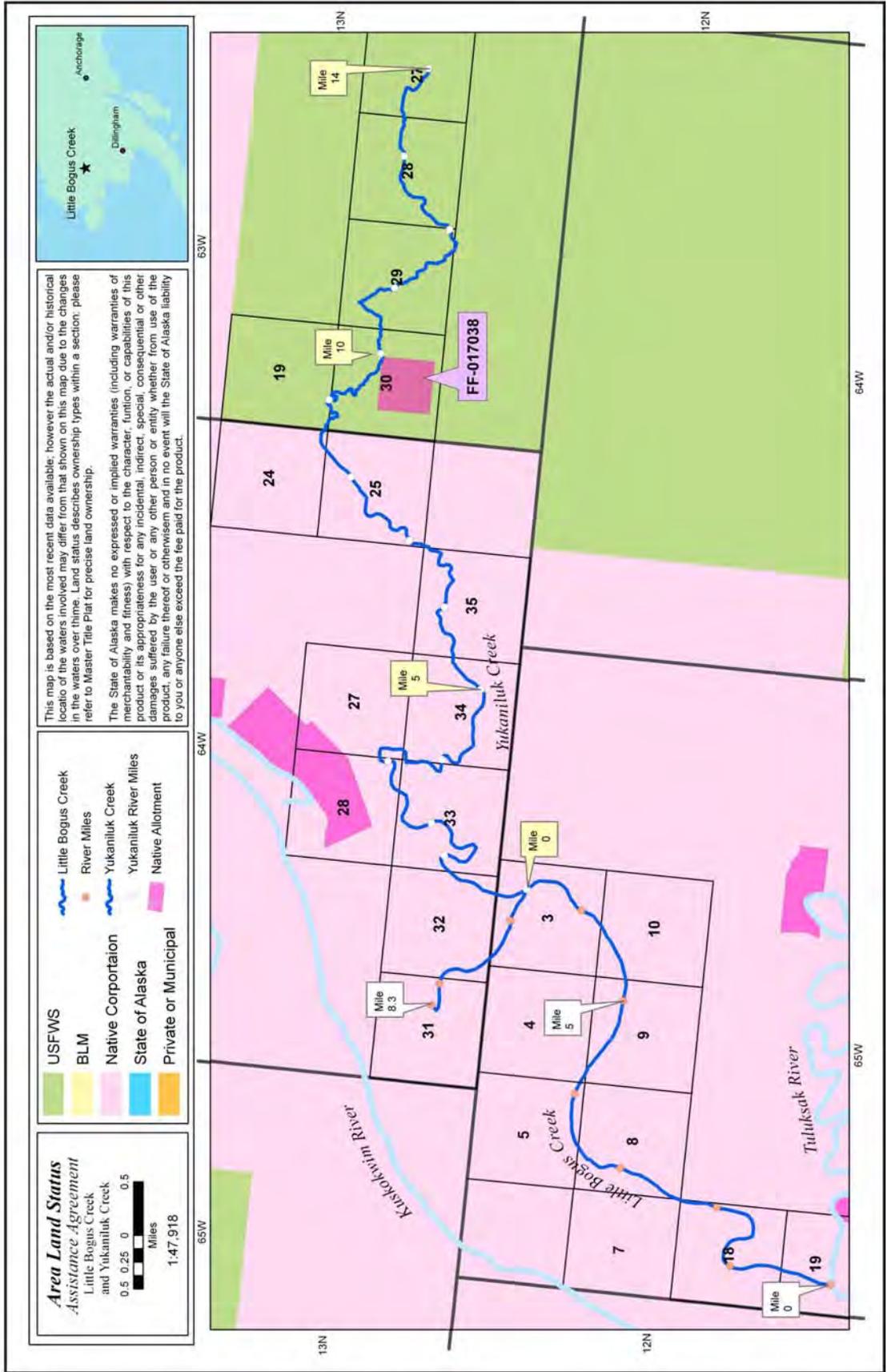


Figure 2. Little Bogus Creek and Yukaniulik Creek, showing land selected by Native corporations and for Native allotments.

III. BLM Navigability Determinations

On June 9, 1981, BLM State Director Curtis V. McVee issued a Final Easements Memorandum for lands selected by the Village of Tuluksak. The memo determined “Little Bogus Creek from its confluence with the Tuluksak River upstream, including Yukaniluk Creek, and into the SW¼NW¼, Sec. 35, T. 13 N., R. 64 W., Seward Meridian,” (river mile 6) navigable “due to present and historic uses in connection with travel, trade and commerce.”¹ (Attachment 1)

Sandra C. Thomas, Acting Chief of BLM’s Branch of ANSCA Adjudication, issued a Decision to Interim Convey (DIC) on March 3, 1982 for lands selected by Tulkisarmute Incorporated for the Native village of Tuluksak. The lands to be conveyed border Little Bogus Creek from its confluence with the Tuluksak River upstream to its head in Sec. 31, T. 13 N., R. 64 W., SM. The selected lands also border Yukaniluk Creek from its confluence with Little Bogus Creek in Sec. 3, T. 12 N., R. 65 W., SM, upstream through Sec. 24, T. 13 N., R. 64 W., SM (river mile 8). The DIC cited criteria for navigable waters as water bodies that “have or could be used in connection with travel, trade and commerce.” On the accompanying navigability map Little Bogus Creek is marked as navigable from its confluence with Tuluksak River upstream to Sec. 3, T. 12 N., R. 65 W., SM (river mile 6.7). Yukaniluk Creek is marked as navigable from its confluence with Little Bogus Creek in Sec. 3, T. 12 N., R. 65 W., SM, upstream through Sec. 35, T. 13 N., R. 64 W., SM (river mile 6).² (Attachment 2)

On August 27, 1982, Robert D. Arnold, Assistant Deputy State Director for Conveyance Management, issued IC No. 542 to Tulkisarmute Incorporated for the surface estate and IC No. 543 to Calista Corporation for the subsurface estate of those lands listed in the 1982 DIC for lands selected by Tulkisarmute Incorporated. On the accompanying navigability maps, Little Bogus Creek is marked as navigable from its confluence with Tuluksak River upstream to Sec. 3, T. 12 N., R. 65 W., SM (river mile 6.7). Yukaniluk Creek is marked as navigable from its confluence with Little Bogus Creek in Sec. 3, T. 12 N., R. 65 W., SM, upstream through Sec. 35, T. 13 N., R. 64 W., SM (river mile 6).³ (Attachment 3)

Wayne A. Boden, Deputy BLM State Director for Conveyance Management, issued a memorandum on Navigable Waters in Group Survey No. 268 (Window 1836) on May 8, 1989. In general, the BLM considered “non tidal waters navigable if, at the time of statehood, they were navigable for crafts larger than a one-man kayak.” Table 2 of the memorandum identifies navigable waters less than 198 feet wide, including Little Bogus Creek from its confluence with the Tuluksak River upstream through Sec. 9, T. 12 N., R. 65 W., SM (river mile 5.25) and Yukaniluk Creek from its confluence with Little Bogus Creek upstream through Secs. 27, 28 and 33, T. 13 N., R. 64 W., SM (river mile 4). Table 3 determined Little Bogus Creek navigable in Secs. 3 and 10, T. 12 N., R. 65 W., SM (river mile 5.25 to river mile 7.5) based on aerial photo interpretation. Table 5, identified navigable waters in various survey windows, including Little Bogus Creek in Secs. 5, 7, 8, 9, 18 and 19, T. 12 N., R. 65 W., (river mile 5.25) and Yukaniluk Creek in Secs. 27, 28, 32, and 33, T. 13 N., R. 64 W., SM (river mile 4).⁴ (Attachment 4)

The Master Title Plat (MTP) for T. 13 N., R. 64 W., SM, depicts Yukaniluk Creek as double lined in Secs. 28, 32, 33, 34, and 35. The MTP's are current as of April 17, 2007.⁵ (Attachment 5)

Summary of Navigability Determinations: Navigability determinations for Little Bogus Creek and Yukaniluk Creek are summarized in Table 1 and shown in Figure 3. In 1981, the BLM determined Little Bogus Creek navigable in a Final Easements Memorandum from its mouth to river mile 8 and Yukaniluk Creek navigable upstream to river mile 6 using the criteria of travel, trade, and commerce. In March 1982, BLM issued a DIC with maps showing Little Bogus Creek navigable from its mouth upstream to river mile 7, and Yukaniluk Creek from its mouth upstream to river mile 6. In August 1982, BLM issued ICs with maps showing Little Bogus Creek navigable from its mouth upstream to river mile 7, and Yukaniluk Creek navigable from its mouth upstream to river mile 6. The BLM issued a Navigable Waters Memorandum in 1989 determining Little Bogus Creek navigable from its mouth through river mile 7.5, and Yukaniluk Creek navigable from river mile 0.25 upstream to river mile 4.

Table 1: Summary of Navigability Determinations

Date	Water Body	Type Decision and Substance	Criteria
6/9/81 Attachment 1	Little Bogus, Lower Yukaniluk	Final Easements Memorandum: Little Bogus Creek from river mile 0 to river mile 6.7. Yukaniluk Creek navigable from river mile 0 to river mile 6.	Travel, trade, and commerce
3/3/82 Attachment 2	Little Bogus, Yukaniluk	DIC: Little Bogus Creek navigable from river mile 0 to river mile 7. Yukaniluk Creek navigable from river mile 0 to river mile 6.	Travel, trade, and commerce
8/27/82 Attachment 3	Little Bogus, Yukaniluk	IC: Little Bogus Creek navigable from river mile 0 to river mil 7. Yukaniluk Creek navigable from river mile 0 to 6.	
5/8/89 Attachment 4	Little Bogus, Yukaniluk	Navigable Waters Memorandum: Little Bogus Creek navigable from river mile 0 to river mile 7.5. Yukaniluk Creek navigable from river mile 0.25 to river mile 4.	Use by a craft larger than a one-man kayak; photo interpretation

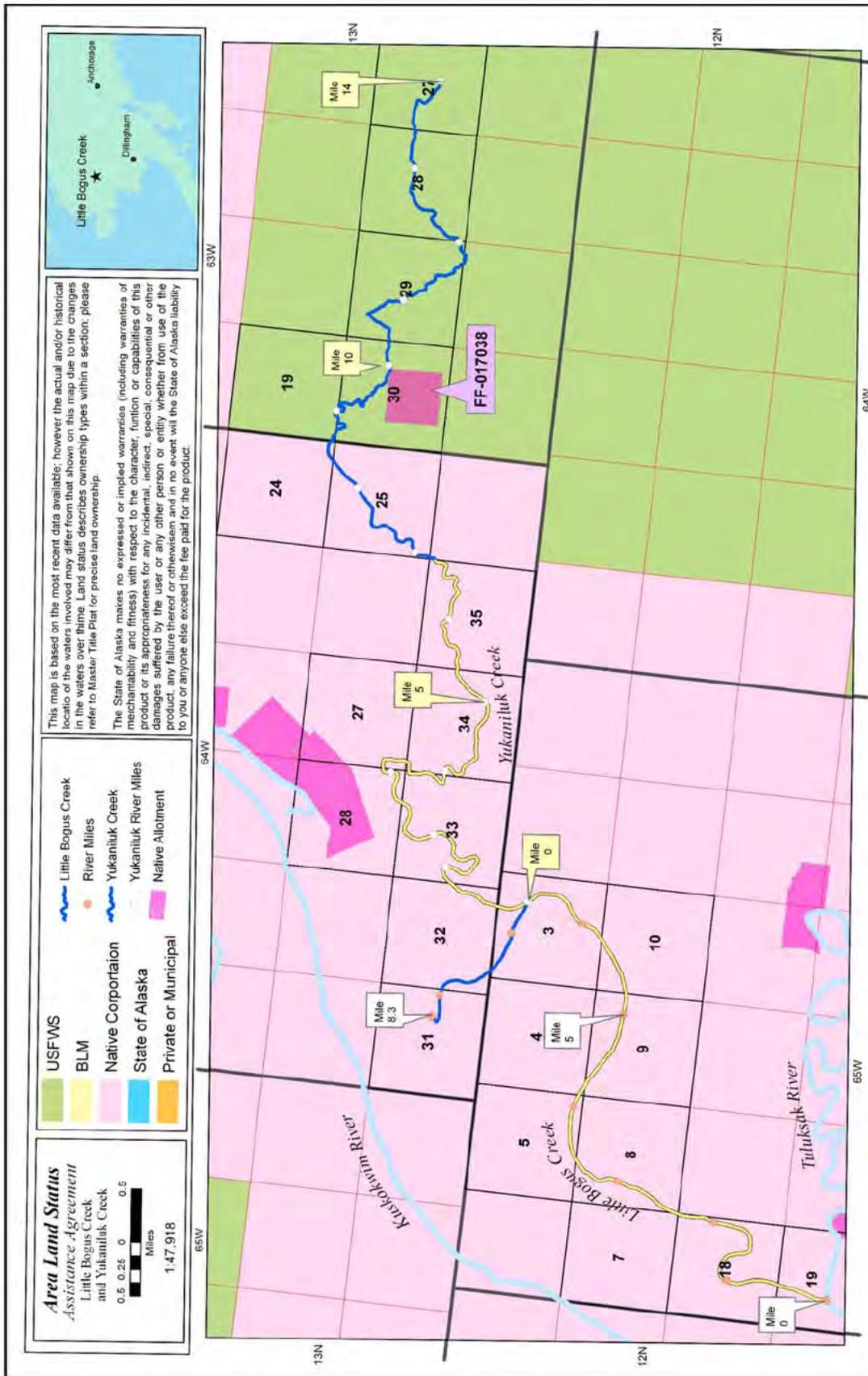


Figure 3. Map showing BLM determinations of navigability on Little Bogus Creek and Yukaniluk Creek.

IV. Physical Character of the Waterway

Little Bogus Creek and Yukaniluk Creek lie in a relatively flat area with many small lakes and streams. Little Bogus Creek is a meandering stream eight miles long and less than 250 feet wide. It drains an area of 56 square miles and has a gradient of 1 foot per mile.⁶ Yukaniluk Creek is a meandering stream 14 miles long and less than 250 feet wide. It drains an area of 51 square miles and has a gradient of four feet per mile.⁷

Little Bogus Creek and Yukaniluk Creek are located within the transitional climate zone, which is between the maritime and continental climactic 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.⁸

No hydrologic information is available for Little Bogus and Yukaniluk creeks. The two creeks appear to be in their natural and ordinary condition from the time of statehood.

V. Evidence of Use

Native Use of Little Bogus Creek and Yukaniluk Creek Documented in Native Allotment Files

The BLM began collecting information in the 1970's to adjudicate Native allotment applications filed by local Natives that have fished and hunted along Yukaniluk Creek. The Natives accessed favorite spots along the creek for fishing and hunting. These favorite spots, through customary use, developed into exclusive use areas. The federal government adjudicated one of these allotments on Yukaniluk Creek at river mile 9 and transferred title to the parcel to the applicant.

Fred M. Napoka of Tuluksak filed an application on March 28, 1972 for a 160-acre Native allotment (FF-17038) in Sec. 30, T. 13 N., R. 63 W., SM, on the left bank of Yukaniluk Creek (river mile 9). Napoka began using his allotment in 1960 for hunting and fishing from May through July.⁹ Neither the allottee's application nor the inspection report contained any indication of how Fred M. Napoka accessed his allotment.¹⁰

Other Natives Traveling on Little Bogus and Yukaniluk Creeks Since Statehood

In the BLM's *Alaska's Kuskokwim River Region: A History*, C. Michael Brown described a meeting between BLM officials and the residents of Tuluksak village which occurred on December 12, 1980. The villagers, according to Brown, stated that "this creek [Little Bogus Creek] and its tributary, Yukaniluk [sic], was a route of boat travel to various Native allotments. Skiffs ranging in length from sixteen- to twenty-four feet and

equipped with twenty-five- to eighty-five-horsepower outboard motors were used on the creeks.”¹¹

VI. Summary

In 1981, the BLM determined Little Bogus Creek navigable from its mouth to river mile 6.7 and Yukaniluk Creek navigable from its mouth to river mile 6 due to travel, trade and commerce. On maps attached to a DIC and ICs issued in 1982, the BLM showed Little Bogus Creek as navigable from its mouth to river mile 6.7 and Yukaniluk Creek navigable from its mouth upstream river mile 6. A Navigable Waters Memorandum issued in 1989 describes Little Bogus Creek as navigable from its mouth at river mile 0 to river mile 7.5 and Yukaniluk Creek navigable from river mile 0.25 to river mile 4.0

Since Statehood local Natives have taken boats up and down portions of Little Bogus Creek and Yukaniluk Creek. The Natives use the creeks as a route to access various Native allotments during the open season. They use skiffs ranging from 16 to 24 feet in length with outboard motors of 25 to 85-horsepower to travel on these two creeks.

Endnotes

¹ Curtis V. McVee, BLM State Director, Final Easements for the Village of Tuluksak, June 9, 1981, BLM Files, F-14949-EE.

² Sandra C. Thomas, Acting Chief, BLM Branch of ANCSA Adjudication, Decision to Interim Convey, March 3, 1982, BLM Files, F-14949-A.

³ Robert D. Arnold, Assistant to the BLM State Director for Conveyance Management, Interim Conveyance Nos. 542 and 543, August 27, 1982, BLM Files, F-14949-A.

⁴ Wayne A. Boden, Deputy BLM State Director for Conveyance Management, Navigable Waters in Group Survey No. 268, May 8, 1989, BLM Files, F-14949.

⁵ Master Title Plats (MTPs).

⁶ Roger Clay, *A Compilation of Hydrologic Data on the Kuskokwim Region*, Alaska Department of Natural Resources, Division of Geological and Geophysical Surveys, Water Resources Section, Navigability Project, Anchorage, December 1983, pp. 219.

⁷ *Ibid.*, pp. 368.

⁸ “Tuluksak,” Alaska Community Database Community Information Summaries, on the web at <http://www.comerce.state.ak.us/dca/commdb/CIS.cfm>.

⁹ Fred M. Napoka, Native Allotment Application and Evidence of Occupancy, March 28, 1972, BLM Files, FF-17038, National Archives and Records Administration (NARA), Anchorage.

¹⁰ Rick M. Elliott, BLM Land Law Examiner, Native Allotment Field Report for the Native Allotment Application of Fred M. Napoka, June 23, 1976, BLM Files, FF-17038, NARA, Anchorage.

¹¹ C. Michael Brown, *Alaska’s Kuskokwim River Region: A History*, Bureau of Land Management, Anchorage, Alaska, 1985, p. 503.