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STUART RABNER
Attorney General

September 29, 2006

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

Re: State of New Jersey vs. State of Delaware
No. 134, Original

Dear Mr. Lancaster:

New Jersey is requesting an amendment to the case management order for fact and expert depositions and reports so that dispositive motions would be due January 29, 2007 rather than November 30, 2006, as currently provided. New Jersey's request is based on Delaware's recent, voluminous production of documents on the eve of, and following the start of depositions of fact witnesses. New Jersey counsel conferred with Delaware counsel by telephone on September 27 and 28, 2006. Delaware counsel opposes New Jersey's request.

Procedurally, the parties are in the process of taking and defending depositions of approximately 17 fact witnesses. On September 18, 2006, Delaware delivered 4,000 pages of new documents to New Jersey. On Wednesday September 26th, New Jersey received 6,000 more pages and a number of video clips. New Jersey counsel was handed 150 additional pages of documents upon arrival to depose a Delaware witness on September 26. In short, New Jersey has received over 10,000 pages of discovery from Delaware in the last ten days, representing over *one-third* of Delaware's total document production to date.

Delaware's documents appear to be randomly sequenced, with historical material commingled with more current data. Delaware has not individually identified the documents, nor correlated them



to specific interrogatory answers, requests for admissions, requests to produce or previously-provided affidavits. New Jersey does not know whether any of the newly produced material is germane to its expert's on-going work or to the testimony of any fact witness to be deposed. It is unclear whether Delaware intends to provide further document deliveries of this magnitude. Delaware has not explained why this overwhelming volume of material was not provided in July and August, 2006, when such information would have been expected.

In comparison, New Jersey provided Delaware access to its files in September and October, 2005 and by August 4, 2006 had provided Delaware copies of *three-quarters* of its current 5,600 pages of discovery. New Jersey also has individually identified its documents so that Delaware can anticipate which witness is knowledgeable about which document.

Delaware's eleventh hour, apparently random and voluminous document production while depositions are ongoing has materially prejudiced New Jersey's ability to take or defend depositions. New Jersey is entitled to an opportunity to review Delaware's new material and movies and to discuss them with its witnesses prior to proceeding with depositions.

Because of Delaware's decision to inundate New Jersey with over 10,000 pages of documents this late in the discovery period, New Jersey is forced to request an amendment to the case management order deadlines as follows:

	EXISTING	PROPOSED
Fact Depositions	10/20	11/22
Expert Reports	10/13	12/8
Expert Depositions	11/3	12/22
Motions	11/30	1/29


New Jersey has no objection to proceeding at this point with depositions of New Jersey Fish and Game personnel and New Jersey Emergency Response Coordinators, due to the limited subject matter. However, New Jersey counsel must review Delaware's recent discovery as it pertains to aspects of the case on which the other New Jersey and Delaware witnesses will be questioned.

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Thank you very much for your attention and consideration.

Respectfully,

STUART RABNER
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