

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

October 13, 2017

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

**Approval of an Offshore Offshore Mooring Outside Lahaina Offshore Mooring Zone, and
Declare Project Exempt from Requirements of Chapter 343, HRS, and Title 11,
Chapter 200, Hawaii Administrative Rules for
Atlantis Submarines Hawaii, LLC
Island of Maui, Hawaii**

REQUEST

The Division of Boating and Ocean Recreation (“DOBOR”) is requesting that the Board of Land and Natural Resources (“Board”) approve an existing permanent offshore mooring to the subject permittee and declare the installation exempt from the requirements of Hawaii Revised Statutes, Chapter 343 to prepare an Environmental Assessment (“EA”), due to the use of submerged State land and the proposed offshore mooring being located outside of the existing Lahaina Offshore Mooring Zone as required by HAR 13-235-9. This mooring was designed by Makai Ocean Engineering and approved by the Department of Transportation in 1991 and has been used by Atlantis Submarines Hawaii, LLC ever since.

In order to bring the existing offshore mooring into compliance, Atlantis Submarines Hawaii, LLC (“Applicant”), is requesting after-the-fact approval from the Board for the existing offshore mooring outside of the designated Lahaina Offshore Mooring Zone due to insufficient water depths and congestion of existing vessels in the zone, both of which present a risk of damage to their vessel and possible grounding during large storm and ocean swell events. In addition, the Applicant is requesting an exemption from Chapter 343 according to the Department’s Exemption List. The Applicant’s request is attached as Exhibit A.

PERMITS

The Applicant has obtained a Letter of Permission from the U.S. Army Corps of Engineers (“ACOE Permit”) authorizing the installation and use of the existing mooring. A Mooring Installation Plan, prepared by a licensed structural engineer, has also been submitted to and approved by DOBOR Engineering Branch. The ACOE Permit and approved Mooring Installation Plan are attached with Exhibit A.

ENVIRONMENTAL ASSESSMENT EXEMPTION

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

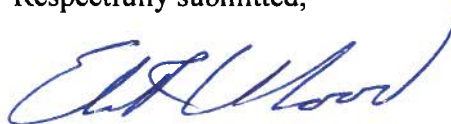
Item No. 13 of Exemption Class 6: "Placement or construction of accessory structures such as...mooring buoys, blocks, and piles, and other similar structures accessory to existing facilities on state land and waters."

Consultations with the U.S. Army Corps of Engineers and State Office of Planning, Coastal Zone Management Program, for this EA Exemption have been conducted as required by HAR 11-200-8. The Coastal Zone Management Program consultation is attached with Exhibit A.

RECOMMENDATION

Approve the installation of the existing offshore mooring outside the Lahaina Offshore Mooring Zone and declare that, after considering the potential effects of the installed mooring 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 – Applicant's request for approval of mooring, approved Mooring Installation Plan, Letter of Permission from Army Corps of Engineers, and CZM Program review letter

EXHIBIT A

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ONE MAIN PLAZA, SUITE 400
2200 MAIN STREET, P.O. BOX 1086
WAILUKU, MAUI, HAWAII 96793-1086
TELEPHONE 808.242.4535 FAX 808.244.4974
WWW.CARLSMITH.COM

CNAKAMURA@CARLSMITH.COM

September 7, 2017

VIA E-MAIL (KUULELN.MOSES@HAWAII.GOV)

Chairperson Suzanne Case
Department of Land and Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, Hawaii 96813

Re: Atlantis Submarines - Request for Exemption from Environmental Assessment

Dear Chairperson Case:

Our office represents Atlantis Submarines Hawaii, LLC and its related companies ("Atlantis"). Atlantis has been in operation in Hawaii since the early 1990's and has provided numerous activities and tours to over 13 million visitors, including the world famous submarine tours in Waikiki, Lahaina and Kona. Atlantis' success is due in part to its long-standing and cooperative relationship with the State of Hawaii, which regulates the use of the near-shore waters as well as the harbors where Atlantis' vessels are berthed. This relationship has been beneficial to both parties, as not only has Atlantis' business been successful, but as a result, the State has been paid hundreds of thousands of dollars in permit fees, as well as rent for leases and easements.

Last year, Atlantis was advised that they needed to obtain an Offshore Mooring Permit for their offshore mooring in Lahaina, from the Division of Boating and Ocean Recreation ("DOBOR") of the Department of Land and Natural Resources. As part of the Offshore Mooring Permit requirements, DOBOR requires an environmental review of the mooring. However, an exemption to the Environmental Assessment requirement can be given by the Board of Land and Natural Resources for an existing mooring remaining in place and needing no modification, pursuant to §11-200-8(a)(1), Department of Health Environmental Impact Statement Rules (April 2008) ("Exemption Request"). Thus, we are submitting this request for an exemption from the Environmental Assessment requirement for this offshore mooring.

As background, when its Maui operation began in early 1991, Atlantis could not bring its submarine into Lahaina Harbor for maintenance, as it had no slip in the harbor. As such, Atlantis established an offshore operation to maintain the submarine. This maintenance operation consisted of a maintenance vessel (the M/V Ocean Twin), the submarine, and the mooring gear.

In determining the location for the offshore mooring at that time, Atlantis heard concerns from the boating community and community at large, who did not want the maintenance operation to adversely affect their businesses. In addition, Atlantis retained Makai Ocean Engineering to do a mooring study to determine the characteristics and location of the mooring system. Makai Ocean Engineering concluded that the mooring needed to be in at least 90 feet of water to withstand the "100 year storm".

The mooring was approved by the Department of Transportation - Harbors Division in late 1991 (this was done prior to the formation of the DOBOR.) The mooring was then used every day as the location for Atlantis to do all the required maintenance for the submarine. This mooring was also used as a hurricane mooring in the event of a tropical storm.

By 2001, Atlantis obtained a slip to bring the submarine into Lahaina harbor. Atlantis sold the M/V Ocean Twin, and kept the offshore mooring in place to be used solely as a hurricane mooring.

In conclusion, the existing mooring has been established since 1991 and has been in the same location up until today.

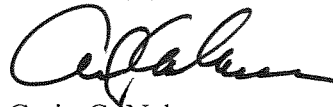
In conjunction with review of this Exemption Request by the Board of Land and Natural Resources, we are submitting the following:

1. Mooring Installation Plan - approved by DOBOR (attached as Exhibit "1");
2. Underwater photos of mooring anchor location (attached as Exhibit "2"); and
3. U.S. Army Corps of Engineers ("ACOE") Permit Application - approved by ACOE (attached as Exhibit "3").

We appreciate your assistance in scheduling this matter for hearing by the Board of Land and Natural Resources at the earliest opportunity.

I would be happy to answer any questions or provide further information on this matter. Thank you for your time and consideration.

Very truly yours,



Craig G. Nakamura

CGN/jrc

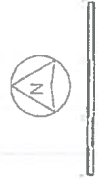
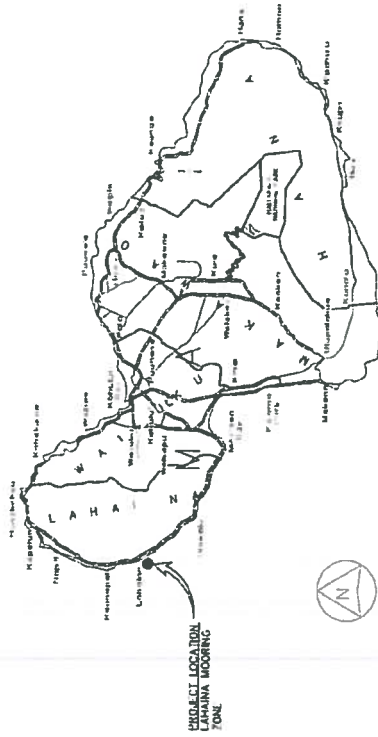
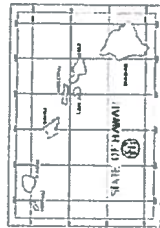
Enclosures

cc: Atlantis Submarines
Ed Underwood (via email to: ed.r.underwood@hawaii.gov)

EXHIBIT 1

OFFSHORE MOORING - LAHAINA MOORING ZONE FOR JIM WALSH - ATLANTIS ADVENTURES

GPS COORDINATES OF MOORING 20°52.0187'N, 156°41.3333'W
APPROXIMATE WATER DEPTH 95'



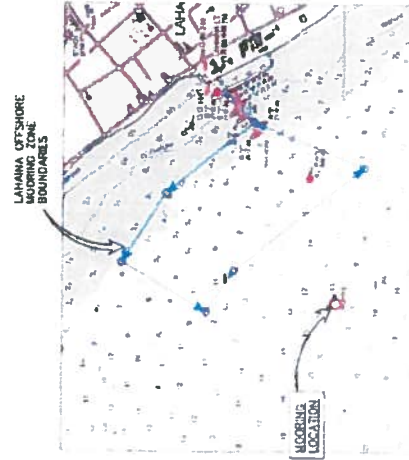
VICINITY MAP

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

☒ Approved ☐ Rejected ☐ Approved, as noted ☐ Review & Resubmit

By: F. McCall Date: 6/30/16

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.



LOCATION MAP

INDEX TO DRAWINGS	
SHEET NUMBER	DESCRIPTION
1	OFFSHORE MOORING - LAHAINA MOORING ZONE
2	LAHAINA MOORING ZONE
3	LAHAINA MOORING ZONE
4	LAHAINA MOORING ZONE
5	LAHAINA MOORING ZONE
6	LAHAINA MOORING ZONE
7	LAHAINA MOORING ZONE
8	LAHAINA MOORING ZONE
9	LAHAINA MOORING ZONE
10	LAHAINA MOORING ZONE

PHREE
CREATIONS, LLC.
61 KAY, KAHALUWA, HAWAII
PHONE: (808) 967-7222 FAX: (808) 967-7222



Jim Walsh
Professional Engineer
State of Hawaii
License No. 10000

DESIGN NOTES:
1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.
4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

PROJECT NAME: OFFSHORE MOORING
PROJECT: LAHAINA MOORING ZONE

FOR:
JIM WALSH
ATLANTIS ADVENTURES
6625 KAHALUWA DRIVE
KAHALUWA, HAWAII 96731
PHONE: (808) 967-7222

GPS COORDINATES: 20°52.0187'N
156°41.3333'W

TITLE SHEET

DATE: 06/15/2016
SHEET: 1 OF 1

EXHIBIT 2



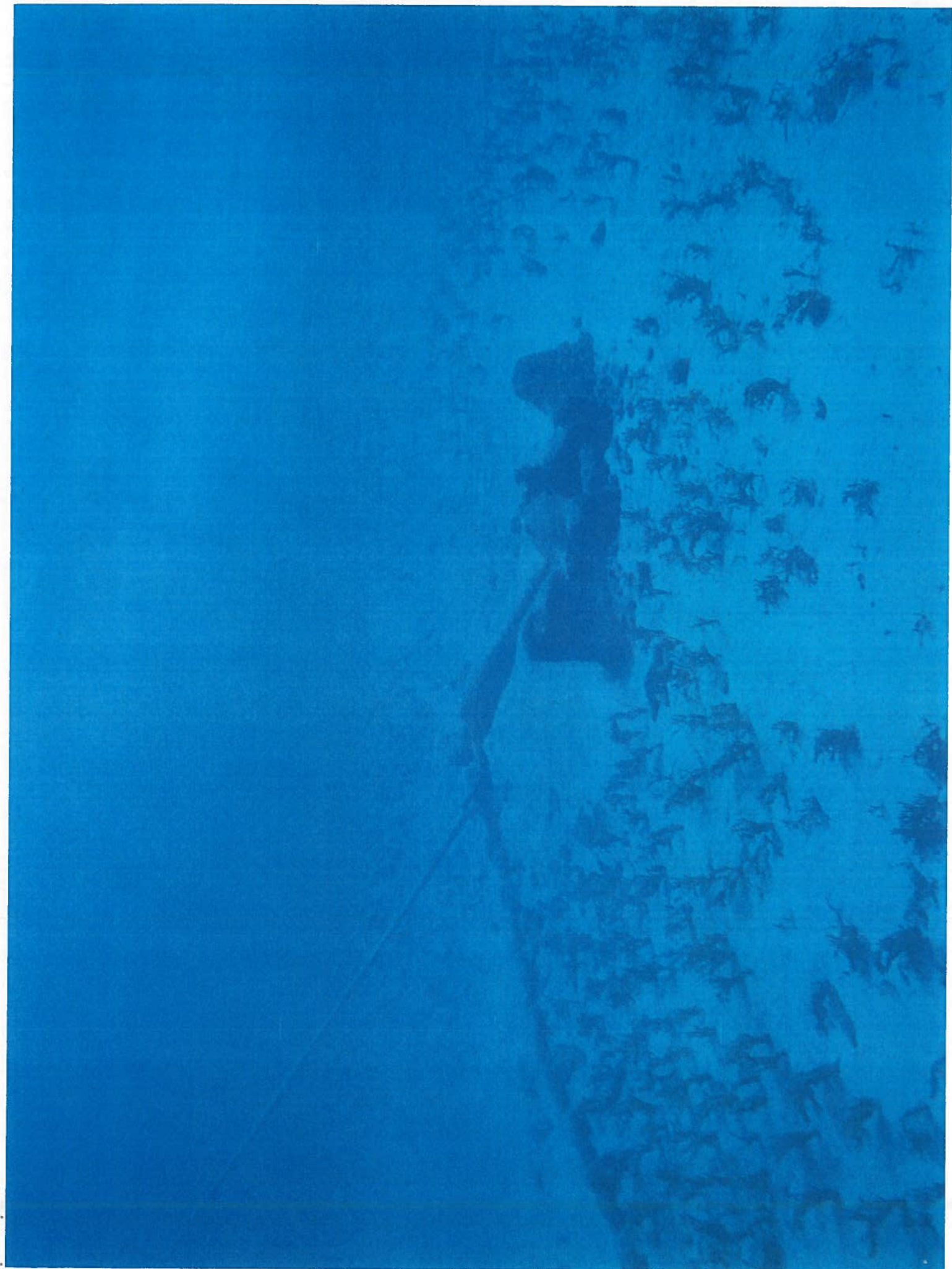


EXHIBIT 3



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

June 29, 2017

Regulatory Branch
POH-2016-00147

Mr. James Walsh
Atlantis Submarines
658 Front Street, Suite 175
Lahaina, HI 96716

Dear Mr. Walsh:

Enclosed is the signed Letter of Permission, file number POH-2016-00147 (ATF LOP Offshore Mooring, Lahaina Harbor, Island of Maui, Hawaii) for the after the fact (ATF) authorization of a single mooring buoy used for a commercial vessel. The project site is located at 20.86722°, -156.68889°, approximately 0.72 miles southwest of the Lahaina Harbor, Lahaina, Island of Maui, Hawaii.

If changes to the plans or location of the work are necessary for any reason, plans must be submitted to us immediately. Federal law requires approval of any changes before construction begins. Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations.

Additionally, we have enclosed a Notification of Administrative Appeals Options and Process and Request for Appeal form (Enclosure 2) regarding this Department of the Army Letter of Permission, the authorized project plans (Enclosure 3), and the Coastal Zone Management Consistency authorization for the project (Enclosure 4).

Please contact Ms. Vera Koskelo of my staff via email at Vera.B.Koskelo@usace.army.mil, by mail at the address above or by phone at (808) 835-4310 if you have questions. For more information about the Regulatory Program, please visit our website at <http://www.poh.usace.army.mil/Missions/Regulatory.aspx>.

Sincerely,

Digitally signed by
ACE/WMR TUNIS W 1239553008
DN: cn=US, ou=U.S. Government, ou=DoD,
ou=PRC, ou=USA,
cm=ACE/WMR TUNIS W 1239553008
Date: 2017.06.29 14:00:22 -1000

Tunis W. McElwain
Chief, Regulatory Branch

Enclosures

CF: State of Hawaii DBEDT Office of Planning (John Nakagawa)



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

June 29, 2017

Regulatory Branch
POH-2016-00147

DEPARTMENT OF THE ARMY
LETTER OF PERMISSION

Authorization is hereby granted to Mr. James Walsh, for:

the after the fact (ATF) authorization of a single mooring buoy used for a commercial vessel, located at 20.86722°, -156.68889°, approximately 0.72 miles southwest of the Lahaina Harbor, Lahaina, Island of Maui, Hawaii.

The work will be performed in accordance with the enclosed plans, which are incorporated in and made a part of this Letter of Permission.

This action is based upon the recommendation of the Chief of Engineers and under the provisions of Section 10 of the 1899 Rivers and Harbors Act (30 Stat 1151; 33 U.S.C. 403).

This authorization is subject to the following special conditions and the enclosed general conditions and further information (see enclosure entitled: GENERAL CONDITIONS/INFORMATION).

Special Conditions:

1. The permittee understands and agrees that if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if in the opinion of the Secretary of the Army or their 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 U.S Army 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.

2. Incidents where any individuals of Green Sea Turtle (*Chelonia mydas*), Hawksbill Turtle (*Eretmochelys imbricata*), 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 structures 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.

3. The authorized structure shall be properly maintained, including maintenance to ensure public safety. The applicant must regularly inspect the mooring for the length of time that the mooring remains installed in the project location to ensure its continued integrity. If the applicant decides to remove or abandon the mooring buoy, the applicant must remove the mooring buoy in its entirety.
4. Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the U.S.
5. You must install and maintain, at your expense, any safety lights and signals prescribed by the U.S. Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following telephone number and email address: Kensley Raigeluw BM1, USCG D14 Waterways Management, Private Aids Manager 808-535-3408 Office, 808-535-3404 Fax, Kensley.Raigeluw@uscg.mil.
6. The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure 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 U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

Nothing in this authorization shall be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations which may affect the proposed work.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

MCELWAIN.TUNIS.W
.1239553008

Digitally signed by MCELWAIN.TUNIS.W 1239553008
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ou=USA, cn=MCELWAIN.TUNIS.W.1239553008
Date: 2017.06.29 14:01:05 -10'00'

DATE

FOR: JAMES D. HOYMAN, P.E.
LTC, EN
Commanding
District Engineer, U.S. Army, Corps of Engineers

GENERAL CONDITIONS/INFORMATION

1. The time limit for completing the work authorized ends five years from the date of this authorization. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must contact the Hawaii District Corps of Engineers to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

3. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

4. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 3 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may, in certain situations, (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

5. Extensions. General Condition #1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

WORKSHOPS AND MAILINGS SHALL CONFORM TO THE GUIDELINES OF THE NATIONAL ASSOCIATION OF MAILING MANAGERS. ALL MAILINGS SHALL BE PREPARED IN ACCORDANCE WITH THE NATIONAL ASSOCIATION OF MAILING MANAGERS' GUIDELINES FOR THE MAILING OF MAILINGS TO THE MAILING MANAGER.

FIELD CONDITION AND SHALL COMPLY WITH FIELD MEASUREMENTS AND CONDITIONS WITH THE DRAWING OF THE FOLLOWING WORK REPORT IN WRITING TO THE FACTORY AFTER A 10% OFF-TAKE AND

THE JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION
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535 N. Dearborn Ave., Chicago 10, Ill.
Subscription price: Five dollars per annum in advance.
Entered as Second-Class Matter, May 2, 1917.
Acceptance for mailing at special rate of postage provided for in
Act of October 3, 1917.
Postage paid at Chicago, Ill.
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Published by the American Medical Association, 535 N. Dearborn Ave., Chicago 10, Ill.

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DESIGN VICE PRESIDENT, ATLANTA'S SUBURBAN

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THE UNIVERSITY OF CHICAGO

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MOORING PLAN

JUN 13 2015 00 27
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PHREE
CREATIONS, LLC.



92 242

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 2. *What are the research objectives?*
 3. *What is the research methodology?*
 4. *What are the results of the study?*
 5. *What are the conclusions of the study?*
 6. *What are the limitations of the study?*
 7. *What are the implications of the study?*
 8. *What are the future research directions?*
 9. *What are the contributions of the study?*
 10. *What are the key findings of the study?*

[illegible]

PROPOSED
OFFSHORE MOORING
LAHAUNA MOORING ZONE
FOR:

JIM WALSH
ATLANTIS ADVENTURES, INC.
5658 FRON' STREET / 172
TAMPA, FL 33634
PHONE: (813) 861-6400

ALB 1991
R. 67103524

MOORING PLAN

PHREE
CREATIONS, LLC.
61 542 5400 HAWAII, HONOLULU
HAWAII, PHONE 307-2 3071 31 1 1790



[Signature]
JIM WALSH
OFFSHORE MOORING ENGINEER

APPROVED
DATE: 10/1/00
BY: JIM WALSH
OFFSHORE MOORING ENGINEER

PROPOSED
OFFSHORE MOORING
LAHAINA MOORING ZONE

JIM WALSH
ATLANTIS ADVENTURES, LLC
1111 KALANANĀ'ŪHĀ STREET
LAHAINA, HI 96761
PHONE: (508) 607 5414

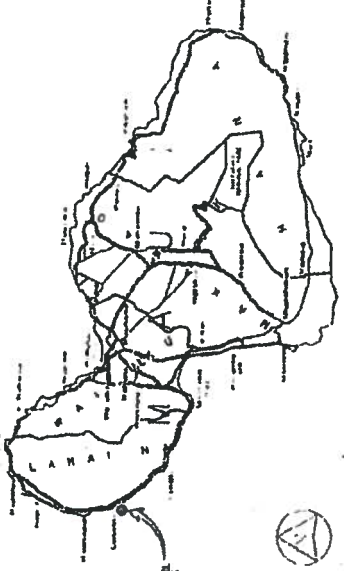
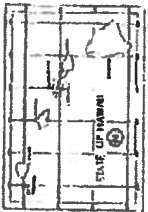
DATE: 10/1/00
BY: JIM WALSH
OFFSHORE MOORING ENGINEER

TITLE SHEET

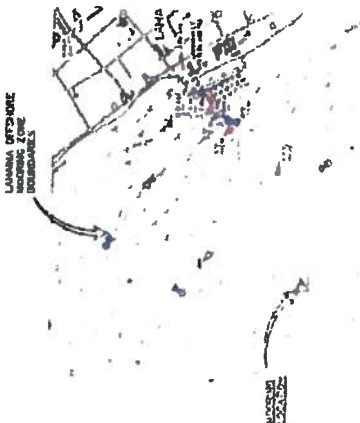
SCALE: 1" = 100' 10"
DATE: 10/1/00
BY: JIM WALSH
OFFSHORE MOORING ENGINEER

OFFSHORE MOORING - LAHAINA MOORING ZONE FOR JIM WALSH - ATLANTIS ADVENTURES

GPS COORDINATES OF MOORING 20°52.0167'N, 155°41.3333'W
APPROXIMATE WATER DEPTH 95'



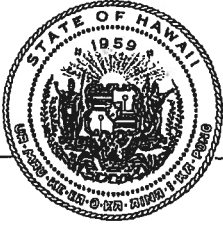
VICINITY MAP



LOCATION MAP

Department of Land and Natural Resources
Division of Boating and Ocean Recreation
PLAN REVIEWER
☒ Approved ☐ Approved on notes
☐ Rejected ☐ Review & Resubmit
By: F. McCall Date: 6/24/00
Comments, comments or approval of plan and
not reduce the contractor from other land, area,
before or other agency regulations or permit
conditions. This review is for general compliance
with engineering design guidelines. The contractor
is responsible for continuing of construction, and
coordination with all other bodies.

INDEX TO DRAWINGS	
Sheet	1 of 2
Drawn	JIM WALSH
Checked	JIM WALSH
Scale	1" = 100' 10"
Date	10/1/00
By	JIM WALSH
For	ATLANTIS ADVENTURES, LLC
Project	LAHAINA MOORING ZONE
Drawn	JIM WALSH
Checked	JIM WALSH
Scale	1" = 100' 10"
Date	10/1/00
By	JIM WALSH
For	ATLANTIS ADVENTURES, LLC
Project	LAHAINA MOORING ZONE



OFFICE OF PLANNING STATE OF HAWAII

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Telephone: (808) 587-2846
Fax: (808) 587-2824
Web: <http://planning.hawaii.gov/>

Ref. No. P-15583

April 27, 2017

Mr. Jim Walsh
General Manager
Atlantis Submarines Hawaii, LLC
658 Front Street, Suite 175
Lahaina, Hawaii 96761

Dear Mr. Walsh:

Subject: Hawaii Coastal Zone Management (CZM) Program Federal Consistency
Review for Authorization of an Existing Single-Point Commercial-Use
Mooring Buoy offshore of Lahaina Harbor, Lahaina, Maui;
Department of the Army Permit File No. POH-2016-00147

The Hawaii CZM Program has completed the federal consistency review of your application for Department of the Army Permit (File No. POH-2016-00147) authorization of an existing single-point commercial-use mooring buoy located offshore approximately 0.72 mile southwest of Lahaina Harbor. We concur with your certification that the activity is consistent with the enforceable policies of the Hawaii CZM Program based on the following conditions.

1. The subject mooring shall be maintained in its present location, configuration, and use as represented in the CZM federal consistency application and supporting information. Any changes to the proposed activity shall be submitted to the Hawaii CZM Program for review and approval. Changes may require a full CZM federal consistency review, including publication of a public notice and provision for public review and comment. This condition is necessary to ensure that the proposed activity is implemented as reviewed for consistency with the enforceable policies of the Hawaii CZM Program. Hawaii Revised Statutes (HRS) Chapter 205A Coastal Zone Management, is the federally approved enforceable policy of the Hawaii CZM Program that applies to this condition.
2. The subject mooring shall be in compliance with the permit requirements of the State Division of Boating and Ocean Recreation (DOBOR). This condition is necessary to ensure consistency with HRS Chapter 200 Ocean Recreation and Coastal Areas Programs, which is a federally approved enforceable policy of the Hawaii CZM Program.

Mr. Jim Walsh
April 27, 2017
Page 2

If the requirements of 15 CFR §§ 930.4(a), (1) through (3) are not met, then all parties shall treat this conditional concurrence letter as an objection pursuant to 15 CFR Part 930, Subpart D. Furthermore, you are hereby notified that, pursuant to 15 CFR § 930.63(e), you have the opportunity to appeal an objection resulting from not meeting the requirements of 15 CFR §§ 930.4(a), (1) through (3) to the Secretary of Commerce within 30 days after receiving this conditional concurrence letter, or 30 days after receiving notice from the U.S. Army Corps of Engineers that your Department of the Army Permit will not be approved as amended by the conditions required by this concurrence.

CZM consistency concurrence does not represent an endorsement of the project nor does it convey approval with any other regulations administered by any State or County agency. Thank you for your cooperation in complying with the Hawaii CZM Program. If you have any questions, please call John Nakagawa of our CZM Program at 587-2878.

Sincerely,



Leo R. Asuncion
Director

cc: U.S. Army Corps of Engineers, Regulatory Office
Mr. Paul K. Sensano, Maui District Manager, DLNR, Division of Boating and Ocean Recreation