STATE OF ALASKA

SEAN PARNELL, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND & WATER
SOUTHCENTRAL REGION LAND OFFICE

550 WEST 7TH AVENUE, SUITE 900C
ANCHORAGE, ALASKA 99501-3577
PHONE: (907) 269-8503
FAX: (907) 269-8913

January 24, 2011

US Army Corp of Engineers
Attn: Ronald Green
PO Box 6898
JBER, AK 99506-0898

Re: Land Use Permit: LAS # 28347

Dear Mr. Green,

Enclosed you will find the land use permit documents authorizing the City of Nondalton to establish, maintain, and use a boat launch and recovery system for public use. Please review this permit with care. Upon completion of your review, please **sign the permittee section located on page 7** of the permit forms, and return the entire permit to the Southcentral Region Land Office.

Upon receipt, this permit will be issued and a copy of the executed permit document will be sent to you. Thank you for your cooperation. If you have any questions, please contact me at 334-2683 or via email christianna.colles@alaska.gov.

Sincerely,

Christy Colles
Natural Resource Specialist

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

[ ] Northern Region
3700 Airport Way
Fairbanks, AK 99709
(907) 451-2705

[X] Southcentral Region
550 W 7th Avenue, Ste 900C
Anchorage, AK 99501-3577
(907) 269-8552

[ ] Southeast Region
00 Willoughby, #400
Juneau, AK 99801
(907) 465-3400

LAND USE PERMIT
TIDELAND
AS 38.05.850

Permit No. **LAS 28347**

City of Nondalton PO Box 89, Nondalton, AK 99640, herein known as the permittee, is issued this permit to use a parcel of state-owned tide and submerged lands up to **1 acre** located within:

Section: 30, Township: 2 South, Range: 32 West, of the Seward Meridian
Near Nondalton on Six Mile Lake

This permit is effective beginning **March 1, 2012** and ending **February 28, 2017** unless sooner terminated at the state's discretion. This permit is not valid until it has been executed by the Division of Mining, Land and Water. This permit conveys no interest in state land. This permit is revocable immediately, with or without cause. No preference right for long term use of the land is granted or implied by the issuance of this permit.

This permit is issued for the purpose of authorizing:

- The installation of a public boat launch and recovery system consisting of (1) 8' x 200' floating wood dock with floats, (57) 16'x2'x8" concrete ramp planks, armor rocks, and (5) steel guide piles.
- Dredging and excavating of 900 cubic yards of material will conducted below MHW to create a deeper channel for the concrete ramps with 150 yards of material being placed at and below MHW., per the approved site development/operations plan (Attachments A).

All activities shall be conducted in accordance with the following Standard and Special Stipulations and the **Development/Operations Plan (Attachment A).**

1. **Authorized Officer:** The Authorized Officer for the DNR is the Regional Manager, Southcentral Region, Land Office. The Authorized Officer may designate a representative for administration for specific portions of this authorization.

2. **Compliance with Requirements:** The Permittee shall observe all federal, state and local laws and regulations applicable to the permitted area, including regulations for the protection of fish and wildlife, and shall keep the premises in a neat, orderly, and sanitary condition. The Permittee is responsible for the accurate location of all construction, operation, and maintenance activities within the area authorized under the terms of this permit.

3. **Public Trust Doctrine:** This permit is subject to the principles of the public trust doctrine, specifically the right of the public to use navigable waterways and the land beneath them for navigation, commerce, fishing, hunting, protection of areas for ecological study, and other purposes, must be protected. The Regional Manager reserves the right to grant other interests to the subject area consistent with the public trust doctrine.

4. **Public Access:** The ability of all users to use or access state land or public water must not be restricted in any manner.

5. **Site Disturbance:** The Permittee shall take all reasonable precautions to prevent water pollution, erosion, or sediment on or in the vicinity of the permitted area.

   a) The Permittee must obtain advance written approval from the Regional Manager prior to making any changes or improvements to the facilities or their operations as authorized by this permit.

   b) If determined during the construction of the project that removal of materials (state-owned tide and submerged lands) from the permitted area is essential, the Permittee must contact the Southcentral Regional Office prior to removal. In addition, the Southcentral Regional Office must be contacted if fill is to be added within the permitted area. The Permittee may be responsible for providing a survey to the division depicting the ordinary high water line prior to any fill being added and an accounting of the materials used, i.e., source, quantity, and ownership.

   c) Site disturbance shall be kept to a minimum to protect local habitats. All activities at the site shall be conducted in a manner that will minimize the disturbance of soil and vegetation and changes in the character of natural drainage systems. Any ground disturbances that may occur shall be contoured to blend with the natural topography to protect human and wildlife health and safety. Particular attention must be paid to preventing pollution and siltation of Six Mile Lake and to preventing disturbances to fish and wildlife populations and habitats.

   d) Installation and removal of the dock and associated pedestrian access ramps shall be conducted in a manner that prevents damage, removal, or alteration of naturally occurring vegetation. Any inadvertent bank cuts, slopes, fill or other exposed earthwork attributable to the project shall be immediately stabilized, returned to pre-project contours, and re-vegetated with natural vegetation to prevent erosion which may occur both during and after the project.

   e) The permittee shall conduct all operations in a manner which will prevent unwarranted erosion. Any such erosion shall be repaired in a manner satisfactory to the DNR Regional Manager at the Permittee's expense.

6. **Hazardous Substances:** Pursuant to 11 AAC 112.300, Habitat, and 11 AAC 112.310, air, land, and water quality, site disturbance and pollution should be minimized according to the following measures.

   a) Pentachlorophenol or creosote shall not be used as a preservative on wooden dock material, including any wood material associated with a ramp or any other dock structure. All wood preservatives shall be applied using pressure treatment, rather than being painted on or allowed to soak into the wood.

   b) There shall be no fuel storage within the area authorized by this permit. The storage of petroleum products below ordinary high water is prohibited.

   c) To minimize petroleum products spill into **Six Mile Lake**, cleanup materials such as drip pans, sorbent pads, and booms shall be available on site, in sufficient quantities, to contain and cleanup a petroleum product spilled as a result of dock operations. The permittee shall give immediate notice of any fuel spill or other pollutants to the DEC.

   d) To minimize petroleum product spills into **Six Mile Lake** in the event of significant dock movement or other circumstances, all fuel lines from shore tanks to the dock shall be

equipped with breakaway valves which will seal both ends of the fuel line. The valves shall be installed inline and located near the landward end of the dock.

e) On-site disposal of solid waste is prohibited. All solid waste and foreign debris must be eliminated by removal to an off-site DEC approved disposal facility or by burning (if a paper product). Waste, in this paragraph means all discarded matter, including, but not limited to, human waste, trash, garbage, litter, oil drums, petroleum, ashes and discarded equipment. The site must be kept clean at all times. Hazardous waste must not be disposed of on site, but instead must be hauled out for disposal in an approved disposal site.

f) All waste generated during operation and termination activities under this authorization shall be removed or otherwise disposed of in accordance with existing federal, state and local laws, regulations and ordinances. Waste, in this paragraph means all discarded matter, including, but not limited to, human waste, trash, garbage, litter, oil drums, petroleum, ashes and discarded equipment. The site must be kept clean at all times.

g) No wheeled or tracked vehicles shall operate in any open water in conjunction with dock construction, use, and maintenance.

h) The use of hazardous substances by City of Nondalton must be done in accordance with existing federal, state and local laws, regulations and ordinances. Hazardous substances must be removed from the site and managed in accordance with state and federal law. Debris (such as soil) contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be recovered from the site and managed and disposed of in accordance with state and federal law.

7. **Spill Notification:** The Permittee is responsible for cleaning up any oil spills or other pollutants on the tidelands or submerged lands that result from activities under this permit. Any fuel, oil, or other pollutant discharge or spill shall be reported immediately to **Division of Mining, Land and Water Hazardous Materials Coordinator, at (907) 269-8503.**

The permittee shall immediately notify DEC by telephone, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail, informing DEC of: any unauthorized discharges of oil to water, any discharge of hazardous substances other than oil; and any discharge or cumulative discharge of oil greater than 55 gallons solely to land and outside an impermeable containment area. If a discharge, including a cumulative discharge, of oil is greater than 10 gallons but less than 55 gallons, or a discharge of oil greater than 55 gallons is made to an impermeable secondary containment area, the permittee shall report the discharge within 48 hours, and immediately afterwards send DEC a written notice by facsimile, hand delivery, or first class mail. Any discharge of oil, including a cumulative discharge, solely to land greater than one gallon up to 10 gallons must be reported in writing on a monthly basis. The posting of information requirements of 18 AAC75.305 shall be met. Scope and Duration of Initial Response Actions (18 AAC 75.310) and reporting requirements of 18 AAC 75, Article 3 also apply.

The permittee shall supply DEC with all follow-up incident reports. Notification of a discharge must be made to the nearest DEC Area Response Team during working hours: Anchorage (907) 269-7500, fax (907) 269-7648; Fairbanks (907) 451-2121, fax (907) 451-2362; Juneau (907) 465-5340, fax (907) 465-2237. The DEC oil spill report number outside normal business hours is (800) 478-9300.

8. **Alaska Historic Preservation Act:** The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the commissioner. Should any sites be discovered during the course of field operations, activities that may damage

the site will cease and the Office of History and Archaeology in the Division of Parks and Outdoor Recreation (907) 269-8721 and shall be notified immediately.

9. **Valid Existing Rights:** This Land Use Permit, and the rights and privileges granted thereby, is subject to all valid existing rights in and to the land which is the subject of this permit and the State of Alaska makes no representations or warranties whatsoever, either express or implied, as to the existence, number or nature of any valid existing rights.

10. **Reservation of Rights:** The division reserves the right to grant additional authorizations to third parties for compatible uses on or adjacent to the land covered under this authorization. Authorized concurrent users of state land, their agents, employees, contractors, subcontractors and licensees shall not interfere with the operation or maintenance activities of authorized users.

11. **Inspections:** Representatives and personnel of the DNR and other interested state agencies may inspect the permitted area at any time. **Non-compliance determinations will subject the site to re-inspection for which the Permittee may be assessed, at the Director's discretion, either a fee of $100 or a fee equal to the actual expenses incurred by the Department of Mining, Land and Water (11 AAC 05.010).**

12. **Violations:** This permit is issued for a specific use and development plan identified above, and further identified in **Attachment A**, which is attached and made a part of this permit. Use of the permitted area for purposes other than those specified constitutes a breach of this permit and may result in revocation.

    This authorization is revocable immediately upon violation of any of its terms, conditions, stipulations or upon failure to comply with any applicable laws, statutes and regulations (state and federal). Should any unlawful discharge, leakage, spillage, emission or pollution of any type due to permittee, at its expense, shall be obligated to clean the area to the reasonable satisfaction of the State of Alaska.

    Advisory Regarding Violations of the Permit Guidelines:

    a) Pursuant to 11 AAC 96.145, a person who violates a provision of a permit issued under this chapter (11 AAC 96) is subject to any action available to the department for enforcement and remedies, including revocation of the permit, civil action for forcible entry and detainer, ejectment, trespass, damages, and associated costs, or arrest and prosecution for criminal trespass in the second degree. The department may seek damages available under a civil action, including restoration damages, compensatory damages, and treble damages under AS 09.045.730 or 09.45.735 for violations involving injuring or removing trees or shrubs, gathering geotechnical data, or taking mineral resources.

    b) If a person responsible for an unremedied violation of 11 AAC 96 or a provision of a permit issued under this chapter (11 AAC 96) applies for a new authorization from the department under AS 38.05.035 or 38.05.850, the department may require the applicant to remedy the violation as a condition of the new authorization, or to begin remediation and provide security under 11 AAC 96.060 to complete the remediation before receiving the new authorization. If a person who applies for a new authorization under AS 38.05.035 or 38.05.850 has previously been responsible for a violation of this chapter or a provision of a permit issued under this chapter, whether remedied or unremedied, that resulted in substantial damage to the environment or to the public, the department will consider that violation in determining the amount of the security to be furnished under 11 AAC 96.060 and may require the applicant to furnish three times the security that would otherwise be required.

13. **Assignment:** This permit may not be transferred or assigned to another individual or corporation.

14. **Indemnification:** Permittee assumes all responsibility, risk and liability for all activities of Permittee, its employees, agents, invitees, contractors, subcontractors, or licensees directly or indirectly conducted in connection with this permit, including environmental and hazardous

substance risks and liabilities, whether accruing during or after the term of this permit. Permittee shall defend, indemnify, and hold harmless the State of Alaska, its employees, and agents from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission by Permittee, its employees, agents, invitees, contractors, subcontractors, or licensees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or anyone acting on the State's behalf. Within 15 days Permittee shall accept any such cause or action or proceeding upon tender by the State. This indemnification shall survive the termination of the permit.

Special Stipulations

Where these Special Stipulations differ from similar general permit conditions, the Special Stipulations take precedence.

1. **Permit Fee:** In accordance with 11 AAC 05.010(c), this permit is subject to an annual use fee of **NA** which must be paid on or before **NA** of every year during the permit term. A late payment penalty the greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010(a) will be assessed on a past-due account until payment is received by the state.

   Failure to Pay: Failure to pay annual fees when due is a default of the terms and conditions of this permit. Failure to cure such a default within the 60 day period following the receipt of a "Notice of Default" will result in permit termination.

   Penalty Charges: The permittee shall pay a fee for any late payment or returned check issued by the permittee as follows:

   (b) Late Payment Penalty: The greater of either the fee specified in 11 AAC 05.010 or interest at the rate set by AS 45.45.010 will be assessed on a past due account until payment is received by the State of Alaska.

   (c) Returned Check Penalty: A returned check fee as provided in 11 AAC 05.010 will be assessed for any check on which the bank refuses payment.

   (d) Failure to Pay: Failure to pay annual fees when due is a default of the terms and conditions of this permit. Failure to pay fees subjects this permit to termination.

2. **Structures:** This permit only allows for the use of improvements represented on the attached site use plan. The Permitee must submit an amended site use plan and receive the written approval of the Authorized Officer prior to establishing additional improvements.

   (a) The structure must be inspected and found free of hazardous materials and petroleum products prior to placement below the mean high water mark.

   (b) Permittee shall ensure that anchor systems are free of oil, grease and other pollutants prior to placement below the mean high water mark.

3. **Waste Disposal (Except Waste Discharge Authorized by US Environmental Protection Agency and Alaska Department of Environmental Conservation Permits):** All solid waste and foreign debris must be eliminated by removal to an off-site Department of Environmental Conservation approved facility or by burning (if a paper product). Waste, in this paragraph, means all discarded matter including, but not limited to, human waste, trash, garbage, litter, oil drums, petroleum, ashes and discarded equipment. The site must be kept clean at all times. Hazardous waste must not be disposed of on site, but instead must be hauled out for disposal in an approved disposal site.

   No waste petroleum products, garbage or litter of any kind shall be disposed of at the site or allowed to enter the water of the **Six Mile Lake.**

4. **Permit Renewal:** Before expiration this permit may be considered for renewal upon the Permittee's remittance of:

   a) the required filing fee and as prescribed by 11 AAC 05.010.
   and
   b) a written request for renewal that includes a statement confirming that there has been and will be no significant changes in the development/site utilization plans.
   or
   c) a completed Land Use Permit Application if significant changes have been or will be made to the permitted area.

   The Permittee is advised to allow sufficient time for processing the renewal application under then-applicable regulations. **A request for permit renewal will not be accepted more than ninety (90) days prior to the expiration of this permit.**

   This permit may not be renewed if:
   - the conditions of this permit have not been met, or
   - the activity conflicts with other land uses planned by the division, or
   - the division determines that the issuance of a lease would be more appropriate.

5. **Permit Amendments:** Permittee proposals requiring the amendment of this permit must be submitted in writing and accompanied by a $100 filing fee.

6. **Permit Expiration/Termination:** On or before permit expiration or termination of this authorization by the permittee, all improvements and other chattels shall be removed from the site. The site shall be restored to a clean safe condition.

   Advisory:
   To avoid being responsible for additional land use fees, any permittee planning to terminate a permit must do so prior to the date on which the annual fee is due. To successfully terminate a permit, a permittee must comply with provisions of the stipulations listed below.

7. **Completion Report:**
   a) Permit Expiration or Termination by the State of Alaska: A completion report shall be submitted to DNR within the 30 day period following permit expiration, or termination of this permit by the State of Alaska. The report must include a statement and photographs verifying the site was vacated and restored to clean, safe condition.

   b) Termination by the Permittee: A completion report must accompany the Permittee's written request to terminate this permit. The report must include a statement confirming compliance with site restoration guidelines and photographs verifying that the site was vacated and restored to a clean, safe condition.

   Failure to submit a satisfactory report and/or required photographs subjects the site to a field inspection requirement for which the permittee may be assessed, at the Director's discretion, either the actual cost incurred by the Division of Mining, Land and Water or a minimum of $100.00. (11 AAC 05.010).

8. **Compliance:** Failure to comply or meet the terms and conditions of this permit could impede the ability to seek subsequent authorizations from the Division of Mining, Land & Water.

9. **Performance Bond and Insurance:** The Southcentral Region Land Office will not require a performance guaranty (11 AAC 96.060) or insurance (11 AAC 96.065). The Southcentral Region Land Office reserves the right to require a performance guaranty or insurance at any time if determined to be in the best interest of the state.

The Authorized Officer reserves the right to modify the stipulations attached and made part of this permit or to attach additional stipulations when deemed necessary. The permittee will be advised before any such modifications or additions are finalized. Any correspondence on this permit may be directed to the Department of Natural Resources, Division of Mining, Land and Water, Southcentral Region, Land Office, 550 W. 7th Ave., Suite 900C, Anchorage, AK 99501-3577, telephone (907) 269-8552.

I have read the foregoing Tideland Permit and I agree to comply with all the conditions included within this authorization.

_____
Signature of Permittee or Authorized Representative

_____
Printed Name

_____
Title

_____
Permittee's Address

_____
City State Zip

Phone Numbers:

Home: _____

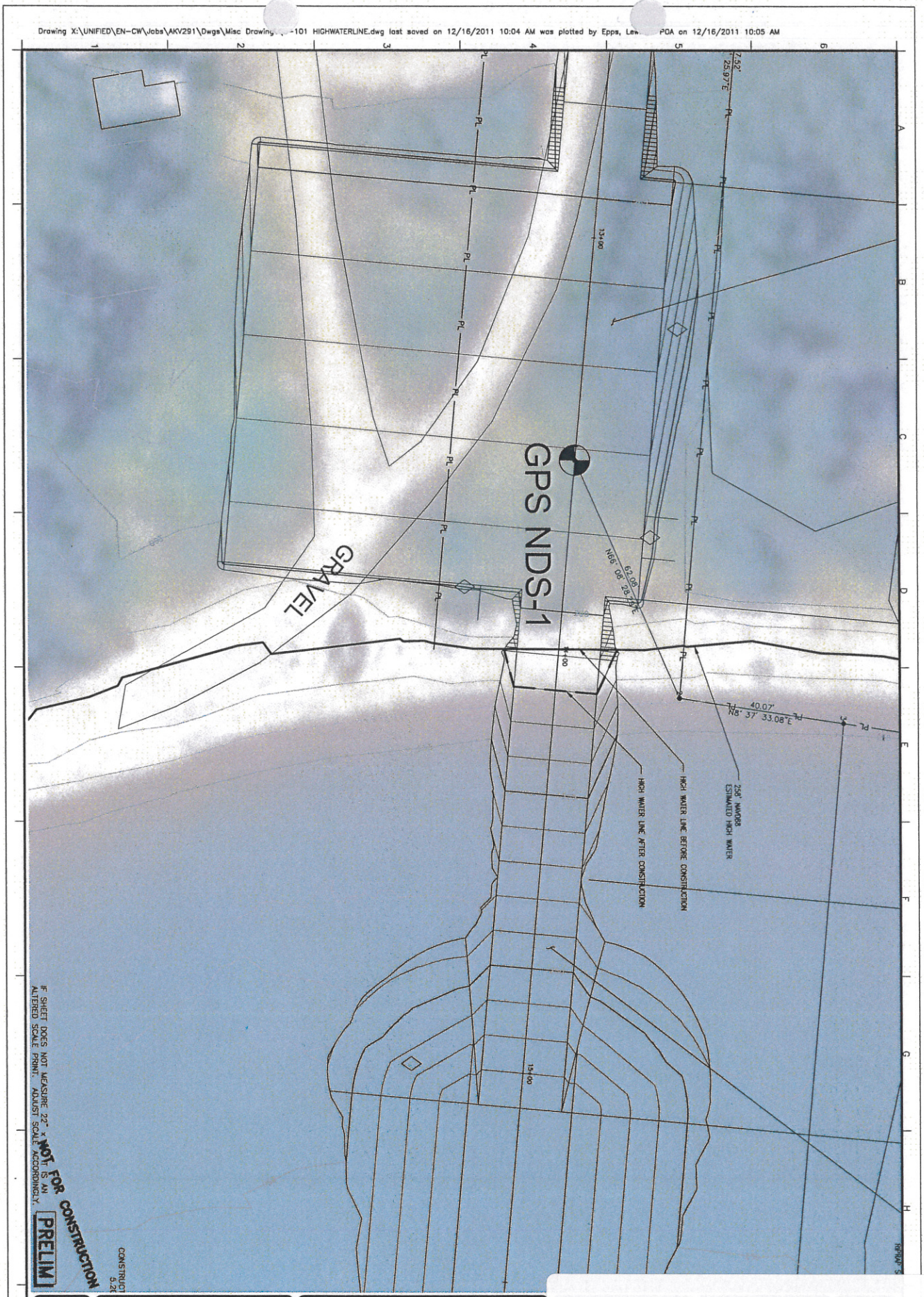
Work: _____

Fax: _____

Message: _____

E-mail: _____

_____
Signature of Authorized State Representative Title Date



Attachment A
LAS 28347