

WHITEFISH LAKE RDI HISTORICAL REFERENCE LIST

ITEM	AUTHOR	YEAR	REPORT NAME
1	Bureau of Land Management	1985	Alaska's Kuskokwim Region: A History, M. Brown, Extract.

EXTRACT* OF

**ALASKA'S
KUSKOKWIM RIVER REGION**

A History

By

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* The original document is over 800 pages in length. This extract was compiled to support the State of Alaska's Recordable Disclaimer of Interest Application for the Whitefish Lake. The font type and paragraph spacing has been modified to reduce paper. A full version of this document is available through the Alaska Resources Library & Information Services (ARLIS).

EDITOR'S INTRODUCTION

The U.S. Bureau of Land Management (BLM) is currently transferring title to about 145 million acres of land to the State of Alaska Native corporations in compliance with the Alaska Statehood Act of 1958 and the Alaska Native Claims Settlement Act of 1971, respectively. A serious impediment to the conveyance of land title is the unknown acreage and location of nontidal navigable waters in Alaska.

By authority of the Statehood Act of 1958 and the Submerged Lands Act of 1953, the State of Alaska owns the beds of tidal waters and nontidal navigable waters unreserved as of January 3, 1959, the date of Alaska Statehood. Submerged land acreage of navigable waters unreserved as of this date may not be charged against the State's entitlement under the Statehood Act; and by virtue of the fact that ownership of these submerged lands passed to the State in 1959, may not be included in conveyances of land title. On the other hand, lands underlying nonnavigable waters as well as those submerged lands in a reserved status in 1959, remain in the public domain or in trust for the riparian owner.

During the 1960s the BLM made determinations of navigability for water bodies on lands to be conveyed to the State. After the passage of the Alaska Native Claims Settlement Act and the subsequent promulgation of regulations requiring, among other things, the BLM to make navigability determinations for waterways on lands to be conveyed to the Native corporations and to account for the submerged land acreage, the State quickly asserted its claim to potentially navigable waters on ANCSA-selected lands by two methods. First, the State provided the BLM with its definition of navigable waterways and a set of maps known as Water Delineation Maps illustrating waterways on ANCSA-selected lands that the State considered to be navigable. Second, the State routinely notified Native corporations in the instance of a proposed conveyance that the BLM may be attempting to convey lands underlying navigable waters owned by the State since 1959. Well aware of the differences between the BLM and State definitions of navigability, and the State's position that these differences must one day be resolved by the courts, many corporations excluded in their selection applications most waterways identified by the State as navigable. Consequently, whenever the BLM made a determination of navigability contrary to the State's claim and charged the submerged land acreage to the corporation's land entitlement, the corporation appealed to the Alaska Native Claims Appeal Board for a ruling on the question whether the submerged lands were in fact Federal lands or State lands in

1959. In the late 1970s, as the BLM prepared to resume land conveyances to the State and to accelerate conveyances to the Native corporations, the BLM and the State agreed that there was a need for more information about the physical character and history of waterways as routes of travel and transportation. This information would satisfy BLM's need to make timely determinations of navigability; and it would facilitate the BLM's and the State's need to develop test cases of navigability for the courts. Thus, in 1977, the BLM let a major contract to the University of Alaska to research pertinent information from the literature about Alaska waterways. Completing the project in early 1979, the contractor provided BLM with a great deal of valuable information about Alaskan water bodies, information that was and is used to support determinations of navigability in the land conveyance programs. However, the contractor provided insufficient information about many minor waterways, some of them located on lands to be conveyed to the State or the Native corporations. The need for additional documentary research and possibly field investigations was apparent.

In 1979, representatives of the BLM and the State of Alaska met several times to discuss and decide upon methods by which: 1) the BLM could make timely determinations of navigability in connection with the land conveyance programs; 2) the BLM and the State could reach agreement on what waterways were clearly navigable and nonnavigable under BLM and State criteria; and 3) the BLM and the State could identify water bodies that best reflect differences in the BLM'S and the State's criteria of navigability for the purpose of litigation. The decisions that were made then are still valid today, although some have been modified as necessary to take into account unexpected developments.

Three alternatives in establishing priorities for administrative determinations of navigability were identified: 1) make determinations only for water bodies on land to be conveyed to the Native corporations and the State on a township-by township basis; 2) make determinations for all nontidal water bodies in Alaska on a regional or subregional basis; or 3) make determinations for nontidal water bodies on a township-by-township basis as well as on a regional or subregional basis.

It was decided to adopt the third alternative. This entailed the formation of three independent but interacting teams: one in the BLM State Office to make navigability recommendations in connection with the State and ANCSA land conveyance programs; the others in the BLM State Office and State Department of Natural Resources to prepare

factual reports on waterways in a region or subregion. These highly detailed reports, based upon the best information available, are useful to the BLM in making recommendations for waterways on land to be conveyed to the Native corporations and the State. Once the final draft of the report has the approval of the State and other parties as a technically adequate document, the BLM will have the means to make reliable and consistent determinations for entire waterways. This in turn will give the State the opportunity to identify waterways that best illustrate differences in BLM and State criteria of navigability for development of test cases. As these differences are settled by the courts, the BLM and State criteria will eventually be the same. Whatever decisions are reached by the courts, the BLM will have a source document on which to rely in reviewing the validity of previous determinations in light of the courts decisions.

While the first alternative would have met the immediate need for determinations in land conveyance programs, it would have in the long run generated many problems of an administrative and legal nature. With an accelerated land conveyance program, it would have been impossible to collect and analyze a great deal of information about water bodies, much less to prepare thoroughly documented and well-reasoned rationales for determinations. The high probability that incorrect and inconsistent determinations would be made, and that disputes over the fact relating to a waterway would be taken to the courts, was all too clear. In this eventuality, the BLM would have been repeatedly forced to research and write reports to defend (or change) determinations of navigability for the use of the Regional Solicitor. On the other hand, the second alternative, which would entail the preparation of reports on a watershed, subregional, or regional basis, would not have met the pressing need for navigability determinations on State- and ANCSA-selected lands. Without a much larger staff, the BLM would not have been able to research, analyze, and synthesize a great deal of information into written reports needed to determine navigable and nonnavigable waters on these lands. These lands are scattered throughout Alaska, and involve many waterways--too many to be covered adequately in a short time frame. Yet it is clear that these reports will be needed more and more as questions of navigability are brought before the courts, and as land managers reviewing proposed actions on a waterway attempt to determine ownership of the submerged lands.

Alaska's Kuskokwim River Region is the third such report issued by the BLM. Researched and written by the lead historian in the BLM Alaska State Office with the assistance of Joan Antonson, the report summarizes

geographic knowledge about the region and its water bodies; traces the history of explorations, mining, hunting, fishing, and trapping activities, as well as communities; describes in detail water and land transportation developments in the region; and finally describes the process by which the BLM reached a determination of navigability for water bodies on land conveyed or in the final stages of being conveyed to the State or Native village and regional corporations. The BLM has relied upon some of the information in this report in making navigability determinations for water bodies on land conveyed or to be conveyed; it will continue to consult the report as needed in future conveyances. Later, the report will be revised to take into account public comments and to include information from the BLM land records pertaining to those water bodies about which little or nothing is presently known.

C. Michael Brown

Lead Historian

INTRODUCTION

This report is designed to aid government land managers in the identification of navigable waters in the Kuskokwim River region. The report describes the geography and history of exploration in the area, presents an historical overview of the mining industry, identifies the principal settlements, and traces the history of water and land transportation developments in the region. In addition, the report summarizes the steps by which the U.S. Bureau of Land Management (BLM) reached navigability determinations for water bodies in the region.

Under the provisions of the Alaska Native Claims Settlement Act, Native village and regional corporations selected most of the land along the Kuskokwim River and Bay. Most of these lands have been conveyed or are in the last stages of being conveyed to the corporations. This means that the BLM has made navigability determinations for title purposes for most tributaries of the Kuskokwim River and rivers and creeks emptying into Kuskokwim Bay. This report identifies the navigable waters in the region; it does not include a discussion of every river, creek, or lake that the BLM considers or determined to be nonnavigable. Only those nonnavigable water bodies about which there is documentary information, is described in the report. Thus, if the water body is located on land selected by or conveyed to a Native village or regional corporation, and if it is not specifically mentioned in Chapter Six of this report, the reader is correct in assuming that the BLM considers the water body to be nonnavigable.

The report incorporates much of the information presented in a report on the upper Kuskokwim basin which the BLM released on May 6, 1980. Researched and written by the lead historian in the BLM Alaska State Office, the upper Kuskokwim report was originally intended to include the entire Kuskokwim basin within its scope. However, following the BLM's decision to convey lands to MTNT, Incorporated and Doyon, Limited, the Native corporations appealed many of the BLM's determinations of navigability in the area to the Alaska Native Claims Appeal Board. This action, together with a recent decision of the Board on the navigability of the Nation and Kandik rivers in central Alaska, which significantly modified Departmental navigability criteria, spurred the BLM to reconsider its position on the navigability of water bodies in the area. Research on the lower Kuskokwim region was thus suspended and the report on the upper Kuskokwim basin written. This report was used to make additional navigability determinations for water bodies in lands selected by the Native corporations.

From early 1980 to mid-1981, Joan Antonson researched and wrote a draft report on the middle and lower Kuskokwim areas before terminating her employment with the BLM. The lead historian subsequently merged the upper Kuskokwim report with Antonson's report, and expanded the report with information obtained from BLM land records.

This report draws upon a wide variety of sources. Local newspapers, Geological Survey bulletins, records of the Coast and Geodetic Survey, Alaska Road Commission, Corps of Engineers, and the BLM, and the pioneering works of Wendell H. Oswalt, proved to be the most valuable sources of information. The papers of the Territorial governors, the Fish and Wildlife Service, and the Alaska Department of Fish and Game were examined but not researched to completion. These records, in addition to those of the BLM pertaining to Native allotments, headquarters, and trade and manufacturing sites, and small tracts, may yield additional pertinent information about use of water bodies in the region for the purpose of travel.

Many people contributed their time and skills to the preparation of this report. The librarians of the Alaska Resources Library, the Z. J. Loussac Library, and the librarians of the Alaska at Anchorage and Fairbanks, aided the writer in locating rare books. Joan Antonson's research notes and draft report greatly facilitated the writer's task. Chapter Four is largely her work. James Ducker and Dwight Tuttle provided constructive criticisms and encouragement. Last, and most important, the secretarial staffs of the BLM Division of Resources and Division of ANCSA and State Conveyances gave exceptional service in typing the various drafts.

CHAPTER ONE

THE KUSKOKWIM RIVER REGION

(See page 28 of original document)

Located south of the Kuskokwim River, Whitefish Lake is the largest of many lakes in the lowlands flanking the Kilbuck Mountains. The lake is fed by creeks which drain a number of small lakes as well as by creeks draining the Kilbuck Mountains. Ophir Creek drains Mount Hamilton and enters the lake from the southeast. Whitefish Lake itself is about seven and one-half miles wide, and is drained by a small stream that flows sinuously in a westerly course to empty into sloughs of the Kuskokwim River between the villages of Lower Kalskag and Ogavik. The creek receives a number of lake-fed streams in its long course to the Kuskokwim River.

CHAPTER SIX

WATER TRANSPORT

(See page 414 of original document)

During the gold rush era, Whitefish Lake and its outlet was probably a route of travel to mining operations on Bear and Ophir creeks and fish camps on the lake. The first known account of boat travel on the waterway system comes from Alfred G. Maddren of the USGS. In early August 1914, Maddren, who desired to visit the various mines on the headwaters of Aniak and Tuluksak rivers, was taken by Pete McDonald in a poling boat from Oknagamut on the Kuskokwim River to Whitefish Lake. On August 8, the first day of the trip, Maddren ascended a sluggish tundra stream a distance of three or four miles before making camp. He wrote in his journal that the stream had mostly low banks bordered by willows, alders, and grass. Sometimes the stream flowed between high banks, ranging from ten to fifteen feet above the water at its normal level, with scattered growths of "fair-sized" spruce trees.

On the following day, they traveled about six or seven miles upriver before turning right into the first tributary of any consequence. Where before the stream was twenty-five to forty feet in width, it now was ten to fifteen feet wide, and nearly as deep (six to fifteen feet) as it was wide. The current was about two and one-half to three miles per hour where the channel was narrow; it was sluggish in ponds and wide bends. For the first half mile up this branch, the channel was much overgrown by willows. Soon reaching a flat country, they followed a chain of shallow ponds or lakes with extensive growths of My pads, wild celery grass, and horsetail rushes. Occasionally they passed banks three to six feet in height with stands of willows, alders, birch, and sometimes spruce. After ascending this branch about ten or twelve miles, they came upon a fork. According to Maddren, the eastern or northeastern branch flowed into the larger stream which his party first ascended and emptied into a slough of the Kuskokwim River some ten miles below Oknagamut. The northwestern or western fork reportedly discharged into the Kuskokwim River some thirty-five miles below Oknagamut or near Akiak.

After four hours of "indifferent poling and rowing" up this meandering stream, made difficult by the soft bottom, sharp bends, sweepers, and narrow channel (ten feet wide), they finally caught sight of Whitefish Lake and the "Medicine man's house" located on the lake about one-half mile from its outlet. Once upon the lake, they rowed about six miles to the mouth of Ophir Creek, a clearwater stream with a gravel bottom, and thence up that creek about

one-half mile to Charles Heckman's barabara and fish camp. Maddren described the lake as shallow all the way across and lacking beaches, willow trees apparently growing to the water's edge. Taking soundings with a pole, he estimated the water depth to be ten to fifteen feet. At the fish camp, he met Heckman, two Japanese, and a German known as "Flying Dutchman" Smith (or Schmidt) curing whitefish. Entering the creek about June 20 to spawn, the fish were caught with a seine net. Heckman caught six to eight hundred fish a day and, upon Maddren's arrival, had already cured some seven thousand fish. The fish were packed over the trail to Bear Creek, where the miners purchased them at fifty cents a pound.

From the fish camp, Maddren followed the trail up Ophir Creek, crossed Rockpile Pass, and continued his journey to Bear and Marvel creeks. Returning to Whitefish Lake in late September, he was forced to wait one or two days for better weather conditions as strong swells prevented a crossing of the lake by poling boat. On September 21, he finally crossed the lake to the "Medicine Man's cabin," and then made his way down Shit Creek to the Kuskokwim River, about thirty miles distant. He then proceeded to Bethel. 374/

In his published report of the 1914 expedition, Maddren wrote that the miners on Ophir Creek were "somewhat favored as regards the transportation of heavy mining equipment and supplies, for the water route from Kuskokwim River to Whitefish Lake [was] available if the proper kind of boat [was] used." He added, "It would be less difficult to place a small dredge on Ophir Creek than on the other placer creeks now known in the district, because tedious and expensive overland hauling would not be necessary." 375/ So far as is known, the Ophir Creek miners never placed a dredge on the creek. In 1917, however, it was reported that Joseph Lewis and associates planned to take a gasolinepowered drill and three tons of gasoline and other supplies from Bethel to Ophir Creek by way of Whitefish Lake in a specially-built boat with a thirty-horsepower motor. The men intended to test the gold content of the gravel on Ophir Creek with the drill. 376/

Meeting on December 23, 1975 to discuss proposed easements in the Lower Kalskag selection area, the BLM easement task force considered Whitefish Lake to be nonnavigable, and recommended a linear easement on the banks and bed of the lake outlet. Glenn W. Fredericks, president of The Kuskokwim Corporation, opposed the easement as fish spawned in the creek. If the public entered the area, fishing would be harmed, he claimed. Considering Fredericks' statement, the absence of information about use of the waterway, and the fact that proposed

easements for the Aniak - Nyac and Aniak - Ophir Creek - Tuluksak trails would provide access to public lands north of the lake, the BLM decided to delete the proposed bank and bed easement. 377/

With the issuance of new easement regulations, the BLM Anchorage District Office reconsidered proposed easements in the selection area. In this connection, the District Office recommended that Whitefish Lake and its outlet be determined a navigable and major waterway. According to the district office, "Small boats travel this route in subsistence activities." 378/

The Kuskokwim Corporation, Calista Corporation, and the State of Alaska agreed that the lake and its outlet were navigable. Edward J. McNamara of The Kuskokwim Corporation and Dennis P. Daigger of the State of Alaska also requested that the unnamed lake and creek tributary to Whitefish Lake in Section 18, T. 15 N., R. 60 W., and Sections 13 and 24, T. 15 N., R. 61 W., Seward Meridian, be determined navigable as the waterways provided access to the Native allotment of Mary P. Kameroff. The nearby Native allotment of Mary Nook was "more directly accessed by Whitefish Lake." 379/

On September 30, 1982, the BLM determined that Whitefish Lake and its outlet were major and navigable waterways. In support of the navigability determination, the BLM noted, "Small skiffs travel this route in subsistence activities." The unnamed lake and creek in Section 18, T. 15 N., R. 60 W., and Sections 13 and 24, T. 15 N., R. 61 W., Seward Meridian, were determined to be nonnavigable. 380/

Shortly after issuance of the decision to convey lands to The Kuskokwim Corporation (Lower Kalskag), the BLM considered the question whether the unnamed lake and creek in Sections 4 and 9, T. 14 N., R. 60 W., Seward Meridian, were also navigable. On November 8, 1982, the BLM decided that the lake and creek were part of Whitefish Lake and, under the "bank-to-bank" rule, navigable. 381/

Chapter Six -- Water Transportation

374. Alfred G. Maddren, Fieldbook 408-A, No. 3, pp. 43-53, Fieldbook 407, No. 1, USGS Records; Alfred G.

Maddren, "Gold Placers of the Lower Kuskokwim," pp. 293-295; Iditarod Pioneer, January 9, 1915.

375. Maddren, "Gold Placers of the Lower Kuskokwim," p. 336.

376. Iditarod Pioneer, July 21, 1917.
377. Horace D. Sanders to Files, April 21, 1976, Curtis V. McVee, "Notice of Proposed Easement . . . Lower Kalskag, Incorporated," April 18, 1977, Glenn W. Fredericks to Joint Federal-State Land Use Planning Commission, n.d. [1977], Al Pack to Jon Dolak, February 9, 1978, Curtis V. McVee to Chief, Division of Technical Services, February 14, 1978, file F-14888-EE, ANCSA file.
378. Clifford D. Ells to State Director, May 5, 1980, file F-14888-EE, ANCSA file. See also Martin L. Karstetter to Glenn Fredericks, September 28, 1981, file F-14888-EE, ANCSA file.
379. Edward J. McNamara to Bob Arnold, July 9, July 20, 1982, Dennis P. Daigger to Bob Arnold, July 19, 1982, file F-14888-EE, ANCSA file.
380. Robert D. Arnold to Chief, Division of ANCSA and State Conveyances, August 25, 1982, Decision to Issue Conveyance, September 30, 1982, file F-14888-EE, ANCSA file.
381. Robert D. Arnold to Chief, Division of ANCSA and State Conveyances, November 8, 1982, file F-14888-EE, ANCSA file.