

TIVYAGAK CREEK
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

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PREFACE

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

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

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

Documents that are key to understanding agency decision making or the point of view of an interested party are indicated as Attachment 1, Attachment 2, etc., which appear after the corresponding endnotes. These documents are listed in the Table of Attachments and can be viewed in their entirety in a separate PDF file that supplements this report. For other completed Navigable Waters Research Reports in this series, see: <http://www.dnr.state.ak.us/mlw/nav/naar/>

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Attachments (in PDF format)

- Attachment 1.** Dennis P. Daigger, Natural Resource Manager, Alaska Department of Natural Resources, to Gary Seitz, BLM Navigability Section Division of Conveyances, Waterbodies within the Goodnews Bay conveyance area, November 10, 1982, BLM files, F-14862 (75.4).
- Attachment 2.** R.W. Kaltenbach, BLM Realty Specialist, Land Report for Goodnews Bay Village Selection, Goodnews Bay VS-83-04, February 23, 1983, BLM files, F-14862-A.
- Attachment 3.** Robert W. Faithful, BLM Assistant to the State Director for Conveyance Management, to Chief, Division of ANCSA and State Conveyances from Assistant to the State Director for Conveyance Management, Memorandum, Final Navigability Determinations for Goodnews River, March 3, 1983, BLM files, F-14862-A.
- Attachment 4.** Master Title Plats (MTPs), T. 12 S., R. 71 W., SM, Officially filed January 27, 1960, current to November 3, 2009; T. 12 S., R. 70 W., SM, Officially filed January 27, 1960; and T. 13 S., R. 71 W., SM, Officially filed January 27, 1960.
- Attachment 5.** 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 6.** Rolfe Buzzell and Nicole Lantz, OHA Historians, Summary of Interview with Ron Hyde Jr., October 6, 2010, OHA Nav Unit files, Anchorage, Alaska.

TIVYAGAK CREEK and UNNAMED TRIBUTARY
HUC 30502, Zone 1, Kuskokwim River Region
II-B Interim Summary Report

I. Introduction

Tivyagak Creek is located in the Kuskokwim Delta region, within Zone 1 of HUC 30502 (Figure 1). Tivyagak Creek is a tributary of the Goodnews River System, specifically of the South Fork. The waterway is 17 river milesⁱ long originating in an unnamed mountain in the Togiak National Wildlife Refuge (NWR).

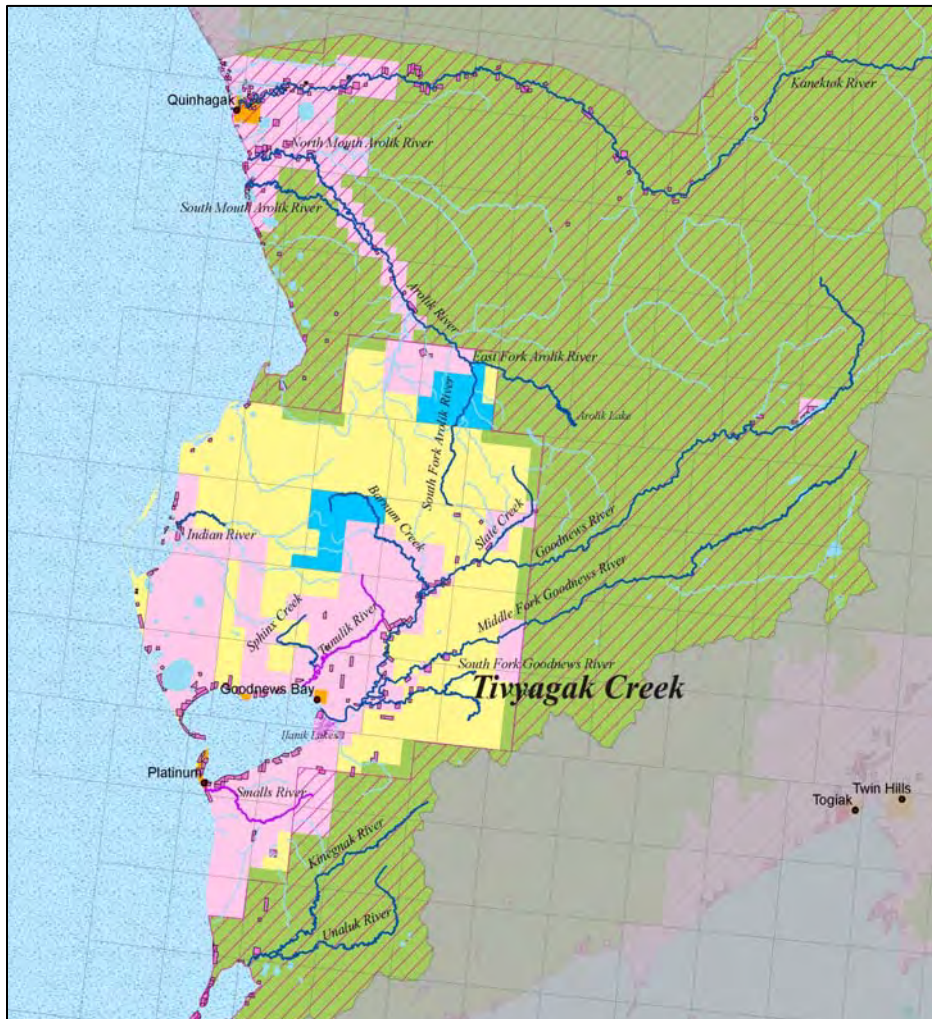


Figure 1. Map of Zone 1, HUC-30502, showing the location of Tivyagak Creek.

ⁱ River and the river mile markers used in this report are based on Geographic Information System (GIS) calculations using the National Hydrography Data Set which was derived from 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.

Tivyagak Creek comprises three townships:

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

T. 12 S., R. 71 W., SM

T. 12 S., R. 70 W., SM

T. 13 S., R. 71 W., SM

Tivyagak Creek heads at Sec. 5, T. 13 S., R. 71 W., SM, and flows in a generally northwest direction to its confluence with the South Fork of the Goodnews River in Sec 7, T. 12 S., R. 71 W., SM. Tivyagak Creek is 10 milesⁱⁱ east of Goodnews Bay Village. Located on the coast of Goodnews Bay, the village is approximately half way between the regional hubs of Bethel and Dillingham.

The community of Goodnews Bay is located on the north shore of Goodnews Bay at the mouth of 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 the village was 230. The name Tivyagak Creek was a Yupik name reported in 1954 by U.S. Geological Survey (USGS).¹

II. Land Status

Tivyagak Creek is bounded by Federal Lands (Figures 2-3) managed by the BLM and the U.S. Fish and Wildlife Service (USF&WS). Tivyagak Creek does not cross any Native village or regional corporation lands. There are no Native allotments along Tivyagak Creek. There was no Federal land withdrawal, reserve, or reservation in place at the time of statehood.

On January 20, 1969, the Secretary of the Interior issued Public Land Order 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, 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 for selection by the Natives but had not yet been selected.

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

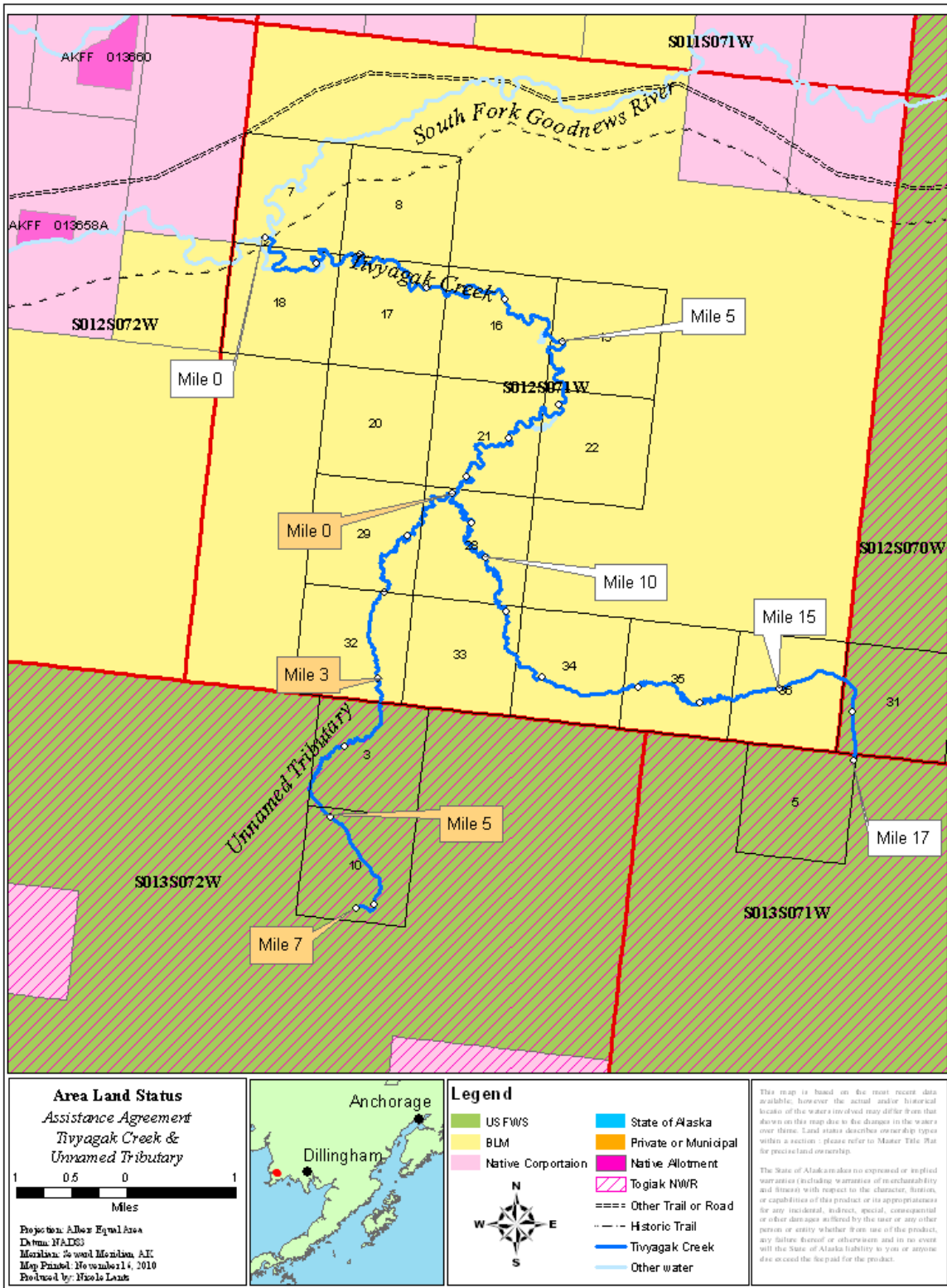


Figure 2. Map of Tivyagak Creek Land Status.

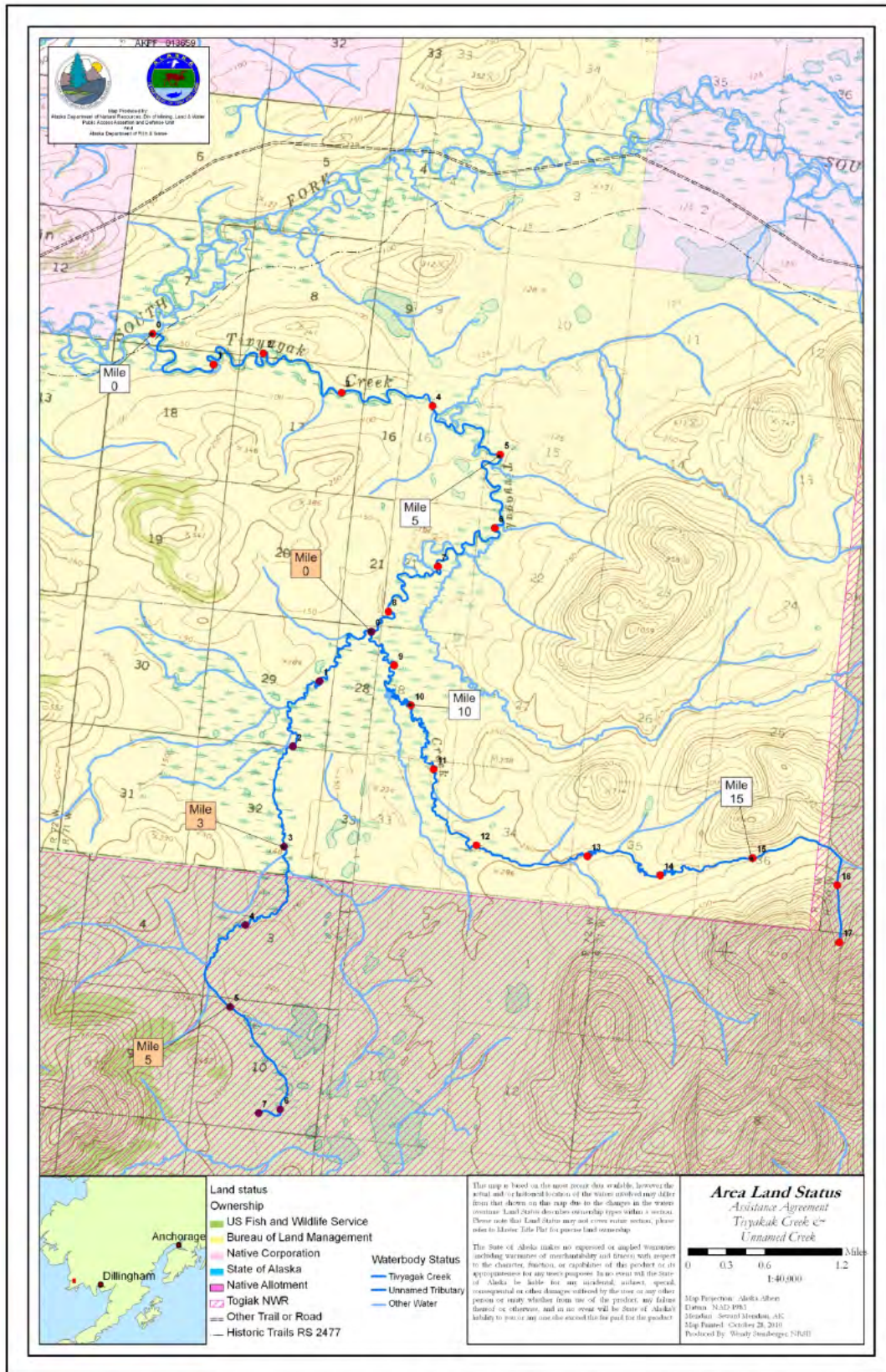


Figure 3. Map of Tivyagak Creek showing river miles and topography.

On February 11, 1980, the Secretary of Interior issued Public Land Order (PLO) 5703, under section 204 of the Federal Land Policy Management Act, establishing the Togiak NWR. 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 refuge. In addition, the 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 USF&WS.

III. BLM Navigability Determinations

On November 10, 1982, Dennis P. Daigger, Natural Resource Manager, Alaska Department of Natural Resources (DNR), wrote a letter to Gary Seitz of the BLM Navigability Section, Division of Conveyances. This letter cited a phone conversation with Ron Hyde and his son Ron Hyde Jr., of Alaska River Safaris, a commercial fishing guide operation in Goodnews Bay. Ron Hyde Jr. stated he frequently traveled by boat up Tivyagak Creek with clients but did not state how far. Daigger urged the BLM to find Tivyagak Creek navigable based on susceptibility to use in trade and commerce.³ (Attachment 1)

A land report prepared by R. W. Kaltenbach, a BLM Realty Specialist, on February 23, 1983, described the longstanding inland water route for travel between Goodnews Bay and Togiak Bay. The route utilized the South Fork of the Goodnews River, Tivyagak Creek, a low overland pass, a chain of lakes and then Osviak River to the coast. Kaltenbach recommended that “the Goodnews River system (South Fork, Middle Fork, and Goodnews River) and their interconnecting or dead end sloughs should be determined navigable.” There was no mention of Tivyagak Creek in the report.⁴ (Attachment 2)

Robert Faithful, the BLM Assistant to the State Director for the Conveyance Management issued a final navigability determination memorandum on March 3, 1983. Faithful determined navigable the Goodnews River, the Middle and South Fork of the Goodnews River, and the interconnecting and dead end sloughs associated with these rivers. Faithful based this decision on information from Kaltenbach’s 1983 report.⁵ There was no mention of Tivyagak Creek in the navigability determination memorandum. (Attachment 3)

There are no Native land selections and no Native allotments along Tivyagak Creek. The BLM has made no navigability determinations regarding the creek. The creek has not been meandered and segregated on the Master Title Plats (MTPs).⁶ (Attachment 4)

IV. Physical Character of the Waterway

Tivyagak Creek flows 17 miles through BLM and Togiak NWR lands. The river heads at Sec. 5, T. 13 S., R. 71 W., SM, approximately 800 feet above sea level at an unnamed mountain and flows for one river mile through Sec. 11, T. 12 S., R. 70 W., SM. There are no major lakes or glaciers that head Tivyagak Creek. The creek flows generally north through and into the South Fork of the Goodnews River in Sec. 7, T. 12 S., R. 71 W., SM. Tivyagak Creek has an

unnamed tributary that is seven river miles long, flows south to north and joins the main branch of Tivyagak Creek at river mile 8.5 (Figure 2 and 3).

Tivyagak Creek is 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.⁷ No weather-gathering stations are located along Tivyagak Creek. The nearest station is at Platinum, about 28 air miles southwest from the river mouth. The average annual precipitation near Platinum is 26 inches.⁸

There is no detailed hydrologic information available with regard to Tivyagak Creek. No information is available indicating that the natural and ordinary condition of Tivyagak Creek has changed.

V. Evidence of Use of the Waterway

Human occupation of the Kuskokwim area goes back 11,000 years to nomadic hunters of Pleistocene animals. These hunters were supplanted about 1,900 B.C., when Eskimos from the north moved into the lower Kuskokwim drainage, bringing with them the so-called Arctic Small Tool tradition.⁹ Permanent occupation of the interior Kuskokwim Delta with chronological continuity began about AD 600.¹⁰ Their descendents, the *Kusquqvagmiut* (also known as Yup'ik Eskimos or mainland southwest Alaskan Eskimos), have inhabited the Kuskokwim River and its tributaries down to the present as far inland as the village of Aniak. By 1880, their population was estimated at 3,100.¹¹

Prior to Euro-American contact in the 1870s, local Natives hunted caribou in the hills north and east of Goodnews Bay as part of their subsistence rounds. They built rafts and floated the meat downstream to the old village located inland from the Bay along the main Goodnews River.¹² (Attachment 2)

During the later part of the nineteenth century, travelers in small boats used an inland route as an alternative to avoid the rugged and dangerous coastline around Cape Newenham. This inland route between Goodnews Bay and Togiak, went up the South Fork of the Goodnews River, up Tivyagak Creek, over a low pass, across a chain of lakes, down the Osviak River to Hagemeister Strait and Togiak Bay. Typically the means of travel was by pole boat on the rivers and creeks with the travelers carrying their boats overland between the lakes in the mountain passes. Moravian missionaries Adolphus H. Hartmann and William H. Weinland, who made this journey in 1884, were the earliest documented non Native travelers known to have taken this inland route that incorporated part of the South Fork of Goodnews River and Tivyagak Creek. The naturalist Warburton Pike, who led an expedition from Canada to western Alaska, traveled the South Fork of the Goodnews River and Tivyagak Creek by pole boat in 1888. Alfred B. Schanz and E. Hazard Wells traveled the route during 1890, as part of the much publicized explorations of Alaska sponsored by *Leslie's Illustrated Newspaper*.¹³ Other early travelers ascended the South Fork and Tivyagak Creek en route to Togiak Bay, but documentation of their experiences is not contained in BLM files and BLM's 1985 Kuskokwim Regional Report.

The village of Goodnews Bay was established in the early 1930's when a Bureau of Indian Affairs (BIA) school and a post office were built at the present location. At that time, both residents of the former village of Mumtrak and the former village of Kinegnak moved to the Goodnews Bay. Mumtrak was approximately .2 miles northwest of the present day village of Goodnews Bay, while Kinegnak was 35 miles to the south.¹⁴

In the 1970s, BLM began collecting information on local Natives that have fished, hunted and picked berries along all three branches of the Goodnews River. The Natives used power boats to access favorite spots for hunting, trapping, fishing and berry picking along the three rivers. These favorite spots, through custom, developed into exclusive use areas. As customary users, the locals applied for Native allotments in these areas. The federal government recognized many of these allotments and transferred title to the sites to the applicants. Travel to the allotments during the open season was by small boats powered by outboard motors.¹⁵

David Rukke, BLM Realty Specialist, interviewed 17 people about river use in the Goodnews Bay area in November 1986. Of those interviewed only Ron Hyde Jr. discussed boating on Tivyagak Creek. Hyde stated that he regularly took his propellered 18-foot Lund upstream to Tivyagak Creek. He believed the normal limit for BLM's boat and load while powered by a propeller would be able to travel up the creek to the outlet of an unnamed small creek. Natives sometimes leave their boats and hike up the unnamed small creek to harvest moose. Rukke did not specify which unnamed small creek Hyde was discussing. Hyde had been farther up Tivyagak in a smaller 16-foot boat and described Tivyagak Creek as "having shallow corners of 10-14 inches" water on the cut banks." Hyde referred to the early Pike expedition poling their boats up the South Fork of Goodnews River to cross into the Osviak River drainage and rejoin Bristol Bay. He believed they used Tivyagak Creek to cross over to the Osviak River.¹⁶ (Attachment 5)

Historians Rolfe Buzzell and Nicole Lantz from the State Office of History and Archaeology (OHA) interviewed Ron Hyde Jr. at his office in Anchorage on October 6, 2010. Hyde stated that as a commercial river guide he took clients up Tivyagak Creek to fish for rainbow trout and Dolly Varden. For these trips he traveled in 14 to 16-foot skiffs with an outboard jet motor. Hyde indicated on a map of Tivyagak Creek that he traveled up the creek to the right bank tributary that joins Tivyagak Creek at river mile 8.5. He then traveled 3.1 miles up this tributary to the boundary of BLM and Togiak NWR lands (Figure 3). He indicated that this was the historic route used as an inland route to the Osviak River, Hagemeister Straight and Togiak Bay.¹⁷ (Attachment 6)

VI. Summary

Tivyagak Creek is a 17-mile long tributary of the South Fork of the Goodnews River. The creek is bounded entirely by federal lands that were not in withdrawal status at the time of statehood. No Native lands border Tivyagak Creek. The creek appears to have been in its natural and ordinary condition at the time of statehood.

The State urged the BLM to find Tivyagak Creek navigable in 1982 based on susceptibility to use in travel, trade and commerce based on information from local commercial fishing guides. Since there are no village selections or Native allotment applications along the creek, the BLM has made no navigability determinations for Tivyagak Creek. The BLM determined navigable the Goodnews River, the Middle and South Fork of the Goodnews River, and the interconnecting and dead end sloughs associated with these rivers, up to Tivyagak Creek.

The BLM 1985 Kuskokwim Regional Report described the longstanding inland water route which utilized the South Fork of the Goodnews River, Tivyagak Creek, a low overland pass, a chain of lakes and then Osviak River to the coast for travel between Goodnews Bay and Togiak Bay. This activity took place in the late nineteenth century.

Commercial River guides Ron Hyde Sr. and Ron Hyde Jr. regularly took clients up Tivyagak Creek in an 18-foot Lund propelled boat and 16-foot jet boat. On these guided trips, the Hydies traveled up Tivyagak Creek to river mile 8.5 and then continued up the unnamed right bank tributary to river mile 3.5.

Endnotes

¹ Donald J. Orth, *Dictionary of Alaska Place Names*. Geological Survey Professional Paper 506, United States Geological Survey, Washington, D.C.: U.S. Government Printing Office, 1971, p. 970.

² <http://togiak.fws.gov/establish.htm>

³ Dennis P. Daigger, State Natural Resource Manager, to Gary Seitz, BLM Navigability Section Division of Conveyances, Waterbodies within the Goodnews Bay conveyance area, November 10, 1982, BLM files, F-14862 (75.4).

⁴ R.W. Kaltenbach, Realty Specialist, Land Report for Goodnews Bay Village Selection, Goodnews Bay VS-83-04, February 23, 1983, BLM files, F-14862-A.

⁵ Robert W. Faithful, BLM Assistant to the State Director for Conveyance Management, to Chief, Division of ANCSA and State Conveyances from Assistant to the State Director for Conveyance Management, Memorandum, Final Navigability Determinations for Goodnews River, March 3, 1983, BLM files, F-14862-A.

⁶ Master Title Plats (MTPs), T. 12 S., R. 71 W., SM, Officially filed January 27, 1960, current to November 3, 2009; T. 12 S., R. 70 W., SM, Officially filed January 27, 1960; and T. 13 S., R. 71 W., SM, Officially filed January 27, 1960.

⁷ Harza Engineering Company, *Bethel Area Power Plan Feasibility Assessment*, Appendix B, December 1982.

⁸ <http://cityinfo.local.com/city-information/platinum-ak-weather>.

⁹ James W. Vanstone, "Mainland Southwest Alaska Eskimo," in *Handbook of North American Indians, Volume V, Arctic*, David Damas, editor, Smithsonian Institute, Washington, D.C., 1984, pp. 227-229.

¹⁰ Robert D. Shaw, *Cultural Resources Survey Preceding Construction of a Water and Sewer System in Kwethluk, Alaska*, a report done under contract to the Alaska Native Tribal Health Consortium, Anchorage, 2002, p. 10.

¹¹ Vanstone, "Mainland Southwest Alaska Eskimo," pp. 227-229.

¹² R.W. Kaltenbach, BLM Realty Specialist, Interview with Washington State University archaeologist Robert Ackerman, December 21, 1982, cited in Kaltenbach, Navigability Determination for Village Selection-Goodnews Bay, February 23, 1983, Goodnews Bay VS-83-04, BLM files, F-14862-EE.

¹³ Michael C. Brown, *Alaska's Kuskokwim River Region: A History*. Bureau of Land Management, State Office, Anchorage, 1985, p. 596; for another reference to the Moravian missionaries and Warburton Pike, see also Marty Karstetter, "Trip Report of Meeting with Kuitsarak, Inc. near Goodnews Bay," December 18, 1982, p. 2, BLM file, F-14862-EE.

¹⁴ Robert J. Wolfe, Joseph J. Gross, Steven J. Langdon, John M. Wright, George K. Sherrod, Linda J. Ellanna, Valery Sumida, and Peter J. Usher, *Subsistence-Based Economies in Coastal Communities of Southwest Alaska*, Technical Paper Number 89, Juneau, Alaska: ADF&G, Division of Subsistence, February, 1984, pp. 102.

¹⁵ Karstetter, "Trip Report of Meeting with Kuitsark," p. 2-3.

¹⁶ David Rukke, Interviews for Group Survey No. 194 (Window 1704), November 21, 1986, BLM files, F-14862-EE, p. 12-13.

¹⁷ Rolfe Buzzell and Nicole Lantz, OHA Historians, Summary of Interview with Ron Hyde Jr., October 6, 2010, OHA Nav Unit files, Anchorage Alaska.