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**From:** Russell, Daniel </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D84F6C6D50E74230B05C507F1800FB6D-DANIEL\_RUSS>  
**To:** O'Hara, Kerry  
**CC:** Picco, Angela; Crowell, Heidi  
**Sent:** 3/19/2020 4:56:25 PM  
**Subject:** Fisher - my best attempt  
**Attachments:** DATE\_FisherFinalRule\_track changes\_DR 3-19 version.docx; DATE\_FisherFinalRule\_track changes\_DR 3-19(a) version.docx

Hi Kerry,

Attached are two documents: the one with (a) in the title is my best attempt to address the issue of logical outgrowth. In this one, I moved a fair amount of text around in that Summary of Changes section. I took the approach of saying we began our examination of logical outgrowth with a re-evaluation of our DPS determination. Then, once we found through logical outgrowth that there should be two separate DPSs, I simply say that our next step was to evaluate their statuses.

I explain that our language regarding logical outgrowth was all about a final status determination of the West Coast DPS, but then once that entity was no longer "in play," there was essentially no final decision on that entity. So, no logical outgrowth to a final determination on that no longer valid entity.

I hope this works for you...and if it doesn't, I've attached the other document that does not have my revision of that section.

However, that version without my revision doesn't have a solution to the issue you raise. I'm out of ideas after this!

So...both of these documents include all the responses from the team that I sent to you last night. They also both now have my responses to your comments regarding the 3R discussions. I think I've adequately bridged between how we said things in 2019, and our "new" conclusions for the separate DPSs.

But obviously, we'll have to wait to see whether *you* think I made a tenable bridge!!!

Please let me know if you have questions/concerns, or want to discuss anything in greater depth.

Thanks,  
Dan

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