

From: [Keno Knieriem](#)
To: [DLNR.BLNR.Testimony](#)
Subject: [EXTERNAL] Testimony for Oct 11th for BWS and AccesSurf
Date: Tuesday, October 8, 2024 3:24:49 PM

****Aloha DLNR,****

I am writing to express my strong support for the Board of Land and Natural Resources granting Blue Water Shrimp a permit extension for the use of the remaining old Haul Out lot in the Ala Wai harbor area.

Blue Water Shrimp has expressed its willingness to support AccesSurf, a Hawaii-based nonprofit that has been a global pioneer in ocean access and safety for persons with disabilities for the past 18 years. Specifically, Blue Water Shrimp is offering space on the lot for AccesSurf's container to store equipment and park their work vehicle, while reserving the rest of the lot for public parking. Moreover, Blue Water Shrimp plans to pave the lot at their own expense, significantly improving accessibility, which is critically needed.

AccesSurf plays a vital role in providing ocean access to adaptive athletes, including over 1,000 individuals with disabilities, disabled veterans, and others in need. Their services and equipment are instrumental in creating a safe, accessible, and welcoming environment for those who might otherwise be excluded from enjoying Hawaii's beautiful ocean. As a volunteer with AccesSurf and a member of a family that supports the organization, I can personally attest to the impact it has on our community. AccesSurf empowers individuals with disabilities by offering them opportunities for physical and social wellness, helping them build a sense of identity and community, and fostering inclusivity and self-confidence.

Oahu only has four truly accessible beaches, and AccesSurf's work ensures that persons of disabilities can safely engage in ocean activities year-round. The impact of this work cannot be overstated—it touches lives, supports cultural values, and helps our community grow stronger by bringing people together. It increase our states accessibility and inclusivity which is so easily overlooked.

I am proud to serve this organization and advocate for the resources it needs to continue its important work. The permit extension for Blue Water Shrimp will significantly enhance accessibility and provide vital support to AccesSurf, improving the lives of many individuals in Hawaii.

Mahalo for your time and consideration.

Warm regards,
Kenan Knieriem

September 26, 2024

Board of Land and Natural Resources and Department of Land and Natural Resources Division of Boating and Ocean Recreation
c/o Dawn N. S. Chang, Chair/Director
1151 Punchbowl St.
Honolulu, HI 96813

Subject: Bluewater Shrimp International LLC Revocable Permit 138

Aloha Chair/Director Chang,

A few years ago, Peter Apo was approached by Bob Masuda (deputy director of DLNR at that time), to inquire if Blue Water Shrimp was interested in investing in the old haul out at Ala Wai harbor because of projects we did (at Pearlridge, Kuhio, and Fisherman's Wharf) and because the lot had been empty and a source of problems for over 10 years. Mr. Masuda arranged a meeting at DLNR with him, Edward Underwood (DOBOR administrator at that time), and Richard Howard, Peter, and me.

Developing a nice venue using portable mobile food trucks, in a high profile location, without electricity, plumbing, or sewer hookup is very challenging. I was not interested as I knew it would be costly and there was a high risk it could turn into another Honey Bee. I also learned that the winning bidder, for an Ala Wai RFP, withdrew their application because of what happened to TMT. I was assured that the state would help us to be successful.

I had concerns making a large investment in a short term month-to-month annual renewal revocable permit (RP), pending a lease. Bob assured me that an RP was the fastest way to get on the property and that there have been RP's in place for 20 years. He added that a lease auction wouldn't happen for at least 5 years. In reviewing the agreement I saw that the RP language in paragraph A.1. **"The Permittee shall make adjustments (operating hours, configuration of food trucks, seating, coverings, music stage, lighting, landscaping and other enhancements) as needed"** allowed for flexibility to respond to the needs of the community and aide us in making this a successful project. Rigid language would not allow us to make "adjustments" "as needed".

In good faith, an investor and I together invested over \$700,000 into this project, building improvements, and making costly adjustments. Now we are being held to very rigid standards and were DOBOR is trying to kick us out. .

At the 6/28/24, BLNR meeting, Richard Howard recommended cancellation of Blue Water Shrimp International's (BWSI) RP due to noise complaints, encroachment, not paying property taxes and filing gross receipt reports. He stated that noise and encroachment issues have been resolved. Property taxes have been paid and gross receipt reports have been filed.

In spite of our good faith efforts, we have received multiple specious allegations of non-compliance and are being asked to comply with unreasonable expectations. We received a notice of violation that threatened a punitive recommendation to disbar us for 5 years.

Reports from the Department of Health (DOH) and video showed that the allegations were without merit. Subsequently, DOBOR tried to cover their threat to bar us with the pretence of looking out for our long term interests by changing their recommendation from "cancellation" to "discontinue".

On 9/18/24, my son received was contacted by DOBOR staff, who that the agenda item to recommend "cancellation" at the 9/27/24 BLNR meeting had been withdrawn and rescheduled for 10/11/24. He added that DOBOR's they would request changing "cancellation" to "discontinuance", so that BWSI could pursue future dispositions and the statement; "Had BLNR approve the cancellation, Blue Water would have been ineligible to purchase, lease or be granted a license, permit, or easement for public lands for a period of five (5) years, pursuant to applicable law."

Prior to the 9/18/24 change of heart, BWSI received a Notice of Violation dated 8/30/24, threatening disbarment for 5 years, which is consistent with HRS §171-13 related to cancellation of a disposition. DOH reports did not support DOBORs allegations of environmental contamination. The reports are contained in Exhibits E & F of my son's 9/24/24 response. Richard's constant harassment, does not show concern for our future. On 9/19/24, DOBOR staff was seen taking more pictures. The following day 9/20/24, DOBOR staff shows up with an engineer demanding that we provide drawings for a sewer hookup even though DOH said the set up was "Satisfactory; DOBOR is recommending discontinuation of the RP effective 11/30/24. Based upon DOBOR's 9/20/24 site visit, we received another notice dated 9/25/24, making more demands including licensed engineer stamped waste water drawings due by 8:00 AM, Monday 9/30/24. Two and half (2.5 business days) for stamped drawings, and four (4) other requirement is yet another example of harassment and unfair business practices.

Changing cancellation to discontinuation was not an innocent mistake as purported. Public hearing submittals are subject to AG review to make sure they comply with "Sunshine Laws". This is an apparent cover up of the threats made in the 8/30/24, notice of violation. In addition, DOBOR knows we're losing money every day, because we don't have parking. So recommending termination in 60 days effective 11/30/24, is also intended to do us harm, until we submit. All of this amounts to more harassment, bad faith towards BWSI and unfair business practices by DOBOR.

My son received 2 emails regarding the 9/27/24 BLNR meeting regarding our RP. **Exhibit H** of the 9/24/24 response show 2 emails regarding the upcoming BLNR meeting. The 1st email said the 9/27/24 BLNR meeting was a "Non-Action item" and just informational. The 2nd email said the 9/27/24 BLNR meeting was about cancellation. It also prematurely concluded "non-compliance with the terms and conditions of the permit" even though the Board gave us a 90 cure period, and it was still in effect. It's apparent that the 1st email was misleading and was an attempt veil DOBORs true intent to cancel our RP without due process.

To refresh memories, the 6/28/24 meeting:

https://www.youtube.com/watch?app=desktop&v=U_g9ZbXdUAg

From 00:09:50 BWSI supporters gave their testimonies. From 01:04:15 to 01:24:08 the board asked staff about the consequence of cancelling the RP. (1:04:25 to 1:06:46) Richard Howard said they had a "plan" to keep the area occupied, through self-funded landscaping, electrical utilities, kiosks and covered seating. (1:06:23) The Chair asked if DOBOR had cost estimates. Staff revealed that they didn't have estimate, as they were still in the discussion stage. (1:07:57) Staff claimed there were parties interested in the lot. When the Chair asked who was interested, staff said someone wanted to "sell boats" from the lot or they could turn it into additional parking. My understanding is that they can't compete with the existing vendor, so it would have to be free parking. (1:13:28 - 1:15:36) Riley Smith spoke of the consequences of having vacant land and questioned the wisdom of kicking us out without a plan. (1:17:49 - 1:20:48) Kaiwi Yoon questioned how a plan, could still be in the talking stages, and what the plan was to fund their plan that he estimated would cost between \$8 million to \$16 million.

Ed Underwood said that DOBOR didn't have the money nor the ability to do developments at the Ala Wai Harbor. That they did a Request for Proposal (RFP) to get funding and private sector knowhow through a Public Private Partnership (PPP). Every state agency has told me that concession process would take one or more years to implement. Therefore, DOBOR's representative made multiple misrepresentations to the board. The board and chair showed wisdom in questioning staff's claims. (1:42:03 - 2:19:40) The board also questioned DOBOR's judgment in assessing RP rents and instructed staff to come back in 60 days with better reasoned rents. At the 8/23/24 meeting, the board still questioned the wisdom of his recommended rent and reduced his recommendation from 10% increases to 5% increase. In addition, DOBOR's representative did not follow the Board's 6/28/24 motion, and attempted to raise our rent after just 60 days, instead of 90 days; and stated that he intended to recommend cancellation, before the 90 cure period was over. Video evidence indicates that DOBOR staff's recommendations to the board can be relied upon to be grounded in reality or in the best interest of the state.

Adding to our distrust, my son, the primary contact, was not notified of the 8/23/24 meeting. BWSI has received a series of new unsupported allegations, during the 90 day cure period, such as the need for licensed security guards, alleged encroachment of an 8x8 area between the restroom and food truck, unsubstantiated allegation of environmental contamination and unwarranted sewer hookup requirements.

At the 6/28/24 meeting, after the motion was made, during the discussion period, member Smith asked what were the "expectations" (2:23:41 - 2:27:20) BWSI would need to cure their obligations, that we "work something out" and "have a proposal back to the department"; "sort out how to remain there, in the short and medium term at a minimum, in the interest of keeping that area active, safe and for the purpose of benefiting the community, and come back". "That staff come back in 90 days and explain where they are in their plan, regarding pads and utilities." "That staff look at the parking situation and consider giving Waikiki back to the locals, which is an important piece for the consideration." "That vacant properties are not desirable and make sure there is a tenant there to handle ongoing operating expenses so we don't have a vacancy for 5 years, then figure out if we have funding."

At the 6/28/24 meeting, staff said that DOBOR would self fund landscaping, covered seating, stubbed out electricity, and kiosks. Ed Underwood said that they were interested in a "Public Private Partnership" because they didn't have money. Staff said they might make less money, but thought they could do a better job of addressing the items mentioned in the Vision Plan. So far BWSI is currently addressing many of the elements of the Vision Plan, such as additional public restrooms, food vending, security, shade, covered seating, a community gathering place, Hawaiian music, free Hawaiian cultural events and education, environmental education, grounds maintenance, landscaping, and managing the homeless in this area. Our plan is to add free paved public parking, a surf community center and debris boom maintenance at no cost to the state. How does staff plan on funding a new project when they don't have funding to maintain existing piers and keep the harbor slips clean? So far DOBOR's representations to BLNR have not been reliable. Based upon the boards questions of staff, and discussion, I think the board has the wisdom to discern who has the ability to execute on their plan. As stated by member Smith (1:14:08) "It's my impression that DOBOR is not really set up well to do daily operations."

We are very uncomfortable with the inconsistencies in communications, unsupported representations at BLNR meetings, unfounded allegations, pattern of harassment and frequent of oversights.

In summary, I responded to DLNR's representatives, Bob Masuda and Ed Underwood, request and was given assurances. The flexible language in the RP shows the initial intent to help us to be successful. I took a chance; acted in good faith, and invested hundreds of thousands of dollars in an area that has a history of challenges, like homeless people, illicit activities, vandalism, and a high-profile state business venture failure, namely Honey Bee USA. We have gone to great lengths and cost to incorporate many of the elements of the Vision Plan. In good faith, BWSI has satisfied all the obligations stated at that 6/28/24 meeting. In good faith, we have addressed staff's additional requests, though we question the reasonableness of many of those requests.

In spite of our attempts to act in good faith, to fulfill the ideals of the UH Vision Report, invest large amounts of capital in improvements and have persevered in the face of daily loses, instead of partnering with us to help us to be successful in an already challenging set of circumstances, DOBOR has harassed, obstructed and threatened us with harm. The mistreatment by staff, after we invested hundreds of thousands of dollars based upon representations made by DLNR could be interpreted as unfair and deceptive business practices.

After all the statements made on the public record by DOBOR's staff, at the 6/28/24 & 8/23/24 BLNR meetings, is the board confident that the representations made by DOBOR staff are reliable?

I ask that the Chairperson invoke your discretion as authorized in RP 138 paragraph A.1. to fulfill the promises of the former Deputy Director of DLNR to help us to be successful and to recoup our investment, by making "needed" "adjustments" as follows:

- 1) Instruct staff to include, in the agenda item, an opportunity for BWSI to share our plan's for the future, as expressed by the board during the motion discussion period regarding "expectations".

2) Support the past representations of Robert Masuda, Deputy Director of DLNR, to help us to be successful in the old haul out/Honey Bee USA lot by:

- a. supporting a 1 year extension of RP 138, to 10/31/25.
- b. reducing BWSI's rent to 5% of gross receipts to help us to recover a portion of the substantial investments already made into this project and to fund proposed paving improvements.
- c. authorize the reissuance of RP 138, to include language regarding rights to keep or be compensated for improvements, similar to what was already approved for Kaneohe Yacht Club in Board Submittal 9-23-22, Item J-2, number 3 of the "Recommendation:" regarding the ownership of existing pier improvements. We ask that the spirit of that intent also apply to any subsequent dispositions, such as the issuance of another RP to another entity.

3) That DOBOR staff cease and desist with harassment, obstruction, and threats of cancellation, discontinuance or termination of RP 138; and cooperate with BWSI to make this a viable and safe area for the community; or be considered insubordinate to the desires of the Director/Chair and BLNR.

4) Instruct DOBOR staff to issue a temporary Right-of-Entry for the non-exclusive use of the remainder of the lot, or approximately 27,000 sq. ft., for free public parking or other uses as authorized by the Chairperson; in the short term; for gratis rent for non-exclusive use; until BLNR approves an RP for gratis rent, for BWSI to provide free public parking.

5) If BLNR chooses to support BWSI by approving 1, 2, 3 & 4, then in good faith,

- a. BWSI requests authorization of a gratis RP to maintain the debris boom.
- b. BWSI requests authorization to asphalt pave the parking area with the condition that language be added that compensates BWSI for the fair market value of the paving improvement similar to 2.c above.
- c. If BLNR chooses to support DOBOR staff's recommendation to discontinue RP 138, BWSI demands we be compensated for the market value of the improvements (as other DOBOR permittees have been compensated such as the ice house at Waianae Small Boat Harbor).

I'm 81 years old and my remaining years are short. I entered this agreement because I thought it would be good for my son's future. However, recently DOBOR has harassed and threatening me with a wrongful discontinuation of the RP. The inability to recoup our investment would set my son back for years to come. The stress DOBOR has placed on me is taking years off my already short life. I'm appalled at the callousness of staff, that they would give unreasonable deadlines and purposely place enormous amounts of stress on someone my age.

I am willing to work with DOBOR to turn the haul out into something we can all be proud of and ask that the agenda item include the right to make our proposal for the board to consider, alongside staff's proposal, so that the board can make an informed decision about who has a better vision to implement the elements of the Vision Plan; who is likely to be able to implement a plan; who can fund a plan; and who's plan will keep the area active, safe, and provide for the needs of the community in the near, mid and long term as stated by the board. If you should have any questions, please feel free to contact me.

Sincerely,

Gilbert Sakaguchi I
Blue Water Shrimp International, LLC dba Pauhana Place

cc: Philip Miyoshi, Esq.