

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

August 23, 2019

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

Land Board Members:

SUBJECT: APPROVAL OF AN OFFSHORE MOORING, AFTER-THE-FACT, FOR
KAILUA BAY, KAILUA-KONA, ISLAND OF HAWAII, HAWAII, FOR
BILL BUSTERS CHARTERS, 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”) is 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 an existing offshore mooring within Kailua Bay on the Island of Hawaii. 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.

Kailua 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, Kailua 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 Kailua Bay must obtain approval from Board.

The applicant, Bill Busters Charters, Inc. (“Applicant”), uses an existing offshore mooring Kailua Bay 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 existing mooring 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 existing offshore mooring within Kailua Bay, Kailua-Kona, Island of Hawaii, located outside of an established offshore mooring area, after-the-fact.

Approve Existing Offshore Mooring and
Declare Exempt from EA Requirements
Bill Busters Charters, Inc., Kailua-Kona, Island of Hawaii

August 23, 2019
Item J-8

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 within Kailua Bay, Kailua-Kona, Island of Hawaii, for Bill Busters Charters, Inc.
Project / Reference No.:	N/A
Project Location:	Kailua Bay, Kailua-Kona, 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 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.



Date: March 6, 2019

Bill Busters Charters, Inc.
Doug Fry, General Manager
Vessel Name Malama Kai, 1181561
1600 Kapiolani Blvd, #1630
Honolulu HI 96814
(808)329-3175

Request for Exemption from Requirement for Preparation of Environmental Assessment for and Approval for the Modification of an Existing Offshore Mooring within the Kailua Kona Mooring Field, Kailua-Dona on the Island of Hawaii.

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

Submitted to:

Board of Land and Natural Resources, State of Hawai'i, Department of Land and Natural Resources (DLNR) Division of Boating and Recreation, 4 Sand Island Access Road, Honolulu, HI 96819, Email: finn.d.mccall@hawaii.gov Phone (808)587-3250

Submitted by:

Bill Busters Charters, Inc.
Doug Fry, General Manager,
dfry@atlantisadventures.com
(808) 329-3175

Request:

Bill Busters Charters requests approval for the modification of an existing offshore mooring within the Kailua-Kona Mooring Field 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 submerged lands.

- 2) Bill Busters Charters, Inc, 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 Exception Class 6:
13. Placement or construction of accessory structures such as ...mooring , cleats, bumpers, and mooring bouys, blocks and piles, and other similar structures accessory to existing facilities on state and land waters

PROJECT DESCRIPTION

Modification of an offshore mooring buoy in Kailua- Kona Mooring field, Kailua-Kona, HI Per Dept Of the Army File No. POH-2017-00020

Technical Description of Proposed Modification

To deploy a marine grade iron “drag” type Danforth anchor on the seafloor, including an approximate 90-foot-long chain and ball, as well as associated hardware. The existing anchor will remain in place and together with the new anchor will provide a two-point anchor system.

Location of Proposed Modification

Latitude 19 degrees 37.904’ North; Longitude -155 degrees 59.909’ West

Purpose of Proposed Modification

To ensure mooring is a good quality and safe installation, and to properly document and bring mooring into compliance.

Impact on Coastal Ecosystems

NEGLIGIBLE - The proposed mooring site is 500 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. The site does not provide habitat for any known endangered species, 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. The mooring is placed in an existing designated DLNR “Offshore” mooring area.

Enclosures:

- 1) April 30, 2018 WQC0918.FNL.18
- 2) May 17, 2018 Nationwide Permit Verification

DAVID Y. IGE
GOVERNOR OF HAWAII



VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. BOX 3378
HONOLULU, HI 96801-3378

In reply, please refer to:
EMD/CWB

WQC0918.FNL.18

April 30, 2018

Mr. Ronald Williams, CEO
Atlantis Submarines Hawaii
c/o Bill Busters Charter Inc.
1600 Kapiolani Boulevard, Suite #1630
Honolulu, Hawaii 96814

Dear Mr. Williams:

**Subject: Section 401 Water Quality Certification (WQC) for
Offshore Commercial Mooring Buoy Installation at Kailua Bay
Island of Hawaii, Hawaii
File No. WQC0918/DA File No. POH-2017-0013620**

In accordance with the provision of the Clean Water Act, as amended (33 U.S.C. 1251 et seq.; the "CWA"); Hawaii Revised Statutes (HRS), Chapters 91, 92, and 342D; Part 121 of Title 40, Code of Federal Regulations (CFR); and Hawaii Administrative Rules (HAR), Chapter 11-54; the Department of Health (DOH), Clean Water Branch (CWB) issues this Section 401 WQC for your project based on your February 14, 2018 (submitted on February 22, 2018) revised Section 401 WQC application (hereinafter referred to as the "Application"). The activities associated with the subject project, including preconstruction, construction, and post construction monitoring (hereinafter referred to as the "Activities") will be verified under the U.S. Department of the Army, Pacific Ocean Division, Honolulu District Office Nationwide Permit (NWP) #9 (File No. POH-2017-00020) issued under the authorization of Section 10 of the Rivers and Harbors Act of 1899 (RHA, 33 U.S.C. 403).

1. The DOH has examined the Application with respect to water quality considerations and asserts that when all requirements and conditions contained in this Section 401 WQC are fully complied with, there is reasonable assurance that the water pollutant discharges resulting from the Activities will be conducted in a manner which will not violate the applicable State water quality standards (WQS) and will comply with the applicable provisions of the CWA, Sections 301, 302, 303, 306, and 307.

2. This Section 401 WQC becomes effective on **April 30, 2018** and shall expire on midnight **April 29, 2020**. The DOH may, upon written request from the Applicant who is either the Owner or its Duly Authorized Representative, administratively extend the expiration date of this Section 401 WQC. The decision by the DOH to allow an administrative extension will be made on a case-by-case basis taking into account compliance history and impact to receiving State water quality.
3. This Section 401 WQC may be revoked when:
 - a. The DOH determines that any portion of the Activities are violating existing State WQS or any condition in this Section 401 WQC and the Applicant fails to cease the violation within seven (7) calendar days of notice by DOH letter.
 - b. New State WQS are subsequently established before the Activities are completed, the DOH determines that any portion of the Activities are violating the new State WQS, and the Applicant fails to cease the violation within 180 calendar days of notice by DOH letter.

These actions shall not preclude the DOH from taking appropriate enforcement action authorized by law.

4. The following conditions must be complied with by the Applicant's organization and its contractor(s) when conducting the Activity:
 - a. Invite the DOH-CWB to attend the partnering, pre-construction, or any other similar type of meeting that is established for the proposed project and its Activities, if any.
 - b. Unless otherwise specified, all Section 401 WQC compliance requirements must be submitted via the DOH e-Permitting Portal Section 401 WQC Compliance Form. The DOH e-Permitting Portal is located at: <https://eha-cloud.doh.hawaii.gov/epermit/>.
 - c. Provide the notifications below via the DOH e-Permitting Portal Section 401 WQC Compliance Form:
 - i. The Applicant shall notify DOH at least seven (7) calendar days before the start of the Activities.
 - ii. The Applicant shall notify DOH within 14 calendar days after the completion of the Activities, including the disturbed in-water area restoration activities.

- iii. The Applicant shall provide General Contractor and its emergency contact person information to DOH-CWB at least seven (7) calendar days before the start of the Activities.
- d. Comply with all requirements, specifications, schedules, procedures, drawings, and other information contained in the Application.
- e. Maintain a copy of the Application and this Section 401 WQC at the project site or in the nearby field office.
- f. Maintain records at the project site or in the nearby field office demonstrating that all Section 401 WQC requirements have been fully complied with.
- g. Ensure that all Activities are conducted in a manner that will comply with the "Basic Water Quality Criteria Applicable to All Waters" as specified in HAR, §11-54-4.
- h. Ensure that all material(s) placed or to be placed in State waters are free of waste metal products, organic materials, debris, and any pollutants at toxic or potentially hazardous concentrations to aquatic life as specified in HAR, §11-54-4(c).
- i. Ensure that the Activities will not interfere or become injurious to any designated uses and/or existing uses of the receiving State water.
- j. Properly implement and maintain all water pollution control measures and Best Management Practices specified in the Application. All water pollution control measures must be in place and functional before any Activities begin and shall not be removed until the Activities are completed and the disturbed area water quality has returned to its pre-construction condition or better. All temporary water pollution control measures and temporary structures shall be removed following the completion of the Activities and upon verification that the affected quality of the water column has been returned/restored to the pre-project condition.
- k. Conduct or contract with a laboratory qualified to perform the test set forth in the Applicable Monitoring and Assessment Plan (AMAP) in your Application. Test methods promulgated in 40 CFR, Part 136 and the chemical methodology for sea water analyses in HAR, §11-54-10 shall be utilized. You are required to use test methods with detection limits equal to or lower than the applicable State WQS in HAR, Chapter 11-54.

For situations where the applicable State WQS is below the detection limits of available test methods, the test method which has the detection limit closest to the applicable State WQS shall be utilized.

- i. The DOH may, at its own discretion, require the Applicant to modify the AMAP, including modifying the monitoring frequencies, parameters to be monitored, and sampling locations.
- ii. Any request for reduction in monitoring frequencies shall be submitted via the DOH e-Permitting Portal Section 401 WQC Compliance Form. The request shall include an assessment of monitoring results which clearly demonstrate that the Activities are in compliance with applicable State WQS.
- iii. Color photographs shall be taken before, during, and after the completion of the Activities. Copies of the color photographs shall contain the date and time the photos were taken and a written narrative description of what is being depicted in the photograph. A photograph orientation map shall also be submitted. Photographs taken before the commencement of the Activities shall be submitted to the DOH-CWB via the DOH e-Permitting Portal Section 401 WQC Compliance Form prior to the commencement of the Activities. Photographs taken during the Activities shall be submitted with the field sampling report (see below). Photographs taken after the completion of the Activities shall be submitted to the DOH-CWB within two (2) weeks after the completion of the Activities.
- iv. All water quality laboratory analytical results and Quality Assurance/Quality Control results shall be submitted via the DOH e-Permitting Portal Section 401 WQC Compliance Form and in accordance with the AMAP in the Application and shall only be from representative samples.

Field measurement results and photographs taken during the field sample collection shall be submitted to the DOH-CWB by e-mail at: cleanwaterbranch@doh.hawaii.gov in Excel and/or PDF formats before the closing of the next business day the sample was taken.

The e-mail shall contain the project name, Section 401 WQC file number, and date of field measurement in the subject line, and the following certification statement below, and the name of the individual making the certification.

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- I. Immediately report to the DOH-CWB by e-mail at: cleanwaterbranch@doh.hawaii.gov and at telephone number (808) 586-4309 any spill(s) or other contamination(s) that occurs at the project site at any time following the commencement of the Activities.
- m. Ensure that construction debris is contained and prevented from entering or reentering State waters. All construction debris shall be properly removed from the aquatic environment and disposed of at an upland State and County approved site. Before the start of the Activities, a Solid Waste Disclosure Form for Construction Sites shall be completed and returned to the DOH's Solid and Hazardous Waste Branch, Office of Solid Waste Management. No construction material or construction-related materials shall be stockpiled in the aquatic environment or stored or placed in ways that will disturb the aquatic environment. The Solid Waste Disclosure Form for Construction Sites is available online at: <http://health.hawaii.gov/shwb/files/2013/06/swdiscformnov2008.pdf>.
- n. A vacuum device or similar device shall be utilized to collect debris from any portion of the Activities that may generate debris that may float in the State water, create a plume, or travel with the current. This includes debris caused by the use of hydraulic saws, water jets, or drilling equipment. Debris shall be contained and properly removed from the aquatic environment and disposed of at an upland State and County approved site.

- o. Properly collect and remove all side cast material and dispose at an upland State and County approved site.
- p. If water quality monitoring or daily inspection or observation result(s) indicates noncompliance with this Section 401 WQC will occur or is occurring, Applicant shall immediately cease that portion of the Activities causing the noncompliance. The project activity shall not resume until adequate mitigative measures are implemented and appropriate corrective actions are taken. These actions shall not preclude the DOH from taking enforcement action authorized by law. The DOH shall not be responsible for any damages or costs incurred due to the temporary cessation of any of the Activities.
- q. Review and update the effectiveness and adequacy of pollution control measures and BMPs in the Application. Applicant shall modify the pollution control measures, BMPs, and AMAP when instructed by the DOH.
- r. Any changes or modifications to the pollution control measures, BMPs, and AMAP in the Application shall be submitted to the DOH-CWB for approval. Applicant shall address all comments and concerns to the DOH-CWB satisfaction before the changes or modifications become effective.
- s. There shall be no discharge of any type of wash water and/or effluent into State waters without first obtaining from the DOH a National Pollutant Discharge Eliminations System (NPDES) permit authorizing such type of water pollutant discharge to State waters.
- t. Runoff, return flow, or airborne particulate pollutants, if any, from the excavated/dredged material dewatering process or from stockpiling shall be contained on land and not be allowed to enter State waters. In the event of potential discharge of these pollutants, the Applicant shall first obtain from the DOH a NPDES permit authorizing such discharge.
- u. Discontinue the Activities during flood conditions and any other conditions contained in the DA.
- v. Ensure that all areas impacted, either directly or indirectly, by the Activities are fully restored.

Mr. Ronald Williams, CEO
April 30, 2018
Page 7

WQC0918.FNL.18

If you have any questions, please contact Mr. Edward Chen of the Engineering section, CWB, at (808) 586-4309.

Sincerely,



ALEC WONG, P.E., ACTING CHIEF
Environmental Management Division

EC:na

- c: Regulatory Office, POH, COE [via e-mail cepoh-ro@usace.army.mil only]
 Mr. John Nakagawa, CZM Program, Office of Planning, DBEDT
 [via e-mail john.d.nakagawa@hawaii.gov only]
 Ms. Susan A. Meyer, PPOH, COE
 [via e-mail Susan.A.Meyer@usace.army.mil only]
 Mr. Doug Fry, Atlantis Submarine Kona, 75-5660 Palani Road #304,
 Kailua-Kona, Hawaii 96740



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

May 17, 2018

SUBJECT: Nationwide Permit Verification for Bill Busters Commercial Mooring Buoy, Kailua-Kona, Hawaii, Department of the Army File No. POH-2017-00020

Mr. Doug Fry
General Manager
Atlantis Submarines – Kona
75-5660 Palani Road, #304
Kailua-Kona, Hawaii 96740

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

Dear Mr. Fry:

The Honolulu District, U.S. Army Corps of Engineers (Corps), Regulatory Office has completed review of your pre-construction notification (PCN) dated April 18, 2017 requesting after-the-fact authorization for the existing Bill Busters commercial mooring buoy and authorization for the installation of a second anchor and chain to create a two-point anchor system for the mooring buoy located in Kailua Bay, approximately 400 yards off the coast of Kailua-Kona, Island of Hawaii, Hawaii (Latitude 19°37.904' North; Longitude -155°59.909' West). Please reference Department of the Army file number POH-2017-00020 in any future correspondence relating to this project.

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 in, over, under 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):

a. To deploy a marine grade iron "drag" type danforth anchor on the seafloor, including an approximate 90-foot-long chain and ball, as well as associated hardware. The existing anchor will remain in place and together with the new anchor will provide a two-point anchor system.

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:

Special Conditions:

a. You must notify the Corps via electronic mail at susan.a.meyer@usace.army.mil of the date of initiation of work at least 10 calendar days prior to commencing the authorized work. You must also notify the Corps via submittal of the "Compliance Certification" (Enclosure 3) of the date of completion of work within 30 calendar days following such completion.

b. Incidents where any individuals of green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), loggerhead sea turtle (*Caretta caretta*), and 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 Office of the Honolulu District, U.S. Army Corps of Engineers at (808) 835-4303 and CEPOH-RO@usace.army.mil. 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.

c. You must comply with the Section 7 of the ESA Pac-SLOPES general conditions, special conditions, and activity-specific best management practices to avoid and/or minimize adverse impacts to threatened and endangered species, including designated critical habitat (Enclosure 4).

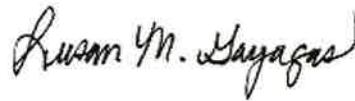
d. You must implement and abide by the conditions of your individual Section 401 Water Quality Certification (WQC0918) issued for this NWP on April 30, 2018 by the State of Hawaii Department of Health, Clean Water Branch. Expiration of your WQC invalidates this authorization.

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 Clean Water Act and/or Rivers and Harbors Act and subsequent enforcement action.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, a NWP does not relieve you of the responsibility to obtain other Federal, state, and/or local authorizations required by law.

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) 835-4599 or via e-mail at susan.a.meyer@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,

A handwritten signature in black ink that reads "Susan M. Gayagas". The signature is written in a cursive, flowing style.

Susan A. Meyer Gayagas
Senior Project Manager

Enclosures

cc:

John Bannon, U.S. Coast Guard

Jason Olney, U.S. Coast Guard

Edward Chen, State of Hawaii Department of Health, Clean Water Branch



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

May 17, 2018

SUBJECT: Nationwide Permit Verification for Bill Busters Commercial Mooring Buoy,
Kailua-Kona, Hawaii, Department of the Army File No. POH-2017-00020

Mr. Doug Fry
General Manager
Atlantis Submarines – Kona
75-5660 Palani Road, #304
Kailua-Kona, Hawaii 96740

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION

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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:

Special Conditions:

a. You must notify the Corps via electronic mail at susan.a.meyer@usace.army.mil of the date of initiation of work at least 10 calendar days prior to commencing the authorized work. You must also notify the Corps via submittal of the "Compliance Certification" (Enclosure 3) of the date of completion of work within 30 calendar days following such completion.

b. Incidents where any individuals of green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), loggerhead sea turtle (*Caretta caretta*), and 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 Office of the Honolulu District, U.S. Army Corps of Engineers at (808) 835-4303 and CEPOH-RO@usace.army.mil. 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.

c. You must comply with the Section 7 of the ESA Pac-SLOPES general conditions, special conditions, and activity-specific best management practices to avoid and/or minimize adverse impacts to threatened and endangered species, including designated critical habitat (Enclosure 4).

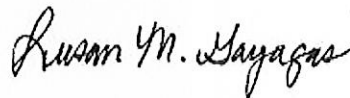
d. You must implement and abide by the conditions of your individual Section 401 Water Quality Certification (WQC0918) issued for this NWP on April 30, 2018 by the State of Hawaii Department of Health, Clean Water Branch. Expiration of your WQC invalidates this authorization.

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 Clean Water Act and/or Rivers and Harbors Act and subsequent enforcement action.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, a NWP does not relieve you of the responsibility to obtain other Federal, state, and/or local authorizations required by law.

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) 835-4599 or via e-mail at susan.a.meyer@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,

A handwritten signature in cursive script that reads "Susan M. Gayagas".

Susan A. Meyer Gayagas
Senior Project Manager

Enclosures

cc:

John Bannon, U.S. Coast Guard

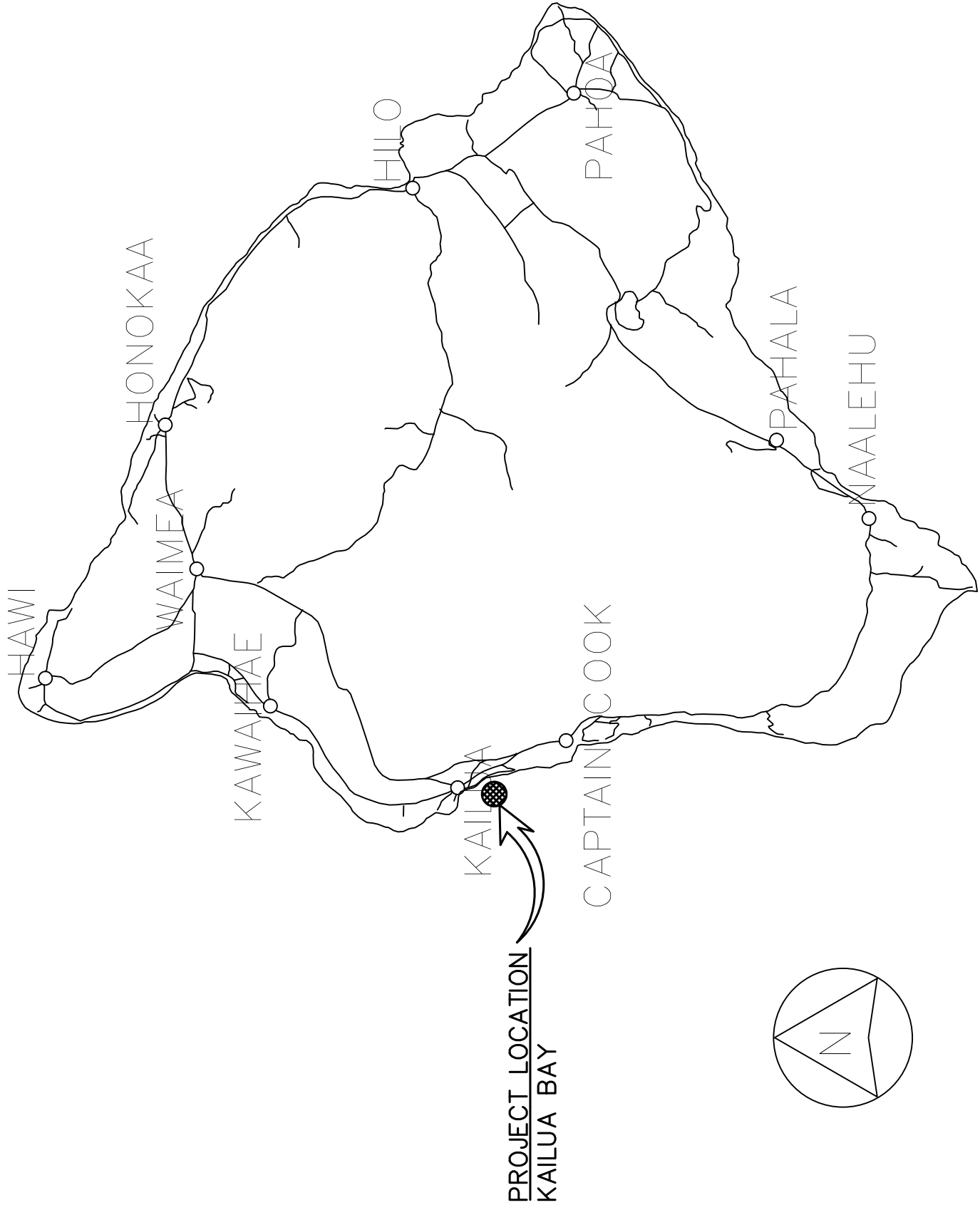
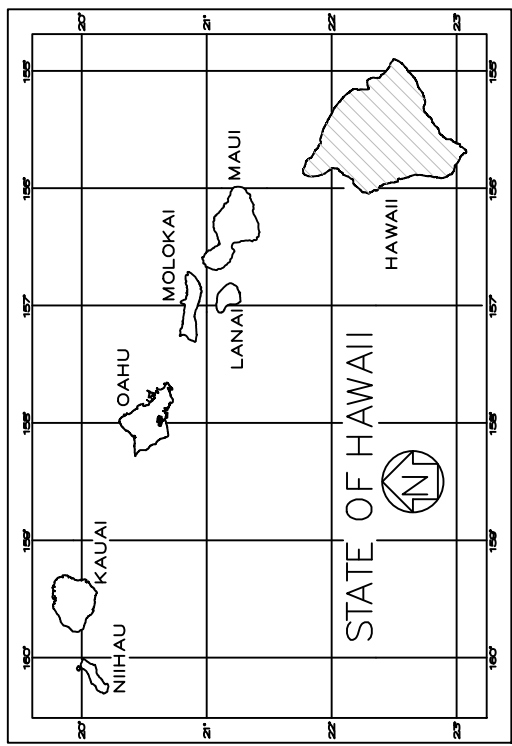
Jason Olney, U.S. Coast Guard

Edward Chen, State of Hawaii Department of Health, Clean Water Branch

OFFSHORE MOORING - KAILUA BAY

FOR DOUG FRY - ATLANTIS SUBMARINES

GPS COORDINATES OF MOORING : 19°37.904'N, 155°59.909'W
APPROXIMATE WATER DEPTH : 100'



VICINITY MAP

Department of Land and Natural Resources

Division of Boating and Ocean Recreation

PLAN REVIEW:

☒ Approved

☐ Rejected

☐ Approved, as noted

☐ Revise & Resubmit

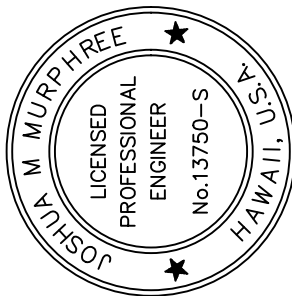
By: 1-ML

Date: 1/3/17

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.

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

PHREE
CREATIONS, LLC.
61-655 KAMEHAMEHA HIGHWAY
HALEIWA, HAWAII 96712 • (808) 349-4990



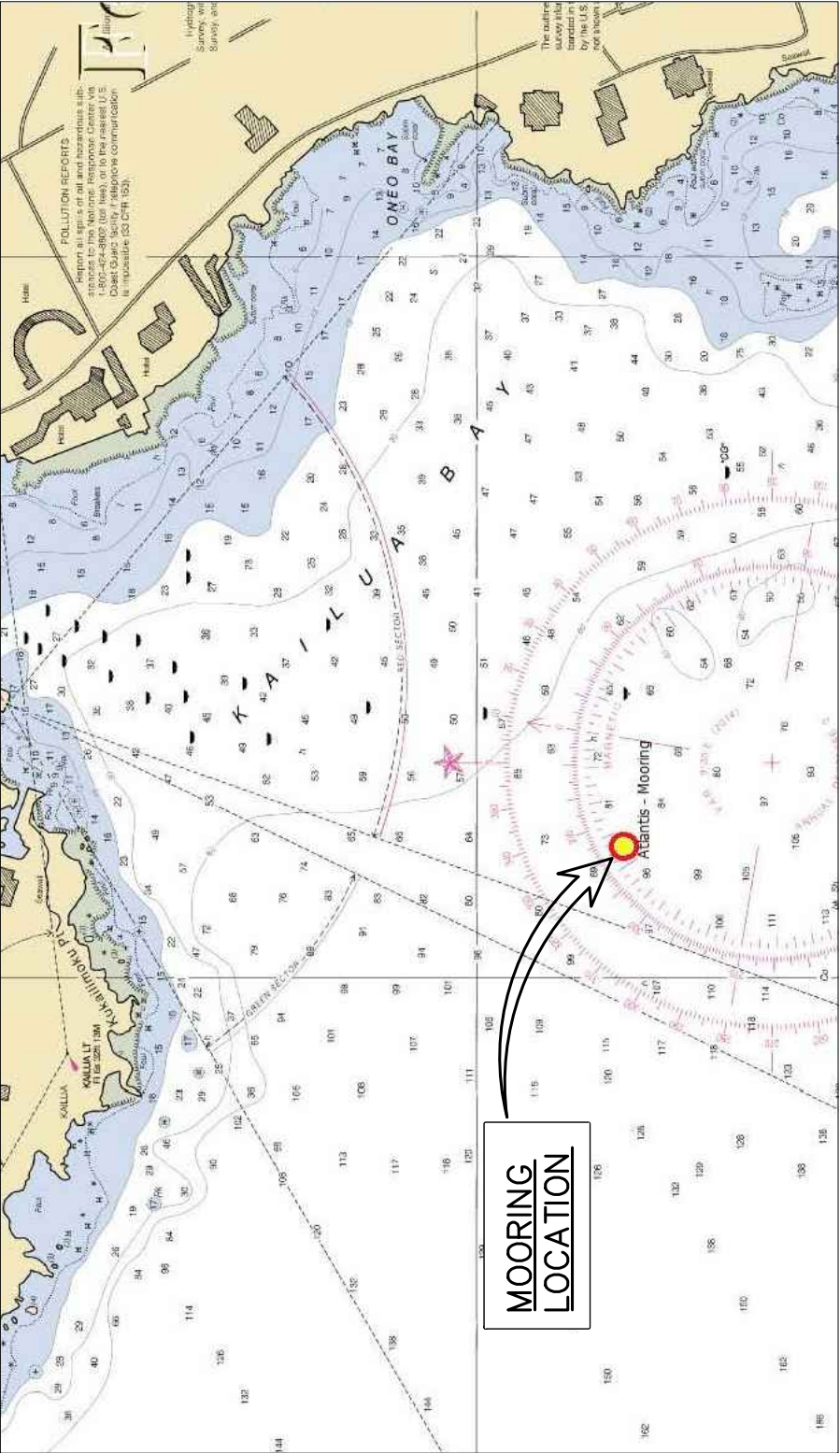
1-ML
EXPIRATION DATE OF THE LICENSE 4/30/2018
THIS WORK WAS PREPARED BY
PHREE CREATIONS, LLC.
UNDER THE CLOSE PERSONAL
SUPERVISION AND DIRECTION OF THIS PROJECT
AND CONSTRUCTION OF THIS PROJECT
WILL BE UNDER MY OBSERVATION

GENERAL NOTES
CONTRACTOR/OWNER/BUILDER 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 2006 INTERNATIONAL BUILDING CODE AND THE LATEST COUNTY OF HAWAII/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
PROJECT			
PROPOSED			
OFFSHORE MOORING			
KAILUA-KONA MOORING ZONE			
FOR:			
DOUG FRY			
ATLANTIS SUBMARINES KONA			
75-5656 KUAKINI HWY. #303			
KAILUA-KONA, HI 96740			
PHONE: (808) 329-3175			
GPS COORDINATES: 19°37.904'N			
155°59.909'W			

SHEET TITLE	
TITLE SHEET	

JOB NO. 2015-0007.26	DRAWING NO.
DRAWN JMM	T-1
CHECKED JMM	
DATE DEC. 20, 2016	SHEET 1 OF 2



LOCATION MAP

GENERAL:

- 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 HAWAII: 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: 2 KNOTS
- D. WAVES AND TIDAL VARIATIONS:
1. PEAK OFFSHORE WAVE HEIGHT: 8 FEET
- DESIGN VESSEL: ATLANTIS SUBMARINE*
1. LOA: 65'-0"
2. BEAM: 13'-0"
3. DRAFT: 8'-0"
4. WEIGHT: 80 TONS.
- *MOORING IS DESIGNED FOR DESIGN VESSEL ONLY, ANY CHANGE IN MOORED VESSEL REQUIRES RE-ANALYSIS.

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.

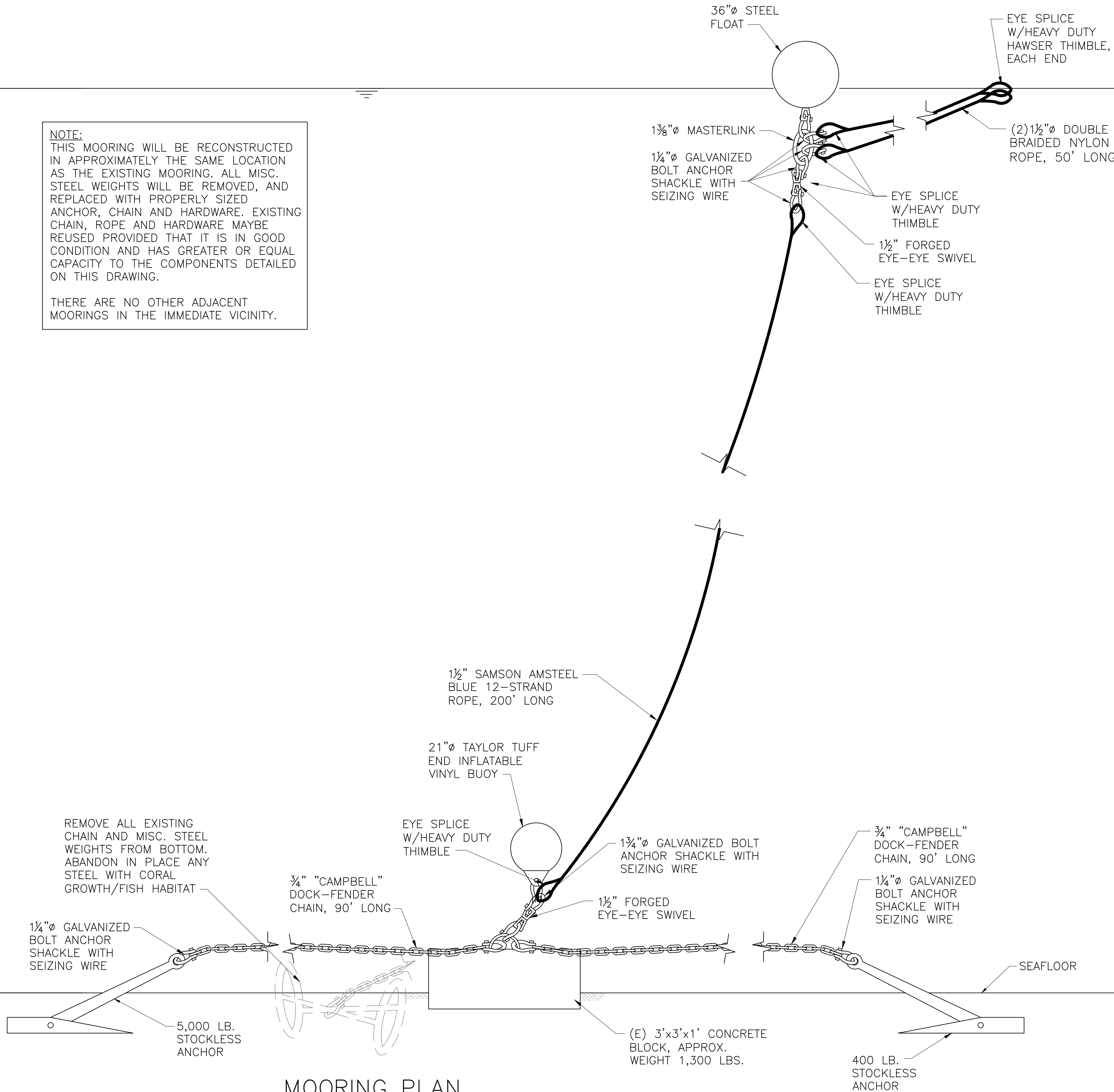
MOORING HARDWARE, MAINTENANCE AND INSPECTION

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

NOTE:
THIS MOORING WILL BE RECONSTRUCTED IN APPROXIMATELY THE SAME LOCATION AS THE EXISTING MOORING. ALL MISC. STEEL WEIGHTS WILL BE REMOVED, AND REPLACED WITH PROPERLY SIZED ANCHOR, CHAIN AND HARDWARE. EXISTING CHAIN, ROPE AND HARDWARE MAYBE REUSED PROVIDED THAT IT IS IN GOOD CONDITION AND HAS GREATER OR EQUAL CAPACITY TO THE COMPONENTS DETAILED ON THIS DRAWING.

THERE ARE NO OTHER ADJACENT MOORINGS IN THE IMMEDIATE VICINITY.

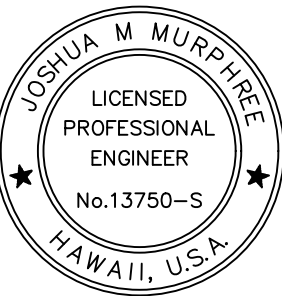
WATER DEPTH 100'±



MOORING PLAN
NOT TO SCALE

PHREE
CREATIONS, LLC.

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



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

GENERAL NOTES

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

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REVISION MARK • DATE • DESCRIPTION

PROJECT

PROPOSED
OFFSHORE MOORING
KAILUA-KONA MOORING ZONE
FOR:

DOUG FRY

ATLANTIS SUBMARINES KONA
75-5656 KUAKINI HWY. #303
KAILUA-KONA, HI 96740
PHONE: (808) 329-3175

GPS COORDINATES: 19°37.904'N
155°59.909'W

SHEET TITLE

MOORING PLAN

JOB NO. 2015-0007.26

DRAWING NO.

DRAWN JMM

S-1

CHECKED JMM

DATE DEC. 20, 2016

SHEET 2 OF 2