

From: [Frazer, Gary](#)
To: [Paul Souza](#); [Rick Sayers](#); [Patrice Ashfield](#); [Drew Crane](#)
Subject: Fwd:
Date: Monday, February 10, 2014 3:38:09 AM
Attachments: [316\(b\) draft rule language with ESA changes 2-7.docx](#)
[316b preamble ESA excerpts 2-7.docx](#)
[\(b\)\(5\) Attorney-Client Communication .docx](#)

Attachments 1 & 2 Withheld - b5 Deliberative
Process
Attachment 3 Withheld - b5 Attorney Client Work
Product

Give me a call as soon as you've had a chance to digest. -- GDF

Gary Frazer
Assistant Director -- Ecological Services
U.S. Fish and Wildlife Service
(202) 208-4646

----- Forwarded message -----

From: **Edward Boling** <ted.boling@sol.doi.gov>
Date: Sun, Feb 9, 2014 at 9:13 AM
Subject: Fwd:
To: Dan Ashe <d_m_ashe@fws.gov>
Cc: Gary Frazer <gary_frazer@fws.gov>, Hilary Tompkins
<Hilary.Tompkins@sol.doi.gov>

Dan - here's the EPA response, which we should discuss tomorrow morning.

Sent from my iPhone

Begin forwarded message:

From: "Garbow, Avi" <Garbow.Avi@epa.gov>
Date: February 7, 2014 at 6:49:55 PM EST
To: "Antonipillai, Justin" <JAntonipillai@doc.gov>, "Lois Schiffer - NOAA Federal" <lois.schiffer@noaa.gov>, "ted.boling@sol.doi.gov" <ted.boling@sol.doi.gov>, "hilary.tompkins@sol.doi.gov" <hilary.tompkins@sol.doi.gov>
Cc: "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>, "Dreher, Robert (ENRD)" <Robert.Dreher2@usdoj.gov>, "Feldt, Lisa" <Feldt.Lisa@epa.gov>, "Kopocis, Ken" <Kopocis.Ken@epa.gov>

Folks,

I appreciate your patience. We have worked hard to produce appropriate text for the preamble and reg itself that addresses each of the specific points agreed upon by our respective agencies [\(b\)\(5\) Attorney-Client Communication](#) as discussed, are three documents for your review:

(b)(5) Attorney-Client Communication

Second, a copy of the rule language that displays redline/strikeout of changes made to the ESA-related provisions as compared with the draft of the rule that was sent to OMB and the Services in November

Third, a document that excerpts relevant portions of the preamble, again showing changes from the November version of the preamble which is now at OMB.

(b)(5) Attorney-Client Communication

Once you and your colleagues have had an opportunity to review, we would be pleased to schedule a meeting or call to discuss how best to move forward. Again, we very much appreciate the tremendous efforts made by all of our respective staffs – and the professionalism with which we continue to engage – as we aim to finalize the rule and the Biological Opinions.

Regards,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040