Theresa Rice

From: AMIOTTE, LALENA (DNR) [Lalena.Amiotte@dnr.wa.gov]
Sent: Monday, April 25, 2011 4:36 PM
To: PCD
Cc: Nightingale, Barbara (ECY); COX, NEAL (DNR)
Subject: DRAFT SMP Review & Comments
Attachments: BainbridgeCoverLetter2011-04-25.pdf; BainbridgeSMPPolicyComments2011-04-25.docx; BainbridgeSMPPolicyComments2011-04-25.pdf

Hello: Please accept the attached from the WA DNR in reference to the City of Bainbridge's call for comments. We appreciate the opportunity for the review and would be very interested in establishing a meeting date in the near future to go over specific concerns WA DNR for the management of state-owned aquatic lands.

We look forward to hearing from you. Sincerely, lalena amiotte

<<BainbridgeCoverLetter2011-04-25.pdf>> <<BainbridgeSMPPolicyComments2011-04-25.docx>>
<<BainbridgeSMPPolicyComments2011-04-25.pdf>>

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The City of Bainbridge Island
Planning and Community Development
ATT: Ryan Ericson-Shoreline Planner
280 Madison Avenue N.
Bainbridge Island, WA 98110

Subject: SMP Workgroup Recommendations/Draft SMP Policies, February 9, 2011

Dear Ryan:

The Washington State Department of Natural Resources (DNR) wants to take this opportunity to congratulate the City of Bainbridge Island for the planning effort to update its shoreline master program (SMP). As you know, DNR manages over 2.6 million acres of state-owned aquatic lands for the benefit of the citizens of the state. DNR is committed to working with local governments engaged in updating shoreline master programs by providing technical and proprietary information on aquatic resources of statewide value to assure compatibility between the local SMP policies and regulations and DNR management goals for state-owned aquatic lands. We appreciate being given the opportunity to provide comments on the SMP Workgroup Recommendations Draft SMP Policies.

DNR would be very interested in meeting with the City of Bainbridge Island to coordinate the identification of state-owned aquatic lands of statewide value for public access, habitat, and water-dependent and renewable resource use. The areas lying seaward from the line of extreme low tide within the City's jurisdiction are identified as shorelines of statewide significance under (RCW 90.58.030 (1) (e) (iii).

Staff has reviewed the Draft SMP Policies and comments are attached.

If you have questions, please feel free to contact:
Lalena Amiotte (360) 902-1152 lalena.amiotte@dnr.wa.gov or
Hugo Flores (360) 902-1126 hugo.flores@dnr.wa.gov

We look forward to working with you.

Sincerely,

Hugo Flores
SMP Coordinator

cc: Neil Cox, DNR
Lalena Amiotte, DNR
Barb Nightingale, ECY

City of Bainbridge Island Text	WA DNR Comment	WA DNR Standard for State-owned aquatic land
	General Comment: Describe the policy of the City of Bainbridge on outfalls. There is no reference within the draft document to this activity. The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	New and reconfigured outfalls must be located to avoid impacts to existing native aquatic vegetation attached to or rooted in substrate. The diffuser or discharge point(s) for new or expanded outfalls must be located offshore and at a buffer distance beyond the nearshore/littoral area, to avoid impacts to those areas. This buffer distance shall be calculated as the extent of the mixing zone (including both the acute and chronic mixing zones) as defined in the current National Pollutant Discharge Elimination System (NPDES) permit for the leasehold. Leaseholds without a current NPDES permit must requisition a mixing zone analysis for the outfall from a qualified party and the analysis must follow protocols approved by Washington DNR science staff. The outfall pipe must be subsurface within the nearshore.
	General Comment: Describe the policy of the City of Bainbridge on covered moorage and boat houses. The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	New covered moorage and boat houses will not be allowed on state-owned aquatic land. Where Washington DNR determines that existing covered moorage, covered watercraft lifts and boathouses are impacting or occur within important habitats for covered species and their prey, the structures must either be removed by the end of the life of the structure or moved out of the nearshore and littoral areas. In areas not identified as predicted habitat for covered species or their prey, the structures must be replaced or renovated with structures that maximize light transmission within a period defined in the authorizing agreement. Where covered moorage and covered watercraft lifts are allowed to continue, the replacement structures must be 100 percent translucent or transparent roofing materials that are rated by the manufacturer as having 90 percent or better light transmittance. No side walls or barrier curtains are allowed. Enclosed structures, such as boat houses and covered moorage, must be removed where they impact important habitats for covered species
	General Comment: Describe the policy of the City of Bainbridge on watercraft lifts. The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	Floating or suspended watercraft lifts must be located greater than 2.7 meters (9 feet) waterward from ordinary high water. For covered watercraft lifts, the lowest edge of the canopy must be at least 2.5 meters (8 feet) above the ordinary high water elevation with the canopy oriented in a north-south direction to the maximum extent practicable. While joint use watercraft lifts are encouraged, only one canopy will be authorized for each lift. Watercraft lifts may not be ground based or ground out at any time. Lifts which ground must be removed by the end of the use authorization.
Section III. General Policies and Regulations	Include a referenced map of these areas within an appendix	

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H. Shorelines of Statewide Significance		
Section V. Specific Shoreline Use Policies and Regulations C. Aquaculture	The Applicability statement could be better clarified. It is not clear what the City of Bainbridge Island considers aquaculture. Specifically, "but also to non-commercial harvesting, and to the incidental preparation of fish and shellfish for human consumption." Specifically calling out what types of activities are considered aquaculture for your jurisdiction would be helpful. WA DNR would then be able to make more informed comments to this section.	
Section V. Specific Shoreline Use Policies and Regulations D. Boating Facilities 2.	Avoidance of critical saltwater habitat could be defined further through a description of how buffers would be applied in these areas. The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	All new covered and non-covered activities and structures must avoid existing, native aquatic vegetation attached to or rooted in the substrate. New or expanded uses or structures will not be authorized in important habitats for endangered and threatened species. Important habitats are defined by Washington DNR as areas which support key ecological or habitat functions, processes, or elements vital to covered species. These areas include the presence of aquatic vegetation, forage fish spawning or known or predicted habitat for endangered and threatened species whose state populations are extremely vulnerable, or have small home ranges. New and expanded docks, wharves, piers, marinas, rafts, floats, shipyards and terminals must be at least a specified buffer distance from existing native aquatic vegetation attached to or rooted in substrate. The buffer distance for structures docks, piers, wharves, rafts and floats not associated with motorized watercraft is either 8 meters (25 feet) from the edge of the structure or the maximum distance shade will be cast by the structure, whichever is larger. To avoid prop dredging and prop scour associated with motorized watercraft. For docks, piers, wharves, rafts and floats associated with motorized watercraft, the horizontal buffer distance for structures associated with watercraft is 8 meters (25 feet) from the outside of the vessel whenever there is a vertical buffer of 2 meters (7 feet) of water above the vegetatative canopy at the lowest low water within the diameter of the turning circle. When the vertical buffer is less than 2 meters (7 feet) within the diameter of the turning circle, the horizontal buffer distance will be either 8 meters (25 feet) from the outside of the vessel, the maximum distance shade will

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		be cast by the structure, or the diameter of the turning circle, whichever is greater. For this measure the turning circle is defined as 3.5 times the length of the longest vessel to use the structure. Existing docks, piers, rafts and floats that are not located at the appropriate buffer distance from existing native aquatic vegetation attached to or rooted in substrate must be moved, or renovated so that they allow at least 30 percent of ambient light to reach the vegetative canopy. The value of 30 percent was chosen because it is the minimum light value required by vegetation protected by WA DNR. Timeframes for relocation and renovation will be based on the expected lifespan of the materials used in the structure. Ambient light is measured as the amount of light between the wavelengths of 400 to 700 nanometers, the photosynthetically active range. New or reconfigured structures must be sited to avoid impacts to documented forage fish habitat on, or adjacent to, state-owned aquatic lands. In addition, construction and operational activities associated with the authorization must be conducted in a manner that does not affect spawning behavior; disturb spawning substrate or sediment sources that support spawning; or reduce the amount or availability of aquatic vegetation used for spawning. Washington DNR does not have management authority of marine riparian areas but will promote practices that maintain and establish nearshore riparian shading in upper intertidal spawning areas. In areas of documented and/or surveyed eulachon, sand lance and surf smelt spawning beds, new piers must have spans of 12 meters (40 feet) from the shoreline (extreme high water to ordinary high water) waterward to the placement of the first piling to avoid placing pilings in forage fish spawning areas. The distance of 12 meters (40 feet) is based on engineering limitations. In areas that have not been documented as spawning sites, but with characteristics that would support forage fish spawning, lessees and grantees for existing uses, and proponents of new uses will be required to conduct surveys to determine if the site is used for spawning. Surveys must be conducted by consultants or agency staff trained and certified in forage fish spawning survey protocols, with the individuals approved by Washington DNR science staff. Surveys will be conducted over a two year period throughout the assumed local spawning season. Washington DNR will not require implementation of forage fish protections if no spawning is detected in two consecutive survey years. If the lessee, grantee or

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		proponent is unwilling to bear the time and expense of such a survey, the project must be designed and operated under the presumption that forage fish spawning does occur at the site. Lessees and grantees for existing uses that are located in or adjacent to documented forage fish spawning areas, or spawning areas determined by survey, will be required to develop and carry out a plan to minimize impacts resulting from the use or structure. The specifics of the plan and the timeframe for implementation will be determined and documented in the agreement authorizing use of the site by Washington DNR based on site-specific factors. The plan must include the following: Work windows for all in-water construction or operational work excluding vessel movement. Lessees, grantees and proponents shall have the option of conducting forage fish spawning surveys to establish site specific work windows within the generalized windows. For work to proceed, the survey must result in no occurrence of viable forage fish eggs. Surveys must be conducted daily during the proposed work period and before work can proceed. Surveys must be conducted by consultants or agency staff trained and certified in forage fish spawning survey protocols, with the individuals approved by Washington DNR science staff. If the tenant is unwilling to bear the time and expense of such a survey, all in-work must occur within the generalized work windows. Detailed descriptions of the anticipated affects and how each affect will be minimized. For sites adjacent to sand lance and surf smelt spawning areas all in-water work that has the potential to increase suspended sediments in the spawning area during the spawning period, will require a buffer of at least 0.6 meters (2 feet) vertical separation from the tidal elevation of the spawning bed or a buffer of 55 meters (180) feet horizontal distance from the lower edge of the surf smelt/sand lance spawning habitat zone. In-water work may occur during an outgoing tide when the water line is below the lower edge of a surf smelt/sand lance spawning habitat zone (1.5 to 1.8 meters or 5 to 6 feet MLLW).
Section V. Specific Shoreline Use Policies and Regulations D. Boating Facilities 11.	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	Washington DNR will not authorize new, expanded, or additional nonwater-dependent uses or water-oriented uses except in the exceptional circumstances defined under WAC 332-30-137 and when compatible with water-dependent uses existing in or planned for the area. Existing nonwater-dependent and water-oriented uses may be re-authorized, maintained, and improved, as long as the footprint is not expanded. Nonwater-dependent uses are defined as a use that can operate in a location other than on the waterfront. See RCW 79.105.060(11) and

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		WAC 332-30-106(43). Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility. Water-oriented uses are uses that were historically dependent on a waterfront location, but can be located away from the waterfront. Examples include, but are not limited to, wood products manufacturing, watercraft sales, and house boats. See RCW 79.105.060(25) and WAC 332-30-106(77).
Section V. Specific Shoreline Use Policies and Regulations I. Mining	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	Dredging, including sand and gravel mining, is not allowed on state-owned aquatic lands except where required for navigation for trade and commerce, flood control, or maintenance of water intakes.
Section V. Specific Shoreline Use Policies and Regulations K. Residential Development	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	New and expanded nearshore buildings must be at least a specified buffer distance from existing native aquatic vegetation attached to or rooted in the substrate. The buffer distance for nearshore buildings is the maximum distance shade will be cast by the structure.
Section VI. Shoreline Modification Policies and Regulations A. & B.	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	New bulkheading or hard bank armoring is not allowed on state-owned aquatic land except under extraordinary circumstances such as the protection of bridges, roads, and other infrastructure; or in instances of sanctioned habitat creation or restoration. New structures proposed in nearshore and littoral areas must be designed and located in a manner that eliminates the need for bank armoring. Existing bank armoring on state-owned lands must be replaced with softer (less intrusive) shoreline protection systems. Bulkheads which cannot be replaced with softer shoreline armoring systems due to design or infrastructure protection issues may be considered for replacement, provided that the bulkhead occupies the same footprint, or smaller, than the existing one. New fixed breakwaters will not be authorized on state-owned aquatic lands. If breakwaters are critical to safety or protection of a facility, floating breakwaters or wave boards may be authorized, if placed in a manner that does not block the predominant longshore current or fish passage. Existing solid breakwaters must be retrofitted over time to incorporate gaps either through or under the structure that allow for longshore transport of sediments, fish passage and water circulation. New fill, or additional placement of fill, will not be allowed on state-owned aquatic lands except when authorized for remediation of contaminated sediments, habitat creation or restoration projects. Washed gravel or shell may be applied as a substrate amendment for authorized shellfish aquaculture activities on a site by site basis where the authorizing agreement defines the bathymetric, seasonal and

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		quantitative limits of the application. Gravel or shell may not be placed on forage fish spawning habitat or native aquatic vegetation protected by WA DNR. New structures and facilities must be designed and located so no new bulkheading or armoring of the shoreline is necessary. When reconfiguring multiple element facilities such as marinas and terminals, hardened structures along the shoreline must be removed, or replaced with a system that reduces impacts to habitat forming processes, habitat features, and biological communities.
Section VI. Shoreline Modification Policies and Regulations D.	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	Dredging, including sand and gravel mining, is not allowed on state-owned aquatic lands except where required for navigation for trade and commerce, flood control, or maintenance of water intakes.
Section VI. Shoreline Modification Policies and Regulations E.	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	New fill, or additional placement of fill, will not be allowed on state-owned aquatic lands except when authorized for remediation of contaminated sediments, habitat creation or restoration projects. Washed gravel or shell may be applied as a substrate amendment for authorized shellfish aquaculture activities on a site by site basis where the authorizing agreement defines the bathymetric, seasonal and quantitative limits of the application. Gravel or shell may not be placed on forage fish spawning habitat or native aquatic vegetation protected by WA DNR.
Section VI. Shoreline Modification Policies and Regulations F. 2.	The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands which includes a registration program. How Do I Authorize My Mooring Buoy? The City of Bainbridge Island should also be aware that the proponents will also be required to obtain a Corps permit (Nationwide Permit 10) REG - PBE Mooring Buoys and an HPA permit from DFW Hydraulic Project Approval (HPA) | Washington Department of Fish & Wildlife	To prevent prop scour, boat mooring areas for new docks, marinas, shipyards and terminals, mooring buoys, rafts and floats must be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads. Floating structures and boats must not rest on the substrate. Specific requirements include: • New overwater structures must be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding, keeping the bottom of the structure at least 1.5 feet (0.5 meters) above the level of the substrate. • Floats, rafts and mooring buoys must use embedded anchors and midline floats to prevent dragging of anchors or lines. • Boat anchorage systems must be deployed in a manner that prevents dragging of the vessel or line. Midline floats or other technologies which prevent the line from dragging and scouring must be used on anchor lines.
Section VI. Shoreline	The City of Bainbridge Island should be aware of the	Artificial night lighting must be minimized by focusing the light on the dock

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Modification Policies and Regulations F.	standards for authorized uses on State-owned aquatic lands. 3. c) ii. 'Provide functional grating for light penetration' is not an adequate requirement. How much grating is needed for how much light penetration? What are you trying to gain from the light penetration? A percentage of open space in the grating as well as percentage of that grating covering the structure must be detailed. Please evaluate this and contact WA DNR staff if you have questions. 6. This is not detailed enough. Clarify if this prohibition is for the entire structure or just the portion of the structure which soaks or is in water. This may be problematic for framing. Please evaluate this and contact WA DNR staff if you have questions.	surface, and using shades that minimize illumination of the surrounding environment. New structures and facilities must be designed and located so no new bulkheading or armoring of the shoreline is necessary. When reconfiguring multiple element facilities such as marinas and terminals, hardened structures along the shoreline must be removed, or replaced with a system that reduces impacts to habitat forming processes, habitat features, and biological communities. To prevent prop scour, boat mooring areas for new docks, marinas, shipyards and terminals, mooring buoys, rafts and floats must be located where the water will be deeper than 2 meters (7 feet) at the lowest low water, or where it can be shown that prop scour will not adversely impact aquatic vegetation or increase suspended sediment loads. No creosote, chromate copper arsenate, or pentachlorophenol treated wood, or other comparably toxic compounds may be used as part of the decking, pilings, or other components of any in-water structures such as docks, wharves, piers, marinas, rafts, floats, shipyards and terminals. Treated wood may only be used for above water structural framing and may not be used as decking, pilings or for any other uses. During maintenance, existing treated wood must be replaced with alternative materials such as untreated wood, steel, concrete, or recycled plastic, or encased in a manner that prevents metals, hydrocarbons and other toxins from leaching out. Floating structures and boats must not rest on the substrate. Specific requirements include: • New overwater structures must be located in water sufficiently deep to prevent the structure from grounding at the lowest low water, or stoppers must be installed to prevent grounding, keeping the bottom of the structure at least 1.5 feet (0.5 meters) above the level of the substrate. • Floats, rafts and mooring buoys must use embedded anchors and midline floats to prevent dragging of anchors or lines. • Boat anchorage systems must be deployed in a manner that prevents dragging of the vessel or line. Midline floats or other technologies which prevent the line from dragging and scouring must be used on anchor

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		lines. The portions of piers, elevated docks, and gangways that are over the nearshore/littoral area must have unobstructed grating over at least 50 percent of the surface area. Floating docks 1.5 meters (5 feet) or greater in width, must have unobstructed grating over at least 50 percent of the surface. Floating docks less than 1.5 meters (5 feet) in width must have unobstructed grating over at least 30 percent of the surface. All grating material must have at least 60 percent functional open space. Grating requirements can also be met if the combination of grated surface area and grating open space are equal to or better than the above standards. New or renovated ramps and launches must be an elevated design of sufficient height off the substrate within the nearshore area to minimize the obstruction of currents, alteration of sediment transport, and eliminate the accumulation of drift logs and debris under the ramps or be level with the beach slope within the nearshore area. In instances where the substrate is suitable for forage fish spawning, the structure must also span the spawning area. Gangways must incorporate 100 percent grating with 60 percent functional open space. Skirting is prohibited. When existing structures undergo maintenance or repair the replaced portions must meet these standards. Private recreational docks must meet or exceed the minimum standards established by the appropriate regulatory authorities for residential overwater structures.
Section VI. Shoreline Modification Policies and Regulations F. 3.	General Comment: Further describe the policy of the City of Bainbridge on toxics and or pollutants in the water. The City of Bainbridge Island should be aware of the standards for authorized uses on State-owned aquatic lands.	Tires are prohibited as part of above and below water structures or where tires could potentially come in contact with the water (e.g., floatation, fenders, hinges). Existing tires used for floatation must be replaced with inert or encapsulated materials such as plastic or encased foam, during maintenance or repair of the structure. All foam material whether used for floatation or for any other purpose must be encapsulated within a shell that prevents breakup or loss of the foam material into the water and is not readily subject to damage by ultraviolet radiation or abrasion.

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		During maintenance, existing un-encapsulated foam material must be removed or replaced.