

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
Honolulu, Hawaii 96819

April 13, 2017

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Maui

Installation of Offshore Mooring and Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11, Chapter 200, Hawaii Administrative Rules for Simon Engler, Mala Wharf Offshore Mooring Zone Lahaina, Maui, Hawaii

The Division of Boating and Ocean Recreation (DOBOR) is requesting that the Board of Land and Natural Resources (Board) approve the installation of permanent offshore mooring for Mr. Simon Engler and declare installation of the mooring exempt from the requirements of Hawaii Revised Statutes, Chapter 343 to prepare an Environmental Assessment (EA), due to the use of submerged State land.

The applicant is requesting approval to install a recreational mooring within the Mala Wharf Offshore Mooring Zone.

In accordance with Hawaii Administrative Rule (HAR) Section 11-200-8(A) and the Exemption List for the Department of Land and Natural Resources (DLNR), approved by the Environmental Council, on June 5, 2015, this project is exempt from the preparation of an EA pursuant to the following exemptions:

Item No. 13 of Exemption Class 6: "Placement or construction of accessory structures such as...mooring buoys, blocks, and piles, and other similar structures accessory to existing facilities on state land and waters."

Pursuant to Chapter 343, HRS, and Chapter 11-200, HAR, the attached Exemption Notification labeled Exhibit A was prepared. Also attached is the applicant's request for installation of the mooring and EA Exemption approval, labeled Exhibit B, the approved Mooring Installation Plan, labeled Exhibit C, and the U.S. Army Corps of Engineers Nationwide Permit (NWP) Verification Letter for NWP #10 (Mooring Buoys) authorizing installation of the mooring in navigable waters of the U.S., labeled Exhibit D.

RECOMMENDATION:

Approve installation of an offshore mooring within the Mala Wharf Offshore Mooring Zone and declare that, after considering the potential effects of the proposed project as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

Respectfully submitted,



EDWARD R. UNDERWOOD
Administrator

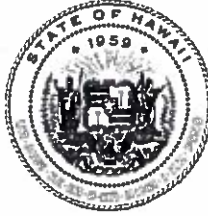
Approved For Submittal:



SUZANNE D. CASE
Chairperson

Attachments: Exhibit A – Exemption Notification
Exhibit B – Applicant’s Request for EA Exemption
Exhibit C – Approved Mooring Installation Plan
Exhibit D – U.S. Army Corps of Engineers Nationwide Permit No.
10 Verification Letter

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

April 13, 2017

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, Hawaii Revised Statutes (HRS), and Chapter 11-200, Hawaii Administrative Rules (HAR).

Project Title:	Installation of Offshore Mooring for Simon Engler, Mala Wharf Offshore Mooring Zone, Lahaina, Maui, Hawaii
Project Number:	None
Project Description:	Installation of an offshore mooring for recreational use.
Chapter 343 Trigger(s)	Use of State Lands (submerged)
Exemption Class & Description:	Exemption Authority: Exemption List for the Department of Land and Natural Resources approved by the Environmental Council on June 5, 2015. Scope of Work: Installation of offshore mooring. Exemption Class 6: Construction or placement of minor structures accessory to existing facilities.
Exemption Item Number and Description:	Item No. 13 of Class 6: Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations or sanitation facilities and related individual wastewater disposal systems, bus shelters, pavilions or picnic shelters, parking and fee collection facilities, checking stations, interpretive kiosks and displays, dock boxes, mooring cleats, bumpers, and mooring buoys, blocks and piles, and other similar structures accessory to existing facilities on state lands or waters.
Consultation:	The following agencies/entities were consulted, see attached records of consultation. <ul style="list-style-type: none">• U.S. Army Corps of Engineers, Honolulu District
Recommendation:	It is anticipated this project will have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment


Suzanne D. Case, Chairperson



Date

EXHIBIT B

Request for Exemption from Requirement for Preparation of Environmental Assessment for Installation of an Offshore Mooring within Mala Mooring Zone, Lahaina, Maui

Submitted in compliance with
Hawaii Revised Status Chapter 343 and HAR §§11-200-8, 11-200-8(b)

Submitted to:
Board of Land & Natural Resources
State of Hawaii, Department of Land & Natural Resources (DLNR)
Division of Boating and Ocean Recreation
4 Sand Island Access Road
Honolulu, HI 96819
Email: finn.d.mccall@hawaii.gov
Phone: (808) 587-7478

Submitted by:
Simon Engler
92-100 Waipahe Pl
Kapolei, HI, 96707
Email: simon.engler@hawaii.edu
Phone: (808) 221 3787

Request

Simon Engler (hereinafter referred to as "Petitioner") requests exemption from requirement for environmental assessment report associated with the proposed mooring installation, as the proposed mooring will have little to no environmental impact, as discussed herein below:

Reasoning and Justification for Request

Environmental Assessment Exemption

- 1) The reason for the Environmental Assessment is due to the use of State submerged lands
- 2) Petitioner requests exemption from requirement for environmental assessment report associated with the proposed mooring installation, as the proposed installation will have little or no impact on the environment in the proposed location.
- 3) The current exemption list for the Department of Land and Natural Resources data June 5, 2015 provides as follows under Exemption Class 6:

"13. Placement or construction of accessory structures such as...mooring, cleats, bumpers, and mooring buoys, blocks and piles, and other similar structures accessory to existing facilities on state land and waters."

Project Description

Installation of a new private off shore mooring buoy in the Mala Wharf Mooring Zone located in Mala Wharf, Maui, HI.

Technical Description of Proposed Installation – MANTA RAY anchor, a patented labor and time saving device, will be driven into the ground with no holes, no digging, and no concrete. Unlike other anchoring systems, the MANTA RAY actually compacts the soil around itself providing a safe and environmentally sensitive installation. MANTA RAY anchors are driven with conventional hydraulic/pneumatic equipment that is readily available worldwide. Once driven to the proper depth, an upward pull on the anchor tendon rotates the MANTA RAY into a perpendicular "anchor lock" position in undisturbed soil. The mooring anchor will be installed by Maui Mooring Service, approved by NOAA and the Army Corps of Engineers.

Location of Proposed Installation –

The proposed mooring buoy would be located at center coordinates: Latitude: 20 deg 53.466 min NORTH and Longitude: 156 DEG 41. 247 min WEST. The location is approximately 660 feet from the nearest shore.

Purpose of Proposed Installation – The proposed mooring will be used by the Petitioner solely for the purpose of mooring a sailboat for recreational purposes.

Impact on Coastal Ecosystems – NEGLIGIBLE

The proposed mooring site is 660ft from the nearest shore and is not within the Special Management Area or Shoreline Setback Area, nor is the site within a State Conservation District. This site does not provide habitat for any known endangered species of plants, birds, or mammals. The site is not within, and does not about any National Area Reserve, Marine Conservation District, or estuary. The site is not on or close to any reef or coral colonies. No material will be placed or discharged in the project area. A MANTA RAY anchor will be utilized in order to protect the natural resources in the area. The MANTA RAY anchor is an environmentally friendly anchor system that installs easily under water with conventional equipment. No dredge or fill activities will be involved in the installation of the MANTA RAY mooring anchor. The mooring will be placed within an existing designated DLNR mooring zone.

Impact on Marine Resources – NONE

The proposed mooring does not involve or affect the use or development of any marine or coastal resources.

Impact on Historic Resources – NONE

The project site is not within a designated historic or cultural district and has not been listed or nominated for the Hawaii or National Register of Historic Places. The proposed project site contains no known historic or archeological resources and is not within or adjacent to any Hawaiian fishpond or historic settlement area.

Impact on Scenic and Open Space Resources – NEGLIGIBLE

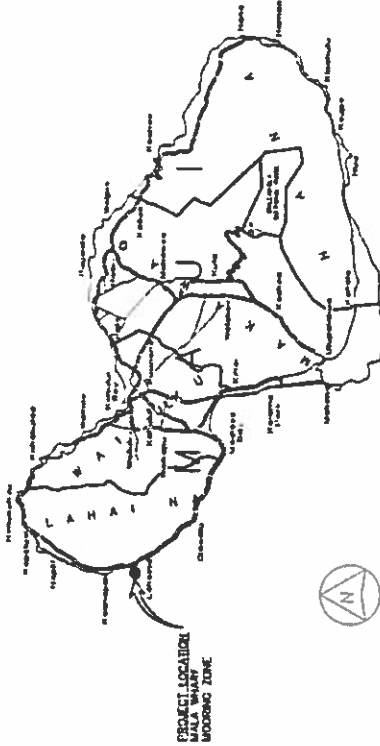
A sailboat will be located at the proposed mooring location and will be visible. The mooring ball will be visible floating on the surface of the water.

Enclosure: As Stated.

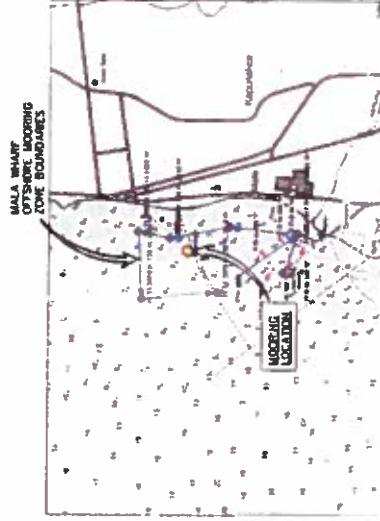
EXHIBIT C

OFFSHORE MOORING - MALA WHARF MOORING ZONE FOR SIMON ENGLER

GPS COORDINATES OF MOORING : 20°53.473'N, 158°41.241'W
APPROXIMATE WATER DEPTH : 32'



VICINITY MAP



LOCATION MAP

INDEX TO DRAWINGS	
SHEET NUMBER	DESCRIPTION
1	TITLE, INDEX TO DRAWINGS, AND VICINITY MAP
2	MOORING NOTES AND ELEVATION
3	MOORING PLAN

Department of Land and Natural Resources
Division of Boating and Ocean Recreation
PLAN REVIEW:

- Approved
- Rejected
- Approved, as noted
- Revise & Resubmit

By: F. McCall Date: 7/20/16
 Comments, comments or approval of plans shall not relieve the contractor from other local, state, federal or other agency regulations or permit conditions. This review is for general conformance with engineering design guidelines. The contractor is responsible for confirming all dimensions, quantities, fabrication requirements, and coordination with all other trades.

PHREE
CREATIONS, LLC.
81 655 KANEIHAMUA DR HWAY
HALLAMA, HAWAII 96711 • (808) 341-1728



Simon Engler
Professional Engineer
State of Hawaii
License No. 10000

GENERAL NOTE:
The Engineer shall not be responsible for the accuracy of the information provided by the contractor. The contractor shall verify all dimensions, quantities, and fabrication requirements with the appropriate agencies and trades before construction.

PROPOSED
OFFSHORE MOORING
MALA WHARF MOORING ZONE
FOR
SIMON ENGLER
PHONE (808) 341-3287

GPS COORDINATES: 20°53.473'N
158°41.241'W

TITLE SHEET

DATE: 07/20/16
DRAWN BY: Simon Engler
CHECKED BY: Simon Engler
DATE: AUGUST 17, 2016 SHEET 1 OF 1

EXHIBIT D



DEPARTMENT OF THE ARMY
HONOLULU DISTRICT, U.S. ARMY CORPS OF ENGINEERS
FORT SHAFTER, HAWAII 96858-5440

February 27, 2017

SUBJECT: Nationwide Permit Verification for Offshore Mooring Buoy, Mala Wharf, Mala, Island of Maui, Hawaii DA File No. POH-2016-00204

Peter Howard
5020 Makena Rd
Kihei, Hawaii 96753

Dear Mr. Howard:

The Honolulu District, U.S. Army Corps of Engineers (Corps) has completed its review of your request for authorization dated September 3, 2016, for the installation of a mooring buoy at Mala, Island of Maui, Hawaii. This office has verified that your proposed activity complies with the terms and conditions of Nationwide Permit (NWP) #10, Mooring Buoys and the overall NWP Program issued on March 17, 2012. Please reference Department of the Army (DA) file number POH-2016-00204 in any future correspondence relating to this permit. The project is located at coordinates: 20.534666°W and -156.41247°N.

This NWP verification is being issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401 et seq) and authorizes the following work depicted on the enclosed drawings (Enclosure 1):

The Mooring buoy would be installed using Manta Ray anchor system that has minimal impact of installation on the sea floor. The mooring chains would be held off the ocean floor with buoys and would not come in contact with any surrounding sea floor no matter the drift direction of the sailboat. This site is located at Mala Wharf and is within the existing mooring zone. The buoy would be installed by professional divers. The divers would install the manta ray anchor system into the sea floor and the buoy would be installed. This project would not result in fill and have little to no impact on the sea floor and will be installed in a state approved mooring location.

In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the *Nationwide Permit General Conditions* and the *Honolulu District Regional Conditions* (Enclosure 2), and the following project-specific Special Conditions:

1. Installation activities would cease if any listed sea mammals or other listed species enter the project area during construction.
2. You must notify this office via email at CEPOH-RO@usace.army.mil of your intent to proceed with the authorized in-water work at least 72-hours in advance

of commencement and submit to this office labeled photographs of the existing site prior to the start of construction.

3. Temporary and permanent stockpiling of materials seaward of the Mean Higher High Water Mark is not authorized and any materials resulting from the seawall repairs must be removed upon completion and disposed of in a written approval of an upland disposal site.
4. Turbidity and siltation from project-related work shall be minimized and contained to within the vicinity of the site through appropriate use of effective silt containment devices and curtailment of work during adverse tidal and weather conditions.
5. Fueling of project-related vehicles and equipment should take place away from the water and a contingency plan to control petroleum products accidentally spilled during the project shall be developed. Absorbant pads and containment booms shall be stored on-site, if appropriate, to facilitate the clean-up of accidental petroleum releases.
6. Incidents where any individuals of Green Sea Turtle (*Chelonia mydas*), Hawksbill Turtle (*Eretmochelys imbricata*), Humpback Whale, (*Megaptera novaeangliae*), Loggerhead Sea Turtle (*Caretta caretta*), Hawaiian Monk Seal, (*Monachus schauinslandi*) listed by NOAA Fisheries under the Endangered Species Act appear to be injured or killed as a result of discharges of dredged or fill material into waters of the United States or structures or work in navigable waters of the United States authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Office of the Honolulu District of the U.S. Army Corps of Engineers at (808) 835-4303. The finder should leave the animal alone, make note of any circumstances likely causing the death or injury, note the location and number of individuals involved and, if possible take photographs. Adult animals should not be disturbed unless circumstances arise where they are obviously injured or killed discharge exposure or some unnatural cause. The finder may be asked to carry out instructions provided by NOAA Fisheries, Office of Protected Resources, to collect specimens or take other measurements to ensure that evidence intrinsic to the specimen is preserved.
7. You shall implement and maintain all proposed Best Management Practices to ensure that the project does not have a direct or indirect negative effect on any aquatic resource.
8. You must comply with the following conditions to avoid and/or minimize effects to Essential Fish Habitat:

Equipment and construction materials must be placed in areas void of coral or sea grass beds with sufficient radius to ensure any equipment does not cause physical damage to surrounding submerged aquatic resources. Equipment must not enter the water.

9. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
10. The Permittee shall ensure that all contractors, sub-contractors, and entities associated with the implementation of the project review, understand, and comply with the approved plans and special conditions made part of this permit. The Permittee shall inform all parties associated with the activity of the construction area boundaries, and the location of adjacent *submerged aquatic resources (SAR) (i.e. corals)* to be avoided. Complete copies of the permit and approved plans shall be available at the construction site at all times. Failure to comply with the approved plans and permit special conditions may subject the Permittee to enforcement action.
11. Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a re-verification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a re-verification of this permit from this office. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for reverification.

This NWP verification is valid until **March 18, 2017** unless this NWP is modified, reissued, or revoked prior to that date. If the work authorized under this permit has commenced or is under contract to commence by March 18, 2017, the work will remain authorized provided the work is completed by March 18, 2018. This one year extension is automatically granted and cannot be further extended. If the authorized work has not commenced or is not under contract to commence by March 18, 2017, you must apply for verification under the 2017 NWPs, if reissued, or authorization under an individual permit. It is incumbent upon you to remain informed of changes to the NWPs. If the Corps modifies, reissues, or revokes any NWP at an earlier date, we will issue a public notice announcing the changes. Failure to comply with all terms and conditions of this NWP verification invalidates this authorization and could result in a violation of the Clean Water Act and subsequent enforcement action. This authorization does not

relieve you of the responsibility to obtain any other Federal, State, and/or local authorizations required by law.

Finally, General Condition #30 requires a signed certification be submitted to this office upon completion of work. Therefore, please sign, date and return the enclosed Compliance Certification form (Enclosure 3) within 7 days of completion of work to CEPOH-RO@usace.army.mil.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this determination, please contact Ms. Carol Heidsiek at 808-835-4306 or via e-mail at carol.a.heidsiek@usace.army.mil. You are encouraged to provide comments on your experience with the Honolulu District Regulatory Office by accessing our web-based customer survey form at http://corpmapu.usace.army.mil/cm_apex/f?p=136:4:0.

Sincerely,

HEIDSIEK.CAROL.
ANN.1265412102

Digitally signed by
HEIDSIEK.CAROL.ANN.1265412102
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=JSA, cn=HEIDSIEK.CAROL.ANN.1265412102
Date: 2017.02.27 09:29:42 -1000

Carol Heidsiek
Senior Regulatory Specialist,
Regulatory Branch

Enclosures:

- Approved Drawings and Loc. Images
- NWP-10 General & Regional Conditions
- Compliance Certification Form
- Preliminary Jurisdictional Determination

cc: Via E-Mail

James Bulka, Coastal Resources, james.bulka@mauicounty.gov