

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 THE INSTALLATION AFTER-THE-FACT, MALA WHARF OFFSHORE MOORING AREA, LAHAINA, ISLAND OF MAUI, FOR ROBERT ROCCO

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 the Mala Wharf Offshore Mooring Area and declare the installation 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, Robert Rocco (“Applicant”), uses an existing offshore mooring installed within the Mala Wharf Offshore Mooring Area that has been in place for several years. He is requesting that the Board approve the installation of the offshore mooring and declare the installation 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. 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**.

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 the Mala Wharf Offshore Mooring Area 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 Mala Wharf Offshore Mooring Area, Lahaina, Island of Maui, for Mr. Robert Rocco
Project / Reference No.:	N/A
Project Location:	Mala Wharf Offshore Mooring Area, Lahaina, Island of Maui
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 sand bottom with no coral reefs or marine features that are critical for aquatic species habitat or spawning areas in the proximity of the mooring anchor.
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 DLNR, Office Conservation and Coastal Lands - State Office of Planning, Coastal Zone Management
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

Request for exemption from requirement for Preparation of Environmental Assessment for and Approval for the transfer of the permit of an existing approved and registered mooring within Mala Wharf on the island of Maui.

Submitted in compliance with Hawaii Revised Statutes 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
Lahaina Small Boat Harbor
675 Wharf Street
Lahaina, HI 96761

Miles.J.Lopes@hawaii.gov & daynette.m.flores@hawaii.gov 808.662.4060
Finn.d.mccall@hawaii.gov 808.280.8420

Submitted by:

Robert Rocco
1401 Olona Pl
Lahaina, HI 96767
Email: brocco28r@gmail.com
Phone: 808-669-5109

Request:

Robert Rocco (hereinafter referred to as "Petitioner") requests approval for an existing offshore mooring within Mala Wharf and exemption from requirement for environmental assessment report associated with the existing mooring, as the existing 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 existing mooring, as the existing mooring will have little or no impact on the environment in the current 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 of private offshore mooring in Mala Wharf, Mooring Zone, Lahaina, Maui Hawaii.

Technical Description of Proposed Installation-

Proposed installation

A single non-commercial mooring located approximately 200 yards off Mala Launch Ramp on North side of channel in approximately 22 feet of depth. The 24" Nylon mooring buoy is anchored by 30' long double 5/8" nylon 3 strand lines secured to ground tackle as submitted, described and approved by Josh Murphree of Phree Creations, LLC and The Army Corp of Engineers.

Location of the existing mooring –

The existing mooring buoy is located at center coordinates: Latitude: 20 degrees 53' 12.55 N & 156 degrees 41' 13.54 W.

Purpose of Use of the Existing Mooring –

The existing mooring will be used by the Petitioner solely for the purpose of mooring a sailboat for private-use purposes.

Impact on Coastal Ecosystems –

NEGLIGIBLE The existing mooring site is approximately 200 yards 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 boarder 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. The petitioner dove to inspect the existing mooring on February 15, 2018 and the integrity of all of the components are in good condition as outlined in the attached certified drawings.

Impact on Marine Resources –

NONE: The 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 existing 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 existing mooring location and will be visible. The mooring ball will be visible floating on the surface of the water.

Enclosures:

Certified Drawing from Phree Creations, LLC (Josh Murphree)

Army Corps of Engineers – Nationwide Permit Verification for After the Fact: Robert Rocco
File No. POH-2017-00047

Respectfully Submitted by:
Robert Rocco
808-669-5109



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

September 8, 2017

SUBJECT: Nationwide Permit Verification for After The Fact: Robert Rocco Mooring,
Lahaina, Island of Maui, Hawaii Department of the Army File No. POH-2017-00047

Robert Rocco
1401 Olona Place
Lahaina, HI 96761

Dear Mr. Rocco:

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Branch has completed review of your Pre-Construction Notification dated March 21, 2017 requesting authorization for the proposed After The Fact (ATF) Permit for Robert Rocco Mooring located in Mala Wharf, Lahaina, Island of Maui, Hawaii. Please reference Department of the Army file number POH-2017-00047 in any future correspondence relating to this permit.

This letter verifies your 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). This NWP verification letter is being issued pursuant to Section 10 of the Rivers and Harbors Act of 1899 for work or structures in or affecting navigable waters of the U.S. You are authorized to conduct the following work as described below and as depicted on the enclosed drawings (Enclosure 1):

The work under review is the after-the-fact installation of an existing mooring for a private vessel deployed in 22-foot deep, ocean bottom, covered in silt and sand with no growing coral or seagrass. The mooring has been in place for 10 years and consists of a 24-inch mooring buoy connected to a 5/8-inch swivel via two 1/2-inch shackles and two 30-foot 3-strand braided 5/8-inch pennant nylon line. Six anchors are attached to the swivel, which is maintained in place by a 350-pound steel grate. One of the six anchors is a partially-buried, 2000-pound fisherman anchor attached to the swivel with a 90-foot long 1/2-inch long link chain. Anchor two is a buried 35-pound forged galvanized Danforth anchor, attached to the swivel with a 35-foot 1/2-inch long link chain. Anchor three is a 100-pound, buried Danforth anchor attached to the swivel with a 40-foot 3/4-inch stud link chain. Anchor four is a buried 44-pound Bruce claw anchor attached to the swivel with a 60-foot 3/8-inch stud link chain. Anchor five is a buried 35-pound Danforth anchor attached to the swivel with a 1/2-inch long link chain that is also buried, anchor six is a 35-pound galvanized CQR-plow anchor, attached with 35-feet of 1/2-inch long link mooring chain, which is also buried, and anchor seven is a partially buried 16-foot runabout open-type boat sunken boat, attached to the swivel with 20-foot long 1 1/2-inch 3-strand line. All anchors are attached to the swivel using a 5/8-inch triangle and 1/2-inch shackles.

No discharge of dredged or fill material will be required.

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*, the *Honolulu District Regional Conditions* (Enclosure 2), and the following project-specific Special Conditions:

1. 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 discharges of dredged or fill material into waters of the U.S. or structures or work in navigable waters of the U.S. authorized by this NWP shall be reported to NOAA Fisheries, Office of Protected Resources at (301) 713-1401 and the Regulatory Branch of the Honolulu District, 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.

Rationale: This is a required permit condition serving as a protective measure listed in the ASA(CW)'s 6 March 2014 letter to NOAA modifying the proposed action for the re-initiated programmatic Endangered Species Act Section 7 consultation on the 2012 and 2017 NWPs with NOAA Fisheries Service. While the biological opinion expires at the expiration of the 2012 NWPs, March 18, 2017, direction from HQUSACE is to continue to include the condition to notify

2. 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 2) within 7 days of completion of work to CEPOH-RO@usace.army.mil.

Rationale: Condition added to ensure compliance with General Condition #30.

3. For compliance with Section 7 of the Endangered Species Act: You must comply with the attached Pacific Standard Local Operating Procedure for Endangered Species (Pac-SLOPES) general conditions, special conditions, and activity-specific

best management practices (BMPs) to avoid and/or minimize adverse effects to threatened or endangered marine species (Enclosure 3).

Rationale: Required for all projects that qualify for Pac-SLOPES.

4. For compliance with Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act, you must comply with the following EFH conservation recommendations:
 - (a) To ensure for the continued integrity of the mooring, the Applicant should continue the Applicant-devised and currently implemented mooring inspection and maintenance activities for the length of time that the mooring remains installed in the Mala Wharf Mooring Zone.
 - (b) In the event of dragging of mooring or chain lines, the Applicant should ensure that the mooring and chain system is installed in a manner that ensures it will not be dragged and adversely affect any coral and seagrass EFH that may be nearby.
 - (c) In the event that the mooring system is no longer needed, the Applicant is responsible for removing all components of the mooring to ensure that it does not adversely affect EFH, and does not become marine debris. This will avoid any impact to nearby resources from broken and derelict buoy materials.
 - (d) The applicant should have plans in place to avoid the discharge of pollutants from any vessel used during mooring inspection and maintenance activities, and any moored vessel. This will avoid a contribution to reduced water quality of the water column EFH in the area.

Verification of your project under this NWP is valid until **March 19, 2022** unless this NWP is modified, reissued, or revoked prior to that date. 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 Rivers and Harbors 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 2) within 7 days of completion of work to the

email address specified below or to the mailing address indicated on the letterhead above.

Thank you for your cooperation with the Honolulu District Regulatory Program. Should you have any questions related to this authorization, please contact Rebecca Frager of my staff 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.

Sincerely,

FRAGER.REBECCA.M
ABLE.1508149111

Digitally signed by
FRAGER.REBECCA.MABLE.1508149111
DN: c=US, o=U.S. Government, ou=DoD,
ou=PKI, ou=USA,
cn=FRAGER.REBECCA.MABLE.1508149111
Date: 2017.09.08 16:02:43 -10'00'

Becca Frager
Regulatory Specialist, Regulatory Branch

Enclosures

cc:

USCG (John Bannon, Jason Olney)

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

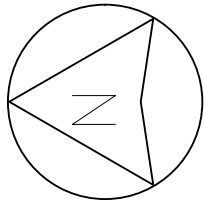
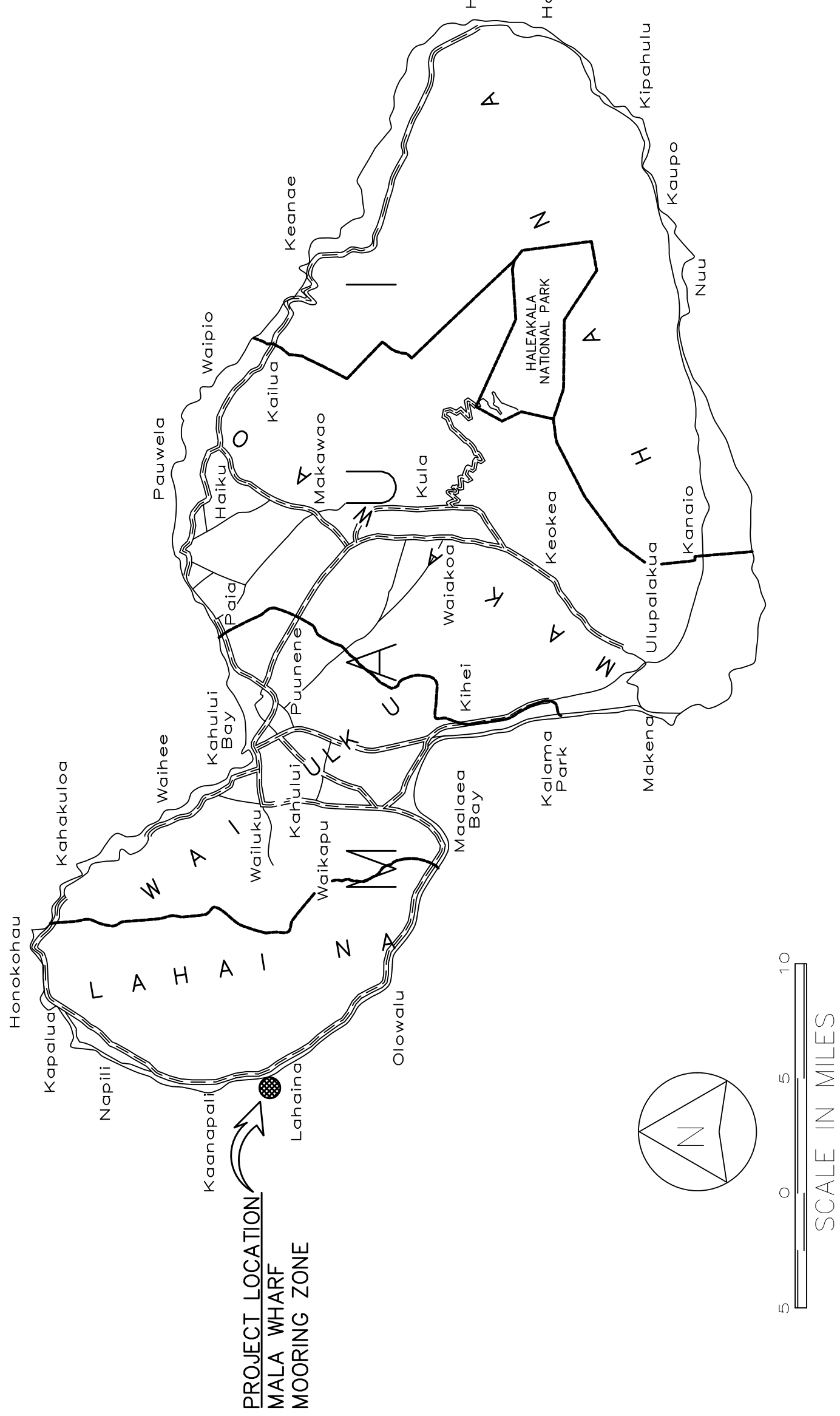
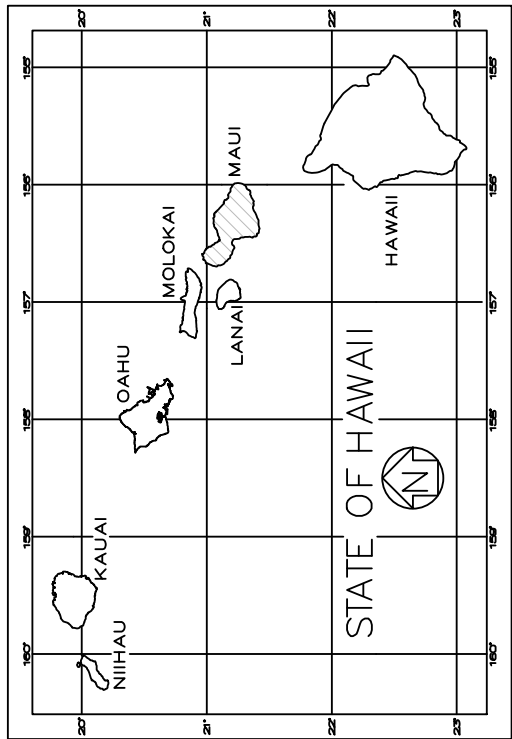
State of Hawaii Office of Planning, Coastal Zone Management Program (Hawaii CZM Program)

Agent (Nancy Young)

OFFSHORE MOORING: MALA WHARF OFFSHORE MOORING ZONE

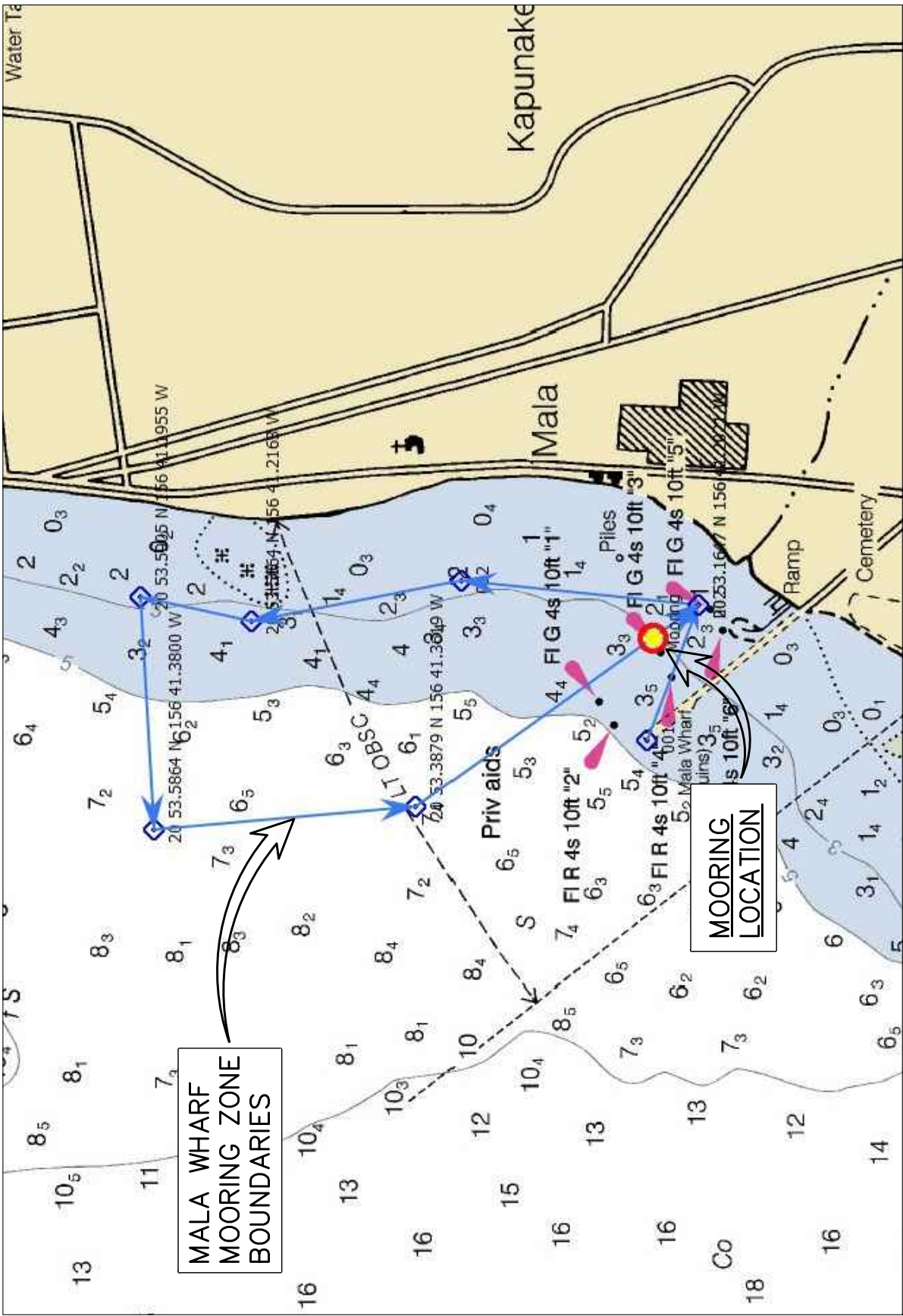
FOR: ROBERT ROCCO

GPS COORDINATES OF MOORING : 20°53'12.55"N, 156°41'13.54"W
APPROXIMATE WATER DEPTH : 22'



SCALE IN MILES

VICINITY MAP



LOCATION MAP

INDEX TO DRAWINGS	
SHEET NUMBER	DRAWING NUMBER
1	T-1
2	S-1
3	S-2

DESCRIPTION

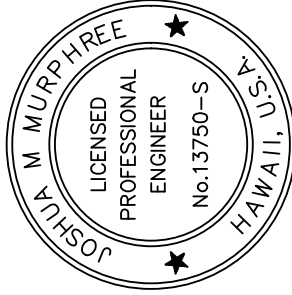
TITLE, INDEX TO DRAWINGS, AND VICINITY MAP

MOORING NOTES AND DETAILS

MOORING PLAN

PHREE
CREATIONS, LLC.

61-655 KAMEHAMEHA HIGHWAY
HALEIWA, HAWAII 96712 • (808) 349-4990



[Signature]
DATE OF THE LICENSE 4/30/2018
THIS WORK WAS PREPARED BY
PHREE CREATIONS, LLC.
AND CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION

GENERAL NOTES

CONTRACTOR/OWNER SHALL CHECK AND VERIFY ALL DIMENSIONS AND CONDITIONS AT THE URSITE BEFORE PROCEEDING WITH THE WORK AND NOTIFY ENGINEER OF ANY DISCREPANCIES FOR RESOLUTION.

ALL CONSTRUCTION SHALL CONFORM TO THE 2008 INTERNATIONAL BUILDING CODE AND THE LATEST COUNTY OF MAUI/STATE OF HAWAII AMENDMENTS AND ORDINANCES AND/OR THE CITY AND COUNTY OF WHERE THIS PROJECT IS LOCATED AND HAVING JURISDICTION.

REVISION MARK • DATE • DESCRIPTION

PROPOSED
OFFSHORE MOORING
MALA WHARF MOORING ZONE
FOR:

ROBERT ROCCO

1401 OLONA PL
LAHAINA, HI 96761
(808) 669-5109

GPS COORDINATES: 20°53'12.55"N
156°41'13.54"W

SHEET TITLE

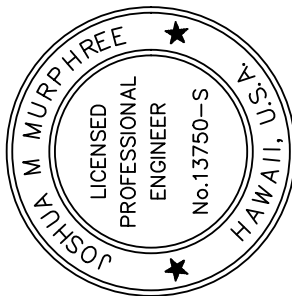
TITLE SHEET

JOB NO. 2015-0007.53 DRAWING NO.
DRAWN JMM
CHECKED JMM
DATE OCT. 2, 2017 SHEET 1 OF 3

T-1

PHREE
CREATIONS, LLC.

61-655 KAMEHAMEHA HIGHWAY
HALEIWA, HAWAII 96712 • (808) 349-4990



[Signature]
DATE OF THE LICENSE 4/30/2018

THIS WORK WAS PREPARED BY
PHREE CREATIONS, LLC.
FOR THE PROJECT
AND CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION

GENERAL NOTES

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AMENDMENTS AND ORDINANCES AND/OR THE CITY AND COUNTY OF WHERE
THIS PROJECT IS LOCATED AND HAVING JURISDICTION.

REVISION MARK • DATE • DESCRIPTION

PROPOSED

OFFSHORE MOORING

MALA WHARF MOORING ZONE

FOR:

ROBERT ROCCO

1401 OLONA PL
LAHAINA, HI 96761
(808) 669-5109

GPS COORDINATES: 20°53'12.55"N
156°41'13.54"W

SHEET TITLE

MOORING PLAN

JOB NO. 2015-0007.53

DRAWING NO.

DRAWN JMM

CHECKED JMM

DATE OCT. 2, 2017

SHEET 3 OF 3

MOORING PLAN

SCALE: 1/8" = 1'-0"

SWING CIRCLE

SCALE: 1/8" = 1'-0"

NOTE:
THE SWING CIRCLE OF THIS MOORING
SHALL NOT INTERSECT THE SWING CIRCLE
OF ANY ADJACENT MOORING. THE OWNER
AND INSTALLER SHALL ASSURE ADEQUATE
CLEARANCE IS PROVIDED.

