**UNITED STATES DEPARTMENT OF COMMERCE**
**National Oceanic and Atmospheric Administration**
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

October 3, 2007

VIA FAX [(202) 639-7890 AND (616) 626-1240] AND U.S. MAIL

Mr. Bruce F. Kiely, Esq.
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Ms. Carol Iancu, Esq.
Assistant Attorney General
Office the Attorney General
One Ashburton Place
Boston, MA 02108

RE: Consistency Appeals of Weaver's Cove Energy, LLC and Mill River Pipeline, LLC

Dear Mr. Kiely and Ms. Iancu:

This letter responds to the Commonwealth of Massachusetts' motions for an enlargement of time from October 26, 2007 to November 21, 2007 to file its principal briefs and supplemental indices, if any, in the above-referenced consistency appeals.

The grounds for these motions are: a) counsel for Massachusetts appeared in these appeals on September 7, 2007 and received the "bulk of the record in electronic form from the appellant" on September 17, 2007; b) the consolidated record is "exceptionally large"; c) counsel for Massachusetts serves as the sole attorney in these consistency appeals as well as in the case styled *Weaver's Cove Energy, LLC v. Massachusetts Department of Environmental Protection, et al.*, D.C. Cir. No. 07-1238 (D.C. Circuit Appeal); d) Weaver's Cove Energy, LLC has proposed a briefing schedule in the D.C. Circuit Appeal that roughly mirrors the deadlines set in these appeals; e) the court in the D.C. Circuit Appeal has not yet established a briefing schedule; and f) preparation of multiple briefs within the "same, relatively short, time frame" would create an "undue burden on the Commonwealth."

Counsel for Massachusetts also states she contacted counsel for appellants with regard to this request. She contends she was told appellants could not agree at this time but would be willing to consider a request for an extension as Massachusetts' filing deadline approached.

The September 5, 2007 briefing letters in these matters stated the deadlines for submitting briefs would not be continued absent compelling reasons. The deadlines outlined therein reflect the fact that under the Coastal Zone Management Act, 16 U.S.C.A. §§ 1451-1466 (2007), the Secretary of Commerce is subject to statutory deadlines defining when he must close the consistency appeal decision record and issue a decision. *See* 16 U.S.C.A. §§ 1465(b), 1465(c). To allow sufficient time for the Secretary to meet these deadlines, it is important that the parties file their briefs expeditiously after a notice of appeal is filed.

Given these constraints, and after considering the arguments submitted by counsel, we are not persuaded that Massachusetts has demonstrated good cause sufficient to justify a 26-day extension of time to file its principal brief. We do believe a brief extension of 10 days is justified. Accordingly, Massachusetts' motion is hereby ***granted in part.*** The September 5, 2007 briefing letters are amended as follows:

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| * | November 5, 2007 | Massachusetts shall file its principal brief, accompanied by any supplemental appendix, if required. |
| * | November 26, 2007 | Appellant may file a reply brief, accompanied by any supplemental appendix, if required. |

Questions should be directed to Brett Grosko, NOAA Office of General Counsel for Ocean Services, at Brett.Grosko@noaa.gov.

Sincerely,

Mary Beth Ward

Mary Beth Ward
Acting General Counsel