

IN THE  
Supreme Court of the United States

STATE OF NEW JERSEY,  
*Plaintiff,*

v.

STATE OF DELAWARE,  
*Defendant.*

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**BRIEF IN SUPPORT OF MOTION OF STATE OF DELAWARE  
TO STRIKE BP'S DESIGNATION OF ITS PRIVILEGE LOG  
AND SUPPORTING DECLARATIONS AS CONFIDENTIAL  
[REVISED PUBLIC VERSION]**

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## INTRODUCTION

Delaware brings this motion to nullify an attempt by BP p.l.c. to designate as “confidential” a “privilege log” with entries of hundreds of communications between BP lawyers and New Jersey state officials under the Case Management Plan (“CMP”). Such an effort by BP to cloak from public view its extensive behind-the-scenes efforts would fail to meet the standards for upholding confidentiality in a normal civil lawsuit; it is doubly inappropriate given the matters of grave public importance at issue in this historic suit between sovereign States.

The motion arises in the context of New Jersey’s – and BP’s – extensive efforts to obtain public support for the construction of BP’s massive liquefied natural gas (“LNG”) bulk-transfer facility that, if approved, would encroach on Delaware’s submerged lands. Although New Jersey and BP have told the Court at great length about the positive aspects of the BP LNG Terminal that BP wishes to place in Delaware’s coastal waters in contravention of Delaware’s Coastal Zone Act, New Jersey claims in a separate pending Motion to Strike Delaware’s Issues of Fact Nos. 1, 2, 6, 8, and 9 that Delaware’s attempt to explore the scope of BP’s project is irrelevant. Similarly, although BP and New Jersey have liberally disseminated to the media their views on the merits of the case<sup>1</sup> and have claimed a common interest in this case, BP now seeks to shield from public view even the most general privilege log descriptions of its communications with New Jersey about this case. This attempt to shield information from the public appears to be

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<sup>1</sup> See, e.g., Office of the New Jersey Attorney General News Release, *New Jersey Suing Delaware in U.S. Supreme Court* (July 28, 2005), available at <http://www.state.nj.us/oag/newsreleases05/pr20050728b.html>; see also Log entries 124-126, 151, 156-158 (communication between BP’s attorney and Peter Aseltine (contact in New Jersey Attorney General’s Office regarding news release), transmitting “copy of work product concerning court filing against Delaware” and “providing input on proposed statement regarding litigation with Delaware and discussing strategies for same”).

unprecedented in an original jurisdiction case and is designed to conceal the extent to which litigation ostensibly on behalf of the citizens of New Jersey is being fueled by a private corporation. BP has not articulated, and cannot articulate, a meritorious basis for shielding the privilege log and supporting declarations from public scrutiny. Delaware, its citizens, and perhaps even more so the citizens of New Jersey, have every right to learn how BP has thus far influenced an original jurisdiction action in this Court.

### STATEMENT OF FACTS

On March 7, 2006, Delaware served subpoenas on BP America Inc. and five affiliates (“BP”) pursuant to the Case Management Plan.<sup>2</sup> On March 21, 2006, BP, through outside counsel at Hunton & Williams, filed an initial written response to the subpoenas. On April 25, 2006, BP provided Delaware with a log identifying 264 communications between BP and New Jersey counsel, from February 10, 2005, to January 23, 2006, which BP contends are privileged because of the supposed “common interest” between New Jersey and BP, along with two declarations in support of its contention.<sup>3</sup>

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<sup>2</sup> The subpoenas sought information relating to, *inter alia*: (1) the scope of BP’s proposed LNG terminal project on the Delaware River, particularly with regard to structures that would extend from New Jersey onto Delaware’s side of the river within its historic twelve-mile circle and require the dredging of 1.2 million cubic yards of Delaware soil; and (2) BP’s communications with third parties regarding the 1905 Compact that settled *New Jersey v. Delaware I*, including, for example, New Jersey’s revisionist reading of the provision by which Delaware permitted New Jersey to “continue to exercise . . . jurisdiction” on its side of the Delaware River in the absence of a ruling as to where New Jersey’s side ended, secure in the knowledge that New Jersey’s self-help actions created no legal or equitable jurisdictional rights and that, if the boundary dispute ever resurfaced, Delaware would vindicate its historic rights.

<sup>3</sup> The log lists only documents that BP claims are privileged under the “common interest” rule because Delaware agreed that BP would not have to supply a privilege log for documents exchanged exclusively between BP and its law firms. The log is attached as Exhibit A hereto, with accompanying declarations and a cover letter dated April 25, 2006.

Even though the log's brief descriptions of these communications do not reveal any specific details, the descriptions strongly suggest that BP is playing a major role in litigating this case for New Jersey through BP's law firm.<sup>4</sup> In a declaration submitted in support of BP's claim that BP's private interests and New Jersey's public interests are aligned, Mr. Raphael explained that New Jersey decided not to retain Hunton & Williams in April 2005. Raphael Decl. ¶¶ 3-4. But the log entries clearly demonstrate that New Jersey had no need to retain Hunton & Williams because BP was willing to retain the firm so that BP's counsel could assist in drafting New Jersey's court submissions, provide New Jersey with work product and historical documents, and give New Jersey full access to BP's counsel's "client work room," all free of charge to New Jersey. *Id.* ¶¶ 4, 7.

For example, on June 16, 2005, approximately six weeks before New Jersey filed its Motion to Reopen *New Jersey v. Delaware II*, BP and New Jersey counsel exchanged 13 documented communications relating to work product either being provided by BP to New Jersey for "possible court submission" or being sent by New Jersey for BP's "input." Log entries 56-68. On June 17, 2005, BP and New Jersey exchanged eight communications, which reflect that BP provided "work product relating to court submission," "mental impressions of . . . documents transmitted by BP counsel," and "further input on NJ counsel's work product relating

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<sup>4</sup> In addition to influencing New Jersey's litigation strategy, the log also suggests that BP is playing a major role in directing the actions of New Jersey's administrative and legislative branches with regard to this dispute. It appears that a lobbyist retained by BP (*see* [www.ppag.com](http://www.ppag.com)) sent emails to the Commissioner of the New Jersey Department of Environmental Protection "inquiring about status of NJ's position on Delaware regulatory proceedings" and "inquiring about NJ position" on that issue as well as an "original action against Delaware." Log entries 4, 6. Similarly, on June 14, 2005, BP's lobbyist contacted a New Jersey legislator in an apparent attempt to create legislation that might influence the jurisdictional determination in this case. *See* Log entries 50, 52-53 (discussing and transmitting "proposed legislation and strategy regarding dispute with Delaware over 1905 Compact").

to NJ declarations.” Log entries 69-76. Over the next several weeks, BP and New Jersey remained in constant contact, exchanging as many as 22 communications in a single day.<sup>5</sup> In that period, BP “transmitt[ed] additional work product relating to court submission” (entry 127), sent “comments and work product relating to court submission” (entry 134), provided “selected documents for inclusion in court submission” and “comment[s] on possible revisions to same” (entry 141), and “discuss[ed] litigation strategy regarding possible Delaware position” (entry 164). BP even went so far as to provide significant input into the affidavits New Jersey submitted in its motion to reopen. *See* Log entry 145 (“transmitting input to work product relating to NJ affidavit for court submission,” and “explaining reasons for revision to same”).

In the 10 days between Delaware’s filing of its opposition to New Jersey’s Motion to Reopen on October 27, 2005, and New Jersey’s filing of its reply on November 8, BP and New Jersey exchanged 25 documented communications as BP prepared and transmitted to New Jersey work product for submission to the Court. On October 30, BP counsel transmitted “work product re Compact” (entry 218); on October 31, BP transmitted more “work product on court submission” (entries 219-220); on November 2, BP communicated “regarding documents for court submission . . . explaining one of the referenced documents” (entry 221); on November 3, BP transmitted “and comment[ed] upon selected document for possible court submission” (entry 226); on November 4, BP “discuss[ed] research” and “transmitt[ed] attorney work product

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<sup>5</sup> BP and New Jersey had extensive daily contact in the period leading up to New Jersey’s motion to reopen. The parties exchanged 11 communications on June 20, 2005 (entries 78-88); nine communications on June 21 (entries 89-97); six communications on June 22 (entries 98-103); eight communications on June 23 (entries 104-111); 22 communications on June 24 (entries 112-133); four communications on June 25 (entries 134-137); eight communications on June 27 (entries 138-145); three communications on June 28 (entries 146-148); five communications on June 29 (entries 149-153); eight communications on June 30 (entries 154-161); 12 communications on July 5 (entries 162-173); and three communications on July 21 (entries 174-176).



relating to court submission” (entry 228); on November 5, BP “comment[ed] on work product on court submission” (entry 235); and on November 7, the day before New Jersey’s filing, BP again “comment[ed] on work product on court submission” and “transmitt[ed] BP counsel’s work product on same” (entry 239).

Similarly, between Delaware’s submission of its Answer and Motion for Appointment of Special Master on December 28, 2005, and New Jersey’s submission of its Opposition to the Motion on January 9, 2006,<sup>6</sup> BP and New Jersey exchanged 13 documented communications strongly suggesting BP’s significant involvement in developing New Jersey’s strategy to oppose the appointment of a special master. On December 29, BP provided “possible strategy in response” (entries 251, 253); on January 2, BP “transmitt[ed] work product on court submission in original action against Delaware” and “provid[ed] analysis of strategy for filing same” (entries 255-256); on January 3, BP “transmitt[ed] work product on court submission in original action against Delaware” and “comment[ed] on/explain[ed] same” (entry 257); and, on January 6, BP received input from New Jersey (entry 259), and “transmitt[ed] work product on court submission in original action against Delaware” before “commenting on/explaining strategy for same” (entry 261). Following that submission, BP took the lead in shaping New Jersey’s response to the Supreme Court’s appointment of a Special Master in this original action. *See* Log entry 263 (communication from BP to New Jersey “concerning Court’s order list and requesting conference call to discuss same”).

BP has attempted to shield these summary descriptions from public scrutiny by designating every page of the log, including every log entry, every date, and every BP contact with a New Jersey public official, as “CONFIDENTIAL.” BP has also designated the two

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<sup>6</sup> While the opposition brief is dated January 4, 2006, it was transmitted to Delaware counsel and filed with the Court on January 9, 2006.

declarations that accompany the log as confidential, even though the representations in these declarations are quite general.<sup>7</sup> As a consequence of BP's confidentiality designations, Delaware has been forced to file its response to New Jersey's Motion to Strike Delaware's Issues of Fact Nos. 1, 2, 6, 8, and 9 in redacted form, which inhibits public understanding and discussion of the States' contentions.

As addressed below, BP's attempt to shield its privilege log and supporting declarations from public scrutiny is wholly without merit under the law governing confidentiality designations in the most mundane civil litigation, let alone what is potentially a historic controversy between two sovereign States.

### ARGUMENT

Under the procedures adopted by the Special Master for this proceeding, the "good cause" standard of Rule 26 of the Federal Rules of Civil Procedure governs the determination of whether BP may cloak from public view its privilege log of communications between BP lawyers and New Jersey state officials. BP has not met, and cannot meet, that standard, because it has no legitimate interest in shielding this material from the public eye. Because BP has no real need to keep "confidential" its privilege log and associated materials, and because there is undoubtedly a strong public interest in the disclosure of this material, the Special Master should strike BP's designation of its privilege log and associated documents as "confidential."

#### **A. BP Must Demonstrate "Good Cause" For Its Confidentiality Designations**

"Generally, the public can gain access to litigation documents and information produced during discovery unless the party opposing disclosure shows 'good cause' why a protective order

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<sup>7</sup> For example, Mr. Swayze's declaration states that he represented BP in connection with its application for regulatory approval in Delaware, that he spoke with a New Jersey Deputy Attorney General about the common interest issue, and that he believed those communications were privileged. Swayze Decl. ¶¶ 1-3.

is necessary.” *Phillips ex rel. Estates of Byrd v. General Motors Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). See also *San Jose Mercury News, Inc. v. United States Dist. Ct.*, 187 F.3d 1096, 1103 (9th Cir. 1999) (“It is well-established that the fruits of pretrial discovery are, in the absence of a court order to the contrary, presumptively public.”); *In re “Agent Orange” Product Liab. Litig.*, 821 F.2d 139, 145 (2d Cir. 1987) (“[I]f good cause is not shown, the discovery materials in question should not receive judicial protection and therefore would be open to the public for inspection.”).

Under the CMP, BP’s obligations in responding to Delaware’s subpoenas are governed by Rule 45 of the Federal Rules of Civil Procedure. CMP §§ 5.2, 5.2.11. Rule 45 requires that, “[w]hen information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.” Fed. R. Civ. P. 45(d)(2); see CMP § 8 (“[i]f a party withholds [discovery] on the ground of privilege . . . it shall provide a privilege log” identifying, *inter alia*, the “general subject matter” of each document withheld).<sup>8</sup> Thus, under Rule 45, BP is required to provide a privilege log that describes the nature of the documents being withheld on grounds of privilege. Neither Rule 45 nor Rule 26(b)(5) states that these required summary descriptions should be hidden from the public as a matter of course.

The CMP does nothing to change that default rule. To the contrary, the CMP states that the “good cause” requirement contained in Rule 26(c) of the Federal Rules of Civil Procedure,

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<sup>8</sup> Rule 26(b)(5), which similarly requires that a party withholding documents as privileged “shall describe the nature of the documents . . . not produced . . . in a manner that . . . will enable other parties to assess the applicability of the privilege or protection,” does not apply in this proceeding because privilege logs are covered by CMP section 8. See CMP § 5.2.3.

which governs protective orders addressing confidentiality, will apply in this proceeding. CMP § 5.2.4.<sup>9</sup> That rule provides, in pertinent part, that

for good cause shown[] the court in which the action is pending . . . may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including [an order] . . . (7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way.

Fed. R. Civ. P. 26(c). Nothing suggests that the CMP intended to depart from this standard, which has governed confidentiality disputes for many decades. *See, e.g., Federal Open Mkt. Comm. of Federal Reserve Sys. v. Merrill*, 443 U.S. 340, 356 (1979) (noting that Rule 26(c)(7), which replaced former Rule 30(b) in 1970, was intended to “reflec[t] existing law”) (alteration in original). Accordingly, though BP was permitted in the first instance to designate as confidential those documents that it believes contain a “trade secret” or “other confidential” information, now that Delaware has contested that designation, BP has “the burden of showing that such designation is appropriate” using the “good cause” standard of Rule 26(c). CMP § 9.<sup>10</sup> *See also Phillips*, 307 F.3d at 1210-11 (burden of showing good cause rests on “the party seeking protection”).

**B. BP Has No Good Cause For Designating Its Log And Declarations As “Confidential”**

Good cause exists for an order imposing confidentiality “when a party shows that disclosure will result in a clearly defined, specific and serious injury.” *Shingara v. Skiles*, 420

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<sup>9</sup> Section 5.2.4 of the CMP provides, as the only limitation on the applicability of Rule 26(c), that the procedure for resolving discovery disputes set forth in section 10 of the CMP will apply. Because section 9 of the CMP, as described above, specifically addresses how disputes over confidentiality designations should be raised, the CMP states that Rule 26(c) governs the substantive aspects of disputes over confidentiality, while CMP section 9 governs the procedure by which such disputes should be presented to the Special Master.

<sup>10</sup> Under Case Management Order No. 4 (“CMO 4”), section 9 of the CMP applies to documents produced by BP. *See* CMO 4, § 1.

F.3d 301, 306 (3d Cir. 2005); *see also Gulf Oil Co. v. Bernard*, 452 U.S. 89, 102 n.16 (1981) (to establish good cause for a protective order under Rule 26(c), the ““courts have insisted on a particular and specific demonstration of fact, as distinguished from stereotyped and conclusory statements’”) (quoting *In re Halkin*, 598 F.2d 176, 193 (D.C. Cir. 1979)). “[B]road allegations of harm are not sufficient to establish good cause.” *Shingara*, 420 F.3d at 306. Instead, Rule 26(c) requires that a court “balanc[e] the interests of the public and the parties,” *id.*, with reference to (at least) the following seven factors:

- 1) whether disclosure will violate any privacy interests;
- 2) whether the information is being sought for a legitimate purpose or for an improper purpose;
- 3) whether disclosure of the information will cause a party embarrassment;
- 4) whether confidentiality is being sought over information important to public health and safety;
- 5) whether the sharing of information among litigants will promote fairness and efficiency;
- 6) whether a party benefitting from the order of confidentiality is a public entity or official; and
- 7) whether the case involves issues important to the public.

*Id.*; accord *Glenmede Trust Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995).

The Third Circuit’s decision in *Shingara* is particularly illustrative of Rule 26(c)’s application in cases involving issues of public importance. In *Shingara*, a policeman brought a First Amendment retaliation action against employees of the Pennsylvania State Police alleging that the defendants had retaliated against him for speaking out about allegedly faulty radar speed devices. 420 F.3d at 303-04. The district court entered a protective order designating discovery responses and other pre-trial information as confidential, and denied the motion of a newspaper

intervenor to vacate the protective order. *Id.* at 304. Applying the seven facts set forth above, the Third Circuit reversed, holding that the district court’s “concern that the disclosure of discovery materials to the media *could* unduly prejudice the public is exactly the type of broad, unsubstantiated allegation of harm that does not support a showing of good cause.” *Id.* at 307.

The court emphasized that

by focusing on the issue of media attention, the district court unacceptably downplayed the fact that this case involves public officials and issues important to the public . . . . Similarly, because the district court did not point to any real threat of prejudice to the defendants, we disagree with its reasoning that the likelihood of the discovery documents becoming public in the future is a determinative factor.

*Id.* The *Shingara* court further noted that the parties had pointed to no “legitimate privacy concerns regarding the requested documents,” and that “‘privacy interests are diminished when the party seeking protection is a public person subject to legitimate public scrutiny.’” *Id.* (quoting *Pansy v. Borough of Stroudsburg*, 23 F.3d 772, 787 (3d Cir. 1994)). The court also noted that the nature of the dispute “clearly weigh[ed] against the protective order” because the parties seeking to hide documents from public review were themselves public officials, and because the case certainly involved “issues important to the public.” *Id.* at 308. And, importantly, with regard to the embarrassment factor, the Third Circuit stated that “‘an applicant for a protective order whose chief concern is embarrassment must demonstrate that the embarrassment will be *particularly serious*,’” *id.* at 307 (quoting *Pansy*, 23 F.3d at 787) (emphasis added), a standard that was not met in *Shingara*, *see id.*, and that the Third Circuit has stated likely cannot be met by a corporation. *See Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3d Cir. 1986) (“As embarrassment is usually thought of as a nonmonetizable harm to individuals, it may be especially difficult for a business enterprise, whose primary measure of well-being is presumably monetizable, to argue for a protective order on this ground.”);

*Publicker Indus., Inc. v. Cohen*, 733 F.2d 1059, 1074 (3d Cir. 1984) (general rule favoring disclosure is “not overcome by the proprietary interest of present stockholders in not losing stock value or the interest of upper-level management in escaping embarrassment”). *See also Joy v. North*, 692 F.2d 880, 894 (2d Cir. 1982) (“The potential harm asserted by the corporate defendants is in disclosure of poor management in the past. That is hardly a trade secret.”); 6 *Moore’s Federal Practice* ¶ 26.105[8][a] at 26-278 to 26-279 (3d ed. 2006) (“A risk of revelation of information that might be unpopular or might raise questions unrelated to the litigation is not sufficient to justify a protective order on ground of confidentiality.”).

Other courts considering similar questions have refused to depart from the traditional rules requiring the production and public disclosure of privilege logs. In *Estate of Manship v. United States*, 232 F.R.D. 552 (M.D. La. 2005), the court rejected the government’s contention that it should not be required to produce a privilege log pertaining to contents of its legal files because of the risk of revealing privileged information. The court noted that, “[e]ven if describing the protected materials in a log may be difficult to do without revealing the confidential nature of the documents, it is nevertheless the obligation of the United States” under the Federal Rules of Civil Procedure. *Id.* at 561. Similarly, in *In re Application for Subpoena to Kroll*, 224 F.R.D. 326 (E.D.N.Y. 2004), the district court required a non-party witness in a patent suit to produce a log of any purportedly privileged materials withheld in response to a Rule 45 subpoena. The district court acknowledged that, by logging this information, parties might be able to discern the date of the witness’s conception of an invention based on the dates of the inventor’s meetings with attorneys, and noted that, in general, a patent invention record is privileged if provided to an attorney for legal advice. *Id.* at 329. Nevertheless, the court stated that this information should be logged and produced, because “the [attorney-client] privilege

does not extend to the structure and framework of the attorney client relationship,” such as dates of meetings, and that “the fact of [an attorney-client] meeting itself is not [privileged] because it does not reveal any confidential communications.” *Id.*<sup>11</sup>

BP’s attempt to shield even its privilege log from public scrutiny finds no support in the language of Rule 26(c) or the case law applying that Rule. *First*, disclosure will not violate privacy interests or legally recognized interests in secrecy. Neither the log nor the supporting declarations contain in any sense “a trade secret or other confidential research, development, or commercial information.” Fed. R. Civ. P. 26(c)(7). *Second*, the information is being sought for a legitimate purpose, as the information directly relates to this Court’s exercise of its original jurisdiction. *Third*, disclosure will not cause embarrassment; BP and New Jersey strenuously assert their “common interest” and therefore are presumably not embarrassed by the communications that they contend reflect that relationship. Moreover, as the Third Circuit has recognized, a corporation like BP has no personal privacy interest, such that a protective order is necessary to ensure the corporation’s continued emotional well-being. *See Cipollone*, 785 F.2d at 1121. *Fourth*, the confidentiality of the log itself has no relation to issues

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<sup>11</sup> State courts faced with analogous situations have also concluded that public disclosure of materials with little to no basis for designation as “confidential” should be the norm. *See Hammock by Hammock v. Hoffmann-LaRoche, Inc.*, 662 A.2d 546, 560 (N.J. 1995) (“Documents that are proprietary must be found compelling in their secrecy interests to overcome the presumption of public access. Rule 4:10-3, relied on by the trial court, does not include a proprietary information category. While a justification for sealing trade secrets may be more readily established, it is more difficult to seal proprietary information.”). Similarly, state courts have refused to permit parties to claim that a mere description of privileged materials is, itself, privileged. *See Commissioner of Env’tl. Prot. v. Terminix Int’l*, No. X03CV0510942, 2002 WL 172636, at \*1-\*3 (Conn. Super. Ct. Jan. 3, 2002) (refusing request for confidentiality designation of its privilege log on the grounds that it contained “attorney work product,” as the court previously had entered a protective order defining confidential information in terms similar to Rule 26(c)(7) – that is, as “trade secret information,” “confidential commercial or financial information,” or “personnel or medical information and/or similar information” – and “attorney work product,” even if present, did not fall within this definition).



of public health and safety. *Fifth*, a protective order is not necessary to ensure the fairness or efficiency of the case; the sharing of the log is required by the CMP and the Federal Rules of Civil Procedure without any requirement of confidentiality. *Sixth*, one of the parties purporting to benefit from the confidentiality designation is a public entity, which “clearly weigh[s] against” confidential treatment. *E.g.*, *Shingara*, 430 F.3d at 308. *Seventh*, the information involves issues important to the public, as this Court and the citizens of New Jersey and Delaware have a right to know the bases on which this Court’s original jurisdiction is based and is being challenged. Thus, because the factors governing confidentiality uniformly weigh in favor of public disclosure, and because the general factual details contained in the privilege log are not themselves privileged, *see, e.g.*, *Kroll*, 224 F.R.D. at 329, there is no basis for BP’s confidentiality designation.

In purporting to justify that confidentiality designation, BP relies upon the *Restatement (Third) of Law Governing Lawyers* § 59 (2000), which, in addressing a lawyer’s duties to a client, defines “confidential client information” as “information relating to representation of a client, other than information that is generally known.” *See* Ex. A at 1. But the *Restatement* sets forth this admittedly “expansive definition” of confidential client information (§ 59, reporter’s note) in the context of the lawyer’s general obligations toward a client, not as a guide to interpreting the term “confidential research, development, or commercial information” under Rule 26(c)(7). Similarly, while Rule 1.6(a) of the ABA Model Rules of Professional Conduct (2004) (“Model Rules”) defines confidential client information broadly, the Model Rules do not purport to supplant Rule 26(c)(7); to the contrary, they “presuppose a larger legal context” shaping the lawyer’s obligations, including “substantive and procedural law in general.” Model Rules, Preamble ¶ 15.

Thus, a lawyer's general duty to protect "confidential client information" under the *Restatement* and Model Rule 1.6(a) is subject to the obligations of litigants under the Federal Rules of Civil Procedure – including the obligation to justify claims to privilege – not the other way around. The *Restatement* does not suggest that its expansive definition of "confidential client information" defines the scope of information subject to a protective order under Rule 26(c)(7); nor do the Model Rules suggest that Rule 1.6(a) defines the scope of information protected by Rule 26(c)(7). Nor is there any indication that the CMP intended to substitute the expansive definition of confidential client information in the *Restatement* for the standard set forth in Rule 26(c)(7). If BP's argument were accepted, and the expansive definition of "confidential client information" determined the scope of Rule 26(c)(7), then every privilege log in every case would always be confidential under Rule 26(c)(7) because it must describe the "nature of the documents . . . not produced." Fed. R. Civ. P. 26(b)(5). But this position is clearly unsustainable. *See, e.g., Estate of Manship*, 232 F.R.D. at 561.

### **C. The Public Interest Weighs Heavily Against Cloaking BP's Log In Secrecy**

BP and New Jersey have repeatedly used the media to disseminate their claims to the public, *see* note 1, *supra*, and have submitted to the Court statements as to the "grave and important" nature of this controversy between two sovereign States. *See* New Jersey's Brief in Support of Motion To Reopen and for a Supplemental Decree at 4, 19 (filed July 28, 2005). BP has also asserted that its interests with New Jersey are so completely aligned that the attorney-client and work product privileges should apply to all communications between them about this matter. Thus, it is with considerable irony that, with respect to the same log and declarations by which BP claims its common interest with New Jersey, BP seeks to prevent the public from understanding the extent of its relationship with New Jersey in this dispute.

It is difficult to overstate the importance of broad discovery and open proceedings in a case of historic dimensions between two sovereign States. “The Court’s jurisprudence teaches that, in original jurisdiction cases, full and liberal factual development is important because of the lofty historical, territorial, and financial implications of these cases to the states involved.” Report of Special Master, *New Jersey v. New York*, No. 120, Orig., 1997 WL 291594, at \*11 (filed Mar. 31, 1997) (citing *United States v. Texas*, 339 U.S. 707, 715 (1950)); see also *Hudson County Water Co. v. McCarter*, 209 U.S. 349, 356 (1908) (“[I]t appears to us that few public interests are more obvious, indisputable, and independent of particular theory than the interest of the public of a state to maintain the rivers that are wholly within it substantially undiminished, except by such drafts upon them as the guardian of the public welfare may permit for the purpose of turning them to a more perfect use.”).

Moreover, the citizens of New Jersey have a strong interest in monitoring the activity of their public officials and understanding the factors motivating the decisions of democratic representatives. As the New Jersey Supreme Court stated in *McClain v. College Hospital*, 492 A.2d 991 (N.J. 1985):

The generation that made the nation thought secrecy in government one of the instruments of Old World tyranny and committed itself to the principle that a democracy cannot function unless the people are permitted to know what their government is up to. New Jersey has a strong, expressed public policy in favor of open government, as evidenced by our Open Public Meetings Act, N.J.S.A. 10:4-6 to -21 and our Worker and Community Right to Know Law, N.J.S.A. 34:5A-1 to -31. Our decisional law has reflected this tradition towards openness. In a democracy, the citizens generally have the right to know the truth about all parts of their government, because, without public knowledge of the realities of governmental activities, essential reforms of those activities will be hindered.

*Id.* at 995-96 (internal quotation marks, brackets, and citations omitted).

Here, the entries on the privilege log are key evidence supporting Delaware’s contention that jurisdiction is lacking in this case. In addition, more generally, the log sheds considerable

light on the progress of the dispute so far and the interests of New Jersey going forward. For example, in light of BP's pervasive influence on New Jersey's litigation position in this dispute, New Jersey citizens and the public in general might wish to consider:

(1) why New Jersey was suddenly so willing to abandon a 70-year history of cooperation with Delaware, particularly after this Court had previously rejected New Jersey's attempts to strip Delaware of its historic sovereignty within the twelve-mile circle;

(2) why New Jersey made no meaningful attempt to resolve this matter prior to bringing suit, other than to demand unconditional surrender in an April 2005 letter;

(3) why New Jersey attempted to short-circuit the Court's original jurisdiction procedures by attempting to "reopen" the 1929 boundary case in order to obtain a summary determination of a dispute over the meaning of the 1905 Compact;

(4) why New Jersey's moving papers exhibited so little interest in its own Bill of Complaint and Delaware's Answer in *New Jersey v. Delaware I*, which framed the dispute that the States settled via the 1905 Compact and shed light on the original meaning of its text;

(5) why, after the Court accepted jurisdiction in a dispute of historic dimensions between sovereign States, New Jersey opposed the appointment of a special master and suggested that the case proceed directly to oral argument this Term, without allowing Delaware an opportunity to discover materials that would illuminate the meaning of the century-old Compact, or even to brief the issues fully;

(6) why New Jersey had stated in its briefs that there was no alternative forum in which the 1905 Compact claim could be raised, when, after the Court accepted jurisdiction, BP now admits that it is planning to bring litigation against Delaware on the same issues; and

(7) whether New Jersey has been advised of the adverse consequences to its citizens that may flow from pressing BP's claims in this Court, for example, by testing Delaware's long forbearance in asserting its right to license and tax all structures entering Delaware from New Jersey, and in inviting scrutiny of the States' failure to effectuate the central fishing rights provision of the 1905 Compact, which may render the entire Compact null and void as a matter of law.

Similarly, as the case moves forward, the striking of the confidentiality designation may encourage the public to consider whose interests are really being served by the positions being advanced in New Jersey's submissions to this Court. For, while BP has an apparent desire to influence New Jersey's prosecution of this action (evinced by BP's constant contact with New Jersey officials) the public and other interested governmental officials may have their own substantial interest in understanding the true relationship between BP and New Jersey. That understanding, in turn, may result in changes to New Jersey's litigating positions that have substantial effects on the interests of Delaware and its citizens.

### **CONCLUSION**

For the reasons stated, Delaware respectfully requests that the Special Master grant the Motion of State of Delaware to Strike BP's Designation of Its Privilege Log and Supporting Declarations as Confidential.

Respectfully submitted,

  
DAVID C. FREDERICK

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May 17, 2006

**EXHIBIT 'A'**



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April 25, 2006

**BY EMAIL AND U.S. MAIL**

Collins J. Seitz, Jr.,  
CONNOLLY BOVE LODGE & HUTZ LLP  
1007 North Orange Street  
P.O. Box 2207  
Wilmington, DE 19899

**Re: *New Jersey v. Delaware*, No. 134, Orig.  
Common Interest Privilege Log**

Dear CJ:

Pursuant to our agreement to provide the State of Delaware a privilege log with respect to “common interest” communications between the State of New Jersey and BP/Crown Landing through January 23, 2006, please find enclosed the following:

1. Declaration of Stuart A. Raphael; and
2. Declaration of David S. Swayze.

The privilege log is attached as Exhibit A to my declaration. The two declarations support the entries on the log that are covered by the common interest doctrine, which protects confidential, privileged communications between BP and New Jersey in connection with their shared legal interest in confirming New Jersey’s exclusive riparian jurisdiction under the 1905 Compact.

Please note that these materials have been designated as “Confidential” pursuant to CMP ¶ 9. *See, e.g.*, Restatement (Third) of Law Governing Lawyers § 59 (2000) (defining “confidential client information” as “information relating to representation of a client, other than information that is generally known”).

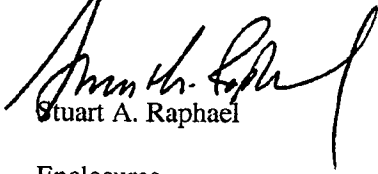


HUNTON &  
WILLIAMS

Collins J. Seitz, Jr.  
April 25, 2006  
Page 2

Please do not hesitate to call me if you have any questions about this matter.

Best regards,



Stuart A. Raphael

Enclosures

cc (w/encl.): David C. Frederick, Esq.  
Rachel J. Horowitz, Esq.  
Barbara Conklin, Esq.  
Jill Marie Dennis, Esq.

In the  
Supreme Court of the United States

---

STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

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Before the Special Master  
the Hon. Ralph I. Lancaster, Jr.

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**DECLARATION OF STUART A. RAPHAEL**

I, Stuart A. Raphael, state that the following facts are true to the best of my knowledge, information and belief:

1. I am admitted to the Bar of the United States Supreme Court and am a member in good standing of the District of Columbia Bar and the Virginia State Bar. I am a partner in the law firm of Hunton & Williams LLP, resident in the McLean, Virginia office.

2. I represent BP America Inc. and its affiliates (collectively "BP") in connection with the subpoenas served by the State of Delaware in this matter. Since April 2005, I have also provided legal advice and counsel to BP and its affiliate, Crown Landing LLC ("Crown Landing"), in connection with the attempted exercise of jurisdiction by the State of Delaware over that portion of Crown Landing's proposed LNG facility, to be constructed in Logan Township, New Jersey, that would extend below the mean low water mark on the New Jersey

side of the Delaware River (the "Delaware River Dispute").

3. In late March and early April 2005, prior to my being engaged by BP and Crown Landing, I participated in confidential communications with counsel for New Jersey about the possibility of my representing New Jersey in an original action proceeding against the State of Delaware to vindicate New Jersey's rights to exclusive State riparian jurisdiction on the New Jersey side of the Delaware River pursuant to the Compact of 1905 between Delaware and New Jersey. As part of these confidential communications, New Jersey sought and I provided legal advice on matters related to the Compact of 1905 and the Delaware River Dispute. My law firm and I have experience in interstate riparian rights disputes. I served as special counsel to the Commonwealth of Virginia in the original action *Virginia v. Maryland*, 540 U.S. 56 (2003). Ultimately, however, New Jersey decided not to retain the services of my law firm to represent it in this matter.

4. As described below, BP and Crown Landing have significant common legal interests with New Jersey in establishing New Jersey's exclusive State riparian jurisdiction under the Compact of 1905. When New Jersey decided not to retain me to represent it in this matter, I was retained by BP and Crown Landing to represent them in connection with the Delaware River Dispute. Counsel for New Jersey advised that New Jersey would like to have access to our attorney work product concerning the Compact of 1905 and related issues, and invited assistance that we could provide in connection with New Jersey's pursuit of its legal claims against Delaware.

5. In this proceeding, New Jersey seeks to establish its exclusive State riparian jurisdiction under the Compact of 1905 over improvements appurtenant to the New Jersey side of the Delaware River in the Twelve-Mile Circle. It is also Crown Landing's legal position that

the 1905 Compact grants New Jersey exclusive State riparian jurisdiction over that portion of Crown Landing's proposed unloading pier that would extend below the mean low water mark on the New Jersey side of the Delaware River. Crown Landing specifically reserved its Compact claims when it applied in December 2004 to the Secretary of the Delaware Department of Natural Resources and Environmental Control ("DNREC") for a status determination that the Crown Landing project was authorized under the Delaware Coastal Zone Act. (See Declaration of David S. Swayze.) Crown Landing reasonably anticipates being a party to future litigation with the State of Delaware, potentially prior to the resolution of this litigation, in which it will assert that Delaware lacks jurisdiction over the Crown Landing project under the 1905 Compact.

6. Since my engagement as counsel for BP, I have participated in confidential communications with counsel and other personnel in the New Jersey Office of the Attorney General and the Office of the Governor in connection with the common legal interest shared by BP and New Jersey in vindicating New Jersey's exclusive State riparian jurisdiction under the Compact of 1905. As part of these communications, I have shared work product and advice with New Jersey relating to arguments, strategy, and primary and secondary legal sources and authorities that advance our common legal interest.

7. As part of my engagement by BP, my firm also created a secure, password-protected website called "Client Workroom" to organize and make available to BP and to other of BP's attorneys working on this matter the documents, correspondence, filings and attorney work product relevant to the Delaware River Dispute. At the request of counsel for New Jersey, and with the agreement of BP and Crown Landing, my law firm granted access to specific attorneys for New Jersey or their assistants. To the extent that we have shared with New Jersey information supporting New Jersey's position on the Compact of 1905, the documents reflect my

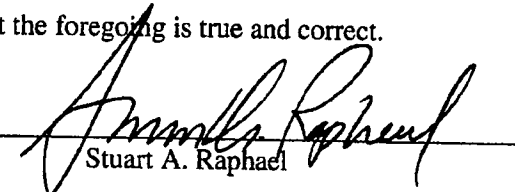
work product, that of other members of my law firm, and that of BP and Crown Landing's other counsel, including our thought-processes and judgment as to which documents and authorities were significant or important to the legal issues surrounding New Jersey's and Crown Landing's rights and interests under the Compact of 1905, and their claims and potential claims against Delaware.

8. I have been aware of the common interest doctrine for many years. I reasonably anticipated at all times that my communications with New Jersey concerning this litigation and the Compact of 1905 -- which were made pursuant to the clear, common legal interest shared by BP and New Jersey -- would remain confidential pursuant to the common interest doctrine and would not be subject to compulsory disclosure in discovery.

9. Attached as Exhibit A is a log identifying privileged, written communications that were made between BP and New Jersey pursuant to the common legal interest described above. The log also identifies the folder structure and categories of information contained in Client Workroom.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: APRIL 25, 2006

  
Stuart A. Raphael

Entry	Date	Type	From	To	CCs	Description	Privilege
1	2/10/2005	e-mail	Swayze, D.	Andersen, W.		Communication from BP counsel to NJ counsel attaching CZICB filing and discussing strategy regarding same and dispute with Delaware over 1905 Compact	WP
2	2/10/2005	e-mail	Andersen, W.	Swayze, D.		Communication from NJ counsel to BP counsel in response to prior e-mail and discussing legal position re New Jersey's riparian rights	WP
3	2/10/2005	e-mail	Swayze, D.	Andersen, W.	Roden, G.	Communication from BP counsel to NJ counsel in response to prior e-mail, discussing strategy regarding dispute with Delaware and noting forthcoming attorney work product regarding 1905 Compact	WP
4	2/16/2005	e-mail	Pascrell, B.	Campbell, B.		Communication from BP representative to NJ official attaching communication from BP counsel with BP's CZICB filing and with counsel's work product regarding 1905 Compact, and inquiring about status of NJ's position on Delaware regulatory proceedings	WP; AC
5	2/16/2005	e-mail	Campbell, B.	Pascrell, B.		Communication from NJ official to BP representative providing his position on various legal issues relating to Delaware regulatory proceedings	WP; AC
6	2/17/2005	e-mail	Pascrell, B.	Campbell, B.		Communication from BP representative to NJ official forwarding communication between BP and its counsel regarding strategy position in relation to dispute with Delaware, Delaware regulatory proceedings and original action against Delaware, and inquiring about NJ position	WP; AC
7	2/17/2005	e-mail	Campbell, B.	Bauer, V.; Fortkiewicz, V.; Pascrell, B.; McCormac, B.		Communication from NJ official to various NJ officials, counsel to NJ Governor and BP representative commenting on strategy summary provided in prior e-mail relating to Delaware regulatory proceedings and dispute with Delaware	WP; AC
8	2/17/2005	e-mail	Pascrell, B.	Campbell, B.	Bauer, V.; Fortkiewicz, V.; McCormac, J.	Communication from BP representative to NJ official acknowledging prior e-mail (attaching prior e-mail string)	WP; AC
9	2/17/2005	e-mail	Campbell, B.	Bauer, V.; Fortkiewicz, V.; Pascrell, B.; McCormac, B.		Communication from NJ official to various NJ officials and BP representative re BP's legal position and commenting on NJ's legal position relating to dispute with Delaware (with prior e-mail string)	WP; AC
10	3/24/2005	e-mail	Fortkiewicz, V.	Shute, G.; Pascrell, B.	Fader, P.	Communication from counsel to NJ Governor to BP representatives regarding possible meeting and inquiring of BP regarding communication from Governor Minner in relation to dispute between NJ and Delaware	WP; AC
11	3/29/2005	e-mail	Raphael, S.	Fader, P.		Attorney communication with Counsel to New Jersey Governor transmitting letter discussing possible representation of New Jersey and providing preliminary analysis of legal issues regarding 1905 compact and attaching materials relating to analysis along with Raphael biography and contact information	WP; AC

Entry	Date	Type	From	To	CCs	Description	Privilege
12	4/1/2005	e-mail	Raphael, S.	Hartpence, E.	Fader, P.	Communication from attorney to New Jersey Assistant AG transmitting letter for NJAG Peter Harvey discussing possible representation of New Jersey and/or Crown Landing in litigation with Delaware	WP; AC
13	4/8/2005	e-mail	Burke, G.	Picco, S.		Communication from NJ counsel to BP counsel discussing possible Raphael engagement	WP
14	5/6/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.; Roden, G.	Communication from BP counsel to NJ counsel transmitting draft common interest agreement	WP; AC
15	5/9/2005	e-mail	Raphael, S.	Burke, G.		Communication from BP counsel to NJ counsel transmitting court filing in selected case with comments (in e-mail) and annotations (to attachment) reflecting mental impressions of BP counsel on issues relating to 1905 Compact	WP
16	5/11/2005	e-mail	Burke, G.	Picco, S.	Horowitz, R.; Andersen, W.	Communication from NJ counsel to BP counsel requesting access to work product of BP counsel prepared in anticipation of dispute with Delaware over 1905 Compact and soliciting recommendations from BP counsel on strategies for litigation	WP
17	5/12/2005	e-mail	Burke, G.	Raphael, S.	Andersen, W.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel requesting access to work product of Raphael prepared in anticipation of dispute with Delaware over 1905 Compact	WP
18	5/12/2005	e-mail	Raphael, S.	Burke, G.	Andersen, W.; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel in response to request for access to work product and discussing means for sharing work product relating to dispute with Delaware over 1905 Compact	WP
19	5/12/2005	e-mail	Burke, G.	Picco, S.	Raphael, S.; Donlon, A.; Renella, J.; Horowitz, R.; Andersen, W.	Communication from NJ counsel to BP counsel proposing meeting of counsel for NJ and BP	WP
20	5/13/2005	e-mail	Burke, G.	Raphael	Donlon, A.; Renella, J.; Horowitz, R.; Andersen, W.; Picco, S.	Communication from NJ counsel to BP counsel identifying NJ counsel to have access to work product relating to dispute with Delaware over 1905 Compact	WP
21	5/13/2005	e-mail	Raphael, S.	Burke, G.	Donlon, A.; Renella, J.; Horowitz, R.; Andersen, W.; Picco, S.	Response of BP counsel to NJ counsels May 13, 2005 e-mail, discussing work product to be shared and attaching document from prior litigation reflecting counsel's mental impression of its relevance to dispute with Delaware over 1905 Compact	WP
22	5/16/2005	e-mail	Burke, G.	Raphael, S.; Picco, S.	Rennella, J.; Stanley, L.; Horowitz, R.	Communication from NJ counsel to BP counsel requesting additional meeting with counsel	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
23	5/16/2005	e-mail	Picco, S.	Burke, G.; Raphael, S.	Renella, J.; Stanley, L.; Horowitz, R.	Communication from BP counsel to NJ counsel responding to 5/16/05 e-mail requesting additional meeting with counsel (with prior email string)	WP
24	5/16/2005	e-mail	Raphael, S.	Picco, S.; Burke, G.	Renella, J.; Stanley, L.; Horowitz, R.	Communication from BP counsel to NJ counsel responding to 5/16/05 e-mail requesting additional meeting with counsel (with prior email string)	WP
25	5/16/2006	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel regarding meeting among counsel (with prior 5/16/05 e-mail string)	WP
26	5/17/2005	e-mail	Raphael, S.	Burke, G.	Roden, G.; Picco, S.	Communication from BP counsel to NJ counsel transmitting FERC data request and providing mental impressions of relevance of same to dispute with Delaware over 1905 Compact	WP, AC
27	5/18/2005	e-mail	Raphael, S.	Burke, G.	Roden, G.; Pascrell, W.; Picco, S.	Communication from BP counsel to NJ counsel transmitting BP counsel's work product regarding portions of FERC data request that implicate NJ's regulatory rights under 1905 Compact	WP
28	5/24/2005	e-mail	Raphael, S.	Andersen, W.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product on 1905 Compact issues and discussing possible work product/litigation strategy	WP
29	5/25/2005	e-mail	Renella, J.	Raphael, S.; Burke, G.	Picco, S.	Communication from NJ counsel to BP counsel requesting copies of filings in case cited in e-mail; discussing strategy for better access to BP counsel's work product relating to dispute with Delaware over 1905 compact; and inquiring about status of BP declaration	WP
30	5/25/2005	e-mail	Raphael, S.	Renella, J.	Picco, S.; Burke, G.;	Communication from BP counsel to NJ counsel responding to previous e-mail inquiry	WP
31	5/25/2005	e-mail	Raphael, S.	Andersen, W.; Chudzick, H.; Goldman, J.; Jabolonski, D.; Renella, J.; Weyl, L.; Donlon, A.; Horowitz, R.; Kelly, E.; Weeks, B.	Burke, G.; Picco, S.	Communication from BP counsel to NJ counsel discussing strategy for sharing/accessing work product relating to dispute with Delaware over 1905 Compact	WP
32	5/25/2005	e-mail	Raphael, S.	Andersen, W.		Communication from BP counsel to NJ counsel transmitting BP counsel work product on issue relating to 1905 Compact and strategy for use in dispute with Delaware	WP
33	5/25/2005	e-mail	Andersen, W.	Raphael, S.		Communication from NJ counsel to BP counsel regarding work product transmitted by BP counsel in prior e-mail	WP



Entry	Date	Type	From	To	CCs	Description	Privilege
34	5/25/2005	e-mail	Raphael, S.	Andersen, W.		Communication from BP counsel to NJ counsel in response to prior e-mail and discussing work product and further litigation strategy	WP
35	5/25/2005	e-mail	Andersen, W.	Raphael, S.		Communication from NJ counsel to BP counsel regarding NJ counsel's creation of possible submission in litigation with Delaware over 1905 Compact and soliciting additional information for same	WP
36	5/25/2005	e-mail	Raphael, S.	Andersen, W.		Communication from BP counsel to NJ counsel in response to last e-mail regarding creation of work product and discussing potential litigation strategy regarding same	WP
37	5/29/2005	e-mail	Raphael, S.	Burke, G.; Andersen, W.	Picco, S.	Communication from BP counsel to NJ counsel transmitting two documents representing attorney work product and discussing potential significance in dispute with Delaware over 1905 Compact	WP
38	6/1/2005	e-mail	Raphael, S.	Burke, G.; Andersen, W.; Renella, J.; Horowitz, R.	Picco, S.	Communication from BP counsel to NJ counsel attaching attorney work product on 1905 Compact for possible court submission and discussing possible litigation strategy	WP
39	6/2/2005	e-mail	Raphael, S.	Burke, G.	Renella, J.; Horowitz, R.; Roden, G.; Picco, S.	Communication from BP counsel to NJ counsel attaching work product relating to BP/Crown Landing (Lauren Segal) declaration for court submission regarding dispute with Delaware over 1905 Compact and proposing conference call to discuss	WP, AC
40	6/3/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel forwarding 6/2/2005 e-mail exchange among NJ personnel regarding litigation with Delaware and project issues agenda, and requesting telephone call from BP counsel	WP, AC
41	6/3/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ Governor regarding discussions with NJAG's office and regarding access to litigation work product relating to dispute with Delaware over 1905 Compact, and providing contact information	WP
42	6/6/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel regarding mechanism for providing access to work product relating to dispute with Delaware over 1905 Compact, and discussing rescheduling of meeting	WP, AC
43	6/6/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ Governor responding to 6/6/05 e-mail regarding scheduling meeting regarding dispute with Delaware (with prior email string)	WP, AC
44	6/7/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel responding to 6/6/05 e-mail regarding scheduling meeting regarding dispute with Delaware (with prior email string)	WP, AC
45	6/7/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ Governor responding to 6/6/05 e-mail regarding scheduling meeting and responding to counsel's voice mail message (with prior email string)	WP, AC

Entry	Date	Type	From	To	CCs	Description	Privilege
46	6/7/2005	e-mail	Andersen, W.	Raphael, S.	Horowitz, R.	Communication from NJ counsel to BP counsel forwarding document assembled by counsel for purposes of litigation with Delaware and requesting assistance in preparing document to accompany original action filing	WP
47	6/10/2005	e-mail	Raphael, S.	Andersen, W.; Burke, G.; Horowitz, R.; Renella, J.	Belin, D.; Picco, S.	Communication from BP counsel to NJ counsel transmitting documents prepared by BP consultant D. Belin for possible use in original action litigation against Delaware	WP
48	6/10/2005	e-mail	Raphael, S.	Raphael, S.; Andersen, W.; Burke, G.; Horowitz, R.; Renella, J.	Belin, D.; Picco, S.	Communication from BP counsel to NJ counsel transmitting revised version of previous document	WP
49	6/13/2005	e-mail	Raphael, S.	Burke, G.	Renella, J.; Horowitz, R.; Andersen, W.; Roden, G.; Picco, S.	Communication from BP counsel to NJ counsel transmitting work product relating to BP/Crown Landing (L-auren Segal) declaration for court submission regarding dispute with Delaware over 1905 Compact and relating to other possible court submissions in litigation with Delaware	AC; WP
50	6/14/2005	e-mail	Pascrell, B.	Burzichelli, J.		Communication from BP representative to NJ legislator discussing legislation and common legal interest in dispute with Delaware over 1905 Compact	WP; AC
51	6/14/2005	e-mail	Burzichelli, J.	Pascrell, B.		Communication from NJ legislator to BP representative acknowledging prior e-mail and seeking further information (attaching prior e-mail)	WP; AC
52	6/14/2005	e-mail	Pascrell, B.	Burzichelli, J.	Crowther, L.; Arbaugh, S.	Communication from BP representative to NJ legislator responding to prior e-mail and confirming forthcoming information on strategy for dispute with Delaware over 1905 Compact	WP; AC
53	6/14/2005	e-mail	Pascrell, B.	Crowther, L.	Burzichelli, J.; Arbaugh, S.	Communication from BP representative to NJ legislator transmitting attorney work product relating to proposed legislation and strategy regarding dispute with Delaware over 1905 Compact	WP; AC
54	6/15/2005	e-mail	Raphael, S.	Burke, G.		Communication from BP counsel to NJ counsel transmitting document of possible interest regarding dispute with Delaware	WP
55	6/15/2005	e-mail	Raphael, S.	Fader, P.; Fortkiewicz, V.; Burke, G.		Communication from BP counsel to NJ counsel and counsel to NJ Governor regarding BP's position on certain legislation relation to compact dispute and attaching same (with 6/14/2005 cover transmittal letter from J. Burzichelli to B. Coleman)	WP; AC

Entry	Date	Type	From	To	CCs	Description	Privilege
56	6/16/2005	e-mail	Burke, G.	Raphael, S.	Renella, J.; Horowitz, R; Picco, S.	Communication from NJ counsel to BP counsel transmitting work product relating to NJ declarations for court submission regarding dispute with Delaware over 1905 Compact; soliciting input on same; and discussing NJ counsel's forthcoming input on BP counsel's work product relating to BP declaration for court submission regarding dispute with Delaware over 1905 Compact	WP, AC
57	6/16/2005	e-mail	Donlon, A.	Raphael, S.	Burke, G.; Picco, S.	Communication from NJ counsel to BP counsel transmitting a selection of documents that reflects counsel's mental impressions of relevance to dispute with Delaware over 1905 Compact	WP
58	6/16/2005	e-mail	Raphael, S.	Donlon, A.		Communication from BP counsel to NJ counsel responding to 6/16/2005 e-mail (with prior email string)	WP
59	6/16/2005	e-mail	Donlon, A.	Raphael, S.		Communication from NJ counsel to BP counsel responding to prior (6/16/2005) e-mail (with prior email string)	WP
60	6/16/2005	e-mail	Horowitz, R.	Raphael, S.		Communication from NJ counsel to BP counsel confirming receipt of work product relating to BP/Crown Landing (Lauren Segal) declaration for court submission regarding dispute with Delaware over 1905 Compact and relating to other possible court submissions in litigation with Delaware (with prior email string)	WP
61	6/16/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product for possible court submission in dispute with Delaware over 1905 Compact	WP
62	6/16/2005	fax	Donlon, A.	Raphael, S.		Communication from NJ counsel to BP counsel transmitting a selection of documents that reflects attorney work product and mental impressions of potential relevance to dispute with Delaware over 1905 Compact	WP
63	6/16/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel acknowledging receipt of BP counsel's work product relating to court submission in dispute with Delaware over 1905 Compact (with prior email string)	WP
64	6/16/2005	e-mail	Raphael, S.	Andersen, W.; Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel providing input on NJ counsel's work product relating to NJ declaration for court submission in dispute with Delaware over 1905 Compact	WP
65	6/16/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel noting internal review of BP counsel's work product relating to court submission in dispute with Delaware and confirming forthcoming comments on same	WP
66	6/16/2005	e-mail	Andersen, W.	Raphael, S.		Communication from NJ counsel to BP counsel requesting input on court submission in dispute with Delaware over 1905 Compact	WP
67	6/16/2005	e-mail	Raphael, S.	Andersen, W.	Burke, G.	Communication from BP counsel to NJ counsel transmitting work product relating to court submission in dispute with Delaware over 1905 Compact	WP
68	6/16/2005	e-mail	Andersen, W.	Raphael, S.		Communication from NJ counsel to BP counsel confirming receipt of BP counsel's work product relating to court submission in dispute with Delaware over 1905 Compact	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
69	6/17/2005	e-mail	Raphael, S.	Burke, G.; Donlon, A.; Andersen, W.	Picco, S.	Communication from BP counsel to NJ counsel providing mental impressions of significance of selection of documents transmitted by BP counsel on 6/16/2005	WP
70	6/17/2005	e-mail	Raphael, S.	Fader, P.		Communication from BP counsel to counsel to NJ Governor transmitting, as requested, BP counsel's work product relating to court submission in dispute with Delaware over 1905 Compact	WP
71	6/17/2005	e-mail	Burke, G.	Raphael	Renella, J.; Picco, S.	Communication from NJ counsel to BP counsel requesting further input on work product relating to court submission in dispute with Delaware over 1905 Compact	WP
72	6/17/2005	e-mail	Raphael, S.	Burke, G.	Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel transmitting requested input on work product relating to court submission in dispute with Delaware over 1905 Compact and discussing possible strategy for same	WP
73	6/17/2005	e-mail	Burke, G.	Raphael, S.	Renella, J.; Horowitz, R.	Communication from NJ counsel to BP counsel regarding BP counsel's input on NJ counsel's work product relating to NJ declarations for court submission in dispute with Delaware over 1905 Compact	WP
74	6/17/2005	e-mail	Raphael, S.	Burke, G.	Renella, J.; Horowitz, R.; Picco, J.	Communication from BP counsel to NJ counsel providing further input on NJ counsel's work product relating to NJ declarations	WP
75	6/17/2005	e-mail	Raphael, S.	Donlon, A.	Burke, G.; Picco, S.	Communication from BP counsel to NJ counsel providing analysis and mental impressions of significance of selected documents in relation to dispute with Delaware over 1905 Compact	WP
76	6/17/2005	e-mail	Burke, G.	Raphael, S.; Picco, S.		Correspondence from NJ counsel to BP counsel transmitting work product regarding court submission in dispute with Delaware over 1905 compact and discussing next steps	WP
77	6/19/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product for court submission in dispute with Delaware over 1905 Compact	WP
78	6/20/2005	e-mail	Raphael, S.	Burke, G.	Donlon, A.; Renella, J.; Andersen, W.; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel transmitting selected documents that reflects attorney work product and mental impressions of document's potential relevance to dispute with Delaware over 1905 Compact, and recommending strategy for obtaining additional information relating to dispute	WP
79	6/20/2005	e-mail	Burke, G.	Raphael, S.	Donlon, A.; Renella, J.; Andersen, W.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel responding to receipt of selected document transmitted in prior e-mail and discussing plans to follow-up	WP
80	6/20/2005	e-mail	G. Burke	Raphael, S.; Picco, S.	Horowitz, R.	Communication from NJ counsel to BP counsel transmitting work product relating to BP declaration for court submission in dispute with Delaware over 1905 Compact	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
81	6/20/2005	e-mail	Raphael, S.	Burke, G.	Andersen, W.; Horowitz, R.; Picco, S.; Roden, G.	Communication from BP counsel to NJ counsel transmitting work product relating to BP/Crown Landing declaration for court submission in dispute with Delaware over 1905 Compact and discussing counsel's mental impressions regarding strategy for same	WP; AC
82	6/20/2005	e-mail	Raphael, S.	Horowitz, R.	Burke, G.; Picco, S.	Communication from BP counsel to NJ counsel seeking NJ counsel's work product on court submission in dispute with Delaware over 1905 Compact and offering selected document for possible inclusion with same	WP
83	6/20/2005	e-mail	Donlon, A.	Raphael, S.	Burke, G.; Horowitz, R.	Communication from NJ counsel to BP counsel requesting versions of selected documents for court submission in dispute with Delaware over 1905 Compact, reflecting mental impression of significance of same (with string of prior e-mails)	WP
84	6/20/2005	e-mail	Raphael, S.	Donlon, A.		Communication from BP counsel to NJ counsel seeking clarification of request in prior e-mail	WP
85	6/20/2005	e-mail	Donlan, A.	Raphael, S.		Communication from NJ counsel to BP counsel providing clarification requested in prior e-mail	WP
86	6/20/2005	e-mail	Raphael, S.	Donlon, A.		Communication from BP counsel to NJ counsel acknowledging clarification in last email (with prior email string)	WP
87	6/20/2005	e-mail	Donlon, A.	Raphael, S.		Communication from NJ counsel to BP counsel acknowledging last email (with prior email string)	WP
88	6/20/2005	e-mail	Raphael, S.	Donlon, A.		Communication from BP counsel to NJ counsel transmitting selected documents requested in prior e-mails, discussing additional forthcoming requested documents, and providing attorney mental impressions relating to strategy for court submission of particular documents in dispute with Delaware over 1905 Compact (with prior e-mail string)	WP
89	6/21/2005	e-mail	Fortkiewicz, V.	Raphael		Communication from counsel to NJ Governor to BP counsel forwarding communications (e-mail string) among various NJ counsel about discussions with BP counsel and follow-up inquiry regarding litigation strategy in dispute with Delaware over 1905 Compact, and requesting conference with BP counsel to discuss same	WP; AC
90	6/21/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Picco, S.	Communication from NJ counsel to BP counsel regarding strategy for contents of court submission in dispute with Delaware over 1905 Compact	WP
91	6/21/2005	e-mail	Raphael, S.	Donlon, A.	Horowitz, R.; Andersen, W.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel transmitting selected documents requested in 6/20/2005 e-mails for court submission in dispute with Delaware over 1905 Compact (with prior e-mail string)	WP
92	6/21/2005	e-mail	Raphael, S.	Andersen, W.		Communication from BP counsel to NJ counsel seeking copies of a selection of documents that reflects attorney's mental impression of significant of same to dispute with Delaware over 1905 Compact	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
93	6/21/2005	e-mail	Raphael, S.	Andersen, W.	Belin, D.; Burke, G., Picco, S.	Communication from BP counsel to NJ counsel transmitting work product for possible court submission in dispute with Delaware over 1905 Compact and discussing edits to same	WP
94	6/21/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Renella, J.; Andersen, W.; Donlon, A.; Picco, J.	Communication from BP counsel to NJ counsel providing strategy for possible inclusion with court submission in dispute with Delaware over 1905 compact and transmitting work product relating to same	WP
95	6/21/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel regarding impact of pending legislation on litigation with Delaware over 1905 Compact	WP
96	6/21/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel in response to prior e-mail	WP
97	6/21/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Renella, J.; Andersen, W.; Donlon, A.; Picco, J.	Communication from NJ counsel to BP counsel in response to BP counsel's 6/21/2005 e-mail transmitting work product relation to possible court submission in dispute with Delaware over 1905 Compact (with prior email string)	WP
98	6/22/2005	e-mail	Pascrell, B.	Fader, P.	Fortkiewicz, V.; Arbaugh, S.; Burzichelli, J.	Communication from BP representative to counsel to NJ Governor transmitting article regarding dispute between NJ and Delaware and discussing strategy relative to dispute	WP
99	6/22/2005	e-mail	Fortkiewicz, V.	Pascrell, B.		Communication from counsel to NJ Governor to BP representative acknowledging prior e-mail (attaching e-mail string)	WP
100	6/22/2005	e-mail	Burke, G.	Raphael, S.; Picco, S.	Donlon, A.; Horowitz, R.	Communication from NJ counsel to BP counsel transmitting work product relating to NJ affidavits for court submission regarding dispute with Delaware over 1905 Compact and discussing development relating to BP counsel's document research in relation to dispute with Delaware	WP
101	6/22/2005	e-mail	Raphael, S.	Burke, G.		Communication from BP counsel to NJ counsel seeking input on work product relating to possible court submission in dispute with Delaware over 1905 Compact	WP
102	6/22/2005	e-mail	Burke, G.	Raphael, S.		Communication from NJ counsel to BP counsel in response to prior e-mail seeking input on work product and confirming forthcoming action on same	WP
103	6/22/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product relating to BP/Crown Landing (Lauren Segal) declaration for court submission in dispute with Delaware over 1905 Compact, and commenting on same	WP; AC
104	6/23/2005	e-mail	Pascrell, B.	Burzichelli, J.		Communication from BP representative to NJ legislator transmitting attorney work product and advice relating to legislation and dispute with Delaware over 1905 Compact, and discussing advice	WP; AC

Entry	Date	Type	From	To	CCs	Description	Privilege
105	6/23/2005	e-mail	Burzichelli, J.	Pascrell, W.		Communication from NJ legislator to BP representative acknowledging prior e-mail and discussing same (attaching prior e-mail string)	WP, AC
106	6/23/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product relating to court submission in dispute with Delaware over 1905 Compact and commenting on/explaining same	WP
107	6/23/2005	e-mail	Picco, S.	Burke, G.		Communication from BP counsel to NJ counsel commenting on work product relating to court submission in dispute with Delaware over 1905 Compact and advising of inquiry of third party relative to Delaware permitting issue	WP
108	6/23/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product relating to court submission in dispute with Delaware over 1905 Compact	WP
109	6/23/2005	e-mail	Burke, G.	Raphael, S.		Communication from NJ counsel to BP counsel transmitting e-mail among NJ counsel with attached document of possible interest in relation to dispute with Delaware over 1905 Compact and reflecting counsel's mental impressions regarding same	WP
110	6/23/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel providing comments on BP counsel work product relating to Declaration of BP/Crown Landing (Lauren Segal) for court submission in dispute with Delaware over 1905 Compact	WP
111	6/23/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting work product relating to declaration of BP/Crown Landing (Lauren Segal) for court submission in dispute with Delaware over 1905 Compact, with attachments	WP
112	6/24/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel providing input to work product relating to declaration of BP/Crown Landing (Lauren Segal) for court submission in dispute with Delaware over 1905 Compact	WP
113	6/24/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Picco, S.; Roden, G.	Communication from BP counsel to NJ counsel transmitting revised work product relating to BP/Crown Landing declaration for court submission in dispute with Delaware over 1905 Compact (with prior email string)	WP
114	6/24/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Picco, S.; Roden, G.	Communication from NJ counsel to BP counsel acknowledging receipt of revised work product and requesting revisions to related documents (with prior email string)	WP
115	6/24/2005	e-mail	Burke, G.	Raphael, S.	Donlon, A.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel transmitting work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact	WP
116	6/24/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Picco, S.; Roden, G.	Communication from BP counsel to NJ counsel transmitting work product relating to BP/Crown Landing declaration (Lauren Segal) for court submission in dispute with Delaware over 1905 Compact (with prior email string)	WP
117	6/24/2005	e-mail	Kaplan, N.	Raphael, S.		Communication from NJAG's office to BP counsel acknowledging receipt of prior e-mail and attachments (with prior email string)	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
118	6/24/2005	e-mail	Raphael, S.	Kaplen, N.		Communication from BP counsel to NJAG's office acknowledging receipt of prior e-mail and transmitting contact information (with prior email string)	WP
119	6/24/2005	e-mail	Raphael, S.	Burke, G.; Donlon, A.	Horowitz, R; Picco, S.	Communication from BP counsel to NJ counsel transmitting input to NJ counsels work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact and providing mental impressions of significance of same to dispute with Delaware	WP
120	6/24/2005	e-mail	Raphael, S.	Burke, G.	Donlon, A; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel providing mental impressions of selected document and potential strategy regarding same for dispute with Delaware over 1905 Compact	WP
121	6/24/2005	e-mail	Raphael, S.	Fortkiewicz, V.	Burke, G.	Communication from BP counsel to counsel to NJ Governor transmitting work product relating to sample statement concerning court filing against Delaware	WP; AC
122	6/24/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel in response to previous e-mail regarding statement concerning court filing against Delaware and inquiring about NJAG office's actions	WP; AC
123	6/24/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ Governor responding to previous inquiry	WP; AC
124	6/24/2005	e-mail	Raphael, S.	Asestine, P.	Burke, G.	Communication from BP counsel to NJAG's office transmitting contact information and copy of work product concerning court filing against Delaware, as requested by counsel to NJ Governor	WP; AC
125	6/24/2005	e-mail	Asestine, P.	Raphael, S.		Communication from NJAG's office to BP counsel acknowledging receipt of prior email (with prior email string)	WP; AC
126	6/24/2005	e-mail	Raphael, S.	Asestine, P.		Communication from BP counsel to NJAG's office transmitting information for accessing work product relating to dispute with Delaware over 1905 Compact	WP
127	6/24/2005	e-mail	Raphael, S.	Kaplen, N.; Burke, G.	Donlon, A; Jablonski, D.; Horowitz, R; Andersen, W.; Picco, S.	Communication from BP counsel to NJ counsel transmitting additional work product relating to court submission in dispute with Delaware over 1905 Compact discussing litigation strategy	WP
128	6/24/2005	e-mail	Donlon, A.	Raphael, S.	Burke, G.; Horowitz, R.	Communication from NJ counsel to BP counsel confirming receipt of input on NJ counsel's work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact; providing further input on same; requesting copies of particular documents; and discussing tactical significance of specific documents in relation to court submission	WP
129	6/24/2005	e-mail	Burke, G.	Kaplen, N.; Raphael, S.	Andersen, W.; Donlon, A.; Horowitz, R.; Jablonski, D.	Communication from NJ counsel to NJAG's office and to BP counsel regarding BP counsel's recent input on work product on possible court submission and proposing further revision to same	WP



Entry	Date	Type	From	To	CCs	Description	Privilege
130	6/24/2005	e-mail	Raphael, S.	Kaplan, N.; Burke, G	Andersen, W.; Donlon, A.; Horowitz, R.; Jablonski, D.; Picco, S	Communication from BP counsel to NJ counsel providing input on NJ counsels proposed revision to work product on possible court submission in dispute with Delaware	WP
131	6/24/2005	e-mail	Raphael, S.	Donlon, A.	Burke, G.; Horowitz, R.	Communication from BP counsel to NJ counsel in response to prior e-mail; agreeing to provide selected documents requested and commenting on additional input on work product relating to NJ declaration for court submission in dispute with Delaware over 1905 Compact	WP
132	6/24/2005	e-mail	Raphael, S.	Donlon, A.	Burke, G.; Horowitz, R.	Communication from BP counsel to NJ counsel attaching requested documents	WP
133	6/24/2005	e-mail	Burke, G.	Raphael, S.	Donlon, A.; Jablonski, D.; Horowitz, R.; Andersen, W.; Picco, S.	Communication from NJ counsel to BP counsel transmitting work product relating to court submission in dispute with Delaware over 1905 Compact	WP
134	6/25/2005	e-mail	Raphael, S.	Burke, G.	Jablonski, D.; Horowitz, R.; Andersen, W.; Picco, S.	Communication from BP counsel to NJ counsel transmitting comments and work product relating to court submission in dispute with Delaware over 1905 Compact and discussing litigation and strategy with regard to same	WP
135	6/25/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting input on work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact	WP
136	6/25/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel acknowledging receipt of input to work product relating to NJ declaration and soliciting further input on additional work product	WP
137	6/25/2005	e-mail	Burke, G.	Raphael, S.	Donlon, A.; Jablonski, D.; Horowitz, R.; Andersen, W.; Picco, S.	Communication from NJ counsel to BP counsel inquiring of BP counsel's efforts to obtain information of potential relevance to, and possible inclusion in, court submission in dispute with Delaware over 1905 Compact	WP
138	6/27/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.	Picco, S.	Communication from BP counsel to NJ counsel transmitting copy of selected legislation of potential relevance to court submission in dispute with Delaware over 1905 Compact	WP
139	6/27/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renella, J.; Andersen, W.	Communication from NJ counsel to BP counsel requesting usable copy of selected document for inclusion in court submission in dispute with Delaware over 1905 Compact	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
140	6/27/2005	e-mail	Raphael, S.	Horowitz, R.	Burke, G.; Renella, J.; Andersen, W.; Picco, S.	Communication from BP counsel to NJ counsel transmitting document requested in last e-mail	WP
141	6/27/2005	e-mail	Raphael, S.	Horowitz, R.; Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting selected documents for inclusion in court submission in dispute with Delaware over 1905 Compact and commenting on possible revisions to same	WP
142	6/27/2005	e-mail	Burke, G.	Raphael, S.; Donlon, A.	Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel acknowledging receipt of input on work product relating to affidavit	WP
143	6/27/2005	e-mail	Roden, G.	Burke, G.; Raphael, S.	Horowitz, R.; Picco, S.	Communication from BP counsel to BP counsel and NJ counsel transmitting final Declaration of Lauren Segal for court submission regarding dispute with Delaware over 1905 Compact and commenting on forthcoming delivery of original of same	WP
144	6/27/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Picco, S.; Roden, G.	Communication from BP counsel to NJ counsel transmitting final Declaration of Lauren Segal for court submission regarding dispute with Delaware over 1905 Compact, with comments, and with attachments to same	WP
145	6/27/2005	e-mail	Raphael, S.	Burke, G.; Donlon, A.	Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel transmitting input to work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact and explaining reasons for revision to same	WP
146	6/28/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel inquiring about statement by NJAG's office concerning court filing against Delaware	WP; AC
147	6/28/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ Governor in response to inquiry about statement by NJAG's office concerning court filing against Delaware	WP; AC
148	6/28/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.	Picco, S.	Communication from BP counsel to NJ counsel transmitting documents requested by NJAG's office for inclusion in court submission in dispute with Delaware over 1905 Compact	WP
149	6/29/2005	e-mail	Aseltine, P.	Heck, K.; Fleming, M.; Darcy, S.; Fortkiewicz, V.; Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.; Dugan, M.	Communication from NJAG's office to BP counsel, counsel to NJ Governor and NJ Governor's office transmitting work product relating to proposed statement by NJAG's office in connection with litigation against Delaware	WP; AC
150	6/29/2005	e-mail	Raphael, S.	Burke, G.; Andersen, W.	Picco, S.; Teichman, M.; Donlon, A.	Communication from BP counsel to NJ counsel transmitting a selection of documents that reflects counsel's mental impressions regarding significance of same to dispute with Delaware over 1905 Compact; commenting on potential use of same; and providing possible strategy for obtaining additional documents relevant to dispute	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
151	6/29/2005	e-mail	Raphael, S.	Aseltine, P.	Fortkiewicz, V.; Kaplen, N.; Burke, G.; Horowitz, N.	Communication from BP counsel to NJAG's office providing input on proposed statement regarding litigation with Delaware and discussing strategies for same	WP
152	6/29/2005	e-mail	Burke, G.	Raphael, S.	Jablonski, D.; Renella, J.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel transmitting work product for court submission in dispute with Delaware over 1905 Compact and soliciting input on same	WP
153	6/29/2005	e-mail	Raphael, S.	Burke, G.	Jablonski, D.; Renella, J.; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel acknowledging e-mailed request for input on work product for court submission (attaching prior email string)	WP
154	6/30/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel to NJ counsel re statement regarding litigation with Delaware	WP; AC
155	6/30/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel acknowledging receipt of input in prior e-mail (attaching prior email string)	WP; AC
156	6/30/2005	e-mail	Aseltine, P.	Raphael, S.	Burke, G.; Kaplen, N.	Communication from NJAG's office to BP counsel transmitting work product relating to proposed statement regarding litigation with Delaware, commenting on input to same and soliciting comments on same	WP; AC
157	6/30/2005	e-mail	Raphael, S.	Aseltine, P.	Kaplen, N.; Burke, G.; Fortkiewicz, V.	Communication from BP counsel to NJAG's office providing input on work product relating to statement regarding litigation with Delaware	WP; AC
158	6/30/2005	e-mail	Aseltine, P.	Raphael, S.		Communication from NJAG's office to BP counsel acknowledging prior e-mail (attaching prior email string)	WP; AC
159	6/30/2005	e-mail	Raphael, S.	Burke, G.; Kaplen, N.	Fortkiewicz, V.; Aseltine, P.	Communication from BP counsel to NJ counsel transmitting bill introduced in Delaware legislature, and providing mental impressions regarding bill's significance to litigation over 1905 Compact and court submissions relating to same	WP
160	6/30/2005	e-mail	Raphael, S.	Burke, J.; Horowitz, R.; Donlon, A.	Roden, G.; Picco, S.	Communication from BP counsel to NJ counsel attaching copy of DNREC 6/7/2005 letter to FEREC, providing mental impressions of same, and discussing BP and Crown Landing's litigation position in DNREC proceeding	WP
161	6/30/2005	e-mail	Burke, G.	Kaplen, N.; Raphael, S.	Fortkiewicz, V.; Aseltine, P.	Communication from NJ counsel to BP counsel acknowledging receipt of e-mail regarding Delaware legislation (attaching email string)	WP
162	7/5/2005	e-mail	Raphael, S.	Burke, G.		Communication from BP counsel to NJ counsel soliciting conference call on particular document at issue in litigation with Delaware over 1905 Compact	WP
163	7/5/2005	e-mail	Burke, G.	Raphael, S.	Kaplen, N.	Communication from NJ counsel to BP counsel in response to prior email, stating availability for call (attaching prior email string)	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
164	7/5/2005	e-mail	Raphael, S.	Kaplen, N.; Burke, G.; Horowitz, R.	Donlon, A.; Andersen, W.; Jablonski, D.; Picco, S.	Communication from BP counsel to NJ counsel discussing litigation strategy regarding possible Delaware position, and attaching related input to work product on court submission on dispute with Delaware over 1905 Compact	WP
165	7/5/2005	e-mail	Raphael, S.	Fortkiewicz, V.		Communication from BP counsel to counsel for NJ Governor, forwarding previous e-mail regarding litigation strategy at request of counsel to NJ Governor	WP
166	7/5/2005	e-mail	Raphael, S.	Fortkiewicz, V.	Burke, G.; Horowitz, R.; Donlon, A.; Picco, S.	Communication from BP counsel to counsel for NJ Governor transmitting work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact	
167	7/5/2005	e-mail	Fortkiewicz, V.	Raphael, S.		Communication from counsel to NJ Governor to BP counsel acknowledging receipt of prior email regarding litigation strategy and noting forthcoming telephone call (attaching prior email string)	WP
168	7/5/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel forwarding, and seeking input concerning, work product relating to Crown Landing letter to FERC in response to DNREC letter	WP
169	7/5/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Kaplen, N.; Renella, J.; Picco, S.	Communication from NJ counsel to BP counsel advising of delay in conference call previously scheduled to discuss litigation strategy	WP
170	7/5/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel inquiring about issues in case cited in e-mail and seeking counsel impressions regarding same in relation to dispute with Delaware over 1905 Compact	WP
171	7/5/2005	e-mail	Burke, G.	Raphael, S.	Picco, S.	Communication from NJ counsel to BP counsel in response to e-mail soliciting input on work product relating to Crown Landing letter to FERC	WP
172	7/5/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.; Fortkiewicz, V.	Communication from BP counsel to NJ counsel responding to inquiry about legal issues in case cited in e-mail in relation to dispute with Delaware over 1905 Compact; attaching attaching relevant excerpts from filings in the case cited in e-mail; and providing attorney's legal analysis of pending issues in dispute with Delaware over 1905 Compact and relation to case cited in e-mail	WP
173	7/5/2005	e-mail	Burke, G.	Raphael, S.	Fortkiewicz, V.; Picco, S.	Communication from NJ counsel to BP counsel acknowledging receipt of counsel's input and analysis regarding case cited in prior e-mail	WP
174	7/21/2005	e-mail	Raphael, S.	Fader, P.; Fortkiewicz, V.		Communication from BP counsel to NJ counsel forwarding selected article of possible interest to dispute with Delaware over 1905 Compact	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
175	7/21/2005	e-mail	Burke, G.	Raphael, S.	Jablonski, D.; Renella, J.; Kaplen, N.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel attaching work product for court submission in dispute with Delaware over 1905 Compact and soliciting attorney input and analysis on particular legal issue	WP
176	7/21/2005	e-mail	Burke, G.	Raphael, S.	Jablonski, D.; Renella, J.; Kaplen, N.; Horowitz, R.; Andersen, W.; Picco, S.	Communication from NJ counsel to BP counsel attaching work product relating to NJ affidavit for court submission in dispute with Delaware over 1905 Compact	WP
177	7/26/2005	e-mail	Aseltine, P.	Raphael, S.		Communication from NJAG's office to BP counsel attaching work product relating to statement regarding litigation with Delaware over 1905 Compact	WP; AC
178	8/10/2005	e-mail	Raphael, S.	Horowitz, R.	Burke, G.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel providing mental impressions of effect of extension of deadline for Delaware's responsive brief on litigation strategy	WP
179	9/13/2005	e-mail	Kelly, E.	Raphael, S.		Communication from NJ counsel to BP counsel requesting copy of specific document potentially relevant to litigation with Delaware over 1905 Compact	WP
180	9/13/2005	e-mail	Raphael, S.	Kelly, E.		Communication from BP counsel to NJ counsel transmitting copy of selected legislation requested in prior e-mail and commenting on same	WP
181	9/13/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.; Harville, L.	Communication from BP counsel to NJ counsel attaching work product relating to BP regulatory filings implicating dispute with Delaware over 1905 Compact	WP
182	9/13/2005	e-mail	Burke, G.	Raphael, S.	Harville, L.; Picco, S.	Communication from NJ counsel to BP counsel in response to prior e-mail transmitting work product (with prior e-mail string)	WP
183	9/22/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.	Renella, J.; Donlon, A.; Andersen, W.; Picco, S.	Communication from BP counsel to NJ counsel summarizing status of document research work product and actions taken in pursuit of litigation strategy, and attaching selected documents deemed by counsel to be potentially relevant to dispute with Delaware over 1905 Compact	WP
184	9/22/2005	e-mail	Raphael, S.	Andersen, W.	Burke, G.; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel attaching, commenting on and inquiring about selected document of potential relevance to dispute with Delaware over 1905 Compact	WP
185	9/22/2005	e-mail	Raphael, S.	Donlon, A.	Andersen, W.; Burke, G.; Picco, S.	Communication from BP counsel to NJ counsel commenting on selected document of potential relevance to dispute with Delaware over 1905 Compact and strategy regarding same	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
186	9/22/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.	Andersen, W.; Donlon, A.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel forwarding e-mail from BP counsel (Teichman, M.) which provided update on, and summary of, document research work product and research strategy, and which attached and provided counsel mental impressions of selected documents of potential relevance to dispute with Delaware over 1905 Compact; e-mail to NJ counsel includes BP counsel's comments on same, reflecting mental impressions regarding strategy and relevance to dispute with Delaware	WP
187	9/22/2005	e-mail	Raphael, S.	Burke, G.	Horowitz, R.; Andersen, W.; Donlon, A.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel forwarding e-mail from BP counsel to BP counsel (Teichman, M.) and client transmitting, commenting on, and inquiring about selected document deemed by counsel to be potentially relevant to dispute with Delaware and inquiring of NJ counsel about potential follow-up on same	WP
188	9/23/2005	e-mail	Burke, G.	Raphael, S.	Andersen, W.; Donlon, A.; Renella, J.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel in response to prior e-mail commenting upon selected document and confirming follow-up	WP
189	9/30/2005	e-mail	Renella, J.	Burke, G.; Horowitz, R.; Raphael, S.	Andersen, W.; Donlon, A.; Picco, S.	Communication from NJ counsel to BP counsel proposing and requesting research strategy relating to documents of potential relevance to dispute with Delaware (attaching prior 9/22/2005 e-mail string from Raphael to Burke and Horowitz)	WP
190	9/30/2005	e-mail	Raphael, S.	Renella, J.; Burke, G.; Horowitz, R.	Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ counsel responding to and commenting on prior e-mail regarding proposed research strategy in relation to litigation with Delaware over 1905 Compact	WP
191	9/30/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel regarding legal issues attendant to production of documents requested by Delaware	WP
192	10/5/2005	e-mail	Burke, G.,	Picco, S.	Horowitz, R.	Communication from NJ counsel to BP counsel forwarding prior e-mail from Ms. Horowitz, discussing strategy for production of documents requested by Delaware and requesting information from BP regarding same	WP
193	10/7/2005	e-mail	Burke, G.,	Picco, S.	Horowitz, R.	Communication from NJ counsel to BP counsel seeking response to request for information in prior e-mail regarding production of documents requested by Delaware	WP
194	10/9/2005	e-mail	Raphael, S.	Renella, J.; Burke, G.; Horowitz, R.	Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ Counsel responding to 9/30/2005 e-mail proposing document research strategy relating to litigation with Delaware and discussing results of same (with prior e-mail string)	WP
195	10/12/2005	e-mail	Horowitz, R.	Picco, S.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel requesting advice on legal issues attendant to production of documents requested by Delaware	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
196	10/13/2005	e-mail	Harville, L.	Horowitz, R.	Burke, G.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel providing advice requested in prior e-mail	WP
197	10/14/2005	e-mail	Burke, G.	Harville, L.	Raphael, S.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel following up to telephone conference regarding legal issues attendant to document production and requesting reply to inquiry	WP
198	10/17/2005	e-mail	Burke, G.	Harville, L.	Horowitz, R.; Renella, J.; Raphael, S.; Picco, S.	Communication from NJ counsel to BP counsel providing strategy for production of documents to Delaware in light of legal advice received (with prior e-mail string)	WP
199	10/17/2005	e-mail	Harville, L.	Burke, G.	Horowitz, R.; Renella, J.; Raphael, S.; Picco, S.	Communication from BP counsel to NJ counsel confirming legal advice attendant to production of documents requested by Delaware and requesting copies of produced documents	WP
200	10/17/2005	e-mail	Burke, G.	Harville, L.	Raphael, S.; Renella, J.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel responding to request for copies of documents and commenting on shared understanding regarding same	WP
201	10/17/2005	e-mail	Harville, L.	Burke, G.	Raphael, S.; Renella, J.; Horowitz, R.; Picco, S.	Communication from BP counsel to NJ counsel acknowledging prior e-mail (attaching prior e-mail string)	WP
202	10/17/2005	e-mail	Raphael, S.	Horowitz, R.; Burke, G.; Andersen, W.	Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel forwarding and explaining e-mail from BP counsel (Teichman, M.) containing selected documents reflecting attorney work product and discussion of counsel's mental impressions of relevance of same to litigation with Delaware, and providing additional mental impressions on same	WP
203	10/17/2005	e-mail	Raphael, S.	Horowitz, R.; Burke, G.; Andersen, W.	Renella, J.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ counsel forwarding and explaining e-mail from BP counsel (Teichman, M.) containing work product in the form of summary of document research results relating to litigation with Delaware	WP
204	10/18/2005	e-mail	Harville, L.	Burke, G.; Horowitz, R.	Raphael, S.; Picco, S.	Communication from BP counsel to NJ counsel discussing DNREC request for documents and stating BP's intended response regarding specific documents	WP
205	10/18/2005	e-mail	Burke, G.	Harville, L.; Horowitz, R.	Raphael, S.; Picco, S.	Communication from NJ counsel to BP counsel acknowledging prior e-mail (with e-mail string attached)	WP
206	10/18/2005	e-mail	Horowitz, R.	Harville, L.; Burke, G.	Raphael, S.; Picco, S.	Communication from NJ counsel to BP counsel regarding DNREC document request and organization of documents being produced (with prior e-mail string)	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
207	10/20/2005	e-mail	Raphael, S.	Horowitz, R.; Burke, G.; Andersen, W.; Donlon, A.; Renella, J.	Picco, S.	Communication from BP counsel to NJ counsel forwarding and explaining e-mail from BP counsel (Teichman, M.) which contains analysis and mental impressions of reference in selected document (identified in 9/22/2005 e-mail from Raphael to Burke) as part of research for litigation with Delaware; BP counsel's e-mail provides additional mental impressions on same and on court filing in case referenced in selected document as related to dispute with Delaware over 1905 Compact (attaching prior e-mail string)	WP
208	10/20/2005	e-mail	Horowitz, R.	Harville, L.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel discussing specific document to be produced to Delaware	WP
209	10/20/2005	e-mail	Harville, L.	Horowitz, R.	Burke, G.; Renella, J.	Communication from BP counsel to NJ counsel in response to prior e-mail and providing information on location and producing document (attaching prior e-mail)	WP
210	10/20/2005	e-mail	Horowitz, R.	Harville, L.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel in response to prior e-mails discussing efforts to locate and produce document (with prior e-mail string)	WP
211	10/20/2005	e-mail	Harville, L.	Horowitz, R.	Burke, G.; Renella, J.	Communication from BP counsel to NJ counsel in response to prior e-mails providing additional information on specific document (with prior e-mail string)	WP
212	10/21/2005	e-mail	Horowitz, R.	Harville, L.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel acknowledging information provided in prior e-mail (with prior e-mail string)	WP
213	10/21/2005	e-mail	Horowitz, R.	Harville, L.		Communication from NJ counsel to BP counsel regarding efforts to locate document discussed in prior e-mails and requesting transmittal of same	WP
214	10/21/2005	e-mail	Harville, L.	Horowitz, R.		Communication from BP counsel to NJ counsel in response to prior e-mail and requesting transmittal information	WP
215	10/21/2005	e-mail	Horowitz, R.	Harville, R.		Communication from NJ counsel to BP counsel providing transmittal information sought in prior e-mail (with prior e-mail string)	WP
216	10/27/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.		Communication from BP counsel to NJ counsel commenting on Delaware court submission in original action and requesting copy of additional court submission	WP
217	10/27/2005	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Renella, J.	Communication from NJ counsel to BP counsel responding to prior e-mail request for copy of court submission (with prior e-mail string)	WP
218	10/30/2005	e-mail	Raphael	Burke, G.; Horowitz, R.; Renella, J.; Andersen, W.; Donlon, A.	Picco, S.	Communication from BP counsel to NJ counsel transmitting attached BP counsel work product re Compact of 1905 and dispute with Delaware	WP



Entry	Date	Type	From	To	CCs	Description	Privilege
219	10/31/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.; Andersen, W.; Donlon, A.;	Picco, S.	Communication from BP counsel to NJ counsel transmitting attorney work product on court submission in original action against Delaware	WP
220	10/31/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel transmitting attorney work product relating to court submission in original action against Delaware and commenting on same	WP
221	11/2/2005	e-mail	Raphael, S.	Horowitz, R.; Renella, J.; Burke, G.	Donlon, A.; Andersen, W.	Communication from BP counsel to NJ counsel regarding documents for court submission in original action against Delaware and attaching and explaining one of the referenced documents	WP
222	11/2/2005	e-mail	Raphael, S.	Horowitz, R.; Renella, J.; Burke, G.	Donlon, A.; Andersen, W.	Communication from BP counsel to NJ counsel attaching another of the documents referenced in prior e-mail for court submission in original action against Delaware	WP
223	11/2/2005	e-mail	Raphael, S.	Horowitz, R.; Renella, J.; Burke, G.	Donlon, A.; Andersen, W.	Communication from BP counsel to NJ counsel attaching additional documents referenced in prior e-mail for court submission in original action against Delaware	WP
224	11/3/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.	Communication from BP counsel to NJ counsel requesting copy of Delaware court submission and seeking information on same	WP
225	11/3/2005	e-mail	Burke, G.	Horowitz, R.; Raphael, S.	Renella, J.; Picco, S.	Communication from NJ counsel to BP counsel and NJ counsel acknowledging 11/3/2005 e-mail request and requesting action on same by Ms. Horowitz	WP
226	11/3/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Andersen, W.; Horowitz, R.; Picco, S.	Communication from BP counsel transmitting and commenting upon selected document for possible court submission in original action against Delaware, reflecting counsel's mental impression of relevance of same	WP
227	11/3/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Andersen, W.; Picco, S.	Communication from BP counsel attaching different format of document transmitted in prior e-mail (attaching prior e-mail)	WP
228	11/4/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel discussing document research; attaching, analyzing, summarizing and providing attorney mental impressions of selected documents; and transmitting attorney work product relating to court submission in original action against Delaware	WP
229	11/4/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renello, J.; Picco, S.	Communication from NJ counsel to BP counsel confirming forthcoming copy of Delaware court submission	WP
230	11/4/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ counsel re-sending prior 11/4/2005 e-mail and attachments due to possible non-receipt of same	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
231	11/4/2005	e-mail	Horowitz, R.	Burke, G.; Renella, J.; Raphael, S.	Andersen, W.; Donlon, A.; Picco, S.	Communication from NJ counsel to BP counsel confirming receipt of prior e-mail (with prior e-mail string)	WP
232	11/4/2005	e-mail	Raphael, S.	Horowitz, R.; Burke, G.; Renella, J.	Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ counsel attaching different format of selected documents transmitted in prior e-mail	WP
233	11/4/2005	e-mail	Burke, G.	Raphael, S.	Jablonski, D.; Renella, J.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel noting estimated time of transmission of work product for court submission in original action against Delaware	WP
234	11/4/2005	e-mail	Burke, G.	Raphael, S.	Jablonski, D.; Renella, J.; Horowitz, R.; Picco, S.	Communication from NJ counsel to BP counsel transmitting work product for court submission in original action against Delaware	WP
235	11/5/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Kaplan, N.; Jablonski, D.; Andersen, W.; Donlon, A.; Picco, S.	Communication from BP counsel to NJ counsel commenting on work product on court submission in original action against Delaware and sharing BP counsel's work product on same	WP
236	11/6/2005	e-mail	Burke, G.	Raphael, S.		Communication from NJ counsel to BP counsel commenting on and inquiring about BP counsel's work product on court submission in original action against Delaware	WP
237	11/7/2005	e-mail	Raphael, S.	Burke, G.	Picco, S.; Harville, L.	Communication from BP counsel to NJ counsel responding to prior e-mail and explaining reasoning/strategy for particular work product on court submission in original action	WP
238	11/7/2005	e-mail	Jablonski, D.	Raphael, S.	Donlon, A.; Kelly, E.; Burke, G.; Renella, J.; Horowitz, R.	Communication from NJ counsel to BP counsel transmitting work product on court submission in original action against Delaware	WP
239	11/7/2005	e-mail	Raphael, S.	Jablonski, D.; Burke, G.	Donlon, A.; Kelly, E.; Renella, J.; Horowitz, R.; Andersen, W.	Communication from BP counsel to NJ counsel commenting on work product on court submission in original action against Delaware and transmitting BP counsel's work product on same	WP

## Declaration of Stuart A. Raphael

Entry	Date	Type	From	To	CCs	Description	Privilege
240	11/7/2005	e-mail	Burke, G.	Jablonski, D.; Raphael, S.	Donlon, A.; Kelly, E.; Renella, J.; Horowitz, R.; Andersen, W.	Communication from NJ counsel to BP counsel commenting on BP counsel's work product and intended strategy for same and for court submission in original action against Delaware	WP
241	11/10/2005	e-mail	Raphael, S.	Aseltine, P.		Communication (2 consecutive e-mails) from BP counsel to NJ counsel providing links to Supreme Court website pages and providing attorney mental impression on relevance of same to litigation strategy	WP
242	11/10/2005	e-mail	Aseltine, P.	Raphael, S.		Communication from NJ counsel to BP counsel acknowledging prior e-mail (with e-mail string attached)	WP
243	11/12/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel transmitting Delaware court submission with comment on production of same	WP
244	11/18/2005	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.	Picco, S.; Harville, L.	Communication from BP counsel to NJ counsel transmitting DNREC letter to FERC of potential relevance to dispute with Delaware over 1905 Compact and commenting on same	WP
245	11/18/2005	e-mail	Burke, G.	Raphael, S.; Horowitz, R.; Renella, J.	Harville, L.; Picco, S.	Communication from NJ counsel to BP counsel acknowledging prior e-mail (with e-mail string attached)	WP
246	12/2/2005	e-mail	Burke, G.; Raphael, S.	Raphael, S.; Burke, G.	Renella, J.; Horowitz, R.	Communications between and among NJ counsel and BP counsel attempting to schedule conference among counsel	WP
247	2/12, 12/13/2005	e-mail	Burke, G.; Raphael, S.	Raphael, S.; Burke, G.	Renella, J.; Horowitz, R.	Communications between NJ counsel and BP counsel requesting and scheduling conference	WP
248	12/15/2005	e-mail	Raphael, S.; Burke, G.	Burke, G.; Raphael, S.	Renella, J.; Horowitz, R.	Communication from BP counsel to NJ counsel regarding time for scheduled conference	WP
249	12/28/2005	e-mail	Raphael, S.	Horowitz, R.; Renella, J.	Burke, G.	Communication from BP counsel to NJ counsel inquiring about status of Delaware's court submission	WP
250	12/28/2005	e-mail	Horowitz, R.	Stuart, R.; Renella, J.	Burke, G.	Communication from NJ counsel to BP counsel in response to prior e-mail regarding Delaware court submission	WP
251	12/28/2005	e-mail	Raphael, S.	Horowitz, R.	Burke, G.; Renella, J.	Communication from BP counsel to NJ counsel commenting on Delaware court submission and discussing possible strategy in response to same	WP
252	12/29/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renella, J.	Communication from NJ counsel to BP counsel responding to prior e-mail and commenting on possible strategy in response to Delaware court filing	WP
253	12/29/2005	e-mail	Raphael, S.	Horowitz, R.	Burke, G.; Renella, J.; Picco, S.	Communication from BP counsel to NJ counsel in response to prior e-mail and further discussing litigation strategy and requesting conference call for further discussion of same	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
254	12/29/2005	e-mail	Horowitz, R.	Raphael, S.	Burke, G.; Renella, J.; Picco, S.	Communication from NJ counsel to BP counsel responding to prior e-mail and request for conference call and commenting on possible litigation strategy	WP
255	1/2/2006	e-mail	Raphael, S.	Horowitz, R.; Renella, J.; Burke, G.; Kaplan, N.	Andersen, W.; Donlon, A.; Jablonski, D.; Kelly, E.	Communication from BP counsel transmitting work product on court submission in original action against Delaware and providing analysis of strategy for filing same	WP
256	1/2/2006	e-mail	Raphael, S.	Fader, P.		Communication from BP counsel to counsel to NJ Governor forwarding prior email to Horowitz, et al. (with attached work product) and commenting on proposed litigation/filing strategy	WP
257	1/3/2006	e-mail	Raphael, S.	Horowitz, R.	Renella, J.; Burke, G.	Communication from BP counsel to NJ counsel transmitting work product on court submission in original action against Delaware and commenting on/explaining same	WP
258	1/6/2006	e-mail	Raphael, S.	Horowitz, R.	Renella, J.; Kelly, E.; Jablonski, D.	Communication from BP counsel to NJ counsel inquiring about status of work product on court submission in original action against Delaware	WP
259	1/6/2006	e-mail	Horowitz, R.	Raphael, S.	Burke, G.	Communication from NJ counsel to BP counsel responding to prior inquiry and noting proposed timing for transmittal of work product on court submission	WP
260	1/6/2006	e-mail	Kelly, E.	Raphael, S.	Donlon, A.; Jablonski, D.; Burke, G.; Renella, J.; Horowitz, R.; Andersen, W.	Communication from NJ counsel to BP counsel transmitting work product on court submission in original action against Delaware and commenting on same	WP
261	1/6/2006	e-mail	Raphael, S.	Burke, G.; Renella, J.; Horowitz, R.; Andersen, W.; Kelly, E.; Donlon, A.; Jablonski, D.		Communication from BP counsel to NJ counsel transmitting work product on court submission in original action against Delaware and commenting on/explaining strategy for same	WP
262	1/20/2006	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.		Communication from BP counsel to NJ counsel commenting on Supreme Court weekly conference and schedule in relation to original action against Delaware	WP
263	1/23/2006	e-mail	Raphael, S.	Burke, G.; Horowitz, R.; Renella, J.		Communication from BP counsel to NJ counsel concerning Court's order list and requesting conference call to discuss same	WP

Entry	Date	Type	From	To	CCs	Description	Privilege
264	1/23/2006	e-mail	Burke, G.	Raphael, S.	Horowitz, R.; Renella, J.	Communication from NJ counsel to BP counsel acknowledging receipt of prior e-mail and agreeing to conference call (with prior e-mail)	WP

4/25/2006

**Hunton Williams'  
Client Workroom  
(as of 4/4/2006)**

**Exhibit A  
Declaration of Stuart A. Raphael**

Pleadings - Final (29 documents)  
Transcripts (1 document)  
Articles (155 documents)  
Pleadings - Draft (2 documents)  
Correspondence (28 documents)  
Delaware Legislature (6 documents)  
Delaware Permits (78 documents)  
Federal Permitting, BP Crown Landing (71 documents)  
Maps (2 documents)  
Memos (2 documents)  
New Jersey Legislature (13 documents)  
NJ-Del Agreements (1 document)  
Legal Research (531 documents)

Personnel in Office of Attorney General with access:

William Andersen, Peter Aseltine, Gerard Burke, Helene Chudzik, Amy Donlon, Julie Goldman, Rachel Horowitz, Dean Jablonski, Eileen Kelly, John Renella, Brian Weeks, Lewin Weyl

Personnel in Office of Governor with access:

Victor Fortkiewicz

4/25/2006

**Personnel Identified  
in Privilege Log**

**Exhibit A  
Declaration of Stuart A. Raphael**

<b>First Name</b>	<b>Last Name</b>	<b>Office</b>	<b>Title</b>	<b>Location</b>
William E.	Andersen	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Stacey Daniel	Arbaugh Belin	Princeton Public Affairs Group ERM, Inc. (consultant to BP America Inc.)	Assistant to Mr. Pascrell Consultant	Trenton, New Jersey Annapolis, Maryland
William J. Peter	Pascrell, III Aseltine	Princeton Public Affairs Group New Jersey Office of the Attorney General	Partner Public Information Officer	Trenton, New Jersey Trenton, New Jersey
Virginia	Bauer	New Jersey Commerce, Economic Growth and Tourism Commission	CEO and Secretary	Trenton, New Jersey
Gerard	Burke	New Jersey Office of the Attorney General	Assistant Attorney General	Trenton, New Jersey
John J. Bradley	Burzichelli Campbell	New Jersey General Assembly New Jersey Department of Environmental Protection	Assemblyman, Dist. No. 3 Commissioner	Trenton, New Jersey Trenton, New Jersey
Helene	Chudzik	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Leana	Crowther	New Jersey General Assembly	Assistant to Assemblyman Burzichelli	Trenton, New Jersey
Sean	Darcy	New Jersey Office of the Governor	Deputy Press Secretary	Trenton, New Jersey
Amy C.	Donlon	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Mariellen	Dugan	New Jersey Office of the Attorney General	Assistant Attorney General	Trenton, New Jersey
Paul T.	Fader	New Jersey Office of the Governor	Chief Counsel to the Governor	Trenton, New Jersey
Mark	Fleming	New Jersey Office of the Governor	Assistant Counsel to the Governor	Trenton, New Jersey
Victor A.	Fortkiewicz	New Jersey Office of the Governor	Assistant Counsel to Governor	Trenton, New Jersey
Julie	Goldman	New Jersey Office of the Attorney General	Attorney assistant	Trenton, New Jersey
Elisa	Hartpence	New Jersey Office of the Attorney General	Assistant to Attorney General	Trenton, New Jersey
Peter C.	Harvey	New Jersey Office of the Attorney General	Attorney General	Trenton, New Jersey
Lisa D. Kelly	Harville Heck	Assistant Counsel New Jersey Office of the Governor	BP America Inc. Press Officer	Houston, Texas Trenton, New Jersey

4/25/2006

**Personnel Identified  
in Privilege Log**

**Exhibit A  
Declaration of Stuart A. Raphael**

<b>First Name</b>	<b>Last Name</b>	<b>Office</b>	<b>Title</b>	<b>Location</b>
Rachel	Horowitz	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Dean	Jablonski	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Nancy	Kaplen	New Jersey Office of the Attorney General	Director; Acting Attorney General	Trenton, New Jersey
Eileen P.	Kelly	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
John E.	McCormac	New Jersey Department of the Treasury	State Treasurer	Trenton, New Jersey
Steven J.	Picco	Reed Smith LLP	Partner	Trenton, New Jersey
Stuart A.	Raphael	Hunton & Williams LLP	Partner	McLean, Virginia
John R.	Renella	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Gregg S.	Roden	BP America Inc.	Assistant Counsel	Houston, Texas
Lauren B.	Segal	Crown Landing LLC	Vice President	Houston, Texas
Gary	Shute	BP America Inc.	Regional Vice President	Towson, Maryland
Lawrence	Stanley	New Jersey Office of the Attorney General	Assistant Attorney General	Trenton, New Jersey
David S.	Swayze	Parkowski, Guerke & Swayze, P.A.	Partner	Wilmington, Delaware
Michael W.	Teichman	Parkowski, Guerke & Swayze, P.A.	Partner	Wilmington, Delaware
Brian	Weeks	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey
Lewin	Weyl	New Jersey Office of the Attorney General	Deputy Attorney General	Trenton, New Jersey



In the  
Supreme Court of the United States

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STATE OF NEW JERSEY,

Plaintiff,

v.

STATE OF DELAWARE,

Defendant.

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Before the Special Master  
the Hon. Ralph I. Lancaster, Jr.

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**DECLARATION OF DAVID S. SWAYZE**

I, David S. Swayze, state that the following facts are true to the best of my knowledge, information and belief:

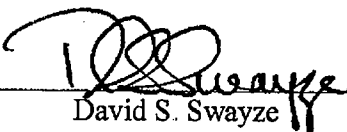
1 I am admitted to the Bar of the State of Delaware and the United States Supreme Court, and am a partner in the law firm of Parkowski, Guerke, & Swayze, P.A., located in the Wilmington, Delaware office. My firm and I have provided legal advice and counseling to BP America Inc. and its affiliate, Crown Landing LLC ("Crown Landing") in connection with Crown Landing's proposed LNG facility, to be constructed in Logan Township, New Jersey. We have also represented Crown Landing in connection with its discussions with the State of Delaware concerning the application of Delaware's regulatory requirements to the proposed unloading pier to be constructed appurtenant to the New Jersey shoreline of the Delaware River, extending below the mean low water mark.

2. On or about December 7, 2004, on behalf of Crown Landing, my office submitted a request for a "status determination" to the Secretary of the Delaware Department of Natural Resources and Environmental Control ("DNREC"), pursuant to the Delaware Coastal Zone Act ("DCZA"). As part of that submission, I specifically reserved, among other legal arguments, Crown Landing's contention that Delaware did not have jurisdiction over the proposed pier by virtue of the Compact of 1905. (See BP-SCT-134-003908.) On or about February 3, 2005, the Secretary of DNREC issued his determination that the Project was prohibited by the DCZA.

3. On or about February 10, 2005, I personally spoke with William E. Andersen, a Deputy Attorney General in the New Jersey Office of the Attorney General, about the common legal interest shared by BP/Crown Landing and New Jersey in confirming that New Jersey, not Delaware, had jurisdiction over the proposed pier. With the client's consent, I offered to provide New Jersey and its counsel our attorney work-product concerning New Jersey's exclusive jurisdiction under the 1905 Compact. Mr. Andersen invited me to do so. I believed at that time (and continue to) that New Jersey and BP/Crown Landing share a common legal interest in establishing New Jersey's exclusive riparian jurisdiction under the Compact. I was aware of the common interest doctrine at the outset of our discussions and I believed that our communications were privileged and reasonably unlikely to be subject to compulsory discovery.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4/24/06

  
\_\_\_\_\_  
David S. Swayze

**In the  
SUPREME COURT OF THE UNITED STATES**

STATE OF NEW JERSEY,

*Plaintiff,*

v.

STATE OF DELAWARE,

*Defendant.*

No. 134, Original

Before the Special Master  
The Hon. Ralph J. Lancaster

**CERTIFICATE OF SERVICE**

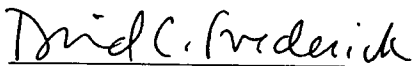
The undersigned hereby certifies that on this 13th day of June 2006, counsel for the State of Delaware caused true and correct copies of the BRIEF IN SUPPORT OF MOTION OF STATE OF DELAWARE TO STRIKE BP'S DESIGNATION OF ITS PRIVILEGE LOG AND SUPPORTING DECLARATIONS AS CONFIDENTIAL [REVISED PUBLIC VERSION], and attachments thereto, to be served upon counsel for the State of New Jersey in the manner indicated below:

**BY ELECTRONIC MAIL AND  
THREE COPIES BY FIRST CLASS MAIL**

Rachel J. Horowitz  
([Rachel.Horowitz@law.col.lps.state.nj.us](mailto:Rachel.Horowitz@law.col.lps.state.nj.us))  
*Deputy Attorney General*  
Richard J. Hughes Justice Complex  
25 West Market Street  
P.O. Box 112  
Trenton, New Jersey 08625  
(609) 984-6811

**BY ELECTRONIC MAIL AND  
TWO COPIES BY FIRST CLASS  
MAIL**

Barbara Conklin  
([Barbara.conklin@law.col.lps.state.nj.us](mailto:Barbara.conklin@law.col.lps.state.nj.us))  
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David C. Frederick  
*Special Counsel to Defendant  
State of Delaware*