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|---|---|
| **From:** | Robert Law |
| **To:** | LaPoma, Jennifer |
| **Cc:** | Willard Potter; Vaughn, Stephanie; William Hyatt; Lisa Saban; Mike Johns |
| **Subject:** | RE: Draft BERA, EPA Response to CPG"s 9/2015 RTC.... |
| **Date:** | Monday, January 04, 2016 4:49:41 PM |
| **Attachments:** | 20160104 R2 12-23-2015 17-mi BERA Responses - Questions & Clarifications.docx |

Jennifer:

Please see attached.

Hope you enjoyed the holidays.

Happy New Year.

R/
Rob

Robert Law, Ph.D.
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>>> "LaPoma, Jennifer" <LaPoma.Jennifer@epa.gov> 1/4/2016 11:27 AM >>>
Rob,

I'll have the materials referenced in your email below sent over shortly.

In order to better evaluate availability for a call, could you let me know specifically which responses CPG would like to further discuss?

Hope you had a nice holiday.

Happy New Year,
Jen

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**From:** Robert Law [mailto:rlaw@demaximis.com]
**Sent:** Thursday, December 31, 2015 1:02 PM
**To:** Basso, Ray <Basso.Ray@epa.gov>; LaPoma, Jennifer <LaPoma.Jennifer@epa.gov>; Flanagan, Sarah <Flanagan.Sarah@epa.gov>; Vaughn, Stephanie <Vaughn.Stephanie@epa.gov>
**Cc:** Willard Potter <otto@demaximis.com>; William Hyatt <william.hyatt@klgates.com>; Lisa Saban <LisaS@windwardenv.com>; Mike Johns <MikeJ@windwardenv.com>
**Subject:** Fwd: Draft BERA, EPA Response to CPG's 9/2015 RTC....

Stephanie:

Upon further review of the materials provided by EPA Region 2 on December 22, it appears that:
1. Table 1 (exposure areas) was not provided.
2. Table 1 of the "sensitive species" pdf attachment was not provided, Specifically, the text in

the "sensitive species" pdf refers to Table 1 as such: *"Approximately 142 avian species of 41 families have reasonable potential to occur in the Area 1 study area (Table 1, below)".* However, the excel table attachment is the addition 75 species that have been sequenced since 2014 as referenced in response to Comment 125 in the RTC. Thus, it appears that the Region needs to provide the table of the 142 avian species to the CPG at the earliest opportunity .

If the CPG is in error, please direct us to the correct attachments.

In addition, there are a number of clarifications to the Region's responses that the CPG is seeking. The CPG suggests a telephone conference between USEPA Region 2 and the CPG on either January 7 or January 8.

Thank you.

Happy New Year.

R/
Rob

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>>> "Vaughn, Stephanie" <Vaughn.Stephanie@epa.gov> 12/22/2015 2:14 PM >>>
Hi Rob,

Attached are EPA's responses to the CPG's September 10 and September 15, 2015 responses to EPA's comments submitted on May 1, 2015 on the draft Baseline Ecological Risk Assessment (BERA) for the 17-mile Lower Passaic River Study Area RI/FS.

As EPA stated in its email transmitting our May 1, 2015 comments on the draft BERA, the next version of the document will require a complete and thorough review by EPA and the Partner Agencies. Our May 1 email also cautioned that if the next draft of the document is as deficient as the first, then EPA may elect to modify the document itself pursuant to Paragraph 44 of the AOC, and, as per Paragraph 47 of the AOC, the CPG would be required to accept the findings of the modified report (subject to dispute resolution). Please keep this in mind as you review the attached responses. EPA's comments must be incorporated appropriately; if they are not, the document will not be approvable and EPA will proceed as per Paragraph 44 of the AOC.

In accordance with Section X, Paragraph 46 of the AOC, you have up to 60 days to submit a revised draft BERA for EPA's full review.

Please let me know if you have any questions.

Thanks,
Stephanie