

Amy Trainer: Good evening. My name is Amy Trainer. I'm a senior policy advisor with the Makah Tribe's Office of Marine Affairs. We definitely appreciate the opportunity to provide some comments this evening. Definitely want to acknowledge the huge effort and the great amount of solid science has gone into this. I think there's so much that is very beneficial to have. But because this does sort of sit right on top of the Makah Tribes' usual and accustomed area that was determined as part of the Treaty of Neah Bay in 1855, we do have some concerns we want to express for the record. A lot of it has to do more sort of procedural when things that aren't in there that we would like to see much more fully fleshed out and specific. So let me start by saying one of the things that the tribe struggles with is this concept – whether it's the environmental community or even state agencies sometimes – kind of still at some level – not everybody, but some people – still think of the tribes as stakeholders. And they're definitely not stakeholders. These are domestic sovereigns. They have full right of self-determination. They are very different than stakeholders. And they are legal co-managers of resources within the state. They have a trustee relationship with the federal agencies and so I think a lot of this is somewhat sprinkled throughout the document – but to me from a legal perspective what could be much more fleshed out is this idea that the tribes are domestic sovereigns -- that they are legal co-managers. And if in fact this really is a plan for industry to come in and potentially build something – who knows what – I think we need to sort of exercise the precautionary principal up front and have these concepts more fleshed out. So, seeing the kind of policy language that I wasn't seeing in the document. To your point about cultural resources – as you probably can imagine, the tribes are very sensitive. They have sacred beaches that the public doesn't even know how to get to. I only know how to get to them from when I lived out on the res 9 years ago. I don't think that it's fair that the state would expect that those cultural areas of resources are going to be mapped. The tribes all – as you know – have their own map of them. They're not going to have that be public. And so I think in a lot of ways that reinforces the need to have stronger language about tribal consultation – that because the tribes aren't a stakeholder, they're a legal co-manager – that one of the very first steps that I think please broadcasts more often than not, or in greater detail – is this need to – the first step of anybody from our perspective should be coming and talking to our tribal council. You should be engaging with us first. As we've now seen from the Lummi putting the power of their treaty up, stopping the coal export proposal up at Cherry Point – the Gateway Pacific coal plant – I think people are waking up to the power of treaties. I would hope that the Makah tribe never are faced with a proposal like that in their usual accustomed area, but at the same time I think it's just better to have the procedural information up front for any new person to know they're not a stakeholder. You need to be doing direct consultation early and often.

And the fact is that the Makah Tribal Council has adopted a formal ocean policy. It sets out its consultation. It sets out its resources. It's sort of a brief history and it's sort of just policy statement about its relationship with the ocean, and so I'm not sure that the other 3 treaty tribes on the coast have that, but because the Makah do I think it's all the more important that they have a living document treated as an ordinance or however, like in the other government. It has to be complied within the same manner as a shoreline master program, a local ordinance, or whatever.

One specific – a couple specific things that I wasn't sure about: in section 4.1.4, the section is titled Relationship of the Marine Spatial Plan to other Existing State and Local Authorities and Plans – it says that MSP does contain new enforceable policies that state and local agencies will use in their regulatory processes. And I haven't gotten to the point where I've scrutinized enough to see, are those new enforceable policies set out – you said at the beginning there aren't any new rules. But if they're new policies, if they have the force and effect of a rule then it would be helpful if those could be set out and just be shown or highlighted.

And then one other area that sort of jumped out at me also in the Chapter for Management Framework under New Ocean Uses Roadmap – under the application phase – and then I think like 3 pages further down you also have a section about government stuff – but, again, nothing really says Step 1. Tribal Consultations. That that is one of the very – if not the first thing – you do equally at the same time you're engaging with the state or local government. And so I think having those kinds of procedural issues just spelled out throughout the document is something I know the tribe would very much like to see. I think we will end up submitting comments. I know Chad had sent a letter to Bo Chuck, the manager of the Office of Marine Affairs this summer. He had some concerns about Shoreline Master Program. But again, if this document is going to be submitted to NOAA to be certified for use as their coastal zone management authority review for the state and federal projects – I think from the tribe's perspective it's imperative that we have this policy and procedural language and just, kind of, recognition that from my perspective could be a lot stronger and more robust in our ideal situation. So again, I think having this as a resource is enormously valuable. I think the Makah Tribe has had over 3 million gallons of oil and gas spilled in their UNA since the early '70's. And one of the things when Chad and I established the Office of Marine Affairs – we wanted to have a matrix that at any season of the year we knew what was in the water column. Because of national marine sanctuary, the federal government Incident Command cannot automatically apply chemical dispersants to an oil spill. And so I think if, God forbid, we had another catastrophic oil spill on the coast, this document can be a huge reference. I think it can also be a huge reference as a snapshot going forward of climate change. The tribe is fully engaged in the carbon tax initiative and trying to just find ways that they can do their part and participate. So again, we definitely value and appreciate all this good work and what we'll probably do just to make it easy is take the general comments that I relayed tonight and go through this specific and just provide you some language. And hopefully that's helpful. The tribe doesn't want to be in a situation where we have any kind of formal objection. I think the tribe definitely considers itself a partner with ecology, all kinds of programs and policies and certainly this one too. So we want to get to where have full support behind this. I think we could get there so we'll, like I said, submit our written comments. Thank you.