

No. 134, Original

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

**STATE OF NEW JERSEY,
Plaintiff**

v.

**STATE OF DELAWARE,
Defendant**

OFFICE OF THE SPECIAL MASTER

CASE MANAGEMENT ORDER NO. 4

April 7, 2006

CASE MANAGEMENT ORDER NO. 4

IT IS HEREBY ORDERED THAT:

1. Application of CMP ¶ 9 to BP. Paragraph 9 of the Case Management Plan governing “Confidentiality” applies to documents produced by BP America Inc. and its affiliates (collectively “BP”) in response to the Rule 45 subpoenas served by the State of Delaware.

2. BP Documents Filed with the FERC as “Privileged” or “CEII.” Documents produced by BP that have been filed with the Federal Energy Regulatory Commission and that bear the designation “Contains Privileged Information – Do Not Release” or “Contains Critical Energy Infrastructure Information – Do Not Release,” pursuant to 18 C.F.R. §§ 388.112, 388.113 (2005), or another substantially similar designation, such as “Privileged” or “CEII,” need not also include the designation “Confidential – S. Ct. 134” but shall be treated nonetheless as “Confidential” under paragraph 9 of the Case Management Plan.

3. BP Documents Classified as “SSI.” BP is in possession of certain documents classified as “Sensitive Security Information” pursuant to regulations issued by the Department of Homeland Security, the Transportation Security Administration, and the United States Coast Guard. BP has been instructed by the Coast Guard that it may not produce such documents in response to the subpoenas served by Delaware. Delaware and BP represent that they will seek to address this issue further with the Coast Guard and will bring the matter to the Special Master’s attention only if it cannot be satisfactorily resolved. In the event the dispute is resolved in a manner that permits BP to produce such documents in response to the subpoenas, then documents that bear the designation “Sensitive Security Information” or another substantially similar designation, such as “SSI,” need not also include the designation “Confidential – S. Ct. 134” but shall be treated nonetheless as “Confidential” under paragraph 9 of the Case

Management Plan. Each party receiving copies of such documents shall comply with the regulations set forth at 49 C.F.R. Part 1520 concerning the storage, handling and use of SSI, and with such other requirements as may be mutually agreed upon by the parties, the Department of Homeland Security, the Transportation Safety Administration, and/or the United States Coast Guard.

4. Filing Under Seal. If any litigant desires to file any submission with the Special Master or the Court that refers to or attaches a document or documents produced by BP that is covered by paragraphs 2 or 3 of this Case Management Order, then the submission or document shall be filed under seal in a separate envelope bearing the prominent label "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER – S. Ct. 134." Within five days thereafter, the party filing the submission or document shall file a public version of the submission or document redacting the confidential information.

Dated: April 7, 2006


Ralph J. Lancaster, Jr.
Special Master

Pierce Atwood LLP
One Monument Square
Portland, ME 04101
Tel: (207) 791-1100
Fax: (207) 791-1350
Email: rlanaster@pierceanwood.com