DOE welcomed comments on its review of the city of Sammamish draft SMP. The following Comments are submitted by Rory Crispin 10-29-2010.

**Docks**

DOE comments regarding docks are subjective, displaying a misunderstanding of the regulatory process.

DOE claims that the Sammamish standards allow much larger new piers and docks than other established standards. This is false.

DOE claims that the standards do not contain mitigation to offset the impacts. This is also false.

The dock dimensional standards, i.e. side setbacks, sq footage, length etc, are the same as the K.C. SMP standards which have been in effect for 40 years.

Docks must be constructed using WDFW approved materials and decking.

For Lake Sammamish, docks must be permitted by the Army Corps of Engineers. An Army Corps permit is not issued without appropriate mitigation measures to offset the overwater structure impact, which is consistent with the no net loss threshold.

These matters which DOEs characterization as “established standards” were discussed at length in city public meetings, as well as the absurdity of duplicating regulations from a federal permitting agency which reviews/updates its standards every 5 years. Perhaps what’s needed is a clarifying statement so a permitee is aware additional federal regulations apply for docks on Lake Sammamish.

Suggestion: Draft SMP 25.07.050(2) Add: “New dock or lift must comply with Army Corps regulations.”

**Preserve Designation:**

DOE comments are subjective, outside the purview of objective review.

Issue 1: The Beaver Lake Preserve lies within the state’s urban growth boundary line, is bounded shoreline residential designation private property, and is consistent with the “open space” character of Urban Conservancy as guided by WAC173-26-211(e). All park land within the city of Sammamish is designated Urban Conservancy. A ”Natural” designation is inappropriate for that property in this urban environment. The subjective issue of changing this designation is outside the purview of the SMA consistency review, since the program already complies with the policies and provisions of RCW90.58.020 required by RCW90.58.050.
Issue 2: Confusion regarding the Urban Conservancy designation came about after Sept 8 2009 when the local draft SMP public hearing had close and a handful of private properties that were designated in the draft as Shoreline Residential were thrown into Urban Conservancy the 11th hour, without public input.

Suggestion: All private property be returned to the Shoreline Residential designation and all park land be designated Urban Conservancy, which is consistent with RCW90.58.020 and WAC 173-26-221.

**CAO sunset Clause**

DOE comments are subjective, outside the purview of objective review.

RCW 90.58.090(4) requires that the Shoreline critical area provide a level of protection “at least equal to” the local critical area ordinance. Draft SMP 25.01.070 adopts the local critical area code into the Program so that any changes of the critical area code, SMC 21A.50, apply equally in the GMA and the SMA areas. The issue of the city having a sunset clause within the critical area code, or updating its critical area code itself, is outside the purview of the SMA consistency review, since the draft program already complies with the policies and provisions of RCW90.58.090(4) as required by RCW90.58.050.

**Additional Comments**

**Liberal Construction**

Draft SMP 25.01.090 states, “In accordance with RCW 90.58.090, this Program is exempt from the rule of strict construction; therefore this Program shall be liberally construed to give full effect to its goals, policies and regulations.”

Issue 1: Is this policy trying to reference RCW 90.58.900? It doesn’t make sense that it reference RCW 90.58.090.

Issue 2: RCW 90.58.900 states, “This chapter is exempted from the rule of strict construction, and it shall be liberally construed to give full effect to the objectives and purposes for which it was enacted.” The words “this chapter” applies specifically to the interpretation of “chapter” 90.58, the state’s Shoreline Management Act, not to local SMPs. Local SMPs, i.e. Programs, are created by liberally interpreting the objectives and purposes of chapter 90.58. It doesn’t make sense that 31 pages of specific local regulations within a local “Program” are to be liberally construed beyond that which is already allowed within the program regulations as written.

Suggestion: Delete 25.01.090, it misapplies a state statute and is not needed.
Conclusion:

It is hoped that DOE will continue its review in an objective manner in accordance with RCW 90.58 as was stated in my oral testimony at the October 7, 2010 hearing.