

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 KUHIO BAY SAILING ORGANIZATION, LLC

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, Kuhio Bay Sailing Organization, LLC ("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. They are requesting that the Board declare the installation of their 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:

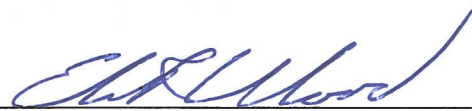
Item No. 13 of Exemption Class 6: "Placement or construction of accessory structures such as utility sheds, storage or maintenance sheds, office trailers, trash enclosures, comfort stations or sanitation facilities and related individual wastewater disposal systems, bus shelters, pavilions or picnic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

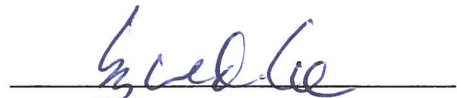
Declare that, after considering the potential effects of the installed mooring as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment and 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 Kuhio Bay Sailing Organization, LLC
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"> <li>- State Office of Planning, Coastal Zone Management</li> <li>- State DLNR, Office of Conservation and Coastal Lands</li> </ul>
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

Richard Greever  
Kuhio Bay Sailing Organization, LLC  
PO Box 1661  
Keaau, Hawaii 96749

March 1, 2018

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

Submitted in compliance with Hawaii Revised Statute Chapter 343 and HAR Sections 11-200-8; 11-200(b)

Submitted to:

Board of Land and Natural Resource, 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](mailto:finn.d.mccall@hawaii.gov) Phone: (808) 587-3520

Submitted by:

Richard Greever Email: [rgreever@hotmail.com](mailto:rgreever@hotmail.com)  
Phone (808) 966-8404

Request:

Kuhio Bay Sailing Organization, LLC (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 the 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) 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 mooring (DA Compliant NWP-10-POH2017-00131-Kuhio Reeds Bay Mooring #11) is located in the Reeds Bay Offshore mooring area in approximately 10.5 foot depth. The 24-inch nylon mooring buoy is anchored by 22-foot long galvanized chain to a 2000-pound concrete weight. The mooring features a 15 ft. long nylon rope pennant line to secure the vessel at the bow.

## **Location of Proposed Installation**

The proposed (existing) mooring buoy is located at coordinates:

N 19° 43' 37.38" and W 155° 03' 40.14"

## **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 Costal 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 existing designated DNLR "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 costal resources.

## **Impact on Historical 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 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.



Respectfully submitted by:



Richard Greever

Vice-Commodore Na Hoa Holomoku of Hawaii Yacht Club

Kuhio Bay Sailing Organization

808-966-8404



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

July 25, 2017

SUBJECT: Provisional Nationwide Permit Verification for Kuhio Reeds Bay Mooring 11, Hilo Bay, Hilo, Hawaii, Department of the Army File No. POH-2017-00131

Richard Greever  
Kuhio Sailing Organization LLC.  
PO Box 1661  
Keaau, HI 96749

Dear Mr. Greever:

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Branch has completed review of your Pre-Construction Notification (PCN) dated June 29, 2017 requesting authorization for the proposed Offshore Mooring for Kuhio Reeds Bay Mooring 11, Reeds Bay, Hilo Bay, Hilo, Hawaii. Please reference Department of the Army (DA) file number POH-2017-00131 in any future correspondence related to this permit.

We have verified that your proposed activity complies with the terms and conditions of Nationwide Permit (NWP) #10, (Mooring Buoys) issued on March 19, 2017 (82 FR 1860, January 6, 2017). Although the Corps has completed its review of your PCN we cannot issue a final verification authorizing your proposed activity until the State of Hawaii, Department of Health, Clean Water Act (DOH-CWB) issues an individual Section 401 Water Quality Certification (WQC) (or waiver). This letter constitutes a **provisional** NWP verification.

You must submit to this office your individual WQC via email to [POH.NWP@usace.army.mil](mailto:POH.NWP@usace.army.mil). Your submittal must also identify any changes to the project not previously considered by the Corps and/or proposed in your PCN, as well as any revised drawings illustrating such project modifications resulting from issuance of your state certification. Upon receipt of the necessary state certification identified in this letter, we will furnish you a final NWP verification authorizing the proposed activity, provided the project and any modifications continue to meet the terms and conditions of the applicable NWP. All conditions of your individual Section 401 WQC will become conditions of your final DA authorization by reference.

**You may not begin work within a waters of the U.S. until you receive the final NWP verification.** You are cautioned that commencement of the proposed work prior to final DA authorization would constitute a violation of Federal laws and subject you to possible enforcement action. We are sending a copy of this letter to the respective certifying agency for situational awareness. Please contact the DOH-CWB independently to inquire on the status of your certification.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this letter, please contact me at 808-835-4307 or via e-mail at Rebecca.M.Frager@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://corpsmapu.usace.army.mil/cm\\_apex/f?p=136:4:0](http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0).

Sincerely,

Becca Frager  
Biologist, Regulatory Branch

cc:

USCG (John Bannon, Jason Olney)

State of Hawaii Department of Health, Clean Water Branch (DOH-CWB)

State of Hawaii Office of Planning, Coastal Zone Management Program (Hawaii CZM Program)



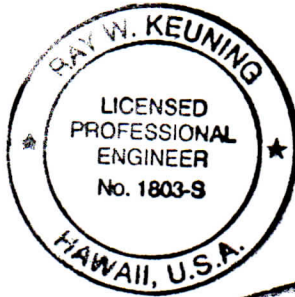


SITE VIEW FOR: KUHIO SAILING ORGANIZATION LLC REEDS BAY, HILO

VESSEL NAME: CHEERS HA 5560B

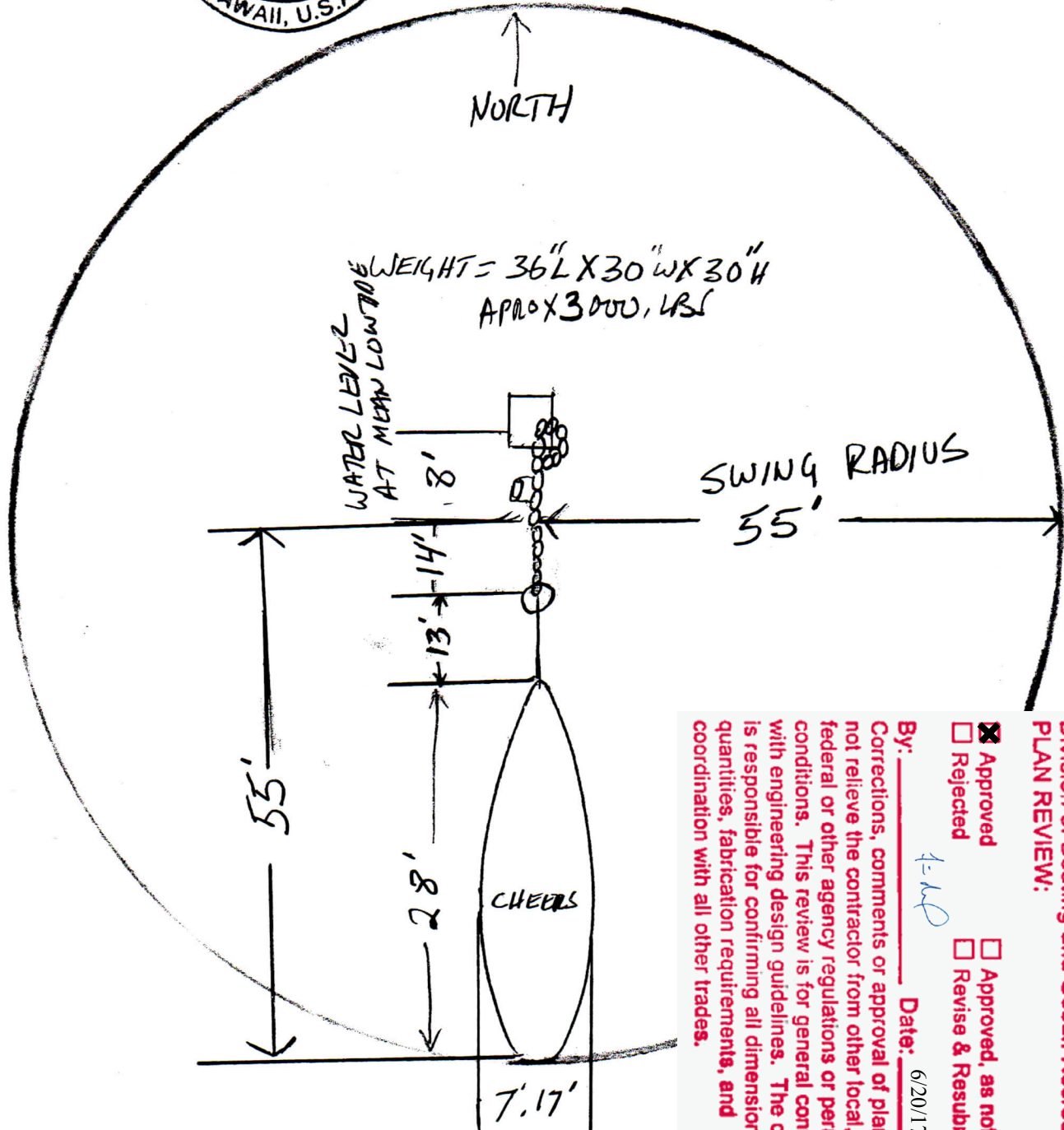
HILO HARBOR

LOCATION: N19° 43.627 W155° 03.669



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

*Ray W. Keuning*  
Signature



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

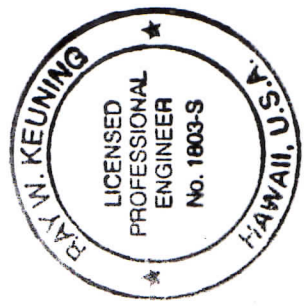
<input checked="" type="checkbox"/> Approved	<input type="checkbox"/> Approved, as noted
<input type="checkbox"/> Rejected	<input type="checkbox"/> Revise & Resubmit

By: *RL* Date: 6/20/17

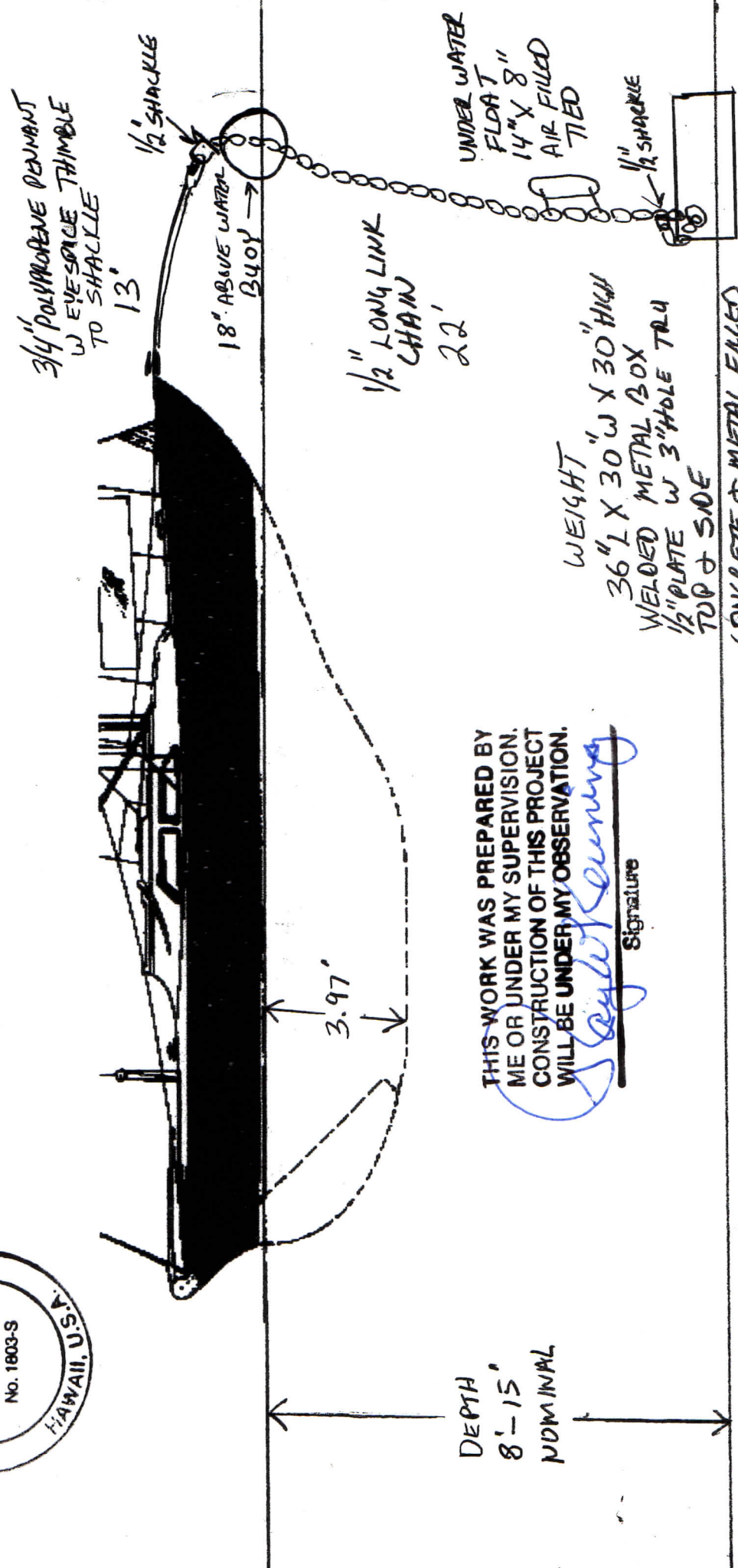
Corrections, comments or approval of plans shall not relieve the contractor from other local, state, federal or other agency regulations or permit conditions. This review is for general conformance with engineering design guidelines. The contractor is responsible for confirming all dimensions, quantities, fabrication requirements, and coordination with all other trades.



SECTION VIEW FOR: KUHIO SAILING ORGANIZATION LLC REEDS BAY, HILO HAWAII, HILO HARBOR  
 VESSEL NAME: CHEERS HA 5560 B MODEL: FOLKBOAT 26 LOA 28' BEAM 7.17' DRAFT 3.97'  
 LOCATION: N19°43.627 W155°03.669 DISPLACEMENT 4740 LBS BALLAST 2750 LBS



NORTH →



THIS WORK WAS PREPARED BY  
 ME OR UNDER MY SUPERVISION.  
 CONSTRUCTION OF THIS PROJECT  
 WILL BE UNDER MY OBSERVATION.  
*Ray W. Keuning*  
 Signature

DEPTH  
 8'-15'  
 NOMINAL

SILT LAYER 1'-3' THICK VARIES  
 CONCRETE & METAL FACED  
 APPROX 3000. LBS

FLAT ROCK BOTTOM