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

June 28, 2019

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

Land Board Members:

#### SUBJECT: APPROVE INSTALLATION OUTSIDE OF AN ESTABLISHED OFFSHORE MOORING AREA AFTER-THE-FACT, LAHAINA, ISLAND OF MAUI, HAWAII, FOR ICONOCLAST LTD.

AND

#### DECLARE AN EXISTING OFFSHORE MOORING EXEMPT FROM REQUIREMENTS OF CHAPTER 343, HAWAII REVISED STATUES, AND TITLE 11, CHAPTER 200, HAWAII ADMINISTRATIVE RULES

#### **REQUEST:**

The Division of Boating and Ocean Recreation ("DOBOR") requesting that the Board of Land and Natural Resources ("Board") declare the installation of an 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.

DOBOR is also is requesting that the Board approve the installation of the existing offshore mooring outside of the Lahaina Offshore Mooring Zone on the Island of Maui. 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.

The applicant, Iconoclast Ltd. ("Applicant"), uses an existing offshore mooring installed outside of the Lahaina Mooring Zone in Lahaina on the Island of Maui 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 zone, as required by HAR 13-235-9. 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 in Lahaina, located outside of the existing Lahaina Offshore Mooring Zone, after-the-fact.

Respectfully Submitted,

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

Approve Existing Offshore Mooring and Declare Exempt from EA Requirements Iconoclast Ltd., Lahaina, Island of Maui

June 28, 2019 Item J-6

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 Outside of Lahaina Mooring Zone, Lahaina,	
5	Island of Maui, for Iconoclast Ltd.	
Project / Reference No.:	N/A	
Project Location:	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 existing offshore mooring is sand 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> <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

# Iconoclast LTD 910 Honoapiilani Hwy. Ste. 7 #204 Lahaina, HI 96761

Request for Exemption from Requirement for Preparation of Environmental Assessment for and Approval for the Installation and Modification of an existing Offshore Mooring within Lahaina Roadstead on the Island of 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, Hawaii 96819. Email: finn.d.mccall@hawaii.gov Phone: 808.587-3520

# Submitted by:

Don Prestage, Secretary Iconoclast LTD. Email: don@sailmaui.com Phone: 808.740.5737

### **Request:**

Don Prestage (hereinafter referred to as "Petitioner") requests approval for installation and modification of an existing offshore mooring within Lahaina Roadstead and 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 the 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 commercial offshore mooring buoy in the Lahaina Roadstead Maui Hawaii.

# **Technical Description of Proposed Installation**

The modification of the mooring will be the installation of an additional anchor immediately adjacent the existing mooring block. 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 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 is installed by "Maui Mooring Service", in accordance with the attached Army Corps of Engineers permit application.

# Location of Proposed Installation

The proposed mooring buoy would be located at center coordinates: Latitude: 20.8689445 North X 156.681083333 West. The location is approximately 500 feet from the nearest shore.

# Purpose of Proposed Installation

The proposed mooring will be used by the Petitioner for the purpose of mooring a commercial vessel up to 55 feet in length.

# Impact on Coastal Ecosystems

NEGLIGIBLE The proposed mooring site is 500 feet from the nearest shore and is not within a 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 Conversation 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 "Offshore" mooring area.

# 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 vessel 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



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

November 20, 2018

SUBJECT: Nationwide Permit 9 Verification for Offshore Vessel Mooring for Iconoclast LTD, Lahaina, Island of Maui, Hawaii; Department of the Army File No. POH-2018-00187

Wm Mark Robinson Iconoclast LTD 251 Upper Kimo Drive Kula, HI 96790

Dear Mr. Robinson:

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Branch has completed review of your Pre-Construction Notification dated September 4, 2018 requesting after-the-fact authorization for the installation of an offshore vessel mooring, and installation of an additional anchor. The mooring is located in the Lahaina Offshore Mooring Area B, at 20.8689, -156.6810 Lahaina, Island of Maui, Hawaii. We have assigned your project Department of the Army (DA) File No. POH-2018-00187. Please refer to this number in any future correspondence related to this permit.

This letter verifies your activity complies with the terms and conditions of Nationwide Permit (NWP) #9, (Structures in Anchorage and Fleeting Areas) 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 activity requiring verification is the after-the-fact installation of an existing mooring for a commercial vessel plus the addition of one 3,800-pound concrete anchor block to be attached to the current mooring system. The existing mooring is deployed in 38-foot deep water over a mixed sandy and rocky substrate, approximately 0.2 miles from the shoreline. The mooring has been in place for at least 40 years.

The existing mooring system includes one top floating 24-inch Jim Bouy and two mid-float buoys, attached to one 3,800-pound concrete anchor block and a manta anchor. The mooring system is connected with a 70-foot long <sup>3</sup>/<sub>4</sub>-inch galvanized "Campbell" dock-fender chain. New work includes the addition of one more 3,800-pound concrete anchor block, attached by a 10-foot long <sup>3</sup>/<sub>4</sub>-inch galvanized "Campbell" dock-fender chain in order to accommodate larger vessels. The new chain will not disturb the ocean floor.

In order for this NWP authorization to be valid, you must ensure that the work is performed in accordance with the *Nationwide Permit 9 General Conditions*, the *Honolulu District Regional Conditions* (Enclosure 2), and the following project-specific Special Conditions:

Special Condition 1: 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.

Special Condition 2: 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.

Special Condition 3: You must install and maintain, at your expense, any safety lights and signals prescribed by the United States Coast Guard (USCG), through regulations or otherwise, on your authorized facilities. The USCG may be reached at the following address and telephone number: Fourteenth Coast Guard District, Commander (dpw), 300 Ala Moana Boulevard, Room 9-216, Honolulu, Hawaii 96850.

Special Condition 4: You are not authorized to proceed with the proposed work until you have received an individual water quality certification, or waiver, in accordance with Section 401 of the Clean Water Act from the State of Hawaii Department of Health, Clean Water Branch.

Special Condition 5: 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.

Special Condition 6: For compliance with Section 7 of the Endangered Species Act: You must comply with the attached Pacific Standard Local Operating Procedures 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).

Verification of your project under this NWP is valid until <u>March 19, 2022</u> 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 3) within 30 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 me at 808-835-4056 or via e-mail at albert.p.williams@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,

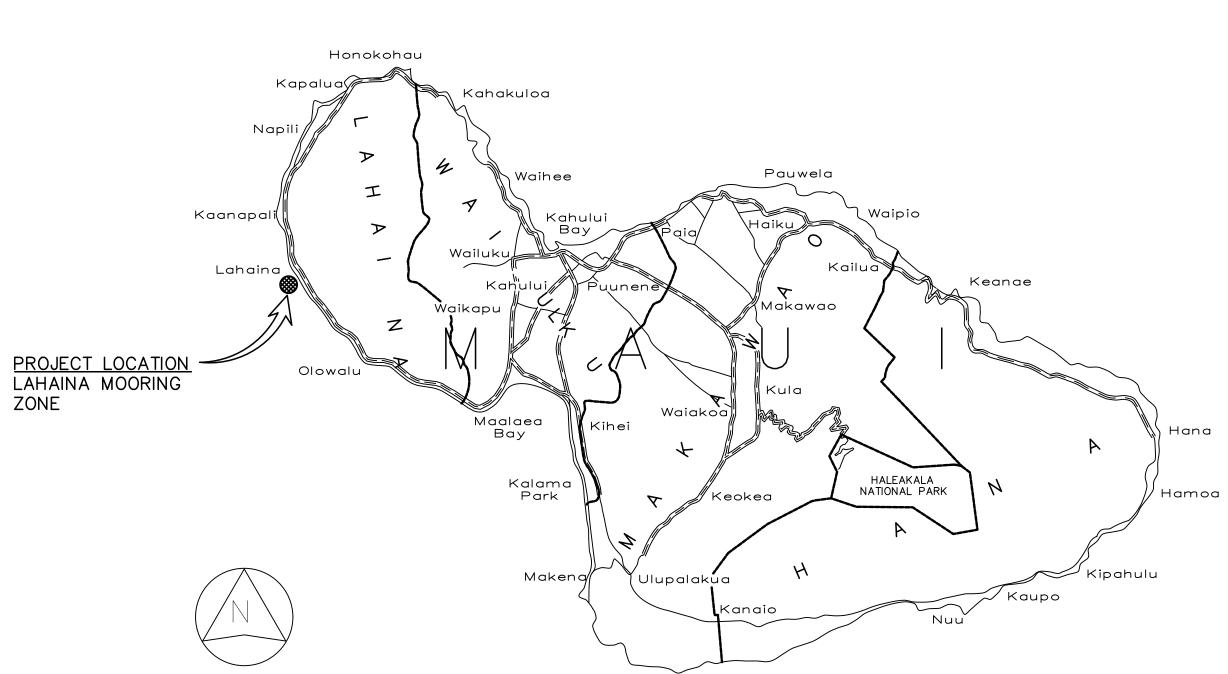
Jamie Hyslop Acting Chief, Regulatory Branch

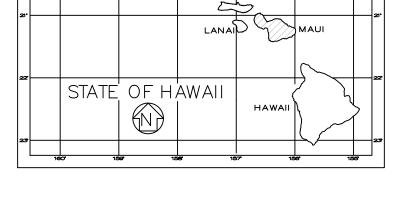
Enclosures

CC:

US Coast Guard (SecHonoWaterWays@uscg.mil) State of Hawaii Department of Health, Clean Water Branch State of Hawaii Office of Planning, Coastal Zone Management Program



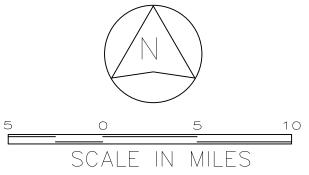




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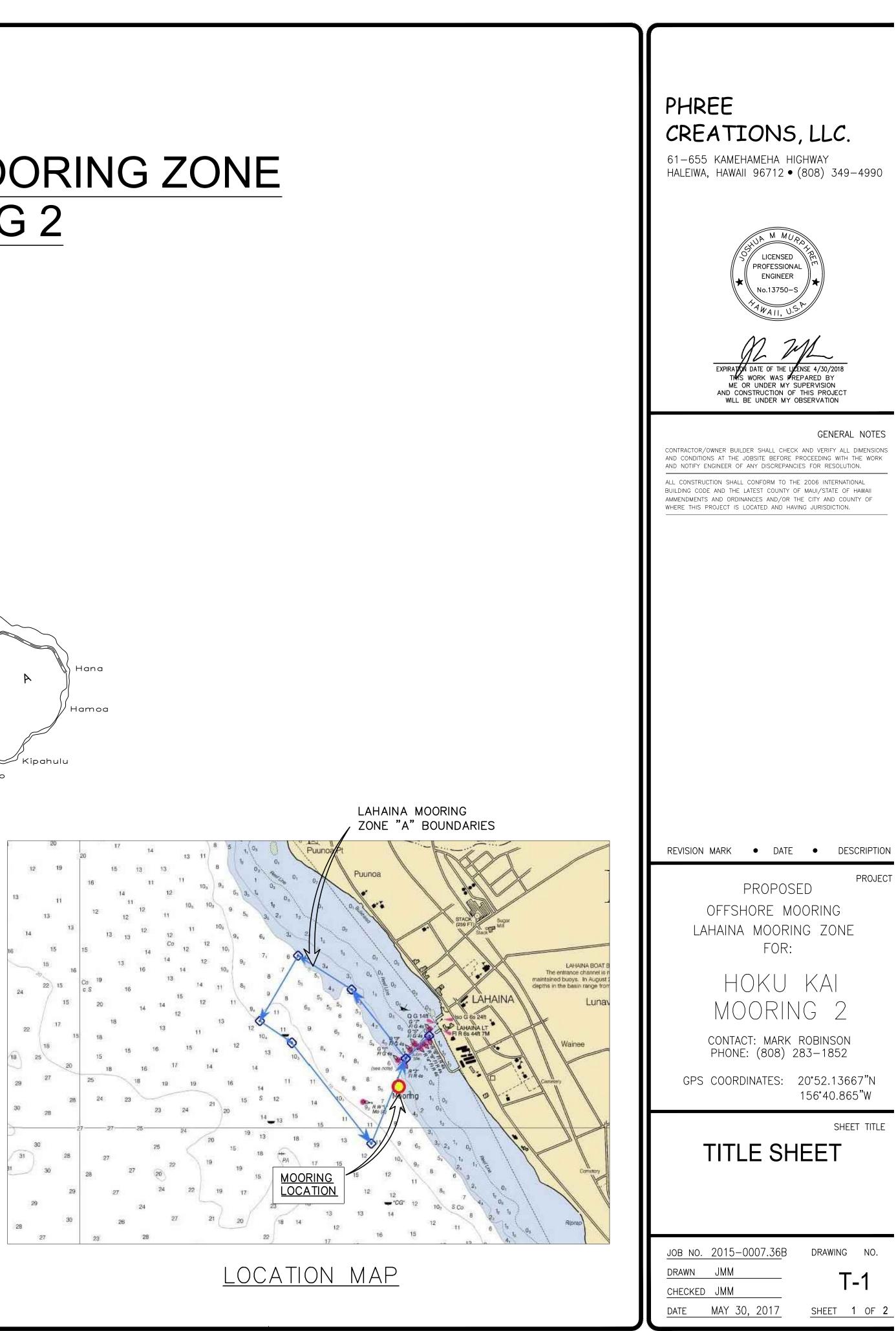


INDEX TO DRAWINGS				
SHEET NUMBER	DRAWING NUMBER	DESCRIPTION		
1	T-1	TITLE, INDEX TO DRAWINGS, AND VICINITY MAP		
2	S-1	MOORING PLAN		
3	S-2	SWING CIRCLE		

# **OFFSHORE MOORING - LAHAINA MOORING ZONE** FOR: HOKU KAI - MOORING 2

- POINT OF CONTACT : MARK ROBINSON
- GPS COORDINATES OF MOORING : 20°52.13667"N, 156°40.865"W
  - APPROXIMATE WATER DEPTH : 38'

# VICINITY MAP



<u>GENERAL:</u>

- A. WORKMANSHIP AND MATERIALS SHALL CONFORM TO THE BUILDING CODE AS STATED BELOW. HOWEVER, WHERE REFERENCE IS MADE TO PERFORMANCE CONFORMING TO OTHER STANDARDS THE MORE STRINGENT SHALL APPLY.
   1. COUNTY OF MAUI: AMENDED IBC, 2006
- B. THE CONTRACTOR SHALL TAKE FIELD MEASUREMENTS AND VERIFY FIELD CONDITIONS AND SHALL COMPARE SUCH FIELD MEASUREMENTS AND CONDITIONS WITH THE DRAWINGS BEFORE COMMENCING WORK. REPORT IN WRITING TO THE ENGINEER ALL INCONSISTENCIES AND OMISSIONS.
- C. THE CONTRACTOR SHALL BE RESPONSIBLE FOR METHODS OF CONSTRUCTION, WORKMANSHIP AND JOB SAFETY.
- D. DETAILS NOTED AS TYPICAL ON THE STRUCTURAL DRAWINGS SHALL APPLY IN ALL CONDITIONS UNLESS SPECIFICALLY SHOWN OR NOTED.
- E. PRODUCT DATA REQUIRED BY THESE NOTES SHALL BE SUBMITTED TO THE ENGINEER FOR REVIEW AND APPROVAL PRIOR TO FABRICATION.

#### DESIGN CRITERIA:

- A. MINIMUM DESIGN CRITERIA FOR MOORING IN ACCORDANCE WITH UFC 4-159-03:1. TYPE IIB STORM MOORING
- B. WIND DESIGN DATA:
- 1. BASIC WIND SPEED: 105 MPH
- C. CURRENT:
- 1. MAX CURRENT: 1.5 KNOTS
- D. WAVES AND TIDAL VARIATIONS:

1. PEAK OFFSHORE WAVE HEIGHT: 8 FEET

- DESIGN VESSEL: "HOKU KAI"
- 1. LENGTH: 53'-6"
- 2. WIDTH: 16'-8"
- 3. DRAFT: 10'-10"
- 4. DISPLACEMENT: 66,000 LBS.

\*MOORING IS DESIGNED FOR DESIGN VESSEL ONLY, ANY CHANGE IN MOORED VESSEL REQUIRES RE-ANALYSIS.

#### EARTH ANCHORS:

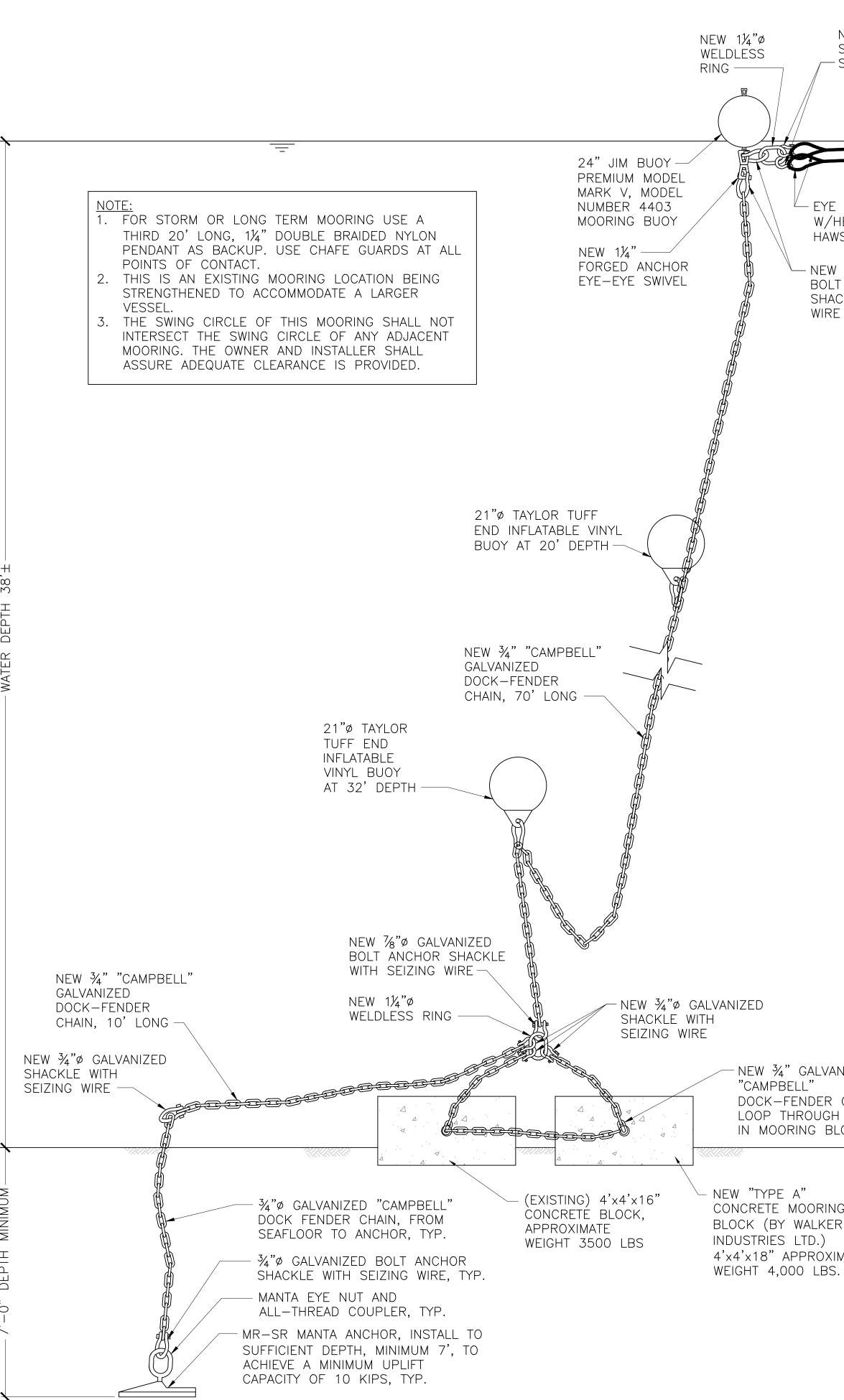
- A. SELECTION OF ANCHOR TYPE SHALL BE BASED UPON SURVEY SITE AND SOIL PROBING TO MINIMUM DEPTH OF 10' AT PROPOSED ANCHOR LOCATION. CONTRACTOR SHALL PROVIDE RESULTS OF SURVEY, SOIL PROBING, AND PROPOSED ANCHOR TYPE TO ENGINEER FOR APPROVAL PRIOR TO INSTALLATION.
- B. INSTALL ANCHORS PER MANUFACTURERS INSTRUCTIONS. PROOF TEST TO MINIMUM UPLIFT CAPACITY STATED ON DESIGN DRAWINGS. SUBMIT DOCUMENTATION OF PROOF LOAD TESTING TO ENGINEER FOLLOWING INSTALLATION.
- C. MANTA ANCHORS SHALL NOT BE INSTALLED IN LOCATIONS WHERE SHIFTING SAND MAY RESULT IN REDUCED SOIL COVER OVER ANCHOR HEAD.

CHAIN, HARDWARE, ROPE, AND MOORING COMPONENTS

- A. ALL CHAIN AND HARDWARE SHALL BE HOT DIP GALVANIZED IN ACCORDANCE WITH ASTM A153.
- B. THIMBLES OR CHAFE GUARDS SHALL BE USED WITH ROPES AT ALL POINTS OF CONTACT.
- C. SUBMIT PRODUCT DATA OF ALL CHAINS, HARDWARE, ROPE, AND MOORING COMPONENTS TO ENGINEER FOR APPROVAL PRIOR TO FABRICATION.

MOORING HARDWARE, MAINTENANCE AND INSPECTION

- A. THE VESSEL OWNER SHALL BE RESPONSIBLE FOR MAINTAINING THE VESSEL'S MOORING HARDWARE. ANY FAILURE RESULTING FROM NON MAINTAINED COMPONENTS OR UNREPAIRED DAMAGE OF THE MOORING RESULTING FROM NORMAL USE SHALL BE THE RESPONSIBILITY OF THE VESSEL OWNER.
- B. THE VESSEL OWNER SHALL INSPECT ALL MOORING HARDWARE, ROPES, AND CHAINS FROM SEA FLOOR TO PENDANT FOR SAFETY AND SECURITY NO LESS THAN TWO TIMES PER YEAR. INSPECTION REPORT/RECORDS SHALL BE KEPT BY VESSEL OWNER AND REPORTED TO THE HARBOR MASTER/DLNR AS REQUIRED.
- C. THE VESSEL OWNER IS RESPONSIBLE FOR INSTALLING AND MAINTAINING CHAFING GEAR ON ALL MOORING LINES.



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	AND CONDITIONS AT THE JOBSITE BEFORE PROCEEDING WITH THE WORK AND NOTIFY ENGINEER OF ANY DISCREPANCIES FOR RESOLUTION. ALL CONSTRUCTION SHALL CONFORM TO THE 2006 INTERNATIONAL BUILDING CODE AND THE LATEST COUNTY OF MAU/STATE OF HAWAI AMMENDMENTS AND ORDINANCES AND/OR THE CITY AND COUNTY OF HERE THIS PROJECT IS LOCATED AND HAVING JURISDICTION.
ANIZED R CHAIN, H HOLES BLOCKS SEAFLOOR NG ER KIMATE S.	PROPOSED OFFSHORE MOORING LAHAINA MOORING ZONE FOR: HOKU KAI MOORING 2 CONTACT: MARK ROBINSON PHONE: (808) 283–1852 CPS COORDINATES: 20*52.13667"N 156*40.865"W
	<u>JOB NO. 2015–0007.36</u> B DRAWING NO. <u>DRAWN JMM</u> <u>CHECKED JMM</u> <u>DATE MAY 30, 2017</u> <u>SHEET 2 OF 3</u>

