

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

SUMNER SQUARE  
1615 M STREET, N.W.  
SUITE 400  
WASHINGTON, D.C. 20036-3209

(202) 326-7900

FACSIMILE:  
(202) 326-7999

November 15, 2006

*By E-Mail and First Class Mail*

Ralph I. Lancaster, Jr., Esquire  
Pierce Atwood  
One Monument Square  
Portland, ME 04101

Dear Special Master Lancaster:

The purpose of this letter is to inform you that the parties have reached an agreement pursuant to which we now respectfully request that the Special Master hold our motion in abeyance until such time as it may become necessary to rule on it. The terms of the parties' agreement are as follows:

1. New Jersey will produce the following documents - 1, 2, 5, 6, 7, 8, 9, 12, 25a (unnumbered entry between 25 and 26, 30, 31, 32, 33, 34, 35, 37, 38, 39. We understand that documents numbered 27-29 are duplicative of nos. 5-7. All documents shall be produced in complete form (no deletions or redactions).

2. Delaware agrees that production of these documents will not constitute a waiver of the deliberative process privilege for other documents, but Delaware can use the produced documents for any purpose in the litigation.

3. New Jersey represents that the documents New Jersey continues to withhold on deliberative process privilege are irrelevant to the compact, the state border, the 12 mile circle, or any of Delaware's defenses or New Jersey's claims in the litigation. In the case of three documents pertaining to BP, Delaware understands that New Jersey does not represent that they are irrelevant but rather that they are covered by their assertion of the deliberative process privilege.

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4. After Delaware reviews the documents to be produced, Delaware will have the right to follow up with New Jersey in the event that the produced documents lead Delaware to believe that other documents that continue to be withheld by New Jersey based on the deliberative process privilege are relevant and should be produced.

5. New Jersey reserves the same right to challenge Delaware's use of the documents that will now be produced as New Jersey would have to challenge Delaware's use of any other document previously produced.

In light of the foregoing agreements, Delaware respectfully asks that its motion be held in abeyance subject to such further action as may become necessary as this litigation proceeds, and that the Special Master amend Case Management Order No.14 to provide that further briefing on this issue is not necessary at this time.

Respectfully submitted,



David C. Frederick

cc: Rachel J. Horowitz, Esq.  
Barbara Conklin, Esq.  
Collins J. Seitz, Jr., Esq.