JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
25 MARKET STREET
PO BOX 112
TRENTON, NJ 08625-0112

ZULIMA V. FARBER
Attorney General

February 10, 2006

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

Re: State of New Jersey v. State of Delaware
No. 134, Original
List of Issues

Dear Mr. Lancaster:

In accordance with your instructions during the case management conference on February 6, I am writing to provide New Jersey's list of issues in this case.

Issues of material fact: New Jersey does not believe there are any material facts at issue

Issues of law:

Article VII of the Compact of 1905 provides that:

> Each State may, on its own side of the river, continue to exercise riparian jurisdiction of every kind and nature, and to make grants, leases and conveyances of riparian lands and rights under the laws of the respective States.

The material issues of law are:

Does Article VII of the Compact of 1905 reserve to New Jersey the exclusive right on its side of the river to regulate all matters and authorize all activities necessary to the exercise of riparian rights, including improvements or modifications beyond the low water line within the Twelve Mile Circle?

Is Delaware judicially estopped from denying that pursuant to the Compact of 1905 it agreed that New Jersey would have exclusive jurisdiction over the exercise of riparian rights on the easterly side of the Delaware River?

Did New Jersey lose the rights conferred by Article VII of the Compact through the doctrine of prescription and acquiescence?

Sincerely yours,

ZULIMA V. FARBER
ATTORNEY GENERAL OF NEW JERSEY

By: John R. Renella for
Rachel Horowitz
Deputy Attorney General

c: David Frederick, Esq.
Collin J. Seitz, Esq.