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By Electronic and First-Class Mail

Ralph I. Lancaster, Jr., Esq.  
Pierce Atwood LLP  
One Monument Square  
Portland, Maine 04101

Re: New Jersey v. Delaware, No. 134, Original  
Case Management Order No. 7

Dear Mr. Lancaster:

In response to your instructions of June 21, this letter provides New Jersey's response to Delaware's requests for modification of the issues listed in Case Management Order No. 7.

New Jersey has no objection to Delaware's proposed modification of Paragraph 1(c), but requests that this Paragraph be modified to also include Delaware, for the reasons stated in New Jersey's letter of June 20, 2006. New Jersey does object to Delaware's proposed modifications of Paragraphs 1(b) and 1(d), for the reasons that follow.

Paragraph 1(b): This issue should not be modified as Delaware proposes. As now framed in case management order no. 7, the issue addresses the heart of this controversy and encompasses the issues articulated by both States. As reframed in Delaware's proposed modification, examination of Article VII would be based entirely on the boundary, rather than on any other parts of the Compact or on any other relevant information. Examination of Article VII should not be limited in that fashion.

Paragraph 1(d): This issue should remain as currently stated in case management order no. 7, and should not be modified



to refer to "riparian jurisdiction," as Delaware proposes. Article VII addresses riparian jurisdiction, but also refers to the right to make grants, leases and conveyances. Moreover, other Articles of the Compact address jurisdiction in the Twelve Mile Circle, and may illuminate the meaning of Article VII. Further, limiting this issue to "riparian jurisdiction" is likely to lead to future controversies over the Compact and Article VII. Addressing jurisdiction in a more general fashion is much more likely to limit future areas of controversy.

Accordingly, New Jersey respectfully requests that Paragraphs 1(b) and 1(d) of case management order no. 7 remain as now stated, without modification, and that Paragraph 1(c) be modified to refer to Delaware as well as to New Jersey with respect to the doctrine of prescription and acquiescence. We appreciate your consideration.

Respectfully,

ZULIMA V. FARBER  
ATTORNEY GENERAL OF NEW JERSEY

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