

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

COMMISSIONER'S DECISION
ADL 417959

TRANSFER OF REAL PROPERTY TO THE TOK SHOOTERS ASSOCIATION, INC.

I. Action

Commissioner's Decision: Transfer of Real Property as a Noncompetitive Sale to Tok Shooters Association, Inc. ADL 417959

Attachment A: Affidavit Acknowledging Conditions of Land and Releasing the State from Related Liability

Action, Transfer of Property: The State of Alaska (State), Department of Natural Resources (DNR), Division of Mining, Land and Water (DMLW), Land Conveyance Section (LCS) has been directed by the legislature pursuant to SLA 2019, Ch. 22 (SB 95) to convey to the Tok Shooters Association, Inc. (TSA) the surface estate of the real property used as a shooting range in Tok, Alaska. The 60.19-acre parcel is located at mile 1323.2 Alaska Highway and is within Section 10, Township 18 North, Range 11 East, Copper River Meridian.

II. Authority

The legislature has directed DNR to convey the subject parcel to the Tok Shooters Association, Inc. as provided for by SLA 2019, Ch. 22, titled "Directing the sale of certain land to the Tok Shooters Association, Inc.; approving the transfer of certain Alaska Railroad Corporation land; and providing for an effective date."

III. Administrative Record

The project file for Alaska Division of Lands (ADL) 417959 constitutes the administrative record for this action. Also incorporated by reference are:

- SLA 2019, Ch. 22 (SB 95); and
- DNR case file: GS 110.

IV. Location

The subject parcel is located within DNR's Northern Region at milepost 1323.2 along the Alaska Highway within Section 10, Township 18 North, Range 11 East, Copper River Meridian.

USGS Map Coverage: Tanacross B-4

Platting Authority: State of Alaska

Regional Corporation: Doyon Limited

Federally Recognized Tribe: Native Village of Tanacross

Village Corporation: None

V. Legal Description

Alaska State Land Survey 2021-10, Tok Shooting Range Subdivision, according to the plat recorded in the Fairbanks Recording District on October 14, 2021, as Plat No. 2021-96, containing 60.19 acres, more or less.

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VI. Title

Information from Title Report No. 22151, current as of February 2, 2022, indicates the State of Alaska received title to the subject parcel on November 20, 1963, under Federal Patent 1234212, which was acquired through State Selection GS 110. No third-party interests were identified. The parcel is subject to the reservations, easements, and exceptions contained in the federal patent.

State Reservation of Title:

Retention of and Access to Mineral Estate: In accordance with *Section 6 (i) of the Alaska Statehood Act* and *AS 38.05.125 Reservation*, the State retains ownership of all oil, gas, coal, ore, minerals, fissionable material, geothermal resources, and fossils that may be in or upon the land that it sells. This retention is for all minerals, including both locatable minerals (such as gold, copper, silver, etc.) and leasable minerals (such as oil, gas, coal, etc.)

The State and its successors reserve the right to enter onto the land for the purposes of exploring for, developing, and producing these reserved mineral resources. Access reserved to these retained interests is superior to any and all land uses. The State may also lease these retained interests to mineral developers or allow mining locations to be staked. However, *AS 38.05.130 Damages and Posting of Bond* also provides that the landowner will be compensated for damages resulting from mineral exploration and development.

Navigable Waters: Per *AS 38.05.126(b) Navigable and Public Waters*, "...the State has full power and control of all of the navigable or public water of the State, both meandered and unmeandered, and the State holds and controls all navigable or public water in trust for the use of the people of the State." This trust is in accordance with the principles of the Public Trust Doctrine, which are included in Article VIII, Section 14 of the Constitution of the State of Alaska and protected in the United States Constitution. It is vested in the title to this land, is not transferable, and the State's title to submerged lands under navigable waters cannot be relinquished by a transfer of the property. In holding with this concept, navigability determinations are made, and access will be reserved per *AS 38.05.127 Access To and Along Public and Navigable Water*. For more information, see **Section IX. Access, including Access To and Along Public or Navigable Water** of this document.

The Bureau of Land Management has not made a navigability determination for waters within the affected townships for title purposes.

Native Interest: The subject parcel is within the boundaries of the Doyon Limited, Inc. regional corporation and the federally recognized tribe, Native Village of Tanacross. There are no Native interests identified with this parcel.

Other Conflicts or Pending Interest: None.

VII. Background

The shooting range has been maintained since 1978 by the Tok Trap Club (TTC), now known as the Tok Shooters Association, Inc. While the initial DNR permit in 1978 was issued to TTC,

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all subsequent permits and leases have been issued to the Alaska Department of Fish and Game (ADF&G), which in turn had an informal agreement with TTC to provide maintenance of the range. The informal arrangement was replaced with a "Shooting Range Agreement" dated April 3, 2007, under which TTC agreed to safely operate, maintain, and permit public use of the range.

The application for a new lease (ADL 417959) was received on January 17, 2007, and the new lease application from ADF&G recited the exact parcel boundaries as in the original lease. Therefore, the new lease application did not include a specific request for a range extension.

ADF&G and DNR became aware of the boundary discrepancy between the constructed range and the existing lease boundaries during the lease adjudication. These boundary discrepancies have since been managed, and the site has been surveyed. The lease, ADL 417959, was issued to ADF&G via a 5-year Early Entry Authorization on March 29, 2012, in order to complete the required survey. ADF&G then entered into a renewed agreement with TSA on June 1, 2012, expiring May 31, 2017. The survey was completed and recorded on October 14, 2021. Further background information can be found in the casefile.

A site visit in 2010 by DNR personnel revealed the range to be in relatively well-kept condition. The firing line structure was not damaged by gunfire, and the area was free of trash/impromptu targets. About six established heavy steel targets were distributed throughout the range, and lead powder was evident upon and beneath them. The range was constructed in a large shallow trench about four to five feet deep. Beyond the northeast terminus of the range is a small plantation of lodgepole pine trees, later determined to be an undocumented University of Alaska research plot. A site inspection in 2017 revealed the range to be in good condition with no trash or hazmat observed.

On May 14, 2019, the House Resources Committee adopted Amendment H to the Committee Substitute for Senate Bill 95 (SB 95). That amendment directed DNR to convey the surface estate of the real property used as a shooting range to the Tok Shooters Association, Inc. SB 95, as amended, passed both houses and was signed into law on August 16, 2019, and became effective immediately pursuant to *AS 01.10.070(c)*.

VIII. Mineral Order

The subject parcel has been closed to mineral entry by Mineral Order 1267.

Mineral orders which close an area to mineral entry, close the area to new exploration and development of locatable minerals such as gold, copper, platinum, etc. Such mineral orders do not apply to leasable minerals (such as oil, gas, coal, etc.), or exploration licensing for such, nor do they preclude reasonable surface access to these resources. However, *AS 38.05.130 Damages and Posting of Bond* stipulates that the land estate owner will be compensated for damages resulting from mineral exploration and development.

IX. Access, including Access To and Along Public or Navigable Water

Public Access: Physical and legal access to the parcel is via the Alaska Highway.

Access To and Along Public or Navigable Waters: In accordance with *AS 38.05.127 Access To Navigable or Public Water*, DNR will determine if a water body is navigable or public and establish easements or rights-of-way as necessary to ensure unobstructed access to and along

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the body of water. Regulations dictating the creation of easements or rights-of-way under this statute include *11 AAC 51.035 Determination of Navigable and Public Water*, *11 AAC 51.045 Easements To and Along Navigable and Public Water*, and *11 AAC 53.450, Buffer Strips, Reserved Areas, and Public Easements*.

Easements and Setbacks:

- ACS Facility Longline Easement Deed, effective 1/10/1971, recorded in Book 253, Page 177.
- Alascom to Alaska Telephone Assignment of Easement and Right-of-Way, dated 8/18/1980, recorded on Doc. No. 2004-009835-0.

X. Reservation of Mineral Estate

In accordance with section 6(i) of the Alaska Statehood Act and *AS 38.05.125 Reservation*, the State, in this decision, reserves unto itself the mineral estate, including oil and gas, and the rights expressed in the reservation clause of the statute, that being the right to reasonable access to the surface for purposes of exploring for, developing, and producing the reserved mineral resources. Exploration and development, if any, which could occur, would be consistent with *AS 38.05.130 Damages and Posting of Bond* and other applicable statutes and regulations.

XI. Hazardous Materials and Potential Contaminants

During a 2010 site visit, lead powders from ammunition were evident on site. The subject parcel has not been classified as a contaminated site by the Alaska Department of Environmental Conservation. Due to the nature and use of the subject parcel as a shooting range since the 1970s, the subject parcel is assumed to contain lead from ammunition. DNR suggests that TSA follow the EPA Best Management Practices for Lead at Outdoor Shooting Ranges (EPA-902-B-01-001 Revised June 2005 Region 2).

TSA is expected to inspect the subject parcel and familiarize itself with the condition of the land. The State makes no representations and no warranties, express or implied, concerning the existence or absence of any hazardous substances, hazardous wastes, contaminants, or pollutants on the land proposed here for conveyance. The State of Alaska does not assume any liability for the removal of hazardous substances, hazardous wastes, contaminants, or pollutants, nor for the remediation of the site should such substances ever be identified.

DNR requires that TSA sign an affidavit acknowledging that the site is to remain a shooting range and release the State from liability due to the long-term use of the site as a shooting range before purchasing. See *Attachment A: Affidavit Acknowledging Condition of Lands and Releasing the State from Related Liability*.

XII. Survey

This parcel is surveyed as Alaska State Land Survey 2021-10, Tok Shooting Range Subdivision, according to the plat recorded in the Fairbanks Recording District on October 14, 2021, as Plat No. 2021-96, containing 60.19 acres, more or less.

XIII. Compensation/Appraisal

The DMLW Appraisal Unit reviewed and approved the Appraiser's Certification Appraisal No. 4567-1 at a value of \$24,100 on October 20, 2022. The appraisal includes the reversionary clause that requires TSA to only use the subject parcel for a shooting range.

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XIV. Stipulations

The following conditions, restrictions, and reservations will be imposed upon the transfer of equitable title. The applicant will be required to comply with the following stipulations to complete the land sale.

1. As a condition of the sale, the applicant must sign an affidavit acknowledging the condition of the land and releasing the State from related liability due to the presence of the gun range.
2. Pursuant to AS 38.05.035(a)(6), the Grantee and its heirs and assigns may use the above-described parcel for a shooting range. If the Director of the Division of Mining Land and Water of the Department of Natural Resources determines that the Grantee or Grantee's successors in interest have failed to observe this condition, the Director may declare a forfeiture of this conveyance and title hereby conveyed shall thereupon revert to the State of Alaska.
3. The applicant must complete the following within two years of the approved appraisal date of October 20, 2022, pursuant to AS 38.05.840(a):
 - A signed and notarized affidavit acknowledging the condition of the land and releasing the State from related liability;
 - A completed and signed Declaration of Intent form; and
 - Payoff amount plus patent application and recordation fee OR a minimum 5% of the purchase price as a deposit plus land sales contract application and recordation fees. Fees are established under 11 AAC 05.100 Land Disposals and 11 AAC 05.200 Recorder's Office and are subject to change. Some fees have been reduced by Director's Order Number 3.
4. Prior to the completion of the purchase and issuance of a state conveyance document, the applicant must remain in good standing with respect to all terms of the Contract for the Sale of Real Property throughout its term if such a contract is issued. The applicant must also remain in compliance with all applicable state and local ordinances and regulations, including all applicable taxes. Failure to do so may result in termination of the Contract for the Sale of Real Property.

If extenuating circumstances delay any of the stipulations listed above, the applicant is responsible for notifying LCS and receiving approval from LCS for the delay with new timeframes for completion to be given. Failure to do this could result in the closure of the purchase application. The purchase cannot be completed until all the above stipulations have been satisfied.

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XV. Decision

Based on the above information and pursuant to Chapter 22 SLA 19, I hereby determine that it is in the State's best interest to approve the transfer of real property to the Tok Shooters Association, Inc.



Approved by: Akis Gialopsos
Commissioner (Acting)
Department of Natural Resources
State of Alaska

Date of Signature

Request for Reconsideration

An eligible person affected by this decision may request reconsideration to the DNR Commissioner per AS 44.37.011 and 11 AAC 02. Any request for reconsideration must be received by the Commissioner's Office within twenty (20) calendar days after issuance of the decision under 11 AAC 02.040. The Commissioner may order or deny a request for reconsideration within thirty (30) calendar days after issuance of the decision. If the Commissioner takes no action on a request for reconsideration within thirty (30) days after issuance of the decision, the request for reconsideration is considered denied. The Commissioner's decision on reconsideration, other than a remand decision, is a final administrative order and decision of the department. An eligible person must first request reconsideration to the Commissioner before seeking relief in superior court. The Alaska State Courts establish its own rules for timely appealing final administrative orders and decisions of the department.

Reconsideration may be mailed or hand-delivered to the DNR Commissioner's Office, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska, 99501; or faxed to (907)-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov. Reconsideration must be accompanied by the fee established in 11 AAC 05.160(d)(1)(F), which has been set at \$200 under the provisions of 11 AAC 05.160(a)-(b). A .pdf or print copy of 11 AAC 02 may be obtained by contacting Erik Fossum via phone at (907)-269-8429, via email at erik.fossum@alaska.gov, and is also available on the department's website at <https://dnr.alaska.gov/mlw/pdf/DNR-11-AAC-02.pdf>.

ATTACHMENT A

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
550 West 7th Avenue, Suite 640
Anchorage, Alaska 99501**

**AFFIDAVIT ACKNOWLEDGING CONDITION OF LANDS AND RELEASING THE STATE
FROM RELATED LIABILITY
ADL 417959**

We, Tok Shooters Association, Inc., whose address is PO Box 134, Tok, AK 99780, being first duly sworn under oath, state and declare as follows:

1) We are the fee simple, Patent purchasers of state-owned lands that we have heretofore had an agreement between the Alaska Department of Fish and Game (ADF&G), and the Department of Natural Resources (DNR) to utilize the state-owned lands as a shooting range since 1978. The legal description of the land we are acquiring (hereinafter "the acquired property") is as follows:

Alaska State Land Survey 2021-10, Tok Shooting Range Subdivision, according to the plat recorded in the Fairbanks Recording District on October 14, 2021, as Plat No. 2021-96, containing 60.19 acres, more or less.

2) As longtime lessees of the acquired property we have long been aware of the history of potential lead contamination from lead bullets associated with the nature of a shooting range and therefore will oblige to follow the EPA best management practices for outdoor shooting ranges to mitigate lead contamination. Particularly, though not exclusive, EPA best management practices, such as sifting of lead from end berms, and the use of sand traps beneath targets will be required and should minimize lead contamination.

3) We are obliged to contact the State of Alaska DNR if Tok Shooters Association, Inc. disembarks or is no longer able to manage the site as a shooting range 30 days prior to vacating.

4) Consistent with AS 38.05.035(a)(6), the following conditions and limitations are imposed on this land:

a. The property will continue to be used as a shooting range. Tok Shooters Association, Inc. agrees to that condition and will continue to operate the site as a shooting range. Further, Tok Shooters Association, Inc. shall contact the State of Alaska DNR 30 days before undertaking any proposed change in the use of the site to a use other than a shooting range.

b. In the event of any future sale, assignment, or other transfer of our ownership interest in the acquired property to another person or entity we will disclose this proposed action to DNR immediately as the Tok Shooters Association, Inc. acknowledges the reversionary clause that is in effective at the time of ownership.

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Affidavit Acknowledging Condition of Land
and Releasing the State from Related Liability

ATTACHMENT A

5) We accept full responsibility for any claim, cause of action, liability, required remedial action, or required or response action arising in connection with the contamination. In the event of any such claim or action we agree to hold the State of Alaska and DNR harmless. Further, we release DNR from any liability arising in connection with any contamination.

Sworn and Affirmed this ___ day of _____, 2022, in _____, Alaska.

Printed Name, Signature of Signing authority for Tok Shooters Association, Inc.	Signature	Date
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STATE OF ALASKA)
) ss.
 ___ Judicial District)

THIS IS TO CERTIFY that on the _____ day of _____, 2022, before me personally appeared _____ known to me to be the person executing this affidavit and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My Commission Expires: _____

STATE BUSINESS - NO CHARGE

RETURN TO:
**Land Conveyance Section
DNR Division of Mining, Land and Water
550 W, 7th Ave. Suite 640
Anchorage, AK 99501**

STATE OF ALASKA)
) ss.
 ___ Judicial District)

ATTACHMENT A

THIS IS TO CERTIFY that on the _____ day of _____, 2022,
before me personally appeared _____ known to me to be the person executing this
affidavit and acknowledged voluntarily signing the same.

Notary Public in and for the State of Alaska
My Commission Expires: _____

STATE BUSINESS - NO CHARGE

RETURN TO:

**Land Conveyance Section
DNR Division of Mining, Land and Water
550 W, 7th Ave. Suite 640
Anchorage, AK 99501**

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER

**ADMINISTRATIVE FINDING
MINERAL ORDER NO. 1267**

**Closing Lands to Mineral Entry
Tok Shooters Association Land Conveyance ADL 417959**

Pursuant to *AS 38.05.035 Powers and Duties of the Director*, the State of Alaska, Department of Natural Resources, Division of Mining, Land, and Water (DMLW) issued a Commissioner's Decision for a land conveyance to the Tok Shooters Association (TSA) that was directed by the legislature pursuant to SLA 2019, Ch. 22 of Senate Bill 95 to convey to TSA the surface estate of the real property used as a shooting range in Tok, Alaska. DMLW proposes to close the parcel to mineral entry as described below. The attached mineral order includes the legal description of the area to be closed to mineral entry.

DMLW requests that the mineral estate of approximately 60.19 acres, identified in the attached mineral order, be closed to mineral entry and location, in accordance with *AS 38.05.300 Classification of Land* for a land disposal. Mining activity on the parcel would be incompatible with the current and proposed land estate use. The land does not contain any known mineral deposits and was not selected for mineral values. There are no mining claims on the land.

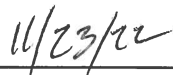
In accordance with *AS 38.05.945 Public Notice*, Public notice was conducted on October 20, 2022, through November 22, 2022. Deadline for comments was November 22, 2022. DNR DMLW Land Conveyance Section received a brief comment of non-objection from the Alaska Department of Fish and Game. DNR DMLW LCS response: LCS appreciates your review of the proposal. No other comments were received.

In accordance with *AS 38.05.185(a) Mining* and *AS 38.05.300*, I find that the best interests of the State of Alaska and its residents are served by closure of the land to entry under the mineral location and mining laws of the State of Alaska as described by Mineral Order (Closing) No. 1267.

Approved:



Akis Gialopsos, Commissioner (Acting)
Department of Natural Resources



Date

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND, AND WATER

MINERAL ORDER No. 1267

 X Closing Lands to Mineral Entry Opening Lands to Mineral Entry

I. Name of Mineral Order: Tok Shooters Association Land Conveyance – ADL 417959

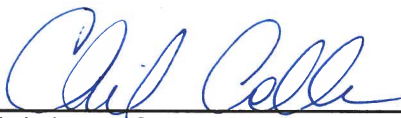
II. Reason for Mineral Order: This Mineral Order is in connection with the Tok Shooters Association Land Conveyance (TSA) – ADL 417959 that was directed by the legislature pursuant to SLA 2019, Ch. 22 Senate Bill 95 to convey to TSA the surface estate of the real property used as a shooting range in Tok, Alaska.

III. Authority: *AS 38.05.185 Mining* and *AS 38.05.300 Classification of Land*.

IV. Location and Legal Description: The subject parcel is located within DNR's Northern Region at milepost 1323.2 along the Alaska Highway within Section 10, Township 18 North, Range 11 East, Copper River Meridian.

Alaska State Land Survey 2021-10, Tok Shooting Range Subdivision, according to the plat recorded in the Fairbanks Recording District on October 14, 2021, as Plat No. 2021-96, containing 60.19 acres, more or less.


V. Mineral Order: This order is subject to valid existing rights and is issued under the authority granted by *AS 38.05.185 – AS 38.05.275 Mining* and *AS 38.05.300* to the Alaska Department of Natural Resources. In accordance with *AS 38.05.185(a)*, I find that the best interests of the State of Alaska and its residents are served by closure of the land described in this mineral order to entry under mineral location and mining laws of the State of Alaska. The above-described lands are hereby **closed** to entry under the locatable mineral and mining laws of the State of Alaska.

Concur: 

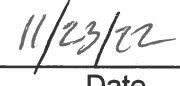
Christianna Colles, Director (Acting)
Division of Mining, Land and Water
Department of Natural Resources



Date

Approved: 

Akis Gialopsos, Commissioner (Acting)
Department of Natural Resources



Date