

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

October 12, 2018

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

Land Board Members:

SUBJECT: DECLARE AN EXISTING OFFSHORE MOORING EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HAWAII REVISED STATUTES, AND TITLE 11, CHAPTER 200, HAWAII ADMINISTRATIVE RULES, AND APPROVE INSTALLATION OUTSIDE OF AN ESTABLISHED OFFSHORE MOORING AREA AFTER-THE-FACT, REED'S BAY, HILO, ISLAND OF HAWAII, HAWAII, FOR STEPHEN FRANK

REQUEST:

The Division of Boating and Ocean Recreation ("DOBOR") is requesting that the Board of Land and Natural Resources ("Board") approve the installation of an existing offshore mooring within Reed's Bay on the Island of Hawaii, which is not an established offshore mooring area as defined in HAR 13-235. As required by HAR 13-235-9, any applicant requesting to moor a vessel outside of an established offshore mooring area must obtain approval from the Board.

Reed's Bay is a designated offshore mooring area identified in the "Documentation of Facilities for the Boating Program Transfer to the Department of Land and Natural Resources," when the Boating Program was transferred from the Department of Transportation to DLNR. However, Reed's Bay was never established as an offshore mooring area in HAR 13-235. Therefore, as required by HAR 13-235-9, the installation of all moorings within Reed's Bay must obtain approval from Board.

DOBOR is also requesting that the Board declare the installation of the existing offshore mooring exempt from the requirements of Chapter 343, Hawaii Revised Statutes, and Title 11, Chapter 200, Hawaii Administrative Rules, to prepare an Environmental Assessment ("EA"), due to the use of submerged State land.

The applicant, Stephen Frank ("Applicant"), uses an existing offshore mooring installed in Reed's Bay in Hilo on the Island of Hawaii that has been in place for several years. He is requesting that the Board declare the installation of his privately owned and maintained mooring exempt from the requirement to prepare an EA, as required by Chapter 343, HRS, and Chapter 11-200, HAR due to the use of submerged State land. In addition, the Applicant is requesting that the Board approve the mooring installation outside of an established offshore mooring, as required by HAR 13-235-9, due to Reed's Bay not being an established offshore mooring area as defined in HAR 13-235. The Applicant's request is attached as **Exhibit A**.

PERMITS AND COMPLIANCE WITH STATE AND FEDERAL LAW:

In order to comply with Federal Law (Section 10 of the Rivers and Harbors act of 1899), DOBOR is requiring that all offshore moorings under their jurisdiction obtain a permit from the U.S. Army Corps of Engineers ("ACOE"). In addition, to ensure that the mooring system is structurally sound, DOBOR is requiring that all offshore mooring permittees submit an Offshore Mooring Installation Plan, prepared by a licensed structural engineer, for approval.

The Applicant has obtained a Nationwide Permit Verification from the ACOE 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 also attached with **Exhibit A**.

In accordance with HAR 13-235-6, the National Marine Fisheries Service (NMFS) and DLNR, Division of Aquatic Resources (DAR) must determine whether an offshore mooring is detrimental to the habitat or spawning ground of marine life. Through the ACOE permitting process, NMFS has been consulted and determined the offshore mooring has no detrimental effect to the habitat or spawning ground of marine life. DAR has also been consulted and concurred that the offshore mooring has no detrimental effect to the habitat or spawning ground of marine life.

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 (DLNR), 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:

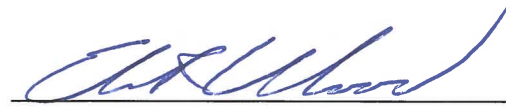
Item No. 13 of Exemption Class 6: "Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations or sanitation facilities and related individual wastewater disposal systems, bus shelters, pavilions or picnic 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 land and waters."

Consultations with the State of Hawaii, Office of Planning, Coastal Zone Management Program and State of Hawaii, DLNR, Office of Conservation and Coastal Lands for this EA Exemption have been conducted as required by HAR 11-200-8.

RECOMMENDATION:

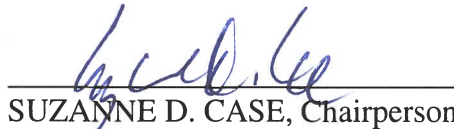
Declare that, after considering the potential effects of the installed mooring as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment and approve the installation of the existing offshore mooring within Reed's Bay, located outside of an established offshore mooring zone, after-the-fact.

Respectfully Submitted,



EDWARD R. UNDERWOOD, Administrator
Division of Boating & Ocean Recreation

APPROVED FOR SUBMITTAL:



SUZANNE D. CASE, Chairperson
Board of Land and Natural Resources

Attachment:

- A. Applicant's request for approval of mooring, approved Mooring Installation Plan, Nationwide Permit Verification Letter from Army Corps of Engineers

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title:	Offshore Mooring in Reed's Bay, Hilo, Island of Hawaii, for Mr. Stephen Frank
Project / Reference No.:	N/A
Project Location:	Reed's Bay, Hilo, Island of Hawaii
Project Description:	Installation of an offshore mooring for a privately owned vessel
Chap. 343 Trigger(s):	Use of State (submerged) lands
Exemption Class No(s).:	Class No. 6, Item 13: "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 land and waters."
Cumulative Impact of Planned Successive Actions in Same Place Significant?	No. There are no planned successive actions to be undertaken at the same location.
Action May have Significant Impact on Particularly Sensitive Environment?	No. The environment in the area of the existing offshore mooring is silty bottom with no coral reefs or marine features that are critical for aquatic species habitat or spawning areas.
Analysis:	The materials installed for the offshore mooring are chemically inert and do not pose a threat to essential marine habitat or endangered species and do not pose any hazard or obstruction to existing uses of the ocean in the area.
Consulted Parties:	<ul style="list-style-type: none"> - State Office of Planning, Coastal Zone Management - State DLNR, Office of Conservation and Coastal Lands
Declaration	The Board finds that this project will probably have minimal or no significant effect on the environment and declares that this project is exempt from the preparation of an environmental assessment.

EXHIBIT A

Stephen H. Frank

PO Box 4844

Hilo, HI 96720

JUN18'18PM 2:59BDR ADH

June 15, 2018.

Request for Exemption from Requirement for Preparation for of Environmental Assessment for Installation of and Existing Offshore Mooring, in Reeds Bay Offshore Mooring Area< Hilo on the Island of Hawaii.

Submitted in compliance with Hawaii Revised Statue Chapter 343 and HAR sections 11-200-8; 11-200(b).

Submitted to:

Board of Land and Natural Resources, State of Hawaii, Department of Land and 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) 587-3520.

Submitted by Stephen Frank, email: canuckalakai@msn.com

Phone (808) 960-7711.

Request:

Stephen Frank (hereinafter referred to as "Petitioner") requests approval for an existing offshore mooring (that does not require modification) in the Reeds Bay Mooring Area and exemption from requirement for environmental assessment report associated with the mooring installation; as the mooring will have little or 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 (existing) mooring installation, as the proposed installation will have little or no impact on the environment in the proposed location.
- 3) 3.) The current exemption list for the Department of Land and Natural Resources dated 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 (existing) of a private offshore mooring in Reeds Bay Hilo, Hawaii, offshore mooring area.

Technical Description of Proposed Installation:

A non-commercial existing bow mooring (DA Compliant-NWP-10-POOH2017-Pruitt Reeds Bay Mooring #3) is located in the Reeds Bay Offshore mooring area in approximately 14 foot depth. The 24 inch nylon mooring buoy is anchored by an 18 foot long galvanized half inch chain attached to a 600 pound cement weight in the bow. The mooring features two 17 foot long nylon pennant lines to secure the vessel at the bow.

Location of Proposed Installation:

N 19 43.653 degrees and W 155 03.660

Purpose of Proposed Installation:

The proposed (existing) mooring will be used by the Petitioner solely for the purpose of mooring a sailboat for non-commercial purposes.

Impact on Coastal Ecosystems:

NEGLIGIBLE. The proposed site 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 border 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. No dredge or fill activities will be involved in the installation of the mooring. The mooring will be placed within an existing designated DLNR "Offshore" mooring area.

Impact on Marine Resources:

NONE. The proposed (existing) 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 archaeological resources and is not within or adjacent to any Hawaiian fishpond or historic settlement areal.

Impact on Scenic and Open Space Resources:

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

Respectfully submitted by:

Stephen Frank (808) 960-7711. PO Box 4844, Hilo, HI 96720





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

JAN 23 2018

Regulatory Branch
POH-2017-138

JUN18'18PM 2:59BOR ADM

Mr. Stephen H. Frank
Post Office Box 4844
Hilo, HI 96720

Dear Mr. Frank:

This is in response to your July 06, 2017 application for a Department of the Army (DA) authorization, to retain an existing mooring buoys for a 26-foot vessel located in Reed's Bay. The mooring buoys is attached to 17 foot chain, which is attached to a mooring ball with a swivel. It has been assigned file number POA-2017-138, Reed's Bay which should be referred to in all future correspondence with this office. The project site is located within USGS Quad Map Farallon Islands OE NW; Latitude 190.7274° N., Longitude 155.0608° W.; in Hilo, Hawaii.

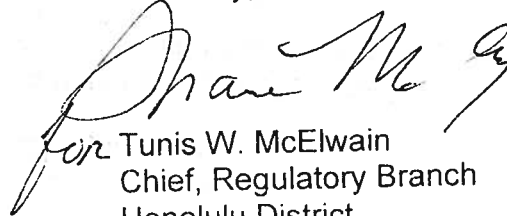
DA permit authorization is necessary because your existing mooring buoys is in waters of the U.S. under our regulatory jurisdiction.

Based upon the information and plans you provided, we hereby verify that the existing mooring buoys shown on the enclosed plan (sheets 1-8), dated June 29, 2017, is authorized by Nationwide Permit (NWP) No. 10, Mooring Buoys. NWP No. 10 and its associated Regional and General Conditions can be accessed at our website at: www.poa.usace.army.mil/Missions/Regulatory/Permits.

Nothing in this letter excuses you from compliance with other Federal, State, or local statutes, ordinances, or regulations.

Please contact Ms. Danielle Knight via email at Danielle.g.knight@usace.army.mil, by mail at the address above or by phone at (907) 830-4227 if you have questions. For more information about the Regulatory Program, please visit our website at www.poh.usace.army.mil/Missions/Regulatory.

Sincerely,


for Tunis W. McElwain
Chief, Regulatory Branch
Honolulu District

Enclosures

SITE PLAN FOR: STEPHAN FRANK, REEDS BAY, HILO HAWAII, HILO HARBOR.

VESSEL NAME: PANALEA HA 6467

LOCATION: N 19° 43.653 W 155° 03.660

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

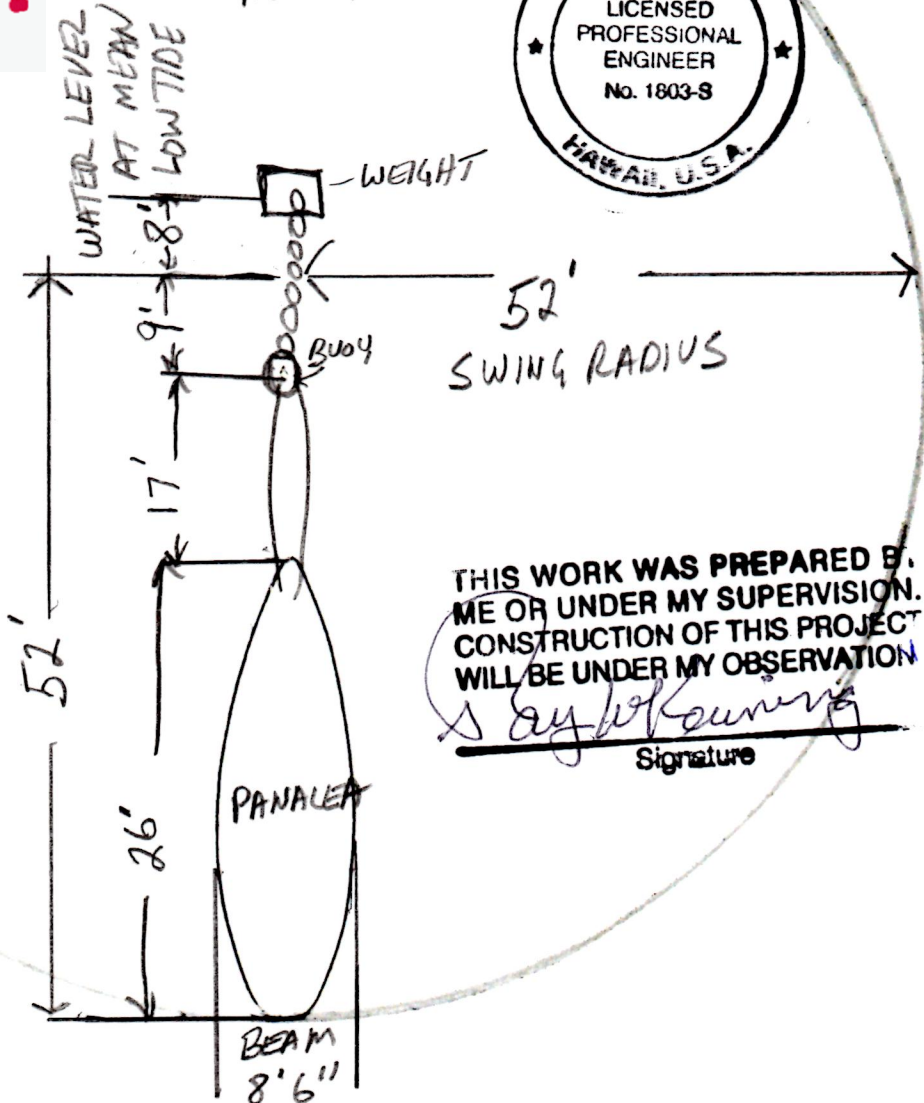
☒ Approved
☐ Rejected
☐ Approved, as noted
☐ Revise & Resubmit

By: 4-MP

Date: 6/29/17

Corrections, 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.

NORTH



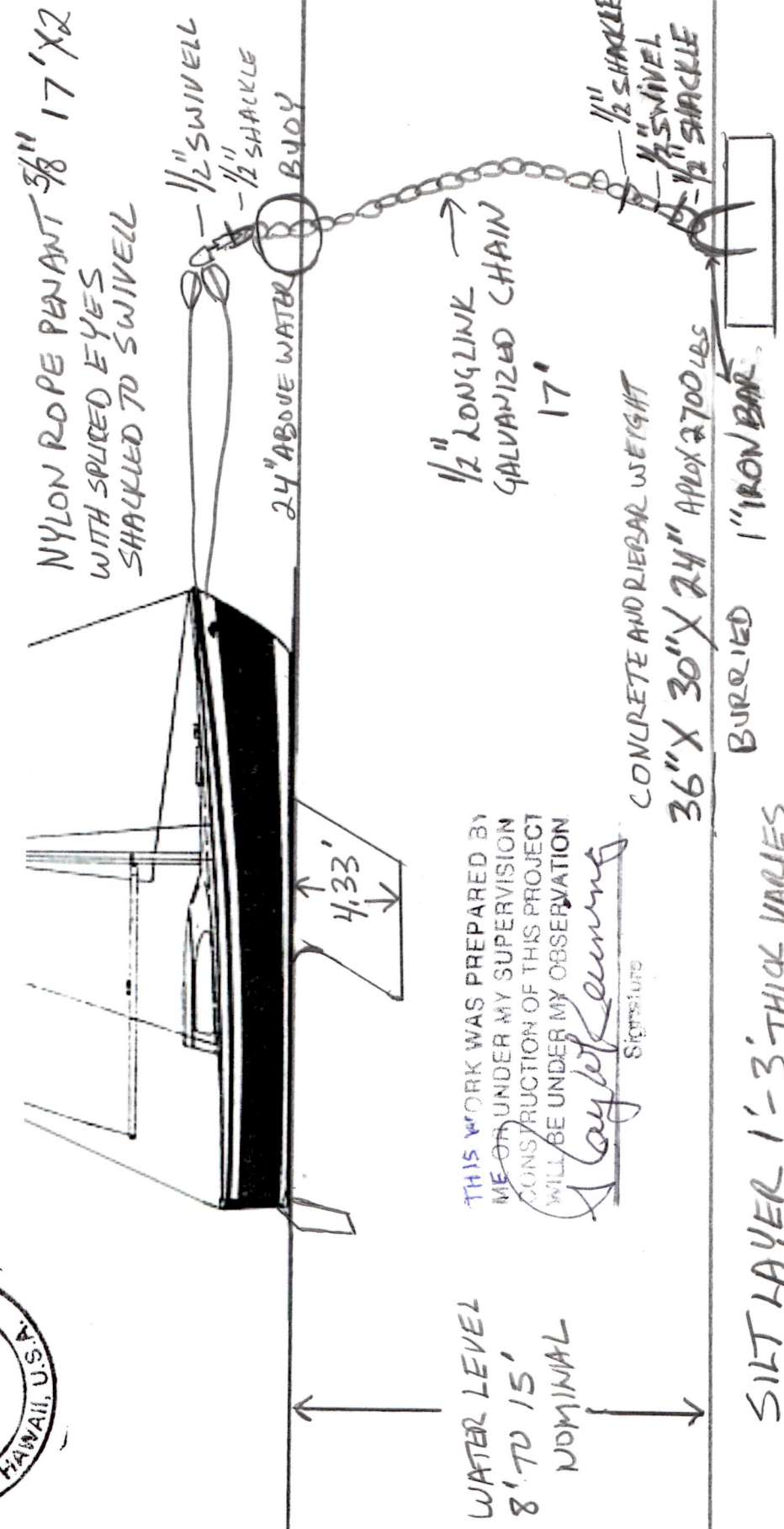
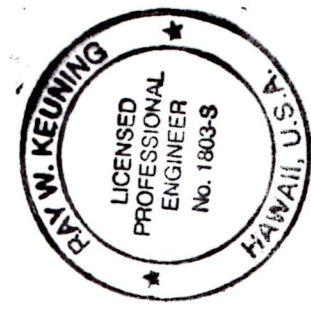
THIS WORK WAS PREPARED BY
ME OR UNDER MY SUPERVISION.
CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION

Ray W. Keuning
Signature

SECTION VIEW FOR: STEPHEN FRANK REEDS BAY, HILO HAWAII, HILO HARBOR

VESSEL NAME: PANALEA HA# 6467 MODEL: COLUMBIA 26 MK2 LOA 26' BEAM 8'6" DRAFT 4'33"

LOCATION: N 19° 43.653 W 155° 03.660 DISPLACEMENT: 5900 LBS GROSS 2500 LBS



SILT LAYER 1'-3' THICK VARIES
FLAT ROCK BOTTOM