

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, KIHAI, ISLAND OF
MAUI, HAWAII, FOR HAWAII EXPLOSIVES & PYROTECHNICS, INC.

AND

DECLARE AN EXISTING OFFSHORE MOORING EXEMPT FROM
REQUIREMENTS OF CHAPTER 343, HAWAII REVISED STATUTES,
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 requesting that the Board approve the installation of the existing offshore mooring outside of the Kihei 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, Hawaii Explosives & Pyrotechnics, Inc. (“Applicant”), uses an existing offshore mooring installed outside of the Kihei Offshore Mooring Zone in Kaanapali 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:

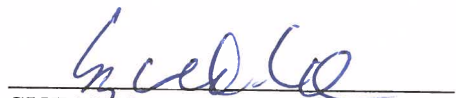
Declare that, after considering the potential effects of the installed mooring as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment and approve the installation of the existing offshore mooring in Kihei, located outside of the existing Kihei 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 Outside of Kihei Mooring Zone, Kihei, Island of Maui, for Hawaii Explosives & Pyrotechnics, Inc.
Project / Reference No.:	N/A
Project Location:	Kihei, 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 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.

Hawaii Explosives & Pyrotechnics, Inc.

800.240.6064

www.hipyro.com

February 20, 2019

Hawaii Explosives & Pyrotechnics, Inc.

Ms. Charlene Pascual, President

PO Box 1244

Kea'au, HI 96749

Email: Charlene@HIPyro.com

Phone: (808) 968-0600

**Request for Exemption from Requirement for Preparation of Environmental Assessment
for and Approval for the Modification of an Existing Offshore Mooring at the Kihei
Offshore Mooring Zone, Kihei on the Island of Maui.**

Submitted in compliance with the Hawaii Revised Statutes Chapter 343 and HAR
§§11-200-8; 11-200-8(b)

Submitted to:

Mr. Finn McCall, 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, HI 96819, Email: finn.d.mccall@hawaii.gov , Phone: (808)
587-3250

Submitted by:

Hawaii Explosives & Pyrotechnics, Inc, Ms. Charlene Pascual, President, Email:
Charlene@HIPyro.com , Phone: (808) 968-0600

Request:

Hawaii Explosives & Pyrotechnics, Inc., (hereinafter referred to as "Petitioner") requests
approval for the modification of an existing commercial offshore mooring within the Kihei
Offshore Mooring Zone in Kihei, Island of Maui, Hawaii and exemption from requirement
for environmental assessment report associated with the proposed mooring modification,
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 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 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 lands and waters.”

PROJECT DESCRIPTION

Modification of an offshore mooring buoy within the Kihei Offshore Mooring Zone in Kihei, Island of Maui, Hawaii.

Technical Description of Proposed Modification

This project is in reference to an existing mooring. The mooring consists of a 4,000-pound concrete block placed on the sea floor and secured by a 70-pound Danforth anchor connected by a 35-foot long stainless steel cable. A 5/8-inch chain and swivel is suspended by a 12-cubic-foot buoy. This existing mooring is in 35-feet of water over sandy substrate, approximately 2,300 feet from the nearest shore and has been in place for at least 15 years.

Location of Proposed Modification

Latitude 20.7791 and Longitude -156.4708.

Purpose of Proposed Modification

The proposed mooring is being used by the Petitioner solely for the purpose of mooring a 15'X50' aluminum decked fireworks display barge. No fireworks, fireworks related equipment, or volatile materials of any kind will be stored at the mooring location. No fireworks will be discharged at the mooring location.

Commercial Activities Associated with Project

Hawaii Explosives & Pyrotechnics, Inc. (HEP) is a public display fireworks company that provides professional fireworks displays throughout Hawaii and the Pacific. HEP currently uses the existing mooring location for mooring an aluminum decked fireworks display barge which is utilized for the firing of public and private fireworks displays at various offshore locations near the island of Maui.

Impact on Coastal Ecosystems

NEGLIGIBLE - The proposed mooring site is approximately 2,300 feet 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. The site does not provide habitat for any known endangered species of plants, birds or mammals. The site is not within, and does not abut any National Area Reserve, Marine Conservation District or estuary. The site is not on nor 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. The mooring is placed in an existing designated DLNR "Offshore" mooring area.

Impact on Marine Resources

NONE - The existing mooring does not involve nor affect the use or development of any marine or coastal resources.

Impact on Historic Resources

NONE - The existing mooring 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 nor adjacent to any Hawaiian fishpond or historic settlement area.

Impact on Scenic and Open Space Resources

NEGLIGIBLE - No structure will be located at the existing mooring location. The only visible portion of the existing mooring is the float. The fireworks barge itself is also visible when attached to the mooring.

Enclosures: U.S. Army Corps of Engineers Permit # POH-2018-00233

Mahalo,

A handwritten signature in cursive script, reading "Charlene Pascual".

Charlene Pascual
President



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

January 11, 2019

SUBJECT: Nationwide Permit Verification for Offshore Mooring for Fireworks Platform, Kihei, Maui, Hawaii, Department of the Army File No. POH-2018-00233

Hawaii Explosives and Pyrotechnics, Inc.
Attention: Ms. Charlene Pascual
Post Office Box 1244
Keaau, Hawaii 96749

Dear Ms. Pascual:

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Branch has completed review of your Pre-Construction Notification dated March 29, 2017 requesting authorization for the proposed Offshore Mooring for Fireworks Platform located at within the Pacific Ocean, approximately 2300 feet off shore at the Kihei Offshore Mooring Zone, 20.7791, -156.4708, Kihei, Island of Maui, Hawaii.. Please reference Department of the Army (DA) file number POH-2018-00233 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 Fleeting and Anchorage 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 an after-the-fact installation of an existing commercial mooring. The mooring consists of a 4,000-pound concrete block placed on the sea floor and secured by a 70-pound Danforth anchor connected by a 35-foot long stainless steel cable. A 5/8-inch chain and swivel is suspended by a 12-cubic-foot-buoy. This existing mooring is in 35-feet of water over sandy substrate and has been in place for at least 15 years.

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).

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 3) 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 Branch by accessing our web-based customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=136:4:0.

Sincerely,

KOSKELO.VERA.B.

1370139110

Vera Koskelo

Project Manager, Regulatory Branch

Digitally signed by KOSKELO.VERA.B.1370139110
DN: c=US, o=U.S. Government, ou=DoD, ou=PKI,
ou=USA, cn=KOSKELO.VERA.B.1370139110
Date: 2019.01.11 13:38:46 -10'00'

Enclosures

cc:

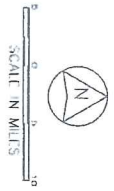
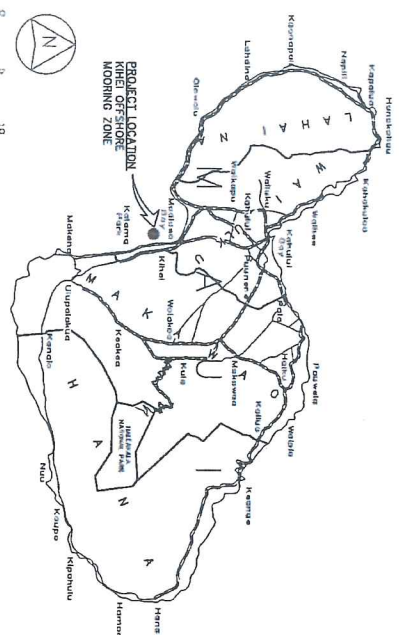
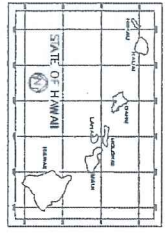
U.S. Coast Guard, SecHonoWaterWays@uscg.mil

State of Hawaii Department of Health, Clean Water Branch

State of Hawaii Office of Planning, Coastal Zone Management Program

OFFSHORE MOORING - KIHAI MOORING ZONE FOR CHARLENE PASCUAL - HAWAII EXPLOSIVES & PYROTECHNICS, INC.

GPS COORDINATES OF MOORING : 20°46.746'N, 156°28.251'W
 APPROXIMATE WATER DEPTH : 35'



VICINITY MAP

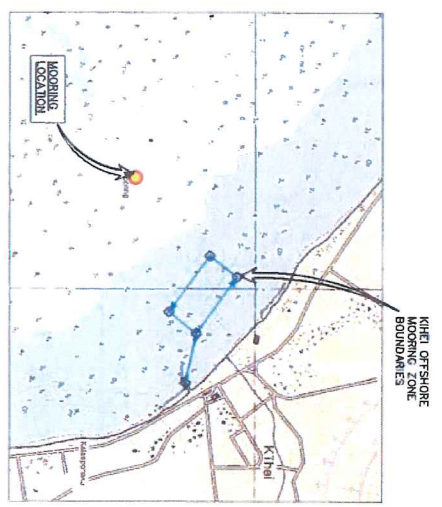
SHEET NUMBER	DRAWING NUMBER	DESCRIPTION
1	T-1	TITLE, INDEX TO DRAWINGS, AND VICINITY MAP
2	S-1	MOORING NOTES AND ELEVATION
3	S-2	MOORING PLAN

INDEX TO DRAWINGS

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

☒ Approved
☐ Rejected
 By: F. McCall Date: 7/27/16

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.



LOCATION MAP

PHREE
 CREATIONS, LLC.
 51-555 KAHUHAUA DRIVE
 HALAVALA, HAWAII 96712 • (808) 341-4700



[Signature]
 DATE: 7/27/16
 TITLE: ENGINEER

THIS DOCUMENT IS THE PROPERTY OF PHREE CREATIONS, LLC. IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF PHREE CREATIONS, LLC.

REVISION MARK • DATE • DESCRIPTION

PROPOSED
 OFFSHORE MOORING
 KIHAI MOORING ZONE
 FOR

CHARLENE PASCUAL
 HAWAII EXPLOSIVES & PYROTECHNICS, INC.
 PHONE: (808) 960-4680

GPS COORDINATES: 20°46.746'N
 156°28.251'W

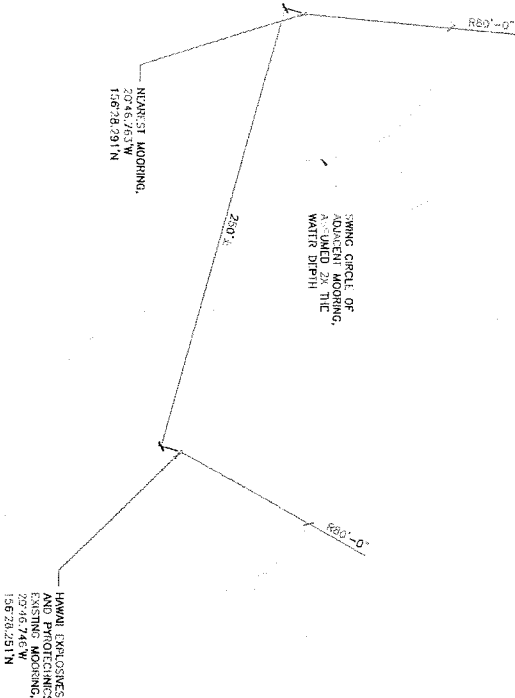
TITLE SHEET

JOB NO.: 2015-000723 DRAWING NO.:
 DESIGN: JAW T-1
 CHECKED: JAW
 DATE: AUGUST 24, 2016 SHEET 1 OF 3

c. THE VESSEL OWNER IS RESPONSIBLE FOR INSTALLING AND MAINTAINING CHAFING GEAR ON ALL MOORING LINES.



JOB NO. 2015-0007.23
DRAWING NO. S-1
DRAWN JMM
CHECKED JMM
DATE AUGUST 24, 2016
SHEET 2 OF 3



MOORING PLAN
SCALE: 3/4" = 1'-0"

PHREE
CREATIONS, LLC.
61-653 KUALA WAIANA HIGHWAY
HALEKUA, HAWAII 96721 • (808) 241-4190



CHARLENE PASCUAL
HAWAII EXPLOSIVES & PYROTECHNICS, INC.
PHONE: (808) 960-8880

GPS COORDINATES: 20°46.746'N
156°28.291'W

MOORING PLAN

DATE: AUGUST 24, 2016
SHEET 3 OF 3